occasion. We have these reminders repeatedly brought before us, to convince us that we too "are passing away;" but how readily we forget them—how little do they impress upon us the lesson of our mortality and the necessity of our being "also ready." May this occasion not be so easily forgotten; and may we be able to so fill up the time allotted to us here that when we are called to go down into the dark valley we may receive from the hearts of our neighbors, friends, and constituents the same unanimous verdict received by the lamented FOSTER, "Well done, good and faithful servant." With such a verdict here, may we not have the strongest reason to hope, when we shall have crossed the cold river of death, we will also receive the welcome judgment, "Enter thou into the joy of thy Lord?"

The resolutions submitted by Mr. WALDRON were unanimously adopted; and in accordance therewith (at four o'clock and fifteen minutes p. m.) the House adjourned.

PETITIONS, ETC.

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

By Mr. ADAMS: The petition of Mrs. Mary Baley, of Magoffin County, Kentucky, for restoration to pension-rolls.

By Mr. AVERILL: A remonstrance of business men of Saint Paul, Minnesota, against the repeal of the bankrupt law.

By Mr. BASS: The memorial of Buffalo Board of Trade, that canal-boats be declared exempt from the provisions of the act of February 18, 1793, providing for enrolling and licensing ships and vessels engaged in the coasting-trade.

Also, the petition of Judge James, Charles G. Myers, and other members of the bar of Saint Lawrence County, New York, that the northern judicial district of said State be divided.

By Mr. BOWEN: A petition of sundry citizens of Craig County, Virginia, praying prompt action on the Nashville Southern Methodist publishing-house affairs.

By Mr. BROMBERG: The petition of Price Williams, and other citizens of Mobile, Alabama, in behalf of the Southern Methodist publishing house of Nashville, Tennessee.

By Mr. BUNDY: The petition of Stephen Wilcox, and 13 others, citizens of Gallia County, Ohio, for an act to compel the prepayment of postage on printed matter going through the mails, and that rates be fixed by weight.

By Mr. CHIPMAN: The petition of Susannah Espiuta, for a pension.

By Mr. CLAYTON: Memorials of the California Mutual Marine Insurance Company, the Merchants' Mutual Insurance Company, the Union Insurance Company, the State Investment Insurance Company, and the Firemen's Fund Insurance Company, all of San Francisco, in relation to distribution of the Alabama award.

By Mr. COBURN: A petition of citizens of Morgan County, Indiana, asking for a law providing for a reserve of currency in the Treasury which may be drawn upon by persons depositing therefor United States bonds, the same to be interchangeable.

By Mr. DURHAM: The petition of Ira Sanders, praying for a pension.

Also, the petition of William Hancock, of Adair County, Kentucky, praying for a pension.

By Mr. FRYE: A petition of the National Division of Sons of Temperance—Oscar D. Wetmore, Most Worthy Patriarch, Samuel W. Hodges, Most Worthy Scribe—representing 93,252 men and women, asking for the appointment of a commission of inquiry concerning the alcoholic liquor traffic.

By Mr. GARFIELD: Petitions of soldiers of the Trumbull Guards, of Ohio, asking to be placed on the same footing as other volunteers of the late war in relation to pay and bounty.

By Mr. GUNCKEL: The petition of James Livingston, of Dayton, Ohio, for a pension for military service rendered in the war for the suppression of the rebellion.

Also, the petition of Margaret A. Willis, widow of William Willis, late of Darke County, Ohio, for pension.

Also, the petition of John Donney, late of Company D, One hundred and forty-fifth New York Volunteers, now of the National Soldiers' Home, Dayton, Ohio, for a pension.

Also, the petition of Andrew S. Ball, late of Company F, New York Artillery, for a pension.

Also, the petition of Lewis Markgrass, late captain Eighth Ohio Independent Battery, for a pension.

Also, petition of James McMullen, late of Company I, One hundred and eighteenth New York Volunteers, for a pension.

Also, the petition of John W. Wright, late of Company E, Seventeenth Kentucky Volunteers, for a pension.

By Mr. HARRIS of Massachusetts: A memorial of the town of Hingham, Massachusetts, praying for an appropriation for the removal of obstructions in Hingham Harbor.

By Mr. HARRIS, of Virginia: The petition of John Wilson and 50 others, of Greenville, Augusta County, Virginia, praying the payment of the claim of the Southern Methodist publishing house of Nashville, Tennessee.

By Mr. HAWLEY, of Connecticut: The petition of Alpheus Water and other officers of the Grand Lodge of Good Templars of Connecticut, asking for the appointment of a commission of inquiry concerning the liquor traffic.

By Mr. LAMPORT: The petition of the Social Union of the Society of Friends, of Ghent, New York, and others, asking for the appointment of a commission of inquiry concerning the liquor traffic.

Also, the petition of the Methodist Episcopal church of Whitestone, New York, for the appointment of same commission.

By Mr. LYNCH: The petition of the mayor of Enterprise, Mississippi, and 49 other citizens of Clark County, Mississippi, for the early settlement of the claims of the Southern Methodist publishing-house, of Nashville, Tennessee.

Also, the petition of the president and faculty of Whitworth Female College, of Mississippi, for the payment of the claim of the Southern Methodist publishing house.

By Mr. NILES: The petition of G. B. Perkins and others, asking for the prepayment of all mail matter.

By Mr. PACKARD: The petition of H. C. Beckman and many other citizens of Lake County, Indiana, asking for the prepayment of newspaper postage and a change in the manner of adjusting the salaries of postmasters.

By Mr. PARKER, of Missouri: The memorial of the Improvement and Manufacturing Aid Association, of Saint Joseph, Missouri, asking for an appropriation for the erection of a public building for the use of the post-office, United States courts, and custom-house in said city.

By Mr. POLAND: The petition of Emerick W. Hansell, praying compensation for injuries received in defense of Hon. William H. Seward, Secretary of State, on the 14th April, 1865.

By Mr. E. H. ROBERTS: The petition of W. P. Bartlett, of Camden, New York, for a pension.

By Mr. SCUDDER, of New Jersey: The petition of the American Institute of Homeopathy, that the signal service be so extended as to make known the existence and spread of epidemic diseases in such parts of the country as are embraced in their operations.

By Mr. SMITH, of Virginia: The petition of John M. Botts, administrator, for property sold during the rebellion.

By Mr. TOWNSEND: The petitions of Samuel Pennock, Samuel Whitson and 237 other citizens of Chester County, Pennsylvania, asking for the appointment of a commission of inquiry concerning the results of the liquor traffic.

By Mr. WHITE: The petition of the Alabama Conference of the Methodist Episcopal Church South, for relief of the Southern Methodist publishing house of Nashville, Tennessee.

By Mr. WILLIAMS, of Massachusetts: The petition, with accompanying papers, of John R. Heath, of Brookline, Massachusetts, a soldier in the war of 1812, praying for relief.

POST-ROUTE BILLS.

The following bills were introduced under the rule, and referred to the Committee on the Post-Office and Post-Roads:

By Mr. DURHAM: A bill to establish a post-road and post-route from Waco, in Madison County, Kentucky, to College Hill, in the same county and State.

Also, a bill to establish a post-road and post-route from Liberty, Casey County, Kentucky, to Casey's Creek post-office, in Adair County, Kentucky, to run by the way of Hall's store and the Chapel, in Casey County.

By Mr. ROBBINS: A bill for a post-route from Boone, North Carolina, to Cranberry, North Carolina.

By Mr. THORNBURGH: A bill to establish a post-route from Morrowville, in the county of Campbell, State of Tennessee, to Pine Knot, in said county.

HOUSE OF REPRESENTATIVES.

SATURDAY, *January* 10, 1874.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

The Journal of yesterday was partly read, when

Mr. MAYNARD said: It is manifest, Mr. Speaker, that the reading of the Journal to-day is a merely perfunctory matter. It is, I believe, desired by the gentlemen present that the day shall be occupied in the delivery of speeches. In order to allow as much time as possible for that purpose, I move that the further reading of the Journal be dispensed with.

There being no objection, the motion was agreed to.

Mr. FIELD obtained the floor, and yielded to Mr. ARTHUR.

THE LOUISIANA QUESTION.

[See Executive Document No. 91, Forty-second Congress, third session, House of Representatives, and Senate Report No. 457, Forty-second Congress, third session.]

Mr. ARTHUR. Mr. Speaker, as preliminary to the views to be submitted, I invite the consideration of the House to the following authorities:

The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion; and on application of the Legislature, or of the executive (when the Legislature cannot be convened) against domestic violence. (Constitution of the United States, art. 4, sec. 4.)

If the President in executing this power shall fall into error, or invade the rights of the people of the State, it would be in the power of Congress to apply the proper remedy. (Luther *vs.* Borden, 7 Howard, 45.)

New States may be admitted by the Congress into this Union. (Constitution of the United States, art. 4, sec. 3.)

The inhabitants of the ceded territory (Louisiana) shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion they profess. (Treaty by and between the United States and the French Republic, April 30, 1803.)

This Constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land. (Constitution United States, art. 6, par. 2.)

I do solemnly swear (or affirm) that I will faithfully execute the office of President of the United States, and will, to the best of my ability, preserve, protect, and defend the Constitution of the United States. (Constitution United States, art. 2, par. 9.)

Unquestionably a military government, established as the permanent government of the State, would not be a republican government, and it would be the duty of Congress to overthrow it. (Luther *vs.* Borden.)

General Grant was elected to the Presidency in 1868. Previously in the same year H. C. Warmoth had been elected governor of the State of Louisiana. Both those high officials were republicans of the same political communion, and both elected by republican votes. In due time they were respectively legally and formally inaugurated. They went forward in the development of their respective administrations. From the period when they were respectively invested with official authority down to the day of the re-election of the general to the Presidency, and subsequently, the official relations of the Federal administration at Washington and the State administration at New Orleans were constitutional and normal. Apparently there was no repulsion, no encroachment, no non-recognition of functionaries. In unquestioned operation, from year to year revolved in appointed orbit all the designated machinery of the three great co-ordinate departments of the local government of reconstructed Louisiana. The Federal Government, together with all its officials, was daily in all legal, practical intercourse with the State government, and the latter with all its officials, of whatever rank or functions, was all the time recognized and accredited as republican in form and practice, and so in terms conceded the habitual fruition of every right, immunity, dignity, and authority requisite in a State of the Federal Union.

In legal contemplation and in fact the existence of the State of Louisiana, with its then pending administration, as an established government, was not only in conformity with the terms of the Federal Constitution, but it was so recognized and observed by the Federal administration, and it so constantly contributed its constitutional part in organizing and equipping the co-ordinate departments of the Federal Government itself.

This completeness of State autonomy, Federal recognition, and executive comity, was equally as absolute and pronounced as to the *personnel* of the State government. And to the official authority of Governor Warmoth and every other officer of the State the Federal administration was actually, practically, and formally committed, in every aspect of law and fact known or pertaining to our Federal and State systems.

Again and again Louisiana had elected and accredited her Senators and Representatives in Congress. Again and again her Senators and Representatives had appeared at the bar of the Senate and of the House, clothed with their commissions or certificates, signed by Governor Warmoth, and sealed by the great seal of her sovereignty, affixed and attested by his secretary of state. Again and again, the legislative and executive departments of the United States recognized, affirmed, and enforced those commissions. And in all respects those accredited Representatives of the government and people of Louisiana bore their constitutional part, from 1868 to 1872, and subsequently, in the undisputed practical exercise of the supreme law-making power of the central Government.

These facts compose a part of the trite history of the recent past. They are familiar to all. But their suggestion serves a preliminary purpose here. We see in them a perfect instance of the harmonious co-operation of the general and local governments. We see in them a demonstration of the *entente cordiale* of the Executive of the United States and the executive of the State. In them it is made apparent that Louisiana and her officers bore the same relation, in law and in fact, to the officials of the Union, borne by her sister States and their officials. The difference was none, whether in theory or practice. The parallel was complete, and it continued.

So the two governments stood face to face; so they were intertwined; so they acted and were acted upon.

Congress had decided that the Warmoth government was the established government of Louisiana; the President had decided that the Warmoth government was the established government of Louisiana; the combined official judgments of the legislative and executive departments of the Federal Government had decided that the government of Governor Warmoth was the established government of Louisiana, and so authoritatively settled the grave political question of her constitutional and practical federal status, that the judiciary, the only remaining co-ordinate department, would be bound to, and did, take notice of it as the paramount law. (Luther *vs.* Borden.)

In the mean time the internal condition of the republican party itself in Louisiana became unsettled. Personal rivalry engendered personal feud. Intestine strife sprang up, and the party was rent asunder. Flushed with dominion, having left no common political enemy to fight, the truculent factions turned upon and fought each other. They had shared each other's confidence, and past community of deeds justified present reciprocity of hate.

> Into the womb
> That bred them they return and howl, and gnaw
> My bowels, their repast; then bursting forth
> Afresh, with conscious terrors vex me round,
> That rest or intermission none I find.

The turbulent annals of dominant faction, torn by feuds blazing up out of a scramble over the common conquests and spoils, furnish no more striking examples of bitter denunciation, imputed infamy, and impatient vengeance.

In the ides of August, 1871, at Baton Rouge, in serried ranks, the furious malcontents were confronted, and open proclamation of revolt and reprisal boldly made. One wing of the party, called the Gatlin-gun convention, nominated William Pitt Kellogg for governor. The other wing, called the Turner-hall convention, departed in savage grandeur home, and in New Orleans nominated P. B. S. Pinchback for governor; and then the word was given to—

> Apply petards, and force the ars'nal gates.

It is not a little curious that this high debate and division in the vitals of the republican party formed the lineal progeny of jealousies and criminations among United States republican office-holders on the one side and Louisiana republican office-holders on the other. And the apple of discord, heretofore found only elsewhere, so grew in the once happy republican family, and disrupted it, by bringing on a sinister party conflict in internal party management, between its State administration and its Federal administration, within the limits of the State of Louisiana.

At the head of one of these hosts militant, now called the custom-house republicans, waved the audacious oriflamme of United States Marshal S. B. Packard; and over the other, now yclept the Turner-hall republicans, floated the *nascent* banner of P. B. S. Pinchback, called lieutenant-governor of the State.

But ere yet smote the final shock of impending battle and the ensanguined field ran red with *sang* of patriots, by patriots shed, under the pale glimpses of the inconstant moon, a new shuffle and deal were had, a new cast of characters arranged, and new parts and places in the moving drama assigned. *Presto!* Pinchback descended from the command of the Turner-hall republicans, and with his following dropped into the ranks of the custom-house republicans, and, *presto!* again emerged into view among his whilom antagonists their chosen candidate for Congress from the State at large on the Kellogg ticket. So they stood—

> And such a frown
> Each cast at the other, as when two black clouds,
> With heaven's artillery fraught, come rattling on
> Over the Caspian, then stand front to front,
> Hovering a space, till winds the signal blow
> To join their dark encounter.

It is needless to enumerate or enlarge. Those party phenomena cannot be misinterpreted. They are in no sense enigmatical. They may be understood of all men. They disclose a shameless struggle among spoilsmen for the spoils. Candor must so denominate it. The House and country must judge it.

In the course of events rolled round the State and Federal election day. They were identical in time and place in Louisiana. The day was Monday, the 4th day of November, 1872. In addition to electors for President and Vice-President of the United States and members of Congress, on that day were to be elected, for the ensuing four years, governor, lieutenant-governor, secretary of state, attorney-general, and other State officers, including senators and representatives of the General Assembly, to hold for their respective constitutional terms. Accordingly there were presented for the choice of voters two classes of candidates, comprising two rival tickets. The regular republican ticket was headed by Ulysses S. Grant and Henry Wilson for President and Vice-President; William Pitt Kellogg and Cæsar C. Antoine for governor and lieutenant-governor; R. G. Deslonde for secretary of state; A. P. Field for attorney-general; Charles Clinton for auditor; and P. B. S. Pinchback for Congress from the State at large.

The fusion or liberal-republican ticket was headed by Horace Greeley and B. Gratz Brown for President and Vice-President; John McEnery and D. B. Penn for governor and lieutenant-governor; S. Armstead for secretary of state; H. N. Ogden for attorney-general; James Graham for auditor; and G. A. Sheridan for Congress from the State at large.

The present constitution of Louisiana was adopted March 7, 1868. By it is provided—

ART. 25. At its first session under this constitution the General Assembly shall provide by law that the names and residences of all qualified electors shall be registered in order to entitle them to vote; but the registry shall be free of cost to the elector.

ART. 26. No person shall be entitled to vote at any election held in this State except in the parish of his residence, and at the election precinct in which he is registered: *Provided*, That no voter, in removing from one parish to another, shall lose the right to vote in the former until he has acquired it in the latter.

In pursuance of these provisions of the constitution, on the 16th day of March, 1870, was passed and approved the present registra-

tion law of Louisiana, entitled "An act to provide for the revision and correction of the lists of registered voters of the State, the appointment of the various officers necessary therefor, and to prescribe the duties, powers, and compensation of the same," &c.

It was passed by a republican Legislature and approved by a republican governor, and went into, and continued to be in, unquestioned operation. It is eminently a prerogative act. It was obviously intended to, and it plainly did, invest the governor of Louisiana with arbitrary power over popular elections; and the governor, as the representative of his party, had continually executed that power, unchallenged by any republican.

By its provisions the governor of the State, by and with the advice and consent of the senate, was empowered to appoint a State registrar of voters, to hold his office for two years, with a salary of $3,000 per annum, and a clerk, with a salary of $1,500 per annum. By it the governor was empowered to appoint, for the same term, one supervisor of registration for each and every parish in the State, with a salary of seven dollars per day, together with assistants at seven dollars per day and clerks at five dollars per day; and by it the governor was empowered to remove any supervisor or assistant supervisor of registration for failure, refusal, neglect, or inability to perform the duties enjoined upon him by law.

The registration records of the State were transferred from the department of state to the custody of the State registrar of votes, subject to revision and correction by him. The registration of voters, and consequently the liberty of voting, were under the sole arbitrary control of the parish supervisor. He was empowered, at his discretion, to perambulate his parish to facilitate registration. And he was required at stated times, for designated periods prior to election day, to attend at his office for the completion and correction of registration, and it was made his duty to keep open his office until the ninth day before the general election day. He was empowered arbitrarily to strike from the registration-book names of persons for death or removal from the parish since the last registration, and to insert the names of other persons for removal within the parish since the last registration. On examination of the registration-books he is empowered to strike therefrom, by "drawing a line in red ink through the same," the names of all persons whom he may arbitrarily determine to be improperly there. And, restrained only by his arbitrary discretion, he may strike therefrom the names of any number of persons for non-residence in the parish or precinct on the tenth day before the election. And the names remaining on the book of registration, as so corrected by the supervisor of registration, "shall constitute the registry of citizens qualified to vote in the said parish at the next election."

And it is provided in—

SEC. 24. That the said book of registration *shall be the only* evidence that the persons whose names are found therein have resided for ten days immediately preceding the said election in said parish.

Nine days next before the day of election from the period fixed for the closing of the books of registration, each supervisor is required to make out and furnish certified copies of the lists of all registered voters to the commissioners of election of each parish or polling-place, to be used at the election to be held therein; and the supervisor is required to give to each voter a certificate of his registration; and in case it shall be made to appear by the voter's affidavit that the original has been lost or destroyed, to furnish him a duplicate certificate.

On the application of a voter for registration the supervisor may exact from him, in addition to his own sworn statement, proof by the affidavits of two qualified voters of the precinct whose names are on the registration-books.

And the act further provides, in section 33, "that the decision of any supervisor of registration on all questions of erasure from, or addition to, the registry, and on all questions relating to the registration of voters, shall be final, and shall not be subject to any revision or correction by any parish or district judge. No parish or district judge shall interfere by writ of injunction or mandamus, or other order of court, to compel any supervisor or assistant supervisor of registration to register, or prohibit him from registering, any person," under penalty of, upon conviction, fine, imprisonment, impeachment, and removal from office.

The act consists of forty-four sections. It is diffuse, and contains many formalities and details irrelevant to the main purpose of my remarks, and therefore, and for the necessary economy of time, omitted.

It would require more than Arcadian simplicity not to discern in that registration law all the machinery and latitude necessary to enable an unscrupulous partisan executive, with his venal minions, to dictate the benefits of registration.

By the constitution of Louisiana it is further provided:

ART. 98. Every male person of the age of twenty-one years and upward, born or naturalized in the United States and subject to the jurisdiction thereof, and a resident of this State one year next preceding an election, and the last ten days within the parish in which he offers to vote, shall be deemed an elector, except those disfranchised by this constitution, and persons under interdiction.

* * * * * * * * * *

ART. 103. The privilege of free suffrage shall be supported by laws regulating elections, and prohibiting, under adequate penalties, all undue influence therein from power, bribery, tumult, or other improper practice.

* * * * * * * * * *

ART. 107. In elections by the people the vote shall be taken by ballot. * * * *

In virtue of the foregoing provisions of the constitution of Louisiana was passed and approved, March 16, 1870, the election law of that date, entitled—

An act to regulate the conduct and to maintain the freedom and purity of elections; to prescribe the mode of making, and designate the officers who shall make, the returns thereof; to prevent fraud, violence, intimidation, riot, tumult, bribery, or corruption at elections, or at any registration or revision of registration; to limit the powers and duties of the sheriffs of the parishes of Orleans and Jefferson; to prescribe the powers and duties of the board and officers of the metropolitan police in reference to elections; to prescribe the mode of entering on the rolls of the senate and house of representatives the names of members; to empower the governor to preserve peace and order; to enforce the laws; to limit the powers and duties of the mayors of the cities of New Orleans and Jefferson with regard to elections; to prohibit district or parish judges from issuing certain writs to commissioners of elections; to make an appropriation for the expenses of the next revision of the registration and of the next election, and to enforce article 103 of the constitution.

Under and in pursuance of that law was held the election of November, 1872, now under consideration. It was passed and approved simultaneously with the registration law previously referred to, and evidently formed part of the same carefully-digested system of state policy. It was conceived and brought forth by the same republican General Assembly, was approved and enforced by the same republican executive, and continued to be recognized by that paramount organization as the only subsisting, valid law upon its subject-matter. This, too, is a grossly prerogative act. It was palpably intended to make the will of the party paramount by means of the executive, whether or not coincident with the will of a majority of the legal voters. And the sweeping prerogative thus conferred had been exercised by the then head of the Louisiana government with the undisguised approbation of the autocratic party which set him up, and by such legislation held up his hands in its own interest; exercised by him, too, without question, and without responsibility or accountability as to the fact or the manner of its exercise.

I will undertake, at the hazard of being tedious, by a few quotations and otherwise, by synopsis, to state, with substantial fairness, the parts of the act relied on by me in the views I am to present.

Except the parishes of Orleans and Jefferson, each parish in the State was designated an election precinct; and the supervisor of registration was empowered in his discretion to direct what number of polls or voting places should be established in each precinct, and to fix the places of holding the election. In the city of New Orleans each ward was made a voting precinct; and in the remaining part of the parish of Orleans, and in the parish of Jefferson, the supervisor of registration was empowered in his discretion to fix both the precincts and voting places in each precinct; and each supervisor of registration was empowered to appoint the commissioners of election throughout his parish.

The election at each poll or voting place was to be presided over by three commissioners of election, with power to fill vacancies, whose sole qualification was to be able to read and write.

It was made the duty of the commissioners of election to receive the ballots of all legal voters and deposit them in the ballot-box in view of the voter of the ballot. For disorderly conduct at the polls they had discretionary power to issue warrants of arrest, and summarily to commit to prison. They were required to keep, signed and sworn to, a list of all the names, numbered, of all persons voting at each poll, and to deliver it, with the box containing the ballots, to the supervisors of registration. They were empowered to administer oaths, and to examine persons touching their right to vote. Each commissioner of election was to receive five dollars per day of duty, upon his written statement, subject to the approval of the supervisor and the governor. They were enjoined to allow only persons to vote who had been duly registered, according to law, as qualified voters. Each voter was allowed to vote only in the parish of his residence, except as to the parishes of Orleans and Jefferson, where they were allowed to vote only in the election precinct of their registration. Every person applying to vote was required to produce his certificate of registration to the commissioners of election. The supervisor of registration was required to furnish to the commissioners of election a list of all registered voters and the number of the certificate of registration of each voter; and it was made the duty of the commissioner to erase from the list the name of the voter on depositing his ballot in the box. It provided in—

SEC. 29. That in any parish, precinct, ward, city, or town, in which during the time of registration, or revision of registration, or on any day of election, there shall be any riot, tumult, or acts of violence, intimidation, armed disturbance, bribery, or corrupt influences, at any place within said parish, or at or near any poll or voting place, or place of registration, or revision of registration, which riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences, shall prevent or tend to prevent a fair, free, peaceable, and full vote of all the qualified electors of said parish, precinct, ward, city, or town, it shall be the duty of the commissioners of election, if such riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences occur on the day of election, or of the supervisor of registration, or any assistant supervisor of registration of the parish, if they occur during the time of registration or revision of registration, to make, in duplicate and under oath, a clear and full statement of all the facts relating thereto, and of the effect produced by such riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences, in preventing a fair, free, peaceable, and full registration or election, and of the number of qualified electors deterred by such riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences, from registering or voting, which statement shall also be corroborated under oath by three respectable citizens, qualified electors of the parish.

On the close of the election both copies of the statement are to be forwarded to the supervisor of registration; and the supervisor is

immediately to forward one copy to the governor, and deposit the other with the clerk of the district court of the parish.

Under penalty of grievous fine and imprisonment, all parish and district judges are prohibited from interfering by injunction, *mandamus*, or other order of court, with the commissioners of election in any matter relating to the election. And it is made the duty of the governor to cause to be prosecuted such recusant judges. At the polls no voter may be challenged on any question of residence if his name is registered.

Supervisors of registration in the parishes of Orleans and Jefferson, six days previous to any general election, shall furnish to the metropolitan police commissioners a copy of the list of registered voters in each precinct in said parishes, upon whose report to the supervisor of registration, as to the names said to be improperly on the list, the supervisor is empowered to strike out and erase therefrom all such names found there.

Under penalty of fine, imprisonment, and removal from office, all sheriffs and their deputies of the parishes of Orleans, Jefferson, and Saint Bernard are prohibited from interfering in any manner with elections, from being stationed at any poll or voting place, and from maintaining or preserving the peace on the day of election. The whole care of the peace and order of the cities of New Orleans, Jefferson, and Carrollton, and of the parishes of Orleans, Jefferson, and Saint Bernard, on the day of election, is placed in the charge of the metropolitan police, subject to the orders of the governor. And the act provides:

SEC. 53. That immediately upon the close of the polls, on the day of the election, the commissioners of election at each poll or voting place shall seal the ballot-box by pasting slips of paper over the key-hole and the opening in the top thereof, and fastening the same with sealing-wax, on which they shall impress a seal, and they shall write the names of the commissioners on the said slips of paper; they shall forthwith convey the ballot-box, so sealed, to the office of, and deliver said ballot-box to, the supervisor of registration for the parish, who shall keep his office open for that purpose from the hour of the close of the election until all the votes from the several polls or voting places of the precinct shall have been received and counted. The supervisor of registration shall immediately upon the receipt of said ballot-box note its condition and the state of the seals and fastenings thereof, and shall then, in the presence of the commissioners of election and three citizens, freeholders of the parish for such poll or voting place, open the ballot-box, and count the ballots therein, and make a list of all the names of the persons and officers voted for, the number of votes for each person, the number of ballots in the box, and the number of ballots rejected, and the reason therefor. Said statements shall be made in triplicate, and each copy thereof shall be signed and sworn to by the commissioners of election of the poll and by the supervisor of registration. As soon as the supervisor of registration shall have made the statement above provided for, for each poll in his precinct or parish, and it shall have been sworn to and subscribed as above directed, the supervisor of registration shall inclose in an envelope of strong paper or cloth, securely sealed, one copy of such statement from each poll, and one copy of the list of persons voting at each poll, and one copy of any statements as to violence or disturbance, bribery or corruption, or other offenses specified in section 29 of this act, if any there be, together with all memoranda and tally-sheets used in making the count and statement of the votes, and shall send such package by mail, properly and plainly addressed, to the governor of the State. The supervisor of registration shall send a second copy of said statement to the governor of the State by the next most safe and speedy mode of conveyance, and shall retain the third copy in his own possession.

SEC. 54. That the governor, lieutenant-governor, the secretary of state, and John Lynch and T. E. Anderson, or a majority of them, shall be the returning officers for all elections in the State, a majority of whom shall constitute a quorum, and have power to make the returns of all elections. In case of any vacancy by death, resignation, or otherwise, by either of the board, then the vacancy shall be filled by the residue of the board of returning officers. The returning officers shall, after each election, before entering upon their duties, take and subscribe to the following oath before a judge of the supreme or any district court:

"I, A B, do solemnly swear (or affirm) that I will faithfully and diligently perform the duties of a returning officer as prescribed by law; that I will carefully and honestly canvass and compile the statements of the votes, and make a true and correct return of the election; so help me God."

Within ten days after the closing of the election said returning officers shall meet in New Orleans to canvass and compile the statements of votes made by the supervisors of registration, and make returns of the election to the secretary of state. They shall continue in session until such returns have been completed. The governor shall at such meeting open, in the presence of said returning officers, the statements of the supervisors of registration, and the said returning officers shall, from such statements, canvass and compile the returns of the election in duplicate. One copy of such returns they shall file in the office of the secretary of state, and of one copy they shall make public proclamation by printing in the official journal and such other newspapers as they may deem proper, declaring the names of all persons and offices voted for, the number of votes for each person, and the names of the persons who have been duly and lawfully elected. The returns of the elections thus made and promulgated shall be *prima facie* evidence in all courts of justice and before all civil officers until set aside, after a contest according to law, of the right of any person named therein to hold and exercise the office to which he shall by such return be declared elected. The governor shall within thirty days thereafter issue commissions to all officers thus declared elected, who are required by law to be commissioned.

SEC. 55. That in such canvass and compilation the returning officers shall observe the following order: They shall compile, first, the statement from all polls or voting places at which there shall have been a fair, full, and peaceable registration and election. Whenever from any poll or voting place there shall be received the statement of any supervisor of registration, assistant supervisor of registration, or commissioner of election, in form as required by section 29 of this act, an affidavit of three or more citizens, of any riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences, which prevented, or tended to prevent, a fair, free, and peaceable and full vote of all qualified electors entitled to vote at such poll or voting place, such returning officers shall not canvass, count, or compile the statement of votes from such poll or voting place until the statements from all other polls and voting places shall have been canvassed and compiled. The returning officers shall then proceed to investigate the statements of riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences at any such poll or voting place; and if from the evidence of such statements they shall be convinced that such riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did not materially interfere with the purity and freedom of the election at such poll or voting place, or did not prevent a sufficient number of qualified voters thereat from registering or voting to materially change the result of the election, then, and not otherwise, said returning officers shall canvass and compile the vote of such poll or voting place with those previously canvassed and compiled; but if said returning officers shall not be fully satisfied thereof, it shall be their duty to examine further testimony in regard thereto, and to this end they shall have power to send for persons and papers. If, after such examination, the said returning officers shall be convinced that said riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did materially interfere with the purity and freedom of the election at such poll or voting place, or did prevent a sufficient number of the qualified electors thereat from registering and voting to materially change the result of the election, then the said returning officers shall not canvass or compile the statement of the votes of such poll or voting place, but shall exclude it from their returns. The returning officers may appoint clerks, &c.

SEC. 56. That it shall be the duty of the secretary of state to transmit to the clerk of the house of representatives and the secretary of the senate of the last General Assembly a list of the names of such persons as, according to the returns, shall have been elected to either branch of the General Assembly; and it shall be the duty of said clerk and secretary to place the names of the representatives and senators elect, so furnished, upon the roll of the house and of the senate, respectively; and those representatives and senators whose names are so placed by the clerk and secretary respectively in accordence with the foregoing provisions, and none other, shall be competent to organize the house of representatives or senate. Nothing in this act shall be construed to conflict with article 34 of the constitution, to wit:

"ART. 34. Each house of the General Assembly shall judge of the qualifications, election, and returns of its members; but a contested election shall be determined in such manner as may be prescribed by law."

SEC. 57. That should any of the returning officers named in this act be a candidate for any office at any election, he shall be disqualified to act as returning officer for that election, and a majority of the remaining returning officers shall summon some respectable citizen to act as returning officer in place of the one so disqualified.

* * * * * * * * * * * *

SEC. 83. That the governor shall take all necessary steps to secure a fair, free, and peaceable election; and shall on the days of election have paramount charge and control of the peace and order of the State; over all peace and public officers, and shall have the command and direction in chief of all police officers, by whomsoever appointed, and of all sheriffs and constables in their capacity as officers of the peace.

The advent of the election day of November, 1872, found in force in Louisiana those two remarkable statutes. Under them all the elections occurring since their approval had been held and determined. Those elections were all successes for the united republican party, and such salutary results more than justified the sanguine expectations founded in the magical pliancy of the machinery of the statutes. The admirers of those statutes had not anticipated division and strife in their own party, when the edge of those very statutes might be turned by republicans against republicans, and hence, in whilom security, they looked forward for the recurrence of the usual auspicious results in the then ensuing election. That election came, and was consummated, no doubt, in pursuance of both the letter and spirit of those statutes. But the result of it, it was soon plain to be seen, was not in harmony with the cherished hopes of the Gatling-gun or custom-house republicans, and thenceforth ensued the most unprecedented and shameless imbroglio in all the multiplied annals of State elections. It arose "not from the casting of the vote, but from the counting of the vote." Baffled but implacable faction immediately sought to recover its losses under cover of a perfidious net-work of specious pretexts and bewildering wiles. Plottings and counter-plottings, never so versatile and grotesque, with demoniac levity pursued the labyrinth around the dishonored, helpless form of Louisiana. Let us thread the giddy maze of ensuing events, with but little amplification or comment, so far forth only as may be necessary and convenient in arriving at rational conclusions upon the merits as affected by Federal interference.

The first registration was made in Louisiana in 1867, under General Phil. Sheridan, of the United States Army, pursuant to the reconstruction acts of that year. By it it appears that there were then in Louisiana, not disfranchised, of persons entitled to vote, white, 44,723; colored, 82,865; total, 127,588. In the same year the vote for and against the convention to frame a State constitution showed a total of 79,174.

At the gubernatorial election in April, 1868, Warmoth, republican, received 64,901, and Taliaferro, democrat, 38,046 votes; total, 102,947.

The registration of 1868 showed a total of voters of 146,398.

At the presidential election in November, 1868, Grant, republican, received 33,322, and Seymour, democrat, 74,668 votes; total, 107,990.

The registration of 1870 showed a total of voters of 153,360.

At the State election for auditor, November, 1870, Graham, republican, received 65,532, and Jume l, democrat, 41,010 votes; total, 106,542.

By the United States census of 1870, the population of Louisiana is set down at, white, 362,065; colored, 364,210; total, 726,915.

The voting strength of that population is estimated, on a ratio of one to five, at, white, 72,311; colored, 72,802; total, 145,113.

The registration of 1872 is not before me.

At the gubernatorial election in November, 1872, by the official returns, McEnery, fusion, received 66,403, and Kellogg, republican, 59,760 votes; total, 126,163.

By adverting to these figures, we may plainly contrast the votes registered and the votes cast in Louisiana heretofore, and by analogy approximately test the integrity of the vote of November, 1872:

	Voters.
Registration in 1867	127,588
Registration in 1868	146,398
Registration in 1870	153,360
	Total vote.
Gubernatorial election in 1868	102,947
Presidential election in 1868	107,990
State auditor's election in 1870	106,542
Gubernatorial election in 1872	126,163

And it appears that in 1867 the registered vote exceeded the actual vote 24,741; in 1868, 38,408; in 1870, (for auditor,) 46,818; in 1872, (for governor,) 27,197.

The election law above cited provides that the governor shall take all necessary steps to secure a fair, free, and peaceable election; and shall, on the days of election, have paramount charge and control of the peace and order of the State. What, then, was the manner of this election, as to fairness, freedom, and peace?

To the main purpose of these remarks an answer to that question would be merely incidental and immaterial, but, nevertheless, I propose to briefly cite some general testimony responsive to it.

Mr. S. B. Packard says of himself that he resides in New Orleans; is a United States marshal for the district of Louisiana; chairman of the republican State committee; is thoroughly acquainted with political affairs in Louisiana, and took an active part in the election of 1872.

Question. What was the conviction as to whether the election was fairly conducted or not after it was over?

Answer. In a majority of the parishes I should say it was fair, or as nearly so as you might expect. We understood, of course, that it is legitimate for those in power to give advantages to their friends, such as are legitimate. Other than that, I should say that in the majority of parishes there was no complaint; but there are some parishes where there is no question but that there were well-grounded complaints of fraud.

Q. I will ask you what you know about the election in New Orleans?

A. Well, I think the count of the vote was tolerably fair in New Orleans. The registration I do not think was fair and truthful. In some instances there were a large number of persons registered as residing in a certain house, which under no circumstances could have contained so many.

Q. You spoke of this election as being in a majority of the parishes a fair election.

A. Yes, sir.

Q. Compared with the elections of 1870 and 1868, and on back, how does it compare in fairness with the elections prior to this?

A. I think it was not so fair as the election of 1870, although I did not regard that as a perfectly fair election. I think that in those parishes located in the fourth congressional district especially, which is the strongest republican section in the State, there were greater frauds or more unusual methods used to change them.

Q. Was the complaint made in 1870 by the democratic party in the State that there were frauds committed in them by the republicans?

A. Yes, sir; in some instances they were well founded, and that was the pretended justification in this election, with that party, for the course that they pursued toward the republicans in many instances.

Q. Was the election of 1870 an unfair election?

A. I think there is no such thing as a reasonably fair election; I think an election should be fair; if it is not fair of course it is unfair.

Q. Were you not pretty well satisfied with the election of 1870?

A. The republican ticket prevailed.

Q. There were frauds committed in 1870?

A. Yes, sir; I think there were.

Q. By the republicans or democrats, those of which you complain?

A. In some instances by one, and in some the other.

Q. I ask whether the republican votes cast in 1870 were in favor, in most instances, of the republican or democratic party?

A. I should say in favor of the republican in most instances.

Q. How many fraudulent votes do you think were polled in 1870 for the republican ticket?

A. Not many for the regular republican ticket. In the city of New Orleans I think there were some fraudulent votes polled for the regular republican ticket proper, but that was done for the purpose of getting through members of the house of representatives and senators.

Q. Was not that the case with all the municipal ticket in New Orleans and the parochial ticket?

A. The vote was increased for the city ticket, but the object seemed to be to get through those gentlemen that I have mentioned.

Q. What I want to know is, whether there was a large number of fraudulent votes polled for the republican ticket in 1870?

A. I have no means of getting at the number. My impression is that some fraudulent votes were polled.

Q. As many as 1,000?

A. I should say there was.

Q. Two thousand?

A. I cannot say. My impression is there were as many as that.

Q. Three thousand?

A. I do not know; though my impression is there were 5,000 or 6,000 fraudulent republican votes in 1870 in New Orleans. * * * * *

Mr. GEORGE A. SHERIDAN sworn: Was appointed register of the parish of Carroll in 1867 by General Phil. Sheridan, United States Army. Was afterward sheriff; was subsequently adjutant-general of the State, and for three years last past tax-collector for New Orleans, and was Pinchback's opponent for Congress; traversed the entire State, and twice canvassed it during the campaign of 1872.

Question. Did you find in this campaign a great many colored people who favored the fusion ticket?

Answer. Well, I should think there were 50,000 or 60,000 that attended our meetings, that seemed to take an interest in the proceedings.

Q. That included women and children?

A. Yes, sir; and the men.

Q. About how many colored people would you estimate, from what you saw during the campaign, supported the Greeley fusion ticket in Louisiana?

A. I should think anywhere from 8,000 to 15,000.

Q. Your acquaintance in the State is extensive?

A. As much so as almost any man's, I think.

Q. You think 8,000 to 15,000 colored men supported the fusion ticket in Louisiana?

A. I do.

Q. How many white republicans in Louisiana supported the other ticket?

A. I do not think there are 250 outside of the employés of the Federal Government.

Q. Where are they found? Are they in the city of New Orleans, or all over the State?

A. They are mostly in New Orleans; there are some few in the country; I do not know of 100 men outside of New Orleans.

Q. What is your opinion in reference to the fairness of the election?

A. I think it was the fairest election that has been held in Louisiana for forty years.

Q. You have not been there forty years?

A. No, sir; but I have talked with people who have been there a great deal longer. It is the fairest election we have had since reconstruction, in my judgment.

Q. Was it as fair as in 1870?

A. I do not think there was one-third as much ballot-box stuffing as there was then.

Q. Was there a good deal in 1870?

A. I think there was a large amount of it.

Q. Who had charge of the election in 1870?

A. It was under the auspices of Governor Warmoth.

Q. You think it was a fairer election than in 1870?

A. I think this election was fairer than in 1870; I think it was a better expression of the popular will and feeling, black and white, in the State, than in 1870.

Q. Was there a good deal of complaint about the State in regard to difficulties in the way of registration, and finding the places of registration and voting?

A. There were some complaints.

Q. Were they general?

A. I do not think so; not until after the election had taken place and the Kellogg party found themselves defeated, and then there was a large complaint from all sections of the State.

Q. You say this was the fairest election ever held in that State for forty years?

A. Yes, sir.

Q. If this is the fairest election in Louisiana for forty years, what has been the character of the elections heretofore since you have been there?

A. They have been pretty rough; we have been constantly urged from Washington to carry the State republican, and may have been misled into some little exertions that would never have taken place otherwise.

Q. Who urged you?

A. Our Senators, Mr. Kellogg, Mr. WEST, and prominent gentlemen.

Q. They did not urge you to commit frauds?

A. O, no, sir.

Q. Merely urged you to exert yourselves to carry the State?

A. That is what we did.

Q. But you carried it in a fraudulent manner?

A. I do not know that we did.

Q. You say this was the fairest election you have had.

A. I am personally familiar with this election. I am speaking from hearsay about the others.

Q. You spoke of ballot-box stuffing.

A. Yes, sir.

Q. Has that been a common thing?

A. Yes, sir.

Q. All over the State?

A. Yes, sir.

Q. Do the people down there regard that as anything like fair in conducting an election?

A. I think they have got demoralized since the war to a certain extent.

Q. They seem to have been educated to frauds in all elections?

A. I do not know whether they have been educated to it or come by it naturally; I do not think it is confined to any one class of people.

Q. You say "educated;" it is not taught in the schools, I suppose, but has been a part of the political education of men to vote fraudulently?

A. I think in Louisiana there has been, as in every other State, more or less manipulations of elections. We cast this year 20,000 more votes than ever before, and had a fuller registration than ever before.

Governor P. B. S. PINCHBACK. * * * I do not think there were 500 colored men in the whole State that voted for the fusion ticket. I do not think there were 100 who voted against the national republican ticket; in fact, I do not think there was one colored man voted against Grant in the State; but there may have been, perhaps, 50 or 100. I would be willing to stake my reputation that there was not 100 colored men in Louisiana who did not vote for Grant and Wilson. Eight or ten thousand white republicans voted for Grant and Kellogg.

Question. Was there not a great deal of dissatisfaction among the republicans throughout the State at the nomination of Mr. Kellogg and his whole ticket?

Answer. There was. There was a great deal of dissatisfaction toward Mr. Kellogg on the part of those republicans who did not belong to my wing of the party. Of course, we did not like Mr. Kellogg, nor any of that side, at that time. We had been fighting for recognition; we did not like to be shut out.

Q. Was there not a protest, signed by Mr. Billings and Colonel Carter, and other gentlemen, Mr. Ladd and others, protesting against the manner in which the convention had been manipulated by the United States officials and Kellogg's nomination secured; and was not that protest sent to the President?

A. I think not. I think there were papers of this character made up by Mr. Billings, the defeated candidate for governor, and he may also have been supported in his papers by Mr. Wilson and General W. Carter; but I think those three will constitute the whole number signing any papers that went to Washington. I remember distinctly one of these gentlemen made a proposition to me to join in this protest, and I thought it was useless; that it made no difference.

Q. How long after the Kellogg ticket was nominated before that difference healed up?

A. Well, it was some time; I think the ticket was nominated on the 19th of June; the fusion took place on the 27th of August, or on or about that time.

Q. I would like to ask you a question or two, Governor Pinchback. There have been some references to the election of 1870. Was there a charge of fraud in the election of 1870?

A. It is supposed to surpass anything in the shape of an election ever held in any State in the Union.

Q. Was it charged by democrats?

A. By both parties.

Q. State whether there was a general apprehension or feeling entertained about the repetition of those frauds in the last election.

A. Yes, sir; so strong, indeed, was that feeling that all parties were bidding for the governor. The republicans made herculean efforts to retain him, because we were afraid that if he wielded his powers against us we were gone. You, gentlemen, know, many of you, the efforts I made, and how tenacious I stuck to him; for I confess I like to be on the winning side. To tell the truth, I did not think it possible to beat him. That is square, Governor.

Q. You and the governor were good friends in 1870?

A. Yes, sir.

Q. In that election of 1870 you and the governor co-operated?

A. No, sir. In 1870 I was not friendly with him; I was fighting him, since I think of it.

Q. You took no part in it?

A. No, sir; only to advocate the election of the republican ticket in my own locality. * * * The governor's power is set down at about 20,000. It is supposed that Governor Warmoth is worth about 20,000 freemen to his side.

Q. What is your power worth?

A. It was supposed that I had a following, and I have heard my enemies estimate my strength at about 25,000.

Q. Stronger than the governor?

A. O, yes, sir. He always acknowledged he could not get along without me. * * * It was thought that his management of affairs and appointment of shrewd supervisors of registration, who understood the business well, would make a difference in the votes cast.

Q. A difference of 20,000?

A. Yes, sir.

Q. You used to be a friend of mine—a pretty strong one?

A. Yes, sir.
Q. We made some lively fights together?
A. Yes, sir.
Q. Against them custom-house men?
A. We did. I was one of your exceptional friends.
Q. Speaking about friends in 1870, was that the common talk among people on both sides?
A. Yes, sir.
Q. Did Governor Warmoth then have the appointment of supervisors of registration as now?
A. Yes, sir.
Q. The same power?
A. Yes, sir.
Q. Did those supervisors have the appointment of commissioners of election as now?
A. Yes, sir. It was the same law precisely.

Hon. WILLIAM L. MCMILLEN:

Question. * * * * * Some questions were asked yesterday as to the number of white voters in New Orleans who voted the Government ticket. What is your opinion about that?

Answer. My belief is, that the number of white votes in the State of Louisiana for the republican party is, compared with the total vote, very small. I do not believe there are over 2,500 white voters in the city of New Orleans, and I do not believe there are over 2,000 white voters in the entire State of Louisiana, outside of New Orleans, who voted the republican ticket at the last election.

Q. Was it the understanding of all parties that this election in Louisiana was as peaceable and fair as you had ever before had?

A. I answer, I think that has been admitted by all persons and by all the newspapers in the State.

Q. Was it admitted in the newspapers of both parties after the election closed?

A. Yes, sir; it was admitted by the New Orleans Republican repeatedly in editorials after the election was held, and the result generally conceded.

Q. Was the New Orleans Republican the organ?

A. It is the leading republican paper of the State and the official organ of the State government. If you desire it, I can submit now, I think, an extract from an article in the New Orleans Republican, published as late as the 19th day of November.

Q. Do you remember it yourself? Did you see it at the time?

A. Yes, sir.

Q. Read it if you please, stating the date first.

[From the New Orleans Republican, of the 19th November, 1872.]

"In our testimony we have so recently reviewed the positions of the parties contending for the control of the public affairs of the State, that it is unnecessary to comment further at this time. But as it is rumored that the President is preparing his message with the most kindly sentiments toward the southern people, we deem it a duty to add the testimony of the Republican as impressing those sentiments more strongly upon him. This testimony cannot but from our stand-point be accepted as impartial. The Republican, then, assures the President that no people were ever more orderly and obedient to law than the people of New Orleans and Louisiana, in the State and Federal elections recently held; that the relations between the races are kindly and cordial, the colored people voting by the side of the whites openly without military protection, State or Federal, and free from any insult or molestation whatever. Difficulties which have arisen since the elections are simply official, and are not alleged to have sprung from force or fraud of the people. The controversy now pending has not arisen from the casting of the vote, but from the counting of the vote. This indication of order and harmony is not only proper for executive consideration, but to counteract, so far as may be, the slander that New Orleans is under control of lawless mobs. This slander has not only prejudiced the mind of Congress, but has impeded immigration and excluded capital. Whatever, then, may be the result of legal or political questions, growing out of the Louisiana elections, the Republican deems it a duty to assure all whose opinion may have a bearing upon the political or commercial condition of New Orleans or Louisiana that the people, without regard to race, color, or previous condition, have demeaned themselves well and deserve well of the country for their conduct in the recent State and Federal elections."

Q. That article not only states that the election was peaceable, but that both races voted, and that it was without fraud and fair?

A. Yes, sir; that it was not only peaceable but fair.

Q. Is it true that any white people were disfranchised in 1870 by a constitutional provision which was abrogated at this last election?

A. Yes, sir; the article disfranchising them was changed in 1870.

Q. Did not that disfranchise several thousand people?

A. It really disfranchised, whether legally or not, a great many people; it had the effect of disfranchising or making a vast body of the white people of Louisiana feel that they were laboring under disfranchisement. The majority of the white people of Louisiana had the impression when we made our constitution in 1868 that they were disfranchised by it.

Q. Have you stricken that article out?

A. Yes, sir; I am happy to say that we have made that much progress.

Q. The recent election was the first since the abrogation of that article?

A. Yes, sir.

Q. Do you think that the abrogation of that article will account for the increase of the opposition vote in Louisiana?

A. I think it would account reasonably for a great deal more than that increase, as shown at the last election.

Q. Is it not true that in the election of 1872 there was more activity and zeal displayed by the white population than has ever been displayed since the reconstruction before?

A. I think so; I think, as a class, the white people took more general interest in the canvass than I have ever known before. The better class came out and took an interest in the last election, which is not true of any election previously, since reconstruction.

John Lynch went to Louisiana as a soldier in 1862; is the Lynch of the Lynch returning board.

Question. Was there not at the recent election in Louisiana a larger number of votes cast than was ever cast before at any general election?

Answer. As far as my knowledge goes, that is true.

Q. Was not the election generally peaceful and quiet in New Orleans; and was it not generally recognized as a fair one; and were there any disturbances at any poll in Louisiana, to your knowledge?

A. Yes, sir; from the evidence before me there was; in the case of officers who attempted to be present in conformity with the law just read.

Q. That law does not apply outside of New Orleans?

A. I will state generally that, in my opinion, on election day there was very little disturbance. It was very quiet and peaceable on election day.

On this point let these extracts suffice. They have insensibly encroached too far upon my time. They are from the evidence of persons, perhaps among the most candid, accredited, and responsible on the opposing sides. As disclosures of circumstances illustrative of the fairness and freedom of the election, for which purpose they are cited, it is obvious they are more general than particular. The countless details are plainly incompatible with my limited time; moreover, those details are various, vicious, and voluminous; but, according as they might be credited or discredited, would, no doubt, more or less color—strengthen or weaken—the one opinion or the other. On the question of fairness, however, and freedom in the election of 1872, I am of the opinion that these details are not of a nature to change the moral and judicial conclusion of every candid mind that has gone over them, that the election was a customary reconstructed Louisiana election, conducted by the authorities, and in obedience to the forms of law, in its results fortified by all the law's highest sanctions, and subject to be reviewed and set aside only after a lawful contest before the lawful tribunals, and in conformity with the forms prescribed by the laws of Louisiana for the trial of contested elections.

And finally, whether as to the registration, or the supervisors of registration; whether as to the commissioners of the election, or to the voters at the election; whether as to the total of the votes registered or not registered, or polled or not polled, as compared with the registrations or elections of 1868 and 1870, we stand confronted with this pivot fact; that down to this point in our inquiries, whether as to the manner or the substance of the election of 1872, the Federal authorities had no lawful business with it.

By the constitution of Louisiana, article 46, returns of all elections for members of the General Assembly shall be made to the secretary of state. Section 53 of the election law of March 16, 1870, heretofore quoted, directs the supervisors of registration to make returns to the governor of the sworn statements of the poll, as provided for therein; and the fifty-fourth section creates the board (to be composed of the governor, lieutenant-governor, secretary of state, and two other persons) of returning officers, therein defined, for all elections in the State, a majority of whom should constitute a quorum, with power to make the returns of all elections. And it is made the duty of that board, within ten days after the close of the election, to canvass and compile the statements of votes, and make return of the election to the secretary of state. Now it is objected to the direction given to the primary returns in these two sections of the election law, that it is in conflict with article 46 of the constitution. If that objection be good, it would be equally good as against all the rival boards. It is, however, probably not well taken. But however that may be, the question is not material to the main purpose of these remarks, and I will not pause to discuss it.

By the article 68 of the constitution of Louisiana it is provided that—

There shall be a secretary of state, who shall hold his office during the term for which the governor shall have been elected.

And by article 69 it is provided that—

The secretary of state, &c., shall be elected by the qualified voters of the State; and in case of any vacancy caused by the resignation, death, or absence of the secretary, &c., the governor shall order an election to fill said vacancies: *Provided*, The unexpired term to be filled be more than twelve months; when otherwise, the governor shall appoint a person to perform the duties of the office thus vacant until the ensuing general election.

And by article 96 it is provided that—

Impeachments of the governor, secretary of state, &c., shall be tried by the senate.

And the judgment to be rendered is limited to removal from office and disqualification from holding office.

By article 66 it is provided—

If any bill shall not be returned by the governor within five days after it shall have been presented to him, it shall be a law in like manner as if he had signed it, unless the General Assembly by adjournment prevent its return; in which case the same shall be returned on the first day of the meeting of the General Assembly after the expiration of said five days, or be a law.

At the election for governor in April, 1868, George E. Bovee was duly elected secretary of state; and on the 15th June ensuing he was duly commissioned, qualified, and installed in office.

In February, 1871, the Legislature of Louisiana passed and sent to the governor for his approval an act incorporating the Crescent City Water-Works Company, by which it was proposed to take the control of the water-works from the city of New Orleans and confer it upon a private company of individuals. Within four days after the enrolled bill reached the governor the General Assembly adjourned. Therefore, under article 66, the governor was not required to act upon the bill before the first day of the ensuing meeting of the General Assembly. In the May following the passage of the bill Mr. Bovee asked the governor whether he should promulgate it as a law. The governor's written reply was that the bill had come to him on the heel of the session; that it was still in his possession; and that as it was not a law, Bovee could not promulgate it; and that he intended to veto it on the meeting of the General Assembly. Nevertheless, in August following, Mr. Bovee substituted for the original a different bill, by the same title, and signed, certified, sealed, and promulgated the substitute as having become a law by the lapse of time, without the approval of the governor. Subsequently Mr. Herron averred, in a record, in the eighth district court, that that was an act of flagrant malfeasance in office, and justified Bovee's removal from office by the governor. The governor held he could suspend and appoint *ad interim*, and thereupon promptly issued the following order:

STATE OF LOUISIANA, EXECUTIVE DEPARTMENT,
New Orleans, August 29, 1871.

Whereas George E. Bovee, secretary of state, has, in violation of the constitution and laws of this State, caused to be promulgated as having become a law, "An act to incorporate the Crescent City Water-Works, to define its rights and duties, and to punish offenses committed against the franchises of said company and the public health," with his official certificate that the foregoing act, having been presented to the governor of the State of Louisiana for his approval, and not having been returned by him to the house of the General Assembly in which it originated within the time prescribed by the constitution of the State of Louisiana, has become a law without his approval; the said certificate having been made by the said Bovee with the knowledge communicated by the governor of the State of Louisiana, on the 4th day of May, 1871, that said bill would not become a law, or be acted upon, until the first day of the next session of the General Assembly; and whereas the said Bovee has knowingly, willfully, unlawfully, and with the purpose of imposing upon the people of the State as law that which he knows has not become law:

Now, therefore, I, H. C. Warmoth, governor of the State of Louisiana, charged with the faithful execution of the laws under the constitution of the State, do issue this my order, suspending the said George E. Bovee from the office of secretary of state, and do hereby appoint F. J. Herron to discharge the duties of said office until the Legislature shall act upon the subject in accordance with the constitution.

Given under my hand and seal this 29th day of August, A. D. 1871, and of the Independence of the United States the ninety-sixth.

H. C. WARMOTH,
Governor of Louisiana.

O. D. BRAGDON, *Private Secretary to the Governor.*

Afterward were instituted proceedings No. 3556 in the eighth district court for the parish of Orleans, entitled the State of Louisiana *et al. vs.* Franklin J. Herron. The suit was brought by the attorney-general, Simeon Belden, at the instance of Mr. Bovee, under what is called the "intrusion in office act," to invalidate the action of the governor and for the reinstatement of Bovee. Herron defended, justifying the official action of the governor, and the court rendered the following judgment, to wit:

In this case, submitted to the court for determination, after deliberation, and for the reasons assigned in the written opinion this day delivered and filed, the court considering the law and the evidence to be in favor of the defendant,

It is ordered, adjudged, and decreed, that this suit be dismissed at the cost of the plaintiffs.

Judgment rendered October 10, 1871, and signed October 20, 1871.

CHARLES M. EMMERSON,
Judge Third District Court, Parish Orleans,
Acting in absence of Hon. H. C. Dibble, judge.

From this judgment an appeal was taken to the supreme court, and finally by that court the appeal was dismissed for informality.

Pending the ensuing session of the General Assembly the governor, in his message to the house, charged Bovee with the above and other official offenses; the matter was referred to a committee with the usual powers, a great deal of testimony was taken, but in the mean time the end of the session approached, and on the application of Bovee time was given him until the ensuing session to prepare his defense, on the condition that Bovee's existing status should remain, and abide the action of the ensuing session. (This condition was subsequently violated by Mr. Bovee, who again brought suit against Herron and about December 2, 1872, obtained judgment in his favor as against Herron, who had then been superseded and Mr. Wharton installed.) But to resume: So Mr. Bovee was actually out and Mr. Herron actually in. And from the 29th day of August, 1871, down to, and after, the election of the 4th November, 1872, a period of over fourteen months, the government and people of Louisiana were permitted to possess themselves in peace. The omnipotence of Federal power was suffered to continue in its normal repose, and still the artillery's "bruised arms hung up for monuments."

Now, whether the removal of Mr. Bovee was illegal and tortious or was a constitutional and legal exercise of executive authority, was and is, comparatively, a matter of very little interest to the State and people, and that little interest could have been effectually subserved and vindicated in due course of remedies and time. But it was a matter of vital importance to the government and people of Louisiana that the wheels of the State government should not be blocked and the public business paralyzed, "while the petty inquiry was being investigated whether one or the other of two persons was the legal incumbent, entitled to exercise the duties of the office and receive the pay therefor." (2 Abbott's Prac. Rep., 290.)

Moreover, the charges against Mr. Bovee are uncontradicted in the record, and hence in this forum, for the purposes of this investigation, they must be considered as proven. And if, peradventure, his taking off by the act of the governor was premature and abnormal, let the governor be impeached and dealt with, if still amenable to trial; and if not, public opinion can be trusted to see to it that he shall not again have power so to pervert. But who is he, beside the conspirator and the spoilsman, who would complain that such an unfaithful official as Bovee was summarily deprived of power to practice an evil which poisons the law at its fountain-head and diffuses the infection through all the arteries of justice.

Article 61 of the constitution provides that—

The governor shall have power to fill vacancies that may happen during the recess of the senate, by granting commissions, which shall expire at the end of the next session thereof, unless otherwise provided for in this constitution.

Having, as he evidently thought, legally made a vacancy in the office of secretary of state by the suspension of Mr. Bovee, the governor, it appears, relied upon article 61 as furnishing him ample authority for filling it by the appointment of Mr. Herron, to discharge the duties of said office until the Legislature shall act upon the subject in accordance with the constitution.

Now, eventually the Legislature met and acted, but did not conclude their action upon the accusation and suspension of Bovee, but by implication sanctioned the appointment of Mr. Herron on the part of the governor. The governor's idea, as disclosed in the record, was evidently that Herron's appointment, "until the Legislature shall act," and also the terms of article 61, limited his term to the duration of the ensuing session of the Legislature, and his term thus expiring with the session revived the original vacancy which arose from the supension of Bovee. It is however probable that if Herron was legally in at all, he was legally in until his successor "shall have been inducted into office," in virtue of article 122; to the effect that all officers shall continue to discharge the duties of their offices until their successors shall have been inducted into office, except in cases of impeachment or suspension.

But it would seem that Mr. Herron, so far as he was personally concerned, was at no time the lawful secretary of state, for the insuperable reason that he had been ineligible *ab initio*. Let the following uncontradicted facts speak to this point.

On the day of its date the governor received the following notice:

STATE OF LOUISIANA, AUDITOR'S OFFICE,
New Orleans, November 12, 1872.

This is to certify that the books of this office show an indebtedness of eleven hundred and sixty-five dollars ($1,165) for licenses of 1871 against F. J. Herron, late tax-collector for the sixth district of New Orleans.

The above is for a balance due on licenses issued in 1871 to the said F. J. Herron, which should have been finally adjusted in the month of November, 1871, as prescribed in act 42 of 1871, and that notwithstanding the repeated demands made by this office upon the said F. J. Herron for a full settlement of the above-mentioned indebtedness, the amount due is still unpaid.

JAMES GRAHAM, *Auditor.*

By the provisions of the constitutional amendment of 1870—

No person who may at any time have been a collector of taxes, whether State, parish, or municipal, or who may have been otherwise intrusted with public money, shall be eligible to the General Assembly, or to any office of profit or trust under the State government, until he shall have obtained a discharge for the amount of such collections, and for all public moneys with which he may have been intrusted.

The revised statutes of Louisiana of 1871 provide that the auditor shall furnish the governor a list of defaulters to the State, and the amount of the several defalcations; forbids the governor to issue a commission to any person who appears to be a defaulter by reports on file in his office, (until he shall be satisfied the money has been paid,) and provides the governor shall order a new election, or make a new appointment, to fill vacancies thence arising.

Wherefore, on the morning of the 13th of November, 1872, the governor issued the following proclamation, in which he referred to the law, and concluded—

And whereas official information has been received at this office that F. J. Herron is indebted to the State for moneys collected by him as tax-collector in and for the sixth district of New Orleans:

Now, therefore, I, Henry C. Warmoth, governor of the State of Louisiana, charged with the faithful execution of the laws under the constitution of the State, and in due observance of the provisions of the amendments to the same, do issue this my order removing F. J. Herron from the office of secretary of state, and do hereby appoint Jack Wharton to discharge the duties of said office.

Given under my hand and the seal of State this 13th day of November, 1872, and of the Independence of the United States the ninety-seventh.

H. C. WARMOTH,
Governor.

And simultaneous therewith the governor issued the following appointment and commission to Mr. Wharton, (who was immediately sworn in,) and then put him into the actual possession of the office and archives of state; and Mr. Wharton then entered upon the performance of his official duties:

In the name and by the authority of the State of Louisiana, know ye, that I have nominated and constituted and appointed, and by these presents do nominate, constitute, and appoint Jack Wharton secretary of state in and for the State of Louisiana; and I do authorize and empower him to execute and fulfill the duties of that office according to law, and to have and to hold the said office, with all the powers, privileges, and emoluments to the same, from and after the date hereof.

In witness whereof I have hereunto signed my name and caused the great seal of the State to be affixed, at the city of New Orleans, this 13th day of November, in the year of our Lord 1872, and of the Independence of the United States of America the ninety-seventh.

H. C. WARMOTH.

The election was begun and concluded on the 4th day of November, 1872. The statute returning board, as constituted down to the evening of the 13th of November, consisted nominally of Governor Warmoth, Lieutenant-Governor Pinchback, F. J. Herron, secretary of state, John Lynch, and T. C. Anderson. On the 12th day of November, Warmoth, Pinchback, Herron, and Lynch, of the board, met in the governor's office to organize, and, having done so, adjourned over. On the 13th, at twelve o'clock m., after Mr. Wharton had been inducted into office, the same parties again met, in the same place, and Messrs. Pinchback and T. C. Anderson (the latter of whom was not present) were formally retired from the board on the ground of having been candidates, the first for Congress from the State at large, and the second for the State senate, at the pending election, which facts disqualified them by the terms of the fifty-seventh section of the election law of 1870, to wit:

That should any of the returning officers named in this act be a candidate for any office at any election, he shall be disqualified to act as returning officer for that election, and a majority of the remaining officers shall summon some respectable citizen to act as returning officer in the place of the one so disqualified.

Warmoth, Lynch, and Herron composed the remnant of the board. Thereupon Judge Ludeling administered the official oath to those three gentlemen. At this moment the newly-appointed secretary of

state, Mr. Jack Wharton, (vice F. J. Herron, removed,) presented himself, exhibited his commission of secretary of state, the legal evidence of his having qualified as such officer, and also as a member of the returning board, together with the executive order removing Mr. Herron. Whereupon Mr. Wharton's official character was recognized in both those regards by Governor Warmoth, and the new secretary then took his seat as a member of the returning board. Mr. Herron protested, and pronounced the whole transaction illegal and void. Then Governor Warmoth produced the auditor's certificate of Mr. Herron's defalcations as tax-collector, and, from the constitution of Louisiana, read the amendment upon which he relied for the authority to remove Mr. Herron. Mr. Herron then began, but did not complete, a motion to fill the vacancies in the board. Governor Warmoth, in his capacity as president of the board, silenced Mr. Herron by referring to the fact that he was no longer a member of the board, and stated that any motion from him would be out of order and could not be entertained. Governor Warmoth then moved to fill the vacancies by the election of Messrs. Da Ponte and Hatch. The governor and Mr. Wharton voted in the affirmative. Mr. Lynch did not vote. Mr. Herron was heard again to protest. Such are the facts of this scene in the drama.

Now Mr. Lynch vaguely states that Mr. Herron, first in the order of time, moved, and put his motion, to fill the vacancies by the election of General Longstreet and Judge Hawkins, and that he and Herron voted in the affirmative; that Governor Warmoth voted for Da Ponte and Hatch; and that, if Mr. Wharton voted at all, he did not hear him. But it cannot be disguised that Mr. Lynch's statement, supported only by Mr. Herron, in this respect is, at best, halting and equivocal; and, more than that, he is flatly contradicted by Messrs. Warmoth, Sheridan, Wharton, Hatch, Da Ponte, Bragdon, and Judge W. H. Cooley, in all seven witnesses, who were present, and whose sworn statements are in the most positive terms.

But whether the one or the other motion was first in point of time is wholly immaterial. Surely Herron and his coadjutors were in no condition to dispute the right of the governor to create and then fill a vacancy in the office of secretary of state; for the governor had previously, as we have seen, on the 29th day of August, 1871, suspended Mr. Bovee, Mr. Herron's predecessor; and Mr. Herron thereupon received and accepted his appointment from the governor to fill the vacancy, and so affirmed the authority, and justified, and profited by, the exercise of the authority of the governor so to suspend and appoint. Mr. Herron, having now been ousted by the act of his appointing power, and Mr. Wharton actually performing the duties, and placed in the possession of the office and archives of state, and being, moreover, fortified by claim and color of title at least, he was, by virtue of his actual official position, one of the returning officers of election. Clearly, if the governor could suspend Mr. Bovee and install Mr. Herron in August, 1871, by the same authority he could remove Herron and install Mr. Wharton in November, 1872. At best Mr. Herron, like Mr. Bovee before him, in this official chase, stood remitted to his remedy at law; and in the mean time Secretary Wharton became, and was, as fully as his predecessor, Mr. Herron, had been, *de facto* secretary of state and returning officer; and as such his official acts of a public nature were valid and binding as against Herron and the rest of the world. An officer *de facto* is, *prima facie*, an officer *de jure*.

The doctrine of credence given to acts of *de-facto* officers is based on this, that the public has a right to be secure in the validity of acts of officers who under color of law exercise functions of office, and have been dealt with and trusted by the public.

So Messrs. Warmoth, Wharton, and Lynch, being the only returning officers, and the first two having voted in the affirmative and the one last named having not voted at all on the motion to elect Messrs. Da Ponte and Hatch to fill the vacancies, those gentlemen were pronounced by the president of the board duly elected. Hatch and Da Ponte were then sworn in by Judge Cooley, and seated at the board of canvassers as returning officers. In the mean time Mr. Lynch retained his seat at the head of the table, and these proceedings were all had in his presence and hearing, without one dissenting murmur or sign from him. His silence was of course equivalent to acquiescence, and though it is immaterial, he was as much bound by those proceedings as were his colleagues, Messrs. Warmoth and Wharton.

Finally, Mr. Herron appealed to Mr. Lynch to leave the board, and the latter, after being urged again and again, reflecting that he was in a minority, rose, deliberately seceded from the board, and silently withdrew from the room, in company with Mr. Herron, taking with him the minutes of the proceedings on the 12th, regardless of the objection urged by the governor. Then the governor, as the presiding officer of the board, pronounced the returning officers duly organized and ready for business; and, as the lawful custodian of the sealed returns of election, he proceeded to open and lay them before the board, for the purpose of canvassing and compiling them in pursuance of law. Mr. Da Ponte was appointed secretary, and Mr. Bragdon (private secretary of the governor) assistant secretary; and the board then ordered the returns to be tabulated and made ready for examination and compilation. And to facilitate the business Mr. Bragdon proceeded to employ some twenty-five clerks.

The board of returning officers, as thus made up, which may be called board No. 2, is called the Wharton board, and consisted of Messrs. Warmoth, Wharton, Hatch, and Da Ponte, (and Lynch, who had seceded.) Lynch and his confederates forthwith set up board No. 3, called the Lynch-Herron board, composed of Messrs. Lynch, Herron, Hawkins, and Longstreet. And now began another Iliad of "woes unnumbered." The curtain rose, and the battle of the boards and the comedy of the courts appeared and vanished, only to appear and vanish again amid the shifting scenes.

The election returns were in the lawful possession of the governor, who, under the election law of March, 1870, was the sole lawful custodian thereof, and he and the Wharton board alone controlled them. The Lynch board had consequently no election returns, and were therefore, to all appearances, impotent. But their way had, nevertheless, been blazed. They flew to the courts.

On the 14th of November they filed their petition (No. 13545) in the eighth district court for the parish of Orleans. Time will not permit me to cite the pleadings. I will state the main points. They claimed the Lynch-Herron board to be the board of returning officers, (together with the governor, whose name they presumed to use for form's sake;) Messrs. Wharton, Hatch, and Da Ponte were intruding and usurping the office of returning officers, and concluded with a prayer for judgment declaring them to be intruders and usurpers.

But the disorganizers soon saw that would not be effectual. The governor and the other returning officers, his colleagues, might still proceed in the performance of their official duty. Wherefore the plot must be thickened.

> Round about the cauldron go;
> In the poison'd entrails throw.
> Toad, that under coldest stone,
> Days and nights has thirty-one
> Swelter'd venom sleeping got,
> Boil thou first i' the charmed pot!
> * * * *
> Double, double toil and trouble;
> Fire, burn; and, cauldron, bubble.

They mended their hold. On the same day they filed a supplemental petition. In it they reaffirmed the statements of the original petition, averred that the proceedings were had for the further purpose of maintaining F. J. Herron in office as secretary of state, &c., averred that without an injunction the proceedings would be nugatory, and concluded with a prayer for the writ of injunction against Messrs. Wharton, Hatch, and Da Ponte, enjoining and restraining them from sitting or acting as returning officers, or from interfering with the petitioners as such, &c.

On the same day a cross-injunction was granted, on the motion of the Wharton board, against the Lynch-Herron board, restraining them from canvassing any pretended returns pending the litigation; and afterward, on the motion of the same parties, another injunction was granted, restraining the Lynch-Herron board from canvassing any returns other than the legal returns in the possession of the governor pending the litigation; and it appears that that injunction has never been dissolved, but was disregarded by the Lynch-Herron board throughout.

In the Lynch-Herron suit, on the day of the filing of the supplemental pleadings, an order was made by the court (Hon. H. C. Dibble) for the defendants, at eleven o'clock on the 16th of November, to show cause why the injunction should not issue, and commanding them to desist in the mean time from the acts complained of. The rule was issued and served. On that day Wharton and others answered, denying the jurisdiction of the court and setting up the facts upon the merits. On the 16th of November the rule was made absolute; Mr. Herron adjudged to be secretary of state; the Lynch-Herron board sustained; the injunction issued and served; and so far forth the election of the 4th of November, 1872, the executive department of Louisiana, and the State government were summarily tied up like the wallet of an unlicensed itinerant peddler, by the judgment of the eighth district court.

On the 22d of November a motion was made for a new trial; on the 2d of December following the motion was heard by Hon. W. A. Elmore, (who on the 21st of November had succeeded Judge Dibble as judge of the eighth district court.) On the 3d of December a new trial was granted. And thereupon, on motion of defendant's counsel, the suit was dismissed and the injunction dissolved, on the ground that the act of March 16, 1870, in virtue of which the complainants claimed to be the legal returning officers, had been repealed by the act of November 20, 1872, and the Lynch board abolished, and the complainants were without standing in court.

It appears that this judgment was final and irreversible unless on appeal prayed within ten days from the date of its rendition. But that judgment sealed the fate of the eighth district court. For on the 11th day of December—only seven intervening days—the Lynch-board legislature, then in blast, abolished it, created a new court, called the superior district court, with all ordinary and extraordinary jurisdiction requisite for the exigency, and transferred to it the docket of the abolished court. Whereupon Governor Pinchback, whom the Lynch-board legislature had made its governor upon the suspension of Governor Warmoth, appointed as judge of the new court Mr. Jacob Hawkins, who had just made the legislature by counting it in from certain fables, called by him and his colleagues returns. And then, on the 17th day of December, an appeal was granted from the aforesaid judgment of the eighth district court, fourteen days after its rendition, to the supreme court, on the petition, called a petition of intervention and appeal, of A. J. Field, who had not been a party to the proceeding in the eighth district court. He had been a

candidate for attorney-general on the Kellogg ticket, and he claimed that he was pecuniarily interested and injured in that judgment, in its tendency to deprive him of his salary by declaring illegal the Lynch returning officers, who had returned him duly elected. And, finally, on the 23d day of January, 1873, he obtained a judgment in the supreme court avoiding and reversing the judgment of the eighth district court and sustaining the Lynch board. But that court was not thereupon abolished. It still survives.

We return to returning board No. 2—the Wharton board. The restraining order of the 14th November was served on the 15th, and that board, without having made any report, finally ceased to act; but on the 19th it was nevertheless further enjoined. So, board No. 2 being *hors du combat*, and the governor so far thwarted, not daunted, he resolved to bring his reserve into action. We will now see how this maneuver was accomplished.

Within less than five days prior to the adjournment of the last session of the General Assembly, was passed, and sent to the governor for his approval, another act for the regulation, &c., of elections, very similar to the previous act on the same subject, approved March 16, 1870, but containing the following wholly dissimilar provisions to those of section 54 of that act, heretofore quoted, for the composition of the returning officers, to wit:

SEC. 2. That five persons, to be elected by the senate from all political parties, shall be the returning officers for all elections in the State, a majority of whom shall constitute a quorum, and have power to make the return of all elections, with power in the board to fill vacancies.

And in the concluding section (71) it is provided that "this act shall take effect from and after its passage, and that all others on the subject of election laws be, and the same are hereby, repealed."

By this act were plainly abolished both the Wharton and Lynch boards, (if the latter had any legal existence at all.) They fell with the law of 1870, out of which they grew. By article 66 of the constitution, as construed and applied in Louisiana, the governor was not required to act on that bill before the first day of the ensuing session of the General Assembly; and the bill at any time prior to that day would become a law upon receiving the approval of the governor. The governor had constitutionally retained that bill, and now, in the dilemma in which he was placed, exercised his constitutional prerogative by taking up that bill and approving and promulgating it.

By section 2 of this new law the returning officers were "to be elected by the senate;" and as the senate was not at the time in session, and so could not elect them, the governor held that this state of fact formed a vacancy within the meaning of article 61, heretofore quoted, of the constitution, to be filled for the time being by the exercise of his appointing power. Accordingly, on the 20th day of November, after the law of that date went into effect, he appointed board No. 4, called the De Feriet board, of returning officers, in pursuance of that law. This board consisted of Messrs. De Feriet, Austin, Taylor, Wiltz, and Isabelle. Those gentlemen were at once qualified and organized. Then the governor, with the concurrence of the Wharton board, turned over all the official election returns to the De Feriet board, and the latter proceeded with the business of canvassing and compiling.

It appears that on the day following the governor was impelled by the state of affairs to issue the following executive proclamation:

STATE OF LOUISIANA, EXECUTIVE DEPARTMENT,
New Orleans, November 21, 1872.

Whereas, the present condition of public affairs presenting an extraordinary occasion, I do hereby, by virtue of the power in me vested by the constitution, and the laws enacted thereunder, convene the General Assembly elected on the 4th day of November, A. D. 1872, in extra session, for the period of ten days.

Senators and representatives of the General Assembly elected on the 4th day of November, A. D. 1872, and the senators holding over, are, therefore, summoned to meet in their respective chambers, at the Mechanics' Institute, now used as a state-house, in the city of New Orleans, at twelve o'clock noon on Monday, the 9th of December, A. D. 1872.

In witness whereof I have hereunto set my hand and caused the seal of the State to be affixed, at the city of New Orleans, this 21st day of November, A. D. 1872, and of the Independence of the United States the ninety-seventh.

On the 30th November, 1872, Governor Warmoth brought suit (No. 13579) in the eighth district court, alleging the illegal and revolutionary course of the Lynch-Herron board, &c., with a prayer for an injunction, restraining that board from acting, &c., or interfering, &c. The process was duly issued and served. Whereupon the congressional enforcement law of May 31, 1870, and the amendments thereto, were invoked as a lion in the path, on the petition of the Lynch-Herron board, in the United States court for the district of Louisiana, (Hon. E. H. Durell.) A writ of *certiorari* was promptly ordered, issued, and served upon Judge Elmore, of the eighth district court, and the cause immediately transferred to the United States district court. Exit cause No. 13579.

On the 6th of December, in the eighth district court, the De Feriet board filed their petition against the Lynch-Bovee board, (that board having now, by virtue of a judgment in the supreme court of the 2d of December, put out Herron and put in Bovee, although the latter was individually ineligible to the returning board, because at this very election he was a candidate for the office of police juror for the parish of Saint James, and had counted himself in,) setting up the facts, and obtained an injunction which was issued and served the same day, restraining them from acting, &c., as returning officers, or interfering with the complainants pending the suit; which defendants disregarding they were ruled to show cause why they should not be attached for contempt. But the rule was prematurely swallowed up in the maelstrom of military conquest.

Samuel Armstead is a colored man. He was a candidate for the office of secretary of state at the election on the McEnery ticket, and returned duly elected by the legal official returns. In the eighth district court, on the 6th of December, he filed his petition and complaint (No. 13596) against the Lynch-Bovee board, alleging their usurpation of the functions of returning officers and their revolutionary and fraudulent combinations, &c., upon which he obtained an injunction, which was duly issued and served, restraining them from acting, &c., and from counting any other returns than the legal official returns in the possession of the governor in pursuance of law.

On the 7th of December, on the petition of defendants in the United States district court, before Judge Durell, proceedings for a writ of *certiorari* were had as in case No. 13579; and thereupon case No. 13596 was immediately transferred from the eighth district court to the United States district court. Exit No. 13596.

We return to the 16th of November. On that day the prospects of the revolutionists, composing the active managers of the custom-house party, apparently were gloomy and alarming. The legal official returns were fatal to them. By those returns the Kellogg party knew they were inexorably beaten; else why did they not abide by them and pursue their legal remedies? The spirit in the party, never to submit or yield, stimulated into hopeful activity by the well-known appliances of United States Marshal Packard, assured them it was indispensable to their schemes that those returns, even more than the returning officers canvassing and compiling them, must be stifled; yea, even—

> Though you untie the winds, and let them fight
> Against the churches; though the yesty waves
> Confound and swallow navigation up;
> Though bladed corn be lodg'd and trees blown down;
> Though castles topple on their warder's heads;
> Though palaces, and pyramids, do slope
> Their heads to their foundations; though the treasure
> Of nature's germins tumble all together,
> Even till destruction sicken.

Wherefore, on the 16th of November, 1872, in the United States district court, for the district of Louisiana, Hon. William Pitt Kellogg filed his petition (No. 6830) in equity *vs.* Governor H. C. Warmoth, the Wharton board, and the publishers of the official journal of the State, alleging, among other things, that complainant was a candidate for governor; that Warmoth tried to beat him with McEnery; that the registration was fraudulent; that ten thousand persons were refused registration on account of color, race, and previous condition of servitude; that ballots were illegally rejected at the election, to his prejudice; set up and relied upon the enforcement act of May, 1870, together with the amendments thereto; and avers he has the proof prescribed in that act by which to determine the State election in Louisiana; that Warmoth and others are going to make a false count of the returns that Wharton was not secretary of state; that the Wharton board was wholly illegal; that the Lynch-Herron board was the only legal board; that the Wharton board intended to return McEnery duly elected and Kellogg duly defeated; that McEnery was countenancing, aiding, and abetting those fraudulent schemes to defeat the lawful results of the election; that it is all contrary to equity and good conscience, (God save the mark!) wants all the certificates, returns, and statements of election preserved from impending destruction, so that the legal evidence of his right to the office of governor should continue available when the time should come to bring the proper action; that Warmoth intends to overthrow a republican form of government in the State; that unless restrained he will destroy the legal evidence necessary to prove Kellogg's election, before the time comes for the commencement of legal proceedings to establish his right to be governor, &c.; and he prays for the most gracious writ of injunction, restraining Warmoth, *pendente lite*, from acting as governor, the Wharton board from counting the returns, &c., McEnery from making any claim to the office of governor, &c., and the newspaper, the New Orleans Republican, the official journal, from publishing anything from Governor Warmoth or the Wharton board in relation to the election of November 4, 1872; and further, that the governor be required to make and deposit with the clerk of the court full, true, and exact sworn copies of every paper, document, affidavit, tally-sheet, list, sworn statement, certificate, or letter, from every commissioner or other officer concerned in the election, in order that the same might not be destroyed by Warmoth and his confederates, and that Kellogg might have them to establish his right to be governor of Louisiana in some suit which he might thereafter see proper to institute to that end.

The defendants were cited to show cause on the 19th November why, &c., and in the mean time were restrained, &c., and on the 19th they were enjoined and restrained *pendente lite*, according to the prayer of the petition.

On the 19th of November Governor Warmoth excepted to the jurisdiction of the court, answered and denied each and every material allegation of the petition, &c.

The De Feriet board had never been enjoined. They made their report, as we have seen, on the 4th of December, and in accordance therewith the governor issued his proclamation of the 4th of December. Thereupon, on the 5th of December, the Hon. E. H. Durell, of

the United States district court, issued the following order in the case of Kellogg *vs.* Warmoth *et al.*:

Now therefore, in order to prevent the further obstruction of the proceedings in this cause, and further, to prevent a violation of the orders of this court, to the imminent danger of disturbing the public peace, it is hereby ordered that the marshal of the United States for the district of Louisiana shall forthwith take possession of the building known as the Mechanics' Institute, and occupied as the state-house for the assembling of the Legislature therein in the city of New Orleans, and hold the same subject to the further order of this court, and meanwhile to prevent all unlawful assemblies therein, under the guise or pretext of authority claimed by virtue of pretended canvass and returns made by said pretended returning officers, in contempt and violation of said restraining order; but the marshal is directed to allow the ingress and egress to and from the public offices in said building of persons entitled to the same.

E. H. DURELL.

I maintain the enforcement act of May, 1870, and the several acts amendatory thereof, to be unconstitutional and void; but I do not now propose to discuss that question.

The parties to this suit were citizens of the same State, and the bill was an original bill. It related to matters not before litigated in the court by the same persons, standing in the same interest, nor was it ancillary to a case of which the court had jurisdiction. (Constitution United States, art. 3; Shields *vs.* Barrow, 17 Howard, 130; Christmas *vs.* Russell, 14 Wallace, 81.)

The jurisdiction, however, claimed by the court in virtue of the twenty-third section of the act is special, and is predicated only on a state of fact or class of cases expressed and enumerated therein; and therefore all other or different states of fact or classes of cases are necessarily excluded therefrom. Now, the pleadings and proof in the cause fail to show that the state of case provided for had yet arisen or existed at the filing of the bill, the making of the orders, or the rendition of the final judgment. Moreover, the proceedings of the court, in deposing the State board of returning officers and in its stead setting up a board of the court's own creation, was a plain usurpation, contrary not only to the spirit of the act, but violative, palpably, of its express terms; because the natural tendency, the actual effect, and the sole intention of these proceedings involved the determination of the election of delegates in Congress and members of the State Legislature—as to each and all which jurisdiction is not only not conferred, but is expressly denied by the very terms of the act itself.

Here is a case, too, where the executive of Louisiana was about to officially execute a State law generally, and especially as a member of the returning board. Not so to execute the law was to violate his oath of office, and to call down upon his own head merited denunciation, together with lawful impeachment and expulsion; whereupon the court steps forward and says to the executive, "You must renounce your convictions, violate your sworn duty, and leave the law unexecuted; and, on the other hand, you must do what I tell you—that which you believe to be unlawful and revolutionary." And this the court proceeds to compel him to do.

The functions of the executive generally, but more especially as a member of the returning board, were not merely ministerial, but, by virtue of the constitution and laws of the State of Louisiana, they were discretionary and judicial in their nature, their details, and their objects, and therefore wholly above and beyond the jurisdiction of the court. And I understand the doctrine to be well settled that on principles of public policy an action will not lie, nor will an injunction issue in a Federal court against a State officer of that description, restraining him from the performance of his public official duty. (4 McLean, 26; 14 Haz. Pa. Reg., 129; Lee *vs.* Preuss; 3 Cr. C. C., 112; Baldwin's Rep., 205; 1 Cranch, 166; 12 Peters, 524–609; 6 Howard, 100; 6 Wallace, 407; State of Mississippi *vs.* President Johnson; 4 Wallace, 498–500; United States, &c., *vs.* James Guthrie; 17 Howard, 304; Decatur *vs.* Paulding; 14 Peters, 497; Gaines *vs.* Thompson, 7 Wallace, 347.)

But, I ask, can it now and here be seriously pretended by any one that the action of Judge Durell by such orders and proceedings is of lawful authority to arrest the vital functions of the established State government, paralyze State officials, great and small, in the actual necessary discharge of lawful public duty, and overthrow, *toto cœlo*, a republican State government in perfect relations with the Government of the United States? Shut our eyes to the fearful enormity of this usurpation in the scope and verge it takes, and look at only one familiar practical effect of it. If the State returning officers, merely, can thus be arrested and enjoined in the discharge of public official duty in the very crisis of an election, then could the supervisors of registration be so arrested and enjoined in the discharge of public official duty—then could the commissioners of election be so arrested and enjoined in the discharge of public official duty—on election day, and so the voter himself be stricken dumb and powerless at the polls, and the whole fabric of State government be so made, by this fly upon the charriot wheel, to fall into the condition, as it were, of a lapsed legacy.

Nevertheless we see such orders and writs were thrown about like fire-brands in the very sanctuary of popular government. Such an exercise of equity and good conscience, and of the *most gracious writ*, finds no warrant whatever in judicial precedents. It is original and devilish. In Illinois it was held:

If it be meant that a court of equity can grant a temporary injunction to stay the election, or prevent the officers elected from acting until a final hearing, the grounds are not well taken. A temporary injunction is but a matter of discretion, and a court would hesitate long before granting an injunction to stop the holding of an election, or to prevent an officer from entering upon the discharge of official duties, even if equity had jurisdiction, at least until after the final hearing of the case. We are aware of no well-considered case which has enjoined the holding of an election, or prevented an officer of the law from giving the required notices for or the certification of election. To sanction the practice of granting temporary injunctions in such cases would be highly calculated to obstruct the various branches of government in the administration of public affairs. Courts of equity can have no such power; otherwise any and all elections might be prevented. (The People *ex rel. vs.* City of Galesburgh, 48 Illinois, 489.)

So in the State of New York it was held:

I think there can be no doubt that in actions to oust persons exercising the duties of public offices, under a claim of right, a temporary injunction, restraining them from exercising the duties of the office pending the litigation, will not be granted. I have looked in vain for a single case recognizing such a right. The reasons for refusing such an injunction in such cases are clear and powerful. The exercise of the duties of offices are necessities to the public welfare. Unless the officer *de facto* is permitted to discharge the duties, they cannot be discharged until the end of the litigation and the legal title is determined. This, in many instances, might involve a long time, and the public might suffer serious injury, loss, and inconvenience. In frequent cases it might block the wheels of state while the petty inquiry was being investigated whether the one or the other of two persons was the legal incumbent entitled to exercise the duties of the office and receive the pay therefor. The controversy is essentially personal, in which view the public have no care. The people, by their laws, require that certain duties essential to the well-being of the State or community shall be exercised by individuals as officers or agents. The body-politic is too unwieldy to act, and the power is delegated, under rules, restrictions, and penalties, that the essential duties may be performed under responsible official sanction. Under these circumstances, it has been deemed better that an officer *de facto* should discharge the duties of an office rather than they should not be discharged at all. (See cases cited.) If the defendants are public officers within the meaning of the foregoing cases, the injunction should be dissolved beyond any doubt. Even though they be not public officers, the same reasons apply in a lesser degree, why they should not be restrained from discharging the duties of an office which they, in fact, hold, and no one else is authorized to hold in their place or stead. I think the rule applicable to public officers and to officers of corporations is the same, and in neither case will courts exercise their equitable power by injunction in a legal action practically to oust an incumbent from his office during the pending of the litigation brought to determine that very question. (The People *vs.* Mattier; 2 Abbott's Prac. Rep., 200; 12 Peters, 524; Cross *vs.* Du Valle, 1 Wallace, 7 Robertson's N. Y. Rep., 280; Taylor *vs.* Commonwealth, 3 J. J. Marshall, 407.)

The order of Judge Durell is a notable device. If maintained as the settled policy of the country any Federal administration may, at any time, through turbulent or venal politicians and subservient Federal judges, coin a pretext and defeat any popular election in any of the States. It is, indeed, of the very quintessence of centralism. Political liberty and it cannot coexist. Their enmity is organic, implacable, and eternal.

Judicial vengeance was, however, not yet sated; the architect of ruin still raged in the ermine. In the United States district court, on the 7th of December, Cæsar C. Antoine filed his petition (No. 6851) *vs.* Governor Warmoth, Secretary Wharton, Governor McEnery, the secretary of the outgoing senate, the clerk of the outgoing house, the Wharton returning board, the De Feriet returning board, the newly elected General Assembly, the official journal, the metropolitan police, and everybody and everything not in harmony with the custom-house conspiracy for the overthrow of the government and people of Louisiana. Cæsar C. Antoine, although at that time an officer of the Treasury Department of the United States, was a candidate on the Kellogg ticket for lieutenant-governor, the State constitution to the contrary notwithstanding, to wit:

ART. 52. No member of Congress, or any person holding office under the United States Government, shall be eligible to the office of governor or lieutenant-governor.

In his petition Mr. Antoine alleged everything which Mr. Kellogg had alleged in his petition, (No. 6820,) and much more, to give the injunctions he prayed for room and verge enough to quite encompass and paralyze the whole expanse of government in all its most requisite functions. And promptly, on the same day, Hon. E. H. Durell issued and had served the order "that said defendants, each and every one of them, be, and are hereby, commanded and restrained to the extent and effect as in said bill of complaint prayed for," until the further order of the court in the premises.

On the 4th day of December, 1872, board No. 3, the De Feriet board, completed their returns to the extent only of the election of members of the senate and house; and on that day they filed a copy of such returns, containing lists of the names of senators and representatives elect, in the office of the secretary of state, (in compliance with the law,) with the following sworn certificates:

We, the undersigned returning officers, pursuant to authority vested in us by act No. 98, of 1872, approved November 20, 1872, do hereby certify that the foregoing is a true and correct compilation of the statements of votes cast at an election for State senators held in parishes above named, on the 4th day of November, A. D. 1872, as made by the supervisors of registration of said parishes; and we hereby declare that the following-named persons were duly and lawfully elected State senators, [setting out their names.]

The returns being so incomplete in the senatorial districts composed of the parishes of West Baton Rouge, Iberville, Saint Martin, Iberia, Carroll, Madison, Morehouse, and Richland, that we do not feel able to declare accurately the results of the election in such districts, we, therefore, postpone action, and refer the returns to the senate itself for determination.

The same sort of a certificate (setting out the names of persons elected) was sent to the House, concluding as follows:

There being no returns from the parishes of Saint Tammany and Terre Bonne, and only meager, informal, and illegal returns from the parishes of Iberville and Saint James, we do not take the responsibility to declare the result of the election in the same, but postpone action to await the determination of the General Assembly.

A list of persons so returned elected to the senate and house was on the same day duly transmitted to the secretary of the senate and

clerk of the house of the last General Assembly, and proclamation of the result was duly made by the governor in accordance with the law, to wit:

STATE OF LOUISIANA, EXECUTIVE DEPARTMENT.

Whereas P. S. Wiltz, Gabriel de Feriet, Thomas Isabelle, J. A. Taylor, and J. E. Austin, returning officers appointed by the governor to fill vacancies existing in accordance with the constitution and laws of the State of Louisiana, have made declaration of the result of an election held November 4, 1872, and have declared certain persons elected to the senate and house of representatives of the State of Louisiana, as will appear from the returns herewith attached and made a part of this proclamation; and whereas such returns are compiled from the official returns of commissioners of election and supervisors of registration, on file in this office, and are in fact and in form accurate and correct, and made in conformity with law:

Now, therefore, I, Henry C. Warmoth, governor of the State of Louisiana, do issue this my proclamation, making known the result of said election, and command all officers and persons within the State of Louisiana to take notice of and respect the same.

Given under my hand and the seal of the State this 4th day of December, A. D. 1872, and of the Independence of the United States the ninety-seventh.

Both by the second section of the law of November, 1872, and by the fifty-fourth section of the repealed act of March 16, 1870, it is provided that "the returns of the election thus made and promulgated shall be *prima-facie* evidence in all courts of justice and before all civil officers until set aside after a contest according to law."

On the 9th day of December the General Assembly, as returned elected by the De Feriet board, met in Lyceum Hall (it was excluded from the state-house by United States troops) in pursuance of the governor's proclamation of the 21st November, organized, and proceeded with the public business. On the 11th of December the senate, in pursuance of section 2 of the election law of November 20, 1872, elected as returning officers of election Messrs. Forman, Mitchell, Thomas, Hunsaker, and Todd. Subsequently Thomas resigned from the house, and Mr. Southmayd was elected returning officer to fill the vacancy in the board. This board forms returning board No. 5. Forman was a reformer, Todd and Hunsaker were republicans, and Mitchell and Southmayd were democrats. This board succeeded the De Feriet board. The latter made returns only as to the General Assembly. On the election of the Forman board all the returns of the election were turned over to that board, (by whom they were finally delivered to the committee of the United States Senate;) and the latter went over all the returns of the election—except as to electors for President and Vice-President of the United States—and made their full and complete return thereof to the secretary of state, in pursuance of law. I will not stop to cite the report.

The Forman return was identical with the De Feriet return as to the members of the General Assembly, except in this, as to three members in the house—one from Saint James, one from Iberville, and one from the third representative district in New Orleans—who were excluded by the Forman report.

And as to the State officers, the following is their certificate accompanying their return:

We, the undersigned, returning officers, pursuant to authority vested in us by act No. 98, of 1872, approved November 20, 1872, do hereby certify that the foregoing is a true and correct compilation of the statements of votes cast at an election for State officers and Representatives to Congress, held in the several parishes of the State of Louisiana, on the 4th day of November, 1872, as made by the supervisors of registration of said parishes; and we hereby declare that the following-named persons were duly and lawfully elected to the offices set against their names respectively, to wit:

John McEnery, governor; D. B. Penn, lieutenant-governor; Samuel Armstead, secretary of state; H. N. Ogden, attorney-general; James Graham, auditor; R. M. Lusher, superintendent of public instruction; and George A. Sheridan, Congressman at large.

There being no returns from the parishes of Saint Tammany and Terre Bonne, and only meager and informal returns from the parishes of Iberville and Saint James, we do not take the responsibility to declare the result of the election in the same, but postpone action to await the return of the General Assembly.

ARCHIBALD MITCHELL.
B. R. FORMAN.
S. M. THOMAS.
O. F. H. HUNSAKER.
S. M. TODD.

DECEMBER 11, 1872.

Their report shows the following relative votes for the first two offices, and for Congressman at large:

For John McEnery	65,579
For William P. Kellogg	55,973
McEnery's majority	9,606
For D. B. Penn	68,251
For C. C. Antoine	53,194
Penn's majority	15,057
For George A. Sheridan	65,016
For P. B. S. Pinchback	54,402
Sheridan's majority	10,614

Let us return to board No. 4, the Lynch-Herron board. When Mr. Lynch seceded from the original board and left the governor's office on the 14th of November, after Secretary Wharton and the newly-elected returning officers, DaPonte and Hatch, took their seats at the board, it appears that he and Messrs. Herron, Hawkins, and Longstreet resolved themselves into what they called *the* board of returning officers; and on the 15th United States Deputy Supervisor Longstreet, in the behalf of the Lynch board, his colleagues, in writing demanded the election returns from the governor, who refused them on the ground that the returns were lawfully in his possession as governor of the State and *ex officio* president of the State board of returning officers. He said he had no lawful authority to surrender them to any one, and he refused to recognize any such self-constituted, illegal combination as the Lynch board. The Lynch board consequently never at any time got possession of the State official returns of election or of any part of them.

Thereupon the Lynch board began the battle of the boards and the comedy of the courts. I have already anticipated many of the ensuing events. On the 2d of December this board changed their minds as to Mr. Herron being the legal secretary of state, and arrived at the conclusion, as we have already seen, that he was not that officer, but that Mr. Bovee was; whereupon they promptly shoved Mr. Herron aside, and shoved Mr. Bovee in his place on their returning board, as secretary of state.

Subsequently, on the 7th day of December, the Lynch-Bovee board (No. 6) published a list of the names of persons declared by the board to have been duly elected to the General Assembly, and the following is their appended certificate:

We, the undersigned, returning officers, pursuant to authority vested in us by act No. 100, approved March 16, 1870, do hereby certify the foregoing is a true, correct compilation of the statements of votes cast at an election for representatives to the General Assembly of the State of Louisiana, held on the 4th day of November, A. D. 1872.

The same form exactly was used as to the senators—the first signed by John Lynch, James Longstreet, Jacob Hawkins, and George E. Bovee, returning officers; the second by the three first named only.

Now, as we have seen, the fifty-third section of the law they claim to have pursued provides that—

The supervisor of registration shall make a list of all the names of the persons and offices voted for, the number of votes for each person, the number of ballots in the box, and the number of ballots rejected, and the reason therefor. Said statements shall be made in triplicate, and each copy thereof shall be signed and sworn to by the commissioners of election of the poll, and by the supervisor of registration. * * * The supervisor shall inclose one copy, * * * together with all memoranda and tally-sheets used in making the count and statement of the votes, * * * to the governor of the State.

Such, and such only, form the lawful data for the returning officers; and the act quoted by the Lynch board in their certificates, in pursuance of which they say they acted, imposed upon them the following oath:

I do solemnly swear (or affirm) that I will faithfully and diligently perform the duties of a returning officer as prescribed by law; that I will carefully and honestly canvass and compile the statements of the votes, and make a true and correct return of the election; so help me God.

It will be borne in mind that, in the sworn certificates of the De Feriet board and the Forman board, they asseverate that their respective reports—

Are true and correct compilations of the statements of the votes cast, * * as made by the supervisors of registration of said parishes.

And it will be perceived that no such asseveration is anywhere made in their certificates by the Lynch board.

The report of the latter submits the following comparative results of voting as to the first two officers and Congressman at large:

For William Pitt Kellogg	72,890
For John McEnery	54,029
Kellogg's majority	18,861
For C. C. Antoine	70,127
For D. B. Penn	56,340
Antoine's majority	13,787
For P. B. S. Pinchback	68,947
For George A. Sheridan	58,700
Pinchback's majority	10,247

On the basis of the Lynch board report, a body known as the Pinchback-Kellogg general assembly, under the actual protection of the United States forces, met in the Louisiana state-house (which had been previously surprised, surrounded, and captured by the troops) on the 9th day of December, 1872, under color—but in contempt—of the governor's proclamation of the 21st November, and hastened to organize and proceed with their plans.

At the general State election in 1868 O. J. Dunn had been elected lieutenant-governor for the ensuing four years on the Warmoth ticket, and in the summer of 1871 he died. To fill the vacancy, on the 24th of November, 1871, Governor Warmoth issued his proclamation, and convened the senate in extraordinary session on the ensuing 6th day of December, 1871; and the senate on that day elected "one of their members," to wit, Senator Pinchback, provisional president of the senate, in pursuance of the following provision of the constitution:

ART. 53. The lieutenant-governor shall, by virtue of his office, be president of the senate, but shall only vote when the senate is equally divided. Whenever he shall administer the government, or shall be unable to attend as president of the senate, the senators shall elect one of their own members as president of the senate for the time being.

Senator Pinchback had been elected to the senate in 1868, for the term of four years, and his term expired on the 4th day of November, 1872, at which time he ceased to be "one of their own members," became, and continued, constitutionally ineligible to the office of "president of the senate for the time being," and consequently was, on the 9th day of December, 1872, and continued to be, without even

that quasi official status in the senate, indispensable, under article 122 of the constitution, to enable him to act until a successor "shall have been inducted into office."

Nevertheless, Mr Pinchback assumed to be lieutenant-governor of Louisiana, and was presiding officer of the Pinchback-Kellogg senate, which body straightway organized under him, as we have seen, on the 9th day of December.

Being palpably without even color of authority in law, and wholly devoid of the sympathy or countenance of the people, this General Assembly, immediately (with involuntary recreancy) adopted a concurrent resolution calling upon the President of the United States, in their own behalf, to "afford the protection guaranteed each State by the Constitution of the United States, when threatened with domestic violence." Themselves the sole creators of domestic violence, themselves begotten of it in the foul engendering of faction, themselves subsisting upon that, in and of which they had and kept their very being, and by means of which they were themselves shamelessly struggling to overthrow the State government, they yet had the unutterable effrontery to call themselves the State, and the State the thing they were; and then, in the prostituted name of the Federal Constitution, to call upon the Federal Executive to destroy that which his oath of office bound him to preserve, protect, and defend.

A resolution of the Pinchback house was hurried into the senate, impeaching Governor Warmoth of high crimes and misdemeanors, with notice of forthcoming particular articles of impeachment, and a demand then made that the senate take order for the appearance and trial of the State prisoner. The senate without delay resolved itself into a high court of impeachment, suspended the governor, elected Senator Harris presiding officer of the senate, and declared Mr. Pinchback acting governor, the constitution to the contrary notwithstanding.

ART. 53. The General Assembly may provide by law for the case of removal, impeachment, death, resignation, disability, or refusal to qualify, of both the governor and the lieutenant-governor, declaring what officer shall act as governor; and such officer shall act accordingly.

On the 9th of December, 1872, Mr. Pinchback was not a member of the senate, and could not then be its presiding officer. An officer, in the meaning of the constitution, is a person who holds a commission from the government. On the 9th of December Mr. Pinchback held no commission from the government of Louisiana. He was not an officer, and it was not in the power of a constitutional senate to declare him to be the "officer who should act as governor."

Moreover, Mr. Pinchback was, on that day, claiming to have been duly elected a member of the Forty-third Congress from the State at large, and as such member of Congress was ineligible to the office of governor or lieutenant-governor by the constitution of Louisiana, which declares:

ART. 52. No member of Congress, or any person holding office under the United States Government, shall be eligible to the office of governor or lieutenant-governor.

However, constitutions within the last decade have become but the husks of faction, whereon they feed and fatten, in unnatural gluttony, and turn, and overturn again, in all the frenzy of malevolent progression.

On the 10th of December Governor Pinchback sent in his first message to the General Assembly. The emergency was pressing. He recommended a speedy trial of Governor Warmoth; wanted the frauds in elections investigated, and the guilty authors punished; apostrophized suffrage; considered it painful for Congress to interfere with the subject of voting in the States, but was especially thankful for such interference on the present occasion, &c.

To all the resulting events of successful revolution the Lynch board had contributed their full share. The names of the worthies composing it may be remembered as Lynch, Herron, Bovee, Hawkins, and Longstreet.

It is averred to have happened to these gentlemen—and I am not aware that it has been gainsaid—that Mr. Herron received the appointment of recorder of mortgages for the parish of Orleans, worth. Mr. Lynch swears, from ten to twenty-five thousand dollars per annum,

Judge Hawkins received the appointment of judge of the superior district court, (an office created by the Pinchback-Kellogg general assembly which he counted in,) at a salary of $5,000 per annum.

Mr. Lynch's son, John, a minor, received the appointment of inspector of live stock, estimated to be worth $12,000 per annum.

General Longstreet received the appointment of levee commissioner, worth $6,000.

Mr. Bovee, who was a Federal supervisor of election in November, 1872, received the office of police juror, (counted in by his own board.) The police juror has charge of county roads, bridges, paupers, construction of court-houses, and everything of the kind, with power to levy specific taxes for roads, &c.

Mr. Kellogg, declared elected governor, was at and after the election a Senator in Congress.

Mr. Antoine, declared elected lieutenant-governor, was at and after the election United States collector for the port of Shreveport, and therefore a person holding office under the United States Government.

Mr. Clinton, declared elected auditor, was at and after the election sub-treasurer of the United States in the city of New Orleans.

Such are only a few of the peculiar characteristics of the Pinchback-Kellogg dynasty. To the natural vision it appears to have been from top to toe an impure, unmixed, pernicious usurpation.

Said Marshal Packard, when examined under oath:

Question. If the United States authority should be withdrawn entirely from the State of Louisiana and the two governments left to battle it out among themselves, which do you think would triumph?

Answer. I think the McEnery government would triumph.

We have considered the reports of the conflicting boards of returning officers; let us now inquire upon what basis rested those rival reports, in virtue of which the hostile legislative bodies were respectively organized.

We have seen by section 53 of the election law of March 16, 1870, heretofore quoted, that the sworn statements and accompanying papers of the supervisors of registration and the commissioners of election of each poll in each parish, officially sealed and sent to the governor, form the only legal data which the returning officers may and shall canvass and compile and thereof make returns to the secretary of state, &c. And under and in pursuance of this law all the conflicting boards profess to have acted, and to faithfully conform to which all were sworn.

Now the sworn statements, &c., of the sworn officers of election, provided for in that law, were all made and delivered from every poll and parish in the State to the governor, and by him opened and laid before the Wharton board of returning officers of the 14th November, 1872, afterward delivered to the De Feriet board, by that board delivered to the Forman board, (and finally by the latter delivered to the committee of the United States Senate,) in conformity with the provisions of that law. True, it is averred, and I think in some instances proven, that there had been frauds in the registration and frauds in the election—sometimes by one wing of the republican party and sometimes by the other—an evil, however, which had prevailed ever since reconstruction, but plainly in a less degree in the election of 1872, and these were easily susceptible of correction in the mode prescribed by law. But with these exceptional taints, these returns were the constitutional and legal statements, &c., of the election and the only data for the returning officers. These facts cannot be disputed with any propriety. Those identical papers the Lynch board ostensibly tried to obtain, thereby admitting their paramount and exclusive official authority; and they are at this moment in the possession of a committee of the United States Senate, and their identity and integrity sworn to by a cloud of witnesses, who alone, of all men, are best qualified to know the facts whereof they speak, to wit, Messrs. Warmoth, Wharton, Da Ponte, Hatch, De Feriet, Austin, Taylor, Wiltz, Isabelle, Forman, Mitchell, Thomas, Southmayd, Hunsaker, Todd, Bragdon, Woodward, and others. The question of boards was comparatively insignificant. The legal board is but a medium. On the other hand the returns were of the first importance as the only legal, official, decisive proof to be brought out. And the final abandonment of these returns by the Lynch board and the Pinchback-Kellogg party, after failing in their illegal efforts to control them, was the abandonment of the only proper official proof of the results of the election, and was equivalent to a confession of judgment in open court. Here this point is rested.

Now, upon the foundation, such as it is, of the return of the Lynch board rests the whole fabric of the Pinchback-Kellog government. Upon what, then, do those returns rest? Not upon those official statements prescribed by the law as the only foundation for the action of lawful returning officers; hence, for this cause, the so-called returns are illegal and fraudulent—a mere fiction, and the flimsy fabric a fraud built thereon. And as the best proof of this, I will cite to the House and the country some extracts from the sworn statements of Messrs. Lynch, Packard, Bovee, and others:

WILLIAM BOVEE sworn:

Question. The returning board of which you were a member did not return to the office of secretary of state any papers, but simply the result?

Answer. Simply the returns of the canvass.

Q. Not the papers on which they based the returns?

A. No, sir.

Q. Where are they?

A. I think they have been, until recently, in the hands of the Federal supervisor.

Q. Federal supervisor of what?

A. Chief supervisor of Louisiana.

Q. Do you remember whether you had any papers before you as a member of that board returned by the returning officers of the State?

A. We received no statements of votes from the governor. He was the proper party to lay them before us.

Q. Your canvass, then, was made chiefly upon the returns made by the United States supervisors, on a blank furnished by the republican State committee to the republican supervisor at each poll; that was the paper you had before you when you made the canvass?

A. Yes, sir; certainly it was, as far as State officers were concerned.

Q. You do not know what the official returns were from the parishes in Louisiana, then?

A. I never saw the statements of votes made by the State supervisors of registration.

Q. Did you ever see the sworn returns of the commissioners of election from any of the polls?

A. None, except in the parish of Saint James.

Q. Upon what basis did you make the count?

A. Upon the report of the Federal supervisors, and various affidavits.

Mr. LYNCH sworn: We had three classes of returns. We had first the returns made by supervisors of registration, representing the United States, who were in every parish we had then certified copies from State supervisors from certain parishes; and we had the affidavits of individuals. From these three classes of evidence we came to the result.

Q. From whence did you obtain those returns?
A. From the chief supervisor, according to my recollection.
Q. Who was the chief supervisor of election?
A. F. A. Woolfly.
Q. Acting under the act of Congress?
A. Yes, sir; and representing the State. * * * Those returns were turned over to him, and he turned them over to us, at our request. * * * I availed myself of every kind of information within my reach—not only these affidavits, but my former knowledge of the political divisions of the inhabitants of the State, as corroborative of the evidence placed before us.
Q. You estimated the vote upon the basis of what you thought the vote ought to have been?
A. Yes, sir; that was just the fact; and I think on the whole we were pretty correct.
Q. When you speak of the returns from those supervisors of the United States, do you mean that both those supervisors made returns?
A. No, sir; I believe they were generally on one side.
Q. Was not that one side that made those returns the republican side, or the Grant side?
A. They came, generally speaking, sir, from that side.
Q. Do you recollect of an instance where both supervisors outside of New Orleans submitted any returns to you?
A. I do not know that I remember any.
Q. Did you make your canvass upon affidavits, and upon the returns of one supervisor, and general report, and your general knowledge; was that the way?
A. We made up our returns from the reports from the United States supervisors of registration.
Q. Did you have any official returns before you furnished under the laws of Louisiana?
A. Did we have any?
Q. Yes; did you have any?
A. Not unless those I have stated.
Q. Did you have any at all?
A. No, sir; I do not think we had.
Q. You had no official returns furnished in pursuance of the laws of Louisiana before you?
A. No, sir.
Q. You made your canvass without those?
A. Yes, sir; we came to the conclusion that there were no official returns in existence, as the law had been trampled upon.
Q. Would the law having been trampled upon prevent an official return from being an official return as well?
A. No, sir; I suppose not.
Q. There were then official returns somewhere?
A. Yes, sir.
Q. When, as you stated here, you gave notice to Governor Warmoth, did you not suppose he had official returns?
A. Yes, sir.
Q. Then there were official returns?
A. Yes, sir.
Q. They were not before you?
A. No, sir.
Q. You counted votes, as you estimate, which were not polled at all, did you?
A. Yes, sir.
Q. Well, upon what ground?
A. On the authority of the United States law, and on the ground or principle of justice.
Q. You had no statement from any State officer of fraud, illegality, intimidation, disturbance, bribery, or corrupt influence, which prevented a fair and free and peaceable vote, before you?
A. Not from a State officer.
Q. No State officer whatever?
A. No, sir.
Q. Did you have before you any United States law that induced you to believe that United States officers had a right to make returns to you of persons elected to the Legislature?
A. We gave the law a liberal construction. * * * I believe so; I believe that the law goes into the school districts. * * * *
Q. Then, whatever you got was not from the United States supervisor who was present at the election, but you received them from the general United States supervisor of that State?
A. Yes, sir; we received them through him.
Q. You received nothing from the supervisors at the different polls, except through him?
A. No, sir.
Q. You had no communication, officially or otherwise, with the supervisors in the parishes directly?
A. Not directly, unless through these papers.
Q. Have you any information as to how those affidavits were made which you counted—as to how they were gotten up in those different parishes?
A. No, sir.
Q. Did not all the affidavits and other papers belong to your board?
A. No, sir.
Q. Whom did they belong to.
A. They were transferred to us merely by this officer, Woolfly.
Q. He was the United States officer who sent you the returns of the United States supervisors?
A. Yes, sir.
Q. And not the affidavits?
A. The affidavits came mostly through him.
Q. And those that did not come through him?
A. There were very few that did not come through him.
Q. What did you do with those few?
A. They were all returned to that office.

Mr. BOVEE recalled:

Question. Upon what ground was this material, upon which a State board was acting, returned to a man who was not an officer of the State at all?
Answer. I understand it to be through the courtesy of Mr. Woolfly that we received this evidence of the election.
Q. Is it not the duty of the canvassing board to return the papers before them to the office of the secretary of state?
A. That is the law of the State, but we did not get them from the proper officer.

By United States Marshal PACKARD:

Question. You stated yesterday that you had published in advance three forms of affidavits?
Answer. Yes, sir; I think there were four, upon reflection.
Q. Did those affidavits contain anything as to "race, color, or previous condition of servitude?"
A. No sir; the allegation is that the person was deprived of his right to vote as a citizen and legal voter.
Q. Did any of the affidavits as filled up state the person swearing to them had been deprived of the right to vote on account of "race, color, or previous condition of servitude?"
A. I think it was not printed in any of them.
Q. Was it written in any of them?
A. I have not examined scarcely any of them.
Mr. RAY (of the Kellogg party) interposing: I suppose it may go down on the record as admitted that they do not state that it was on account of "race, color, or previous condition of servitude." I will examine the affidavits; and if upon that examination I find the fact to be otherwise I desire to save the question.
Q. I observe that Mr. Ray has been examining the affidavits produced here as having been before the Lynch returning board. I now ask if it is agreed that none of these affidavits stated that the person making the affidavit was excluded from voting on account of "race, color, or previous condition of servitude."
A. (by Mr. RAY.) None of them contain that statement; and I think none of the others do. I will make that admission as to these.

Mr. BOVEE, again:

Question. In regard to the preparation of these affidavits, do you know where they were prepared?
Answer. I think they were prepared in New Orleans, by the republican executive committee.

Mr. PACKARD, again:

Question. You stated that you had printed, before the election, three forms of affidavits?
Answer. Yes, sir.
Q. How many did you have printed?
A. My recollection is about thirty thousand. I caused them to be distributed to nearly every parish before the election.
Q. To whom were they distributed, * * * to both the United States supervisors of election or only to the republican supervisors?
A. Well, probably to the republicans.
Q. Did you get up a form of returns in your committee for the supervisors to make in the State election?
A. I did.
Q. Did you send them to all the United States supervisors?
A. I said I sent them either to the supervisors or to the chairmen of the republican parish committees.
Q. Were there two supervisors appointed at each polling place throughout the State?
A. There were, generally.
Q. When you stated you sent out those blanks to the United States supervisors, whom did you mean?
A. I referred to the republican supervisors.
Q. You did not send them to the democratic supervisors?
A. In no instance, I think.
Q. Did you have any communication with the persons selected as supervisors on the fusion or liberal side?
A. I do not remember having had any communication with them directly.

I mention, as only a few examples, the proof shows that one man took 25,000 affidavits to the Red River parishes, and that in the following-named parishes affidavits were counted as votes, to wit: In Natchitoches, 1,206; Bossier, 1,159; Rapides, 1,000; Madison, 600; Saint Mary's, 500; Plaquemines, 1,314; Washington, 450, &c.

THEODORE JAQUES, (a Grant republican,) sworn: * * * *
A. I put a thousand names to a thousand affidavits.
Q. Without any authority from those men?
A. Yes, sir; for many of the men were men of straw.
Q. How did you go to Plaquemines?
A. I went in a steam-launch belonging to the Government.
Q. Where did you sign these affidavits?
A. In New Orleans.
Q. Who was present when you went to the office of the returning board?
A. Mr. Bovee, General Longstreet, Colonel Lynch, and leading politicians, and, I think, General Herron, but I won't be positive.
Q. Did you hand these affidavits to the board?
A. Yes, sir.
Q. To what member of the board?
A. I think to Mr. Bovee or Mr. Lynch.
Q. What did Mr. Bovee say to you when you handed to him these affidavits?
A. "Jaques, you are a hell of a fellow."
Q. What did you reply?
A. "George, if you want a few more I can get you some by ten o'clock in the morning."

But I must forbear. Comment is unnecessary. So the so-called returns of the Lynch board had not even the counterfeit semblance of law. They do not come to us in the merely questionable shape of legal official returns, with a taint here and there, susceptible of being purged away from the healthy body by a legal contest. No; they stand transfixed before the world, the guilty embodiment of total depravity. They fall, and with them, toppling down, comes the whole spurious fabric of the Pinchback-Kellogg government.

We recur to Judge Durell's midnight order of the 5th of December, in the case of Kellogg *vs.* Warmoth. Near eleven o'clock, in the night-time, United States Marshal Packard was sent for by the judge, and arriving at the judge's lodgings the marshal was informed by him that he was going to issue an order for the occupation of the state-house, and he wanted it executed in the morning, and inquired of the marshal if he could get ready for it. The marshal immediately made requisition for the United States forces. And on the 6th—

> At midnight, when mankind is wrapt in peace,
> And worldly fancy feeds on golden dreams,

a detachment of the Army of the United States surprised, surrounded, and captured the state-house of Louisiana, and reduced it to military occupation.

Captain R. M. JACKSON sworn:

Question. What is your position?
Answer. I am a captain in the First Artillery.
Q. Where are you stationed?
A. My station now is Fort Barrancas, in Florida.
Q. Were you at New Orleans?
A. Yes, sir.
Q. During the recent election?
A. No, sir.
Q. When did you go to New Orleans?

A. On the night of the 5th of December.
Q. Did you go there with your company?
A. I went there with two batteries of my regiment.
Q. How many men?
A. Eighty-six.
Q. Did you take possession of the Mechanics' Institute, used as a state-house in New Orleans?
A. Yes, sir.
Q. At what time?
A. I think about two o'clock on the morning of the 6th. * * * I took possession under verbal orders from the adjutant-general of the department, Colonel Duncan. * * * Those orders were to take possession of the state-house and hold it, under the orders of the marshal.

So it appears that the marshal did get ready. The truth is only too plain, that all the foregoing were carefully-prepared proceedings in pursuance of a previously well-digested plot.

And now come thick and fast the unerring proofs of sinister schemes in the no longer disguised confident reliance upon the President and Army of the United States by the Pinchback-Kellogg managers for the successful consummation of their conquest of the government of an unoffending State. Artful bulletins of the current of events, and inflammatory calls to hurry up Federal succors, chased each other back and forth upon the burdened wires, to wit:

On the 16th of November, Marshal Packard (telegram) to Attorney-General Williams, requisition for troops referred to General Ewing to learn desire of Government. Enforcement act defied by Warmoth's returning officers.

On the 2d of December the following ominous order:

DEPARTMENT OF JUSTICE, *December* 3, 1872.

S. B. PACKARD,
United States Marshal, New Orleans:

You are ordered to enforce the decrees and mandates of the United States courts, no matter by whom resisted, and General Emory will furnish you with all necessary troops for that purpose.

GEO. H. WILLIAMS,
Attorney-General.

On December 6 James F. Casey, United States collector of the port of New Orleans, and brother-in-law of the President, hastens exultingly to inform him that Pinchback had taken possession of the state-house; that Judge Durell's sweeping decree against Warmoth, &c., had been rendered; that "if enforced it will save the republican majority and give Louisiana a republican legislature and State government, and check Warmoth in his usurpation;" that the Pinchback legislature would meet in the state-house, under the protection of the court.

On the same day Marshal Packard to Attorney-General Williams, announces the promulgation of the report of the Lynch returning board, &c.

On the 9th of December, the same to the same, states Kellogg's majority.

Another, on the same day, from the same to the same, stating Pinckback had taken possession of the governor's office.

Another, on the same day, from same to same, states the high court of impeachment for the trial of the governor had been duly organized, &c.

Another, on the same day, from same to same, stating supreme court had sent Judge Elmore, of the eighth district court, to jail, and announced republican strength in the Pinchback-Kellogg legislature.

Another, on the same day, from same to same, states Governor Warmoth had been impeached, and that the McEnery legislature was not in session.

On the same day P. B. S. Pinchback to the President of the United States, announces himself as governor of Louisiana, refers to the resolutions of the Legislature, and asks for the protection of the United States Government, &c.

On the 10th of December, Marshal Packard to Attorney-General Williams, says the Pinchback legislature met and counted the vote; that Kellogg is elected governor and Antoine lieutenant-governor.

On the same day, Pinchback to the President, states that a majority of honest citizens approve his course, and declares the democrats are inflammatory and incendiary,

On the 11th of December, Marshal Packard to Attorney-General Williams, says the defiant Warmoth legislature is in session at the city hall.

On the same day, J. R. Beckwith, United States attorney, to Attorney-General Williams, says condition of affairs disturbed; that Warmoth, though suspended, had issued his proclamation against Pinchback and his legislature; feared a collision; says the question is now political, and that Pinchback and his legislature are legitimate.

On the same day, Marshal Packard to Attorney-General Williams, says the Warmoth senate met this day, and that it has only seven *bona-fide* senators in it.

On the same day, the same to the same, says Warmoth legislature is in session at city hall; that Warmoth issued two proclamations declaring the Pinchback-Kellogg authorities and proceedings wholly illegal, and that he will resist them with all the power of the State, &c.

On the same day the following appeal to the President for fair play and non-interference was made by his former political *confrère:*

NEW ORLEANS, *December* 11, 1872.

To the President of the United States:

Under an order from the judge of the United States district court, investing James Longstreet, Jacob Hawkins, and others with the powers and duties of returning officers, under State election laws, and charging them with the duty of compiling the legal returns and declaring the result in accordance therewith, those persons have promulgated results based upon no returns whatever, and no evidence except *ex-parte* statements. They have constructed a pretended general assembly, composed mainly of candidates defeated at the election, and those candidates, protected by United States military forces, have taken possession of the state-house, and have organized a pretended legislature, which, to-day, has passed pretended articles of impeachment against the governor; in pursuance of which, the person claiming to be a lieutenant-governor, but whose term had expired, proclaimed himself acting governor, broke into the executive office, under the protection of United States soldiers, and took possession of the archives. In the mean time, the General Assembly has met at the city hall, and organized for business with sixty members in the house and twenty-one in the senate, being more than a quorum of both bodies. I ask and believe that no violent action be taken, and no force used by the Government, at least until the supreme court shall have passed final judgment in the case. A full statement of the facts will be laid before you and the Congress in a few days.

H. C. WARMOTH,
Governor of Louisiana.

On the same day, Hon. William Pitt Kellogg to Attorney-General Williams: "If President in some way indicate recognition, Governor Pinchback and Legislature would settle everything. Our friends here acting discreetly."

On the same day, James F. Casey, to the President, says opposition trying to array the people against us; rich against poor. "Our quorum in danger;" delay of troops "disheartening our friends, cheering our enemies;" if requisition of Legislature is complied with, all difficulty will be dissipated, the party saved, and everything go on smoothly.

On the same day, the same to the same: "Important you should immediately recognize Governor Pinchback's Legislature in some manner; I earnestly urge this and ask a reply."

On the same day, Acting Governor Pinchback to Attorney-General Williams: "I suggest the commanding general be authorized to furnish troops upon my requisition upon him for the protection of the Legislature and the gubernatorial office. The moral effect would be great."

On the same day, William Pitt Kellogg and James F. Casey, to the President, again urging compliance with the requisition for troops, otherwise fearing a collision.

Then came the following decisive response:

DEPARTMENT OF JUSTICE, *December* 11, 1872.

P. B. S. PINCHBACK, *Governor of Louisiana:*

Requisition of Legislature transmitted by you is received. When it becomes necessary in the judgment of the President, the State will be protected from domestic violence.

GEORGE H. WILLIAMS,
Attorney-General.

Another appeal for fair play:

NEW ORLEANS, *December* 12, 1872.

SIR: As chairman of a committee of citizens appointed under authority of a mass meeting recently held in this city, I am instructed to inform you that said committee is about leaving here for Washington to lay before you and the Congress of the United States the facts of the political difficulties at present existing in this State, and further earnestly to request you to delay executive action in the premises until after the arrival and hearing of said committee, which is composed of business and professional men without regard to past political affiliation.

THOMAS A. ADAMS,
Chairman.

His Excellency U. S. GRANT, *President of the United States.*

On the same day John McEnery to the President:

Claiming to be governor-elect of this State, I beg you, in the name of all justice, to suspend recognition of either of the dual governments now in operation here until there can be laid before you all facts and both sides, touching legitimacy of either government. The people denying the legitimacy of Pinchback government and its legislature simply ask to be heard, through committee of many of our best citizens on eve of departure for Washington, before you recognize the one or the other of said governments. I do not believe we will be condemned before we are fully heard.

On the same day the following:

DEPARTMENT OF JUSTICE, *December* 12, 1872.

Acting Governor PINCHBACK, *New Orleans, Louisiana:*

Let it be understood that you are recognized by the President as the lawful executive of Louisiana, and the body assembled at Mechanics' Institute as the lawful Legislature of the State, and it is suggested that you make proclamation to that effect; and also that all necessary assistance will be given to you and the Legislature herein recognized to protect the State from disorder and violence.

GEO. H. WILLIAMS,
Attorney-General.

And on the ensuing day the following:

DEPARTMENT OF JUSTICE, *December* 13, 1872.

Hon. JOHN MCENERY, *New Orleans, Louisiana:*

Your visit with a hundred citizens will be unavailing as far as the President is concerned. His decision is made, and will not be changed; and the sooner it is acquiesced in, the sooner good order and peace will be restored.

GEO. H. WILLIAMS,
Attorney-General.

And on the same day the following:

NEW ORLEANS, *December* 13, 1872.

Hon. GEORGE H. WILLIAMS, *Attorney-General United States:*

The entire republican party of this State thank the President and yourself for action of yesterday in recognizing the legal and constitutional State government. This action has prevented the consummation of the most barefaced and outrageous election frauds. Every indication points to quiet and good order. The bogus legislature of Warmoth has adjourned *sine die.* Police reported last night to Governor Pinchback.

WILLIAM PITT KELLOGG,
C. B. DURELL,
CHARLES CLINTON,
JAMES F. CASEY,
E. C. BILLINGS, &c.

On the 14th of December Acting Governor Pinchback to the President, announcing the Warmoth party in arms and in warlike array to resist him, &c.; says the Warmoth force is too strong for him; says they will surrender only to the United States military force; says he has called on the commanding general of the department for the requisite military force, &c.

On the same day E. D. Townsend, Adjutant-General, to General W. H. Emory, United States Army, commanding, New Orleans, Louisiana:

You may use all necessary force to preserve the peace, and will recognize the authority of Governor Pinchback.

On the same day the following:

NEW ORLEANS, *December* 14, 1872.

To the Adjutant-General, U. S. A.:

On the receipt of your telegram last night an officer was sent to the contesting parties to ask the evacuation of the arsenal and the dispersion of the armed forces. The demand was promptly complied with, and the arsenal turned over to the State authorities this morning. Everything is now quiet.

W. H. EMORY,
Colonel Commanding, Bv't Maj. Gen.

On the 6th January, 1873, the following:

DEPARTMENT OF JUSTICE, *January* 6, 1873.

S. B. PACKARD, *U. S. Marshal, New Orleans, Louisiana:*

The report of the committee of two hundred, that the President regards his recognition of the existing government as provisional and temporary, is not true. The recognition is final, and will be adhered to unless Congress otherwise provides.

GEORGE H. WILLIAMS,
Attorney-General.

And on the same day the following:

NEW ORLEANS, *January* 6, 1873.

To General W. T. SHERMAN, *commanding the Army, Washington, D. C.:*

The day passed quietly. No disturbance whatever.

W. H. EMORY,
Colonel Commanding.

And on the 7th January, 1873, the following:

HEADQUARTERS OF THE ARMY,
Washington, D. C., January 7, 1873.

Official copy respectfully submitted to the Secretary of War.

W. T. SHERMAN, *General.*

Such is the succinct chronicle, by telegram, of the decline and fall of Louisiana.

The revolting exhibitions of bad faith, corruption, and conquest, in the dishonored names of peace, order, and the guarantees of the Constitution, infesting the tortuous paths we have now explored, will lead, when unchecked, in the future as in the past, to tyranny, to chaos, and to death:

> When the world bow'd to Rome's almighty sword,
> Rome bow'd to Pompey, and confess'd her lord:
> Yet one day lost, this deity below
> Became the scorn and pity of his foe:
> His blood a traitor's sacrifice was made,
> And smok'd indignant on a ruffian's blade:
> No triumph's sound, no gasping army's yell,
> Bid, with due horror, his great soul farewell.

Such exhibitions cannot be dismissed as forming merely—

> The wily shifts of state, those jugglers' tricks
> Which we call deep designs and politics.

They are of far deeper significance. They form the oft execrated and always execrable orgy of perfidy, usurpation, and spoils, upon the blackened and bleeding body of order, liberty, and law.

Brought face to face with this unhappy conflict for the government of Louisiana by disappointed office-seekers, with the undisputed constitutional administration of the State, what then was the plain, paramount duty of the President in the premises? Why, there was actually nothing whatever difficult or embarrassing in it. His duty was simple and most obvious. The President had merely to be consistent with himself in leaving local affairs to local authorities, by adhering for the time being in his executive action to those authorities and that administration which constantly in every form, at the time, and for years previous, had been officially recognized by all three of the great co-ordinate departments of the United States Government. The State constitutional administration was in the constitutional possession of the only official returns of the election of 1872. The great body of those returns was, in any aspect of the case, by the lawful officials, and, on the face of them at least, in conformity with the forms of law; and therefore, *prima facie*, legal and conclusive until set aside or purged in the mode prescribed by the constitution and laws of Louisiana in cases of contested elections. By all the sanctions of law and order, by whatever is essential to the authority and stability of constitutional government, general or local, it was absolutely indispensable that they should be recognized and respected on the part of every branch of the Government, State and Federal, and by the entire citizen body everywhere.

By the constitutions of all the States known to this Union the legislative departments everywhere are made, and of necessity must be, the sole judges of the elections, returns, and qualifications of their own members. That has universally been regarded as a legislative, not as a judicial, function.

If one turbulent and unscrupulous man, on the bench, for instance, of an inferior court, or several such men on several such benches, whether local or federal, undertake to obliterate constitutional boundaries; to swell above and overtop the very law-making power by whose arbitrary fiat they live and have their being, and so overspread the whole ocean-bed of political expediency and party strife, surely such pernicious example should be condemned, not sanctioned, in high places.

Wherefore, when one or two unsuccessful candidates for State offices, contrary to the evidence of the only official returns, factiously claim to have been elected, and under the plausible mask of a bill in equity ostensibly to perpetuate testimony, covertly seek through such judicial iniquity to overthrow the laws and subvert the established government of a State of this Union, they have no right to deceive and degrade an American President in his high office to that lower level, the level of a co-operating partisan in Louisiana republicanism. And when in furtherance of such perfidy, that essential and exclusive function of every legislative body is usurped and wielded, and lawful legislatures pulled down and unlawful legislatures pulled up under cover of a writ of injunction in a decree in chancery, it is in the highest degree indecent and scandalous, if no worse, to call upon an illustrious Executive to consummate the brazen crime, under color of officially enforcing the mandates and decrees of an enlightened and virtuous court, adjudicating within the impartial, inviolable, and venerated precincts of the Constitution and the law.

The President is the head of a powerful party, has performed achievements which will outlive States and survive the oblivion of empires, is burdened with military renown, aspires to civic eminence, and ought to be animated by a patriot's and a statesman's love of stainless glory. A virtuous fame cannot afford to deserve the homage of faction and the execration of liberty.

The pendency of a suit, on and after the 16th of November, 1872, in the United States district court for the district of Louisiana, to perpetuate evidence, formed no decent ground for the Executive of the United States to depart from his long-established official recognition of the government of Louisiana in the administration of Governor Warmoth. The legitimacy of that republican administration could not be, and had not been, assailed by any friends of the President. And its constitutional status was everywhere recognized. On the 14th of November, on the 16th of November, and on the 6th of December, 1872, and throughout, that administration had been engaged in the usual lawful way in the business of carrying out the will of the people expressed and evidenced in pursuance of law, at the State November election, and was in the act of lawfully handing over the government to the representatives of the people, who had been legally elected to the succession.

Suddenly, this constitutional, established, universally recognized government is assailed by a *knot* of men, calling itself the official body, the government. Without official position; without any lawful evidence of election to the succession, unknown to the law, officially unknown to the authorities, State or Federal, this *knot* of men unable to deny their total destitution of the official returns—that by these returns other persons had been elected to the succession—nevertheless boldly proclaim they believe it to have been elected—if not elected it ought to have been—and *à fortiori* it is the government of Louisiana.

Having performed those extraordinary feats, they have the effrontery to call upon the Executive of the United States to officially recognize the *knot* as the government. What ensues? That great department, so fully informed in the premises, that further information is curtly repelled, naively repudiates all its subsisting official relations with the constitutional government of Louisiana, revokes its recognition of the Warmoth administration, and not only recognizes in the place of it this *knot*, this *tertium quid*—not only throws around it the whole moral panoply of full Federal communion, but deliberately, in the face of the world, and to the consternation of the devoted people of Louisiana, officially, with the United States Army, escorts it into power and place, and fortifies it there with all the dread blazonry of war.

The constitutional government of Louisiana as represented by its executive continued at the date of those events to have every previous claim upon the constitutional and moral support of the United States, as well in its executive as in all its co-ordinate departments. The revolutionary government never had any such claim, and intrinsically and extrinsically was notoriously misbegotten, illicit, and incendiary.

In Rhode Island in 1841–'42, when a formidable and far more respectable effort was made to overthrow the established government, the executive of the established government invoked Federal protection, and the then President recognized him, adhered to his previous recognition of him as the lawful executive power of the State, and took measures to call out the militia to support his authorty if it should be found necessary for the General Government to interfere. If in the Louisiana case the present President had only followed that judicious and most salutary precedent, what would have been the result? Why, it is conceded by all that if the Federal Executive had merely stood aloof, here as there the established government would have gone on in peace in its accustomed grooves, and the revolutionary government would have instantly sunken, here as there, into the most abject contempt. Unlike the Rhode Island case, it was at all times plain that the great body of the people of Louisiana were faithful to the established government, as represented by the State executive, and that the latter was in no need of Federal protection against threatened disorganization. He did not call for any. He asked only that the local government should be left to its own constitutional

resources and the will of the people. The inherently feeble machinations of the *knot* awakened no uneasiness in Louisiana, until in its support was outstretched the omnipotence of the Federal Executive arm.

Under the fourth section of the fourth article of the Federal Constitution "it rests with Congress to decide what government is the established one in a State. For as the United States guarantees to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority, and its decision is binding on every other department of the Government, and could not be questioned in a judicial tribunal." (Luther *vs.* Borden.)

The established government of Louisiana, as represented by Governor Warmoth and his successor, was in unison, and up to all the constitutional requirements, as heretofore so authoritatively expounded. The President had, as the case then stood, properly nothing to do with the question. He had nothing to do in that connection but simply to keep on then, as in the past, acquiescing in the *statu quo* of an established State government which he had no lawful right to control. If the officials of that government had become in point of fact illegal or revolutionary in design, the peaceful pursuance of the course prescribed by the constitution and laws of Louisiana by the aggrieved pointed the only way to tribunals and remedies sure and steadfast, and so in due course of time the wronged could have been righted.

It was pretended by the faction that Federal interference was necessary to insure a republican form of government; pretended in behalf of a faction then engaged in overturning a government long recognized as republican in form by every department of the United States; pretended in behalf of a faction afterward the successful builders of military despotism upon the ruins of a republican form of government. Such pretenses savor of the devil quoting Scripture.

Was Governor Warmoth about to establish an aristocracy, a monarchy, a military despotism? Whatever his faults, he was then in the very act of surrendering power and installing his successor in pursuance of law. Was Governor McEnery about to set up a monarchy, an aristocracy, or a military despotism? He was in the very act of accepting official responsibility by the command of the popular voice, expressed and proved, in pursuance of the constitution and the law.

Boldly reversing the actual condition of the debatants, calling the government insurrection and insurrection the government, it was pretended, in the interest of faction, that the resolute purpose of the Louisiana State government to exercise its constitutional functions and perform its official duties, factious combinations to the contrary notwithstanding, constituted a case of domestic violence, in the meaning of section 4 of article 4 of the Federal Constitution; a case of insurrection against the government, in the meaning of the Federal acts of February 28, 1795, and March 3, 1807: this done, one of the faction was then called governor, and more of the faction a General Assembly; and this combination thereupon, by swift-chasing telegrams, pathetically broke the news to the President that there was great danger of a collision, (with a constable or a *capias*, I suppose;) they assured the President if he would only recognize them and send the military they would soon settle things, and they begged him again and again to hurry up to their relief and protection "such part of the land and naval force of the United States as shall be judged necessary."

We have seen that in due time the promised aid was received; the regular government of Louisiana immediately succumbed to the military power of the United States, and usurpation and faction, with their loathsome progeny, "in many a scaly fold, voluminous and vast," now sit brooding over a heritage of liberty, the "fairest among ten thousand, and altogether lovely."

In view of those lamentable abuses, is it the part of candor to deny that the President, on his part, has fallen into a grievous mistake; that he has actually invaded and overturned the rights of the people of Louisiana?

A wrong confessed is a right vindicated, and the path of reparation is lighted with the smiles of angels and paved with the plaudits of men.

However, the duty of the Federal Legislature is obvious, the exigency great, and cannot with safety or with fidelity be postponed or evaded. It belongs to the dominant party in this Congress to vindicate the Constitution and uplift a wronged and fallen State. That party holds all the outposts, all the seats of power. It commands the vantage-ground, and wields and is responsible for the initiative. The minority are in themselves powerless. It is only too plain that an anti-republican, a despotic government, has been set up and is being maintained in Louisiana. True, a constitution on paper, republican in form, still exists there, but it exists chiefly in name, and only by sufferance in fact. That constituent element of the government which the administration composes is in deadly antagonism with every part of the fundamental law. Even if in all else, save only as to the persons who wield the power, that republican constitution be administered line by line, precept by precept, that still would not be the constitution acting *proprio vigore*, but solely by the policy or caprice of successful usurpation and protected crime, in defiance of those essentials of every organic law, its unity and supremacy.

Wherefore it is the inexorable duty of the Congress of the United States to overthrow the monstrous usurpation, recall the *statu quo* of the constitutional government at the time it was overawed, subjugated, and superseded by the Executive and the Army of the United States, and so restore to the government and people of Louisiana the untrammeled management and control of their own local and domestic affairs, subject only to the Constitution and laws of the United States.

FINANCES—CURRENCY.

Mr. FIELD. Mr. Speaker, early in the session I introduced a bill (H. R. No. 701) entitled "A bill authorizing the issue of 3.65 convertible bonds, to provide for their interchangeability with legal-tender notes, and to lessen the interest on the public debt;" and I will now explain the provisions of the bill and submit my reasons in support of the measure.

The first section provides that the Secretary of the Treasury shall issue on demand, in exchange for legal-tender notes, the bonds of the Government in denominations of fifty dollars and upward, bearing interest at the rate of 3.65 per cent. per annum, and principal and interest payable in the legal-tender or lawful money of the United States. I assume that no opposition will be made to this section of the bill. If the people choose to lend our Government money bearing this low rate of interest, I think convenient arrangements should be made to accommodate them.

The venerable Frederick Fraley, president of the National Board of Trade, a gentleman of ripe judgment and large experience, in a speech on the finances before the board at its recent annual meeting, expresses the opinions very generally entertained by our intelligent business men upon the necessity and public utility of this measure. He says:

> During the summer season money accumulates in the great commercial centers of the country and becomes such a drug there that it is loaned for all sorts of speculations. It is not actually demanded for the business purposes of the country, and it is loaned, to a very large extent, to the speculators and gamblers in stocks, and this leads to a very dangerous state of things which is very dangerous to the structure upon which our business rests. Now this proposition for the issue of certificates of debt, bearing a moderate rate of interest, is intended to provide for such a state of things, by giving to those who hold this currency in excess an opportunity of converting it into a security of the highest character, bearing a reasonable but modera'e rate of interest, with the privilege of reconverting it into currency when the necessities of trade and the fluctuations of the season shall demand such proceedings. The issue of such certificates would give an opportunity for investment of the funds of the savings institutions; and it would also give an opportunity for the investment of the surplus currency which might be held by the national banks; it would enable them to get some small return upon their money, instead of throwing it into the vortex of speculation.

The issue of Government bonds convertible into legal-tender notes is also recommended by General Spinner, the distinguished and venerable Treasurer of the United States. In his last report he says:

> At other seasons of the year nothing like the legally fixed quantity of currency is needed; neither can it be used for any legitimate purposes. At such times the holders, naturally desirous to "turn an honest penny," finding all the legitimate avenues of trade closed, either engage in speculations themselves, or place their money at interest with corporations and individuals, who too often use it for purposes that, in point of morality, are but little removed from ordinary gambling and downright swindling. * * * For these notorious evils a remedy should be found and interposed. In looking over the whole ground, no scheme has presented itself that would be so likely to accomplish the end in view as the authorization by Congress of the issue of a certain amount of legal-tender notes, that could at all times be converted into a currency interest-bearing stock of the United States, and for which the holder of such stock so authorized could at pleasure at any time receive legal-tender notes, with the accrued interest, from the day of issue of such stock to the day of its redemption. It is believed that a rate of interest no higher than 3.65 per cent. will be high enough to absorb the desired amount of the circulation when not needed for commercial purposes, and low enough to force the return of the bonds in exchange for legal-tender notes at the times when the business wants of the country shall require more currency.

It is now more than ten years since Congress, on the advice of the Treasury Department, refused to give a willing and patriotic people the privilege of furnishing all the money required for the maintenance and support of the Government at a moderate rate of interest. For some reasons, to the public unknown and unexplained, our financial chiefs and leaders insisted upon selling bonds at extortionate rates of interest and on conditions calculated to facilitate their shipment to Europe, so that at the present time more than one-half of our bonded indebtedness is held by foreign capitalists. If the terms and conditions on which these loans were invited had been more favorable for investment in our own country, the Government would have been supplied with an overflowing Treasury from the hands of the American people. In issuing currency, too, the Government has, upon the largest portion, insisted on paying interest—amounting in the aggregate nearly to $300,000,000—and the issues have been so cunningly arranged that the accruing interest, in nearly every case, instead of going into the hands of the people, was gathered into the swollen coffers of bankers and money-changers. The interest paid on compound-interest legal-tender notes, one and two year 5 per cent. legal-tender notes, and certificates of indebtedness was a gratuitous and shameful waste of public money, and nineteen-twentieths of this interest money fell into the hands of syndicates and bankers. If plain greenbacks had been issued instead of these interest-bearing notes, the burdens of the people in taxation might have been less oppressive, and no man can assert that greenbacks would not have accomplished this purpose just as well, if not better. The issue of compound-interest notes was a stupid compound folly of the Treasury Department for which our tax-payers have paid over $50,000,000 interest.

I aver that the interest paid by our Government was wholly unnecessary and unjustifiable on the following obligations, all of which were national currency in circulation:

Statement of interest paid since 1862 on national currency in circulation.

Compound-interest notes, (legal-tender)	$50,923,993
United States notes, one-year, (legal-tender,) 5 per cent	2,226,000
United States notes, two-year, (legal-tender,) 5 per cent	16,648,000
Certificates of indebtedness, (issued for commissary stores,) one-year, 6 per cent	33,705,194
Temporary-loan certificates, 4 per cent	3,000,000
Temporary-loan certificates, 5 per cent	5,000,000
Three per cent. certificates, (convertible into greenbacks on demand,) 3 per cent	5,100,000
Three-year Treasury notes, 7.3 per cent.,	181,770,000
Total	298,373,187

Now, there is no hidden mystery about this matter. Nearly three hundred million dollars have been needlessly expended for interest on Government obligations, which were a part of the circulating medium of the country; and our hard-working farmers and producers understand these questions, and they can estimate this enormous waste of the public money as well as Jay Cooke, McCulloch & Co.

In view of these facts and wrongs, and the stupendous mistakes, if not gross designs, against the Treasury, let us now offer the people a convertible bond, bearing 3.65 per cent. interest, in exchange for the legal-tender greenbacks which Congress on the 25th day of February, 1862, by solemn enactment, promised the American people should be convertible, at the option of the holder, into Government bonds at par. Let us at least make good this express contract in the legal-tender act.

The second section of the bill provides that the convertible bonds shall be issued bearing interest at 3.65 per cent., and the same shall be made payable on demand at the Treasury of the United States, and at such other convenient places as the Secretary of the Treasury may designate for the purpose. I think no objection can be urged to this provision in the bill. It provides at once against plethora or inflation of the currency, assures its elasticity and stability, and, if adopted by Congress, will be hailed with joy by the people, for they will know that on this fiscal arrangement no financial or commercial crisis can disturb the commerce and industries of the country, and for all time to come we may enjoy exemption from the destructive, distressing, and baneful effects of revulsions and financial panics. Let such a law be enacted by Congress, securing, as it will, elasticity to the currency, its volume to be expanded or contracted to meet the exact needs of the societary circulation, in active as well as in passive seasons of business, and we shall have a financial panacea which will exempt our country in the future from the power of the rings, the money-changers, and the swindlers, who, with a fixed and unalterable quantity of lawful money, possess the power to crush commerce and industry to suit their own avarice or caprice. We need at once and forever to clear ourselves from the unflinching grasp of unprincipled and unpatriotic men, who, by cornering and locking up our lawful money in times of stringency and peril, exercise their power to bring upon the country disaster and ruin; and while merchants are in distress, and industries embarrassed or paralyzed, they step in to buy up the hard earnings of a helpless and bankrupt people at their own will and at their own prices. Thus "the rich become richer and the poor poorer." But on the plan proposed in this bill we need have no apprehension of such combinations and misfortunes in the future; the surplus earnings of the people will be lodged with the Government, and whenever the business needs of the country require an increase of the currency, it will be at their easy call furnished by the Government in exchange for its convertible bonds.

The Treasurer of the United States, again, in referring to the necessity for an improvement of the currency, in his last annual report says:

> Few, if any, believe that the volume of the circulating medium, as fixed by law, stands at an amount that is exactly right. It must be obvious to all who have watched the course of the business and financial relations of the country that there are times when the real wants of the country demand, and there should be, an increase of the currency; and that there are other times when the safety of all legitimate business requires that it should be largely reduced. What is really needed is a currency so flexible as to at all times accommodate itself to the real business wants of the whole country.
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> The greatest objection to an exclusively metallic currency is its want of elasticity. That there are regularly recurring times when the wants of legitimate trade require an expansion of the circulating medium to an amount much greater than is necessary at other times, is a fact that is patent to all observing business men.

From the days of barter among the savage and nomadic tribes, when shells and bark and stamped leather were in use as money, and afterward when bullocks and iron blooms were employed for the purpose, even down to the period of silver and gold currency, the use of credit in exchanges and settlements was wholly unknown; but during the past and present centuries the bank-note and the bank-check have been more universally employed as the instruments of exchange than any other description of money. Like the railroad and the telegraph, they have been the outgrowth, the necessity, and the complement of civilization. They are esteemed by merchants as superior to metallic money, for without their use the business of the wholesale community could not be transacted, and the wheels of commerce would become clogged and blocked. In England, as well as in the large cities of the United States, the bank-check performs the function of currency in volume a thousand times greater than the metallic money. Some idea of the extent of its use may be formed by considering the operations of the clearing-house in the city of New York, where the average daily transactions exceed $100,000,000; and in effecting exchanges of this magnitude very often not a quarter of a million dollars of lawful money is required. But outside of our cities, in the interior sections of our broad country, bank-checks are not so practicable, and the currency of lawful money is a greater convenience, if not an actual necessity, for the people.

There are two kinds of money: first, that created by the sovereign or by the national legislature, called lawful money; second, that of courtesy, which is employed by common consent and convenience, such as bank-notes, bank-checks, letters of credit, promissory notes, bills of exchange, and bank credits. If, however, an abundant and adequate supply of the first or best kind be furnished, a less amount of the second or inferior description would be required and used by the people.

Some ignorant persons have a notion that money should be redeemed, and they call ours "irredeemable currency" and "false promises to pay." Now, the power of transferring a debt from one to another is the true and only function of money. Who ever heard of English sovereigns or American eagles being redeemed in any other sense? Our greenbacks are in fact redeemed every day in effecting exchanges and in the payment of debts. Again, others, still more ignorant, assert that our money should be the money of the world—they never specify what world, nor do they describe the kind of money wanted, nor how Congress is to exercise its "express powers" to provide lawful money for other nations. If they mean gold coin, then what shall be done for China and the East Indies, containing probably one-third of the whole population of the globe, and whose money consists solely of copper and silver? Our sentimental writers on finance should know that the lawful money of one nation becomes merchandise, like corn and pork, in another; our gold coins, when shipped abroad, leave the country like other of our raw products, and bankers draw for the avails at sight. Such persons should also know that Congress can only provide money for the New World; and that our national credit—the greenback—is the best lawful money for the people of the United States.

Owing to a disturbance in private credits, commencing with the failure of Jay Cooke & Co., a shrinkage in discounts began in September; debts could not be paid by the usual currency; a vast volume of promissory notes and bills of exchange became unavailable and useless for settlements and exchanges, and a great manufacturing and trading population were compelled to fall back on the totally inadequate and limited supply of legal-tender and national-bank currency. The banks in New York and throughout the country were obliged to suspend payment in currency and resort to an illegal issue of clearing-house checks, which were used as money to the extent of $24,000,000. An increase of our lawful money was the true and proper remedy for the crisis, and even a knowledge of the fact that legal-tender notes could be had in exchange for Government bonds would have resulted in the complete restoration of confidence and commercial prosperity.

All our bank-notes and legal-tenders are not equal in volume to one in a thousand of other credits used in ordinary times as currency, for the entire circulating power is the circulating medium of the country. The rich trader requires, in ordinary times, but little legal-tender currency; he deals in private credits, such as bank-checks, bills of exchange, and promissory notes. This is the currency of wholesale. But the industrious classes, the day-laborer, and many others of small means, must have small bills for daily use. This is the money of retail.

Unfortunately, our laws fix and limit the volume of legal currency, which has been very much contracted since 1865. In the mean time the business of the country has vastly increased; paid labor now fills the Southern States, while the producing classes of the North and of the great West have multiplied in public and private enterprises until the army of laborers is counted by millions. The boy of eight years ago has now become a man and must have a man's clothes, else he will split his garments in every seam. Money is made for the use of producing classes principally, and its volume should be increased with the increase of population and with the growth of the productive industry of the country.

It is manifest that our money or currency must be increased sufficiently to pay all classes for their daily labor, or we must reduce the work and discharge the workers now employed on our farms, in our mines and workshops. The question is, shall the currency be increased with our increase of labor and business, or shall we reduce the labor and business of the country so as to handle the traffic conveniently with the volume now in circulation? The factory employing one hundred mechanics to-day certainly requires more currency than last year when only ten were employed. The production of wealth by labor has been more than doubled in eight years; in the mean time our national currency has been reduced over $1,300,000,000. While the demand, therefore, has been increasing, the supply has been rapidly diminishing, and the tightening process finally culminated last September in throwing one-half of our laboring population out of work.

The question is, shall we reduce the population of the country, keep one-half of our productive forces out of work, and destroy two-thirds of the wealth and property now on hand for the purpose of accommodating our condition to the present volume of the currency? If Congress shall refuse to augment the currency in order to meet the increasing needs of a growing country, then provision should be made for the annual destruction of our wealth. We should burn up our corn and cotton, our hominy and our hogs, to enable us to effect

our exchanges, and thus to suit the views of the ancients on finance and currency. The amount of money required being manifestly proportionate to the number and value of the exchanges made, it follows that as population increases domestic commerce enlarges, and occupations are diversified, an increase of the circulating medium becomes an absolute necessity to growth and prosperity.

The money that will pay one thousand men will not pay two thousand unless the latter reduce the price of labor one-half. Thus, currency must be increased or wages reduced. Which of these alternatives, Mr. Speaker, will you choose?

It is thus apparent that in this question of currency lies the conflict between capital and labor. It is a well-known fact that when money is abundant the laborer receives his full reward, and prospers, but when money is scarce the laborer finds but little employment even at "starvation prices." Thus, then, if we unduly restrict the volume of currency we oppress and pauperize labor, while we give capital more power to deny to the laborer and producer a fair reward for their toil. An abundant supply of currency facilitates and aids production like tools in the hands of the mechanic, and like oil on the axle, it accelerates and expedites. Its volume should not be fixed by law, for its uses are as changeable and variable as the wants of man. A single cup of water may suffice in winter, but the workman during the heat and dust of summer may need another draught; and so it is with currency—more is required at one season than at another.

Under the operation of this bill, the volume of our currency would be self-adjusting, expanding or contracting with the needs of the people, by this simple property of interconversion; for convenient facilities are afforded for changing at any time currency into bonds, or bonds into currency. The total amount of 6 per cent. bonds now outstanding is $1,218,728,150; and should this entire amount within a few years become transferred to 3.65 convertible bonds there would be an annual saving of $28,642,744 in interest on the public debt. On this point I again refer to the able report of the Treasurer of the United States. He says:

> This would change a large amount of the indebtedness of the nation from 6 per cent. gold-interest-bearing bonds to others bearing a lower rate of interest, payable in currency, thus making a great saving to the nation, and at the same time giving to all the people who choose to avail themselves of its benefits a place of safe deposit where they will be able to receive interest on their surplus means.

I have prepared statements showing the large contraction made during the past eight years in the volume of circulation.

On the 1st of September, 1865, the circulating medium consisted, in part, as follows:

United States notes	$433, 160, 569
Fractional currency	26, 344, 742
National-bank notes	300, 000, 000
Compound-interest legal-tender notes	217, 024, 160
Temporary-loan certificates, 10 d-d	107, 148, 713
Certificates of indebtedness	85, 093, 000
Treasury 5 per cent. legal-tenders	32, 536, 901
Treasury notes, legal-tenders past due and not presented	1, 503, 020
State-bank notes	78, 867, 575
Three-year Treasury notes	830, 000, 000
Total	2, 111, 678, 680

On the 1st of December, 1873, the circulating medium consisted in part as follows:

United States notes	$367, 001, 685
Fractional currency	48, 000, 000
Certificates of indebtedness	678, 000
National-bank notes	350, 000, 000
Total	765, 679, 685

It will be perceived by the exhibit here made that the currency has been reduced $1,345,998,995 since September 1, 1865.

The history of panics in England and in our own country discloses the fact that a sovereign and unfailing remedy is obtained by increasing the currency. In England this has been done in violation of law. In America let enlightened legislation prevent the occurrence of financial disorders in the future.

Referring to the existing panic, the Treasurer of the United States says:

> This could not have happened had there been an elastic and flexible instead of our present rigid and unyielding currency. There is scarce a doubt but this financial revulsion has cost the people in the aggregate hundreds of millions of dollars, to say nothing of the loss of revenue to the Government.

The views of the Comptroller of the Currency on the panic and the remedy therefor may be found in his last report, (page 22.) He says:

> It can hardly be doubted that if the surplus means of the country banks which were invested in call loans by their city correspondents had been invested in public funds, convertible into cash upon demand, the disastrous results of the late panic would have been avoided.
>
> A Government issue of certificates, bearing a low rate of interest, to be counted as a certain proportion of the reserve, is the proper remedy for such a state of things. If the surplus of the country banks had been to a considerable extent invested in such Government certificates the drafts upon the city banks would have been proportionately less: and if the surplus funds of the city banks had likewise been held in such certificates, the avails of such certificates would have been quietly withdrawn from the Treasury, and the banks would have found themselves possessed of ready means with which to supply the demands of their dealers.

By the act of March 3, 1863, Congress authorized the issue of fractional currency "not exceeding $50,000,000;" but the traffic of the country not requiring so large a sum of these small bills, the amount issued has never exceeded $48,000,000. The amount outstanding has varied between $25,000,000 and $48,000,000, and probably $10,000,000 of the issue have been worn out and destroyed. I refer to this fact as an illustration of the safe working of the convertible plan contemplated by this bill. The people have taken only $48,000,000 fractional currency, although they might have had $50,000,000; and so it will be with regard to the amount of greenbacks to be issued in exchange for bonds—no more will be taken than the business interests of the country require; and should the volume of currency at any time become redundant, the unproductive or excessive portion could be conveniently exchanged for the interest-bearing bonds.

Now, if the Secretary of the Treasury at the beginning of the existing panic had promptly paid out the $44,000,000 legal-tender reserve in exchange for Government bonds, distributing the same to the principal cities of the country, it would have been checked and ended. The Secretary would not have been under the necessity of asking Congress to tax the people to increase the revenue, for the prosperity of the country—a reserve not to be disregarded—would have continued, the receipts of the Treasury would have been ample for all public expenditures, and the wealth of the nation would have been over $1,000,000,000 greater than it is to-day. No business man of any experience will doubt this statement. Let us, therefore, in behalf of a depressed and paralyzed people, act with signal promptness in adopting measures that will start every workshop and factory throughout the land, set the unemployed laborers at work, and bring contentment and happiness to the people of the whole country.

The experience of England has been similar to ours in commercial revulsions. The panic of 1825 has been graphically described by Mr. Huskisson in the House of Commons, (Parl. Debs., vol. 14, page 230.) He says: "It was impossible to convert into money, to any extent, the best securities of the Government. Persons could not sell exchequer bills, nor bank stock, nor East India stock, nor the public funds." Mr. Baring said that "men would not part with their money on any terms nor for any security. Persons of undoubted wealth and real capital were seen walking about the streets of London not knowing whether they should be able to meet their engagements of the next day." At this juncture of the crisis, December 14, the banks totally changed their policy and discounted with the utmost profuseness. They made enormous advances on exchequer bills and securities of all sorts, and the great London panic of 1825 was completely allayed by the profuse issue of the notes of the Bank of England in excess of the limitation fixed by its charter. Between the 14th and 17th of December the bank issued over £5,000,000 in bank-notes. This bold policy on the part of the Bank of England directors and the ministry was crowned with the most complete success; the panic was stayed almost immediately throughout the kingdom, and private credits were again available for business purposes. (Macleod on Banking, vol. 2, p. 253.)

> All contemporary evidence proves that it was this profuse issue of £5,000,000 of paper by the Bank of England in a few days that stayed the panic. If the bank had persevered in the restrictive policy required by law for three days longer, the total and entire destruction of commercial credits would infallibly have ensued.—*Macleod on Banking*, vol. 2, p. 252.

I again quote from the same authority, describing the great panic of October, 1847:

> From Monday, the 18th, to Saturday, the 23d, was the great crisis. On Monday the Royal Bank of Liverpool, with a paid-up capital of £800,000, stopped payment, which caused the funds to fall 2 per cent. This was followed by the stoppage of the North and South Wales Bank, also of Liverpool, the Liverpool Banking Company, the Union Bank of Newcastle, heavy runs on the other banks of the district, and other bank failures at Manchester and in the west of England. As the whole commercial world knew that the resources of the banking department were being rapidly exhausted a complete panic seized them. A complete cessation of private discounts followed. The most exorbitant sums were offered to, and refused by, merchants for acceptances and commercial bills.
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> The continued and ever-increasing severity of the crisis caused the ministry on the 23d to authorize the bank to issue notes beyond the limits prescribed by the bank act, whereupon the bank immediately acted upon it and discounted freely at 9 per cent. The letter of the ministry proposing to submit to Parliament a bill of indemnity for the infringement of the law by the bank was not made public until one o'clock on Monday, the 25th, and no sooner was it done than the panic vanished like a dream.
>
> Mr. Gurney stated that it produced its effects in less than ten minutes. No sooner was it known that notes *might* be had than the want of them ceased. Not only did no infringement of the act take place, but the whole issue of notes in consequence of this letter from the ministry was only £400,000, so that while at one moment the whole credit of Great Britain was in imminent danger of total destruction, within one hour it was saved by the issue of £400,000 of the Bank of England notes.—*Ibid.*, p. 313.

Now, if the illegal issue of bank-notes saved England from an impending commercial catastrophe, should we not provide by law for the issue of our greenbacks in exchange for Government bonds in times of need, and thus prevent the recurrence of panics and commercial disorders in the United States?

"In every civilized country," says Tooke, "supplying and regulating the circulating medium is a function of sovereign prerogative." This doctrine has been admitted, and the power exercised in all ages; and since the Conquest the legal money of England has been regulated or altered by proclamation of the Crown, or by act of Parliament, one hundred and eighty-four times. Nearly every sovereign has altered the standard of money and legalized variations in its weight and denominations, and it has been so often reduced in value, and its quality from time to time so debased, that the lawful money of England to-day in weight is not one-third what it was in the twenty-eighth year of Edward I. In the days of William the Conqueror

the "pound" actually was a pound weight, pure silver, and a shilling was a twentieth part of a pound; but at the present day the pound is coined into sixty-six shillings; and yet the standard of money has been less degraded in England than in any other country.

To fix the standard and regulate money is of necessity a governmental function, and in this country this power has been lodged solely with Congress. All governments have assumed to alter the standard of money, and to change what they had a right to make. The facts in the history of American coinage show the view which Congress has taken of its own powers. On the 6th of July, 1785, the money unit of the United States was adopted, and on the 8th of August, 1786, Congress enacted that the silver dollar should contain 375.64 grains; that the gold eagle, or ten dollars, should contain 246.268 grains; and that the half-eagle, or five dollars, should contain 123.134 grains, all composed of eleven parts fine and one part alloy. The mint price of a pound, troy weight, of uncoined silver was fixed at $9.92. On the 16th of October, 1786, an ordinance was passed establishing the United States Mint, and the mint price of one pound of silver coin was then fixed at $13.77. By the act approved April 2, 1792, the weight of the eagle was increased and fixed at 270 grains, the half-eagle 135 grains, and the silver dollar 416 grains. The dollar was declared to be the unit of Federal money, and both gold and silver coins were made a legal tender for all sums. By the act of June 28, 1834, the weight of the eagle was fixed at 258 grains, the half-eagle at 129 grains, and the silver dollar at 412½ grains, thus reducing the weight of these coins 4 per cent. By act of Congress approved January 18, 1837, the weight of silver and copper coins was altered, and the standard of both silver and gold was altered to *nine* parts fine and *one* part alloy. Other changes, exceeding 6 per cent., were made in the standard and quality of money by acts of Congress approved March 3, 1851, and February 21, 1853, and the legal-tender quality of silver was limited to sums of five dollars.

This summary of legislation shows that Congress has exercised the power of determining what shall be legal tender—altering the laws regulating money according to the exigency of circumstances; increasing or diminishing the quantity and purity of gold, silver, and copper coins at its pleasure; changing their intrinsic worth, while retaining the same titles, bestowing upon them the same nominal value, and declaring Treasury notes issued at the close of the war of 1812, and also during the Mormon troubles in 1857, legal tender for certain purposes. The act of Congress approved February 25, 1862, invested the United States notes with the legal-tender quality. They were of small denominations and entered into general circulation, and they continue to be the lawful money of the country. Congress having the power to make these changes has also the same right to make any further changes which may seem to it wise. If it can declare that silver shall not be a legal tender for any amount above five dollars it can declare that it shall not be a legal tender at all, and it may deal in the same way with gold. It is not bound to either except by its own discretion. So, also, if it can alter the intrinsic value of these coins 1, 2, or 6 per cent. without impairing their legal-tender quality at the same nominal value, it may do the same thing to a still greater extent. In one word, Congress has always proceeded upon the assumption that the whole question of creating money and altering it lies within its constitutional competency. Moreover, when changes have been made in the weight and fineness of legal-tender coins, reducing their intrinsic worth, debts contracted before such changes, and made payable in dollars, have been paid in the new coins at their nominal value, and the debts discharged. In every such case the obligation was contracted under one standard and liquidated under another.

It is quite true that not until the late war had any occasion arisen to alter the legal tender except in relation to coinage. Then, however, Congress, in the exercise of those powers which are "necessary and proper" for carrying into execution its express powers, saw fit to invest United States notes with the legal-tender quality. It had the powerful precedent of the English Parliament in the bank act of 1833, wherein the legal-tender quality was imparted to bank-notes, and carried in the House of Commons by a vote of 214 to 156. There is not a clause in the fundamental law of the land, which confines Congress to gold and silver as the materials of which the legal tender must be composed, or which forbids it to use copper or platina, or anything else in its discretion, or restrains it from making any change in quality or kind, which in its judgment may be required by circumstances. There are such clauses in respect to the powers of the States, but none in respect to those of Congress. As to the whole question of creating money, designating its titles, and fixing its value, the people chose to make Congress the sole depository of legal power, without limitations upon its exercise; leaving it to act in the premises, to revise its own action, and from time to time to change its monetary laws according to its best judgment. It is not true, as is too often assumed, that in respect to the laws of Congress the legal-tender property is by the Constitution attached to gold and silver, and to these only. The truth is the Constitution does not make anything money—either gold, or silver, or anything else—but leaves this question with the legislative department of the Government, imposing no restraints or limitations upon its discretion, and assuming that it would be governed by the general principles of expediency and common sense. Now, in view of these antecedents and principles, I feel compelled to regard the powers of Congress over the money of the Republic absolutely sovereign, complete, indivisible, and unrestrained.

By act of Parliament in the time of William IV, the promissory notes of the Bank of England were declared a legal tender. This bank is a private corporation; and yet Parliament deemed it necessary and expedient to declare its notes a legal tender throughout England. Would it not have been more in accordance with the traditions and precedents of England had Parliament conferred this quality of lawful money and legal tender on the credit of the British government? They had not advanced far enough for that, and it remained for the Congress of the United States, representing the most intelligent and the most highly civilized people of the world, to coin "the credit of the nation," and it has thus wisely provided a lawful money for the people, an instrument of exchange more perfect than that of any other nation. In our progress and development a great stride was taken in monetary science when the legal-tender act of 1862 was approved by the President of the United States; and now to perfect our fiscal system is the task which Congress must undertake and accomplish. I have referred to the acts of Parliament and of Congress in relation to metallic money, and the innumerable changes and depreciations made therein by law, for the purpose of showing the superior advantage of choosing the national credit for use as money. Its quality and weight cannot be debased or reduced, nor is it liable to commercial changes in value, like gold and silver. Such commodities are always affected by the condition of foreign trade, and by the law of supply and demand. On the contrary, the credit of a great and powerful and wealthy nation is unchangeable; it possesses, too, intrinsic value, and it represents labor; for the credit of our country was issued in exchange for the labor expended to perpetuate the nation's life. It is less changeable in value than any other thing, and for this reason it is the best instrument ever devised for a circulating medium.

I call the attention of the House to the petitions, the resolutions and declarations, of numerous societies and associations of workingmen, of conventions and granges, throughout the country, demanding expressly the provisions of law embraced in this bill. I will particularly refer to the following resolve of the Detroit Manufacturers' Association, adopted on the 30th of January, 1868:

Resolved, That Congress should now provide for the funding of that portion of the national debt not required for a circulating medium, by the issue of bonds or consols bearing interest not to exceed 3.65 per cent.; and the national money, (greenbacks,) at the option of the holder, should be convertible to such bonds at par, and the bonds should also be convertible to legal-tender notes at par on demand.

They all ask that the principle of *interconversion* of bonds and legal-tender notes may become the permanent fiscal system of the country. It is not inflation, because when the small notes are paid out the larger bonds are withdrawn; and if this system had been put in operation by the Forty-second Congress, the existing panic could not have visited and desolated our country.

The third section of the bill provides that the money received in exchange for the convertible bonds, after redeeming such as may be presented for payment, shall be used weekly in buying up the 6 per cent. obligations of the Government in open market. Who can object to this? Will it not tend slowly but gradually to transfer our interest-bearing debt from 6 per cent. to 3.65 per cent., the greater portion of which will be lodged in the hands of our own people instead of being transported to foreign countries to be forced back upon us at unpropitious times? If the objection be made that bonds bearing 3.65 cannot be floated at the present time, I have to say that, in view of our financial history since 1861, and the promptness exhibited by our people in taking the temporary-loan certificates, the 3 per cent. certificates, and other similar securities, and with my experience in business affairs for a quarter of a century, I am satisfied that at least $250,000,000 of the convertible bonds would be taken within twelve months, and the difference in interest—a clear saving to the Treasury—even on this amount would enable us to discontinue the stamps now required on bank-checks, druggists' goods, and matches, and the obnoxious, unprincipled, and chafing tax now levied on the leaf-tobacco produced by our farmers. The terms and conditions of a credit have much to do with its value, and the convertible bonds provided for in this bill would be more attractive to thousands and millions of our people than these 6 per cent. non-convertible bonds, on account of the value of the option of converting the same on demand into legal-tender notes. The people want this right, and for it they will lodge their money at a very low rate of interest. A national standard rate of interest as a regulator is thus secured. The rates for the usance of currency when required in moving the great crops of the South and West, and in all our manufacturing and other useful industries, cannot ever rise above the limit of its profitable employment. In short, working with the ease and simplicity of the governor on the steam-engine, a system will be inaugurated, doing good to all and injustice to none, a system which will prevent money-changers and Shylocks from extorting from useful industry a slice or shave for interest, in the past often exceeding the whole earnings of labor, thus cursing and blighting the efforts of toil, and effectually shackling the prosperity of the whole country. In providing, therefore, for the interchange of national bonds and currency the Government is benefited in lessening the interest on the public debt; and at the same time facilities are afforded the people for investing their earnings

with a knowledge that they cannot possibly suffer loss. The scheme, therefore, commends itself as a financial reform of the highest importance to the Treasury. I call the attention of the House to the simplicity of the arrangement. There is no useless machinery. It can be plainly understood by every person, the interest being a penny a day on each one hundred dollars of the bonds; and on surrender of the bonds at any Government depository the principal, with the accrued interest, will be paid in legal-tender notes and the bond canceled. If only a part be required, then a new bond will be issued for the difference. In this respect the operation will be similar to the certificates of deposit now issued by the banks. When the certificates are presented for payment and paid they are canceled; when part paid a new certificate is issued for the difference and the old certificate surrendered. The notes of the Bank of England, you know, when once redeemed are never reissued.

Some persons may think that these convertible bonds will not be called for while 5 per cent. ten-year bonds are in the market, but I remind the House that a 3.65 convertible bond would in many cases be preferred, for the convenient conversion of the bonds to greenbacks whenever the necessity of the holder requires is a condition which gives them a greater value than those bearing a higher rate of interest but on long time. The temporary-loan certificates which were authorized by Congress in 1862 to the amount of $175,000,000 were all taken up by the people, although made payable on ten days' notice and at 4 per cent. and 5 per cent. interest. They were held until their surrender was demanded by the order of the Treasury. The 3 per cent. certificates authorized by Congress to the extent of $75,000,000 were also speedily taken and held by the people until their surrender was required; and in like manner the bonds bearing 3.65 as provided for in this bill will be promptly taken; and should the amount in the lapse of a few years be equal to the total amount of the 6 per cent. bonds now outstanding, I see no objection to the working of the measure; on the contrary, a grand fiscal success is achieved, for which a patriotic and intelligent people will be ever grateful to Congress. The British consols or "3 per cents" are owned by Englishmen, for the reason that certificates are not issued at all and the consols are not transferable except on the books of the chancellor of the exchequer at the Bank of England; so our convertible 3.65 bonds would be a domestic loan, and they would remain in the hands of the American people.

I now come to the last section of the bill, which provides that the national banks shall, on and after the 30th of June, 1874, cease to be banks of issue, and that their notes are to be withdrawn in the same manner as now provided by law for banks that are being wound up or choose to discontinue the issuing of bank-notes. I very much question the power of Congress to authorize private associations to issue notes to be used as money by the people; and at any rate it is, in my judgment, a bad bargain for the Government to hire banking associations to furnish money, paying them for the service the handsome sum of $18,000,000 per annum. The banks lodge the national credit in the shape of 6 per cent. bonds to secure their circulation, and which yield them no less than $18,000,000 interest in gold. Now, why should we not cut up this $300,000,000 of 6 per cent. bonds into small notes for circulation bearing no interest, and thus save $18,000,000 per annum? Take notice, it is the national credit for the same amount, but in a different shape; and by making the change we lessen the burden of the people, who will have that much of interest less to pay each year. The banks of course will cry out "inflation," and we must be prepared for that; but it is simply a "stop-thief" dodge. The fact is, our banks in issuing notes effect an actual inflation of credit, for on Government bonds of $1,000,000 they issue, say, another million in bank-notes, making $2,000,000 floating credit instead of $1,000,000. The credit of the Government, being less changeable in intrinsic value than any other thing, is good enough for our lawful money, and we do not require the aid or indorsement of banks in furnishing a circulating medium for the people. Congress has enacted that the credit of the nation should be money; it is our legal tender and lawful money for many purposes; it now requires the act of Congress to make our national greenback currency a legal tender for all purposes, and thus secure for the people a perfect instrument of exchange.

The bill provides for the issue of $5,000,000 of legal-tender notes, and such additional sums as may be required to carry into effect the provisions of the act. If legal-tender notes should be required at any time for the entire issue of convertible bonds, the Government would be benefited thereby to the extent of the interest, for while greenbacks are out no interest is required. My opinion is that $5,000,000 greenbacks would put in operation the financial reform contemplated by the bill and effect the floating of at least $250,000,000 of the convertible bonds within a single year. The views of General Spinner on this subject are so clear and philosophical that I am constrained to make the following quotation from his last annual report. He says:

> It is very probable that the present legally authorized amount of $400,000,000 of legal-tender notes need not be increased in order to carry out this scheme, and it is more than likely that under the then changed condition of the currency, with no tendency to go into wild projects and stock speculations, the minimum amount of $356,000,000 would, on account of its being readily obtained in exchange for the proposed stocks, be sufficient for the easy transaction of the legitimate business of the country at times when commercial wants shall need the largest amount. Should, however, the maximum of legal-tender notes authorized by law be found to be inadequate and insufficient to prevent the brigands and banditti who infest our money marts, and who at times conspire against the public weal by "lock-ups," making money scarce when most needed for business purposes, thereby robbing whole communities to enrich themselves, the Secretary of the Treasury might be authorized by law in such cases, or at any other time when the exigencies of the Treasury may require the same, to issue an additional limited amount of such convertible legal-tender notes in exchange for any United States 6 per cent. stocks.

At the close of the war of the rebellion the circulating medium, as I have shown, was largest, and private credits were very much less in vogue. The farmer and gardener prospered, the merchant sold his goods for cash or on short credit, the manufacturer found a ready sale for his products in exchange for greenbacks, and private credits of all kinds were less resorted to than at any other time in the history of our country. You know we then enjoyed prosperous times. Labor was in good demand and well paid; more work was done at that time, and consequently more wealth created, than at any former period in the history of our country. The cause for this prosperity is to be found in the fact that the tariff shielded our manufacturers and reserved to them the markets of the country, and we had a greater supply of currency than we ever had before or since; but Hugh McCulloch, in an evil hour, induced Congress to put on the screws of "contraction." Our money was wound up tight, and the prosperity of the country with it.

Now, experience has proven that where the public credit is used for such, purposes private credits, such as due-bills, shin-plasters, &c., for workingmen, are less employed, and to the manifest advantage and profit of the people.

It is of the highest importance to the prosperity of the country that Congress should furnish an adequate amount of the public credit for a circulating medium to facilitate the exchanges and settlements of a population of forty millions, and of the vast traffic and business of an active, enterprising, and industrious people, rapidly developing a continent, building up great cities, constructing railways through every State and Territory, and establishing industries of every variety and description, opening mines, digging canals, building churches and school-houses and universities, and adding to our population by immigration four hundred thousand per annum.

In conclusion, Mr. Speaker, I will call your attention to the unhappy situation of our country. Our merchants are embarrassed and business of all kinds is stagnant and unprofitable. Workingmen in processions and mass meetings demand work or bread.

In this situation, Mr. Speaker, the people look to Congress for relief. Sir, will you disappoint them?

Believing that the adoption of the financial reform contemplated in the pending bill will be a great boon to the American people, and a substantial benefit to mankind, I have given much time to its consideration, with the sole purpose of accomplishing an object of vast common interest, involving the advancement and freedom of labor, and the general welfare and prosperity of my beloved country.

Mr. VANCE obtained the floor.

Mr. TOWNSEND. Before the gentleman from Michigan [Mr. FIELD] takes his seat I would like to ask him a question.

The SPEAKER *pro tempore*, (Mr. BUTLER, of Tennessee.) If the gentleman from North Carolina [Mr. VANCE] yields for that purpose the gentleman from Pennsylvania [Mr. TOWNSEND] can proceed.

Mr. TOWNSEND. I think I understood the gentleman from Michigan to say that since 1865 the circulation of the country has been reduced to the extent of $1,300,000,000. If I correctly understood the gentleman, I would like him to state where he derives that information.

Mr. FIELD. I refer the gentleman to the official reports. The national circulation outstanding on the 1st of September, 1865, is shown by the official statement published at that time. The amount at that time, as I have stated, was over $2,000,000,000.

Mr. TOWNSEND. What do I understand the gentleman to mean by "circulation?"

Mr. FIELD. The gentleman can ascertain that by an examination of the remarks I have already submitted. I embrace in my statement all legal-tenders. I do not confine the estimate to the greenbacks, because the 5 per cent. legal-tenders were currency; the 4 per cent. legal-tenders were currency; so were the compound-interest notes, and other notes which the gentleman will find fully enumerated in my printed remarks. The gentleman will find that my statement is correct.

Mr. TOWNSEND. Then the gentleman includes as circulation bonds as well as notes.

Mr. FIELD. I mean——

Mr. KELLEY. If the gentleman from Michigan will permit the remark, I understand him to mean simply whatever may be held by the banks as a reserve.

Mr. FIELD. I mean whatever was in circulation as currency. I do not embrace in my statement the five-twenties, or any other bonds of the Government.

The SPEAKER *pro tempore*. The gentleman from North Carolina [Mr. VANCE] is entitled to the floor.

Mr. VANCE. Mr. Speaker, having been unable to obtain the floor on the civil-rights bill, I propose to devote a portion of my time to the discussion of that subject; and I think I can do so without prejudice and without subjecting myself truthfully to the charge of hatred toward the colored race. In the will of my grandfather (who was one of those who struggled for liberty upon the heights of King's

Mountain) he enjoined it upon his children and his grandchildren to treat kindly the colored people upon the plantation. I hope never to forget a sentiment so noble and so worthy of obedience. In fact, as a southern man, as one who has sympathized from my earliest time of knowledge with the South in all the great principles and struggles which have interested her, I have felt it my duty to advance in every laudable way the interests of the colored race in this country. I have even taught a colored Sunday-school of one hundred and fifty scholars. I have endeavored in every way possible to advance the interests of that race. I feel, therefore, that I can speak upon this subject without prejudice.

The charge has been made against the people of the South that their opposition to such measures as the civil-rights bill has arisen from prejudice and hatred. This charge is unfounded; it is untrue. Before the war—in the days past and gone—in the days when there were four million slaves in the South, the churches of the South sent missionaries into the cotton plantations, and down into the orange groves, and out upon the rolling prairies of Texas. Into all parts of the country where great numbers of colored people were collected the churches sent their missionaries, and held up there the standard of the Cross, instructing them in the sublime principles which relate to questions vastly more important than mere earthly things.

I have yet to meet the southern man (and I thank God for it) who does not in his heart rejoice that the colored man is free. In my intercourse with the people of my own land, in my travels through the "sunny South," I have found the feeling everywhere one of gratitude and thankfulness that the chains of the colored man have been broken; that he is now permitted to walk the earth a free man.

Sir, the people of the South were not to blame for the introduction of slavery among them. It came from elsewhere, and became incorporated as a part of our institutions. The old colored women nursed the white children of the South, while kindness and friendship were maintained between the two races. Such an institution could not be readily abolished. It could probably only be done by the shock of arms.

Every southern man who will call to mind the fact that after the thunder of artillery had ceased, when the clang of arms was no more heard in the country, the southern people rallied and took the oath to support the proclamations of Mr. Lincoln, in order that the colored man might be free. Those proclamations, Mr. Speaker, were regarded at the time as unconstitutional; yet the southern people were willing that the colored man should enjoy his freedom, and all over the South they came forward and took the oath to support those proclamations.

Following hard upon that, the conventions of the Southern States assembled, and by a solemn act ratified the freedom of the colored man, confirming it forever by statute upon the records of their governments.

What else did they do? They went to work and secured the colored man in all his civil rights, or what may properly be termed civil rights. The people there consented that he should vote; they consented he should hold office; they consented he should serve upon juries; they consented that he should hold property, and that he should be a witness in court. All the real rights properly known as civil rights were guaranteed to the colored man in that section; and the charge cannot justly be made against this people that they are opposed to according civil rights to the colored man on account of any prejudice or hatred, for it is not in their hearts.

Why, then, do we oppose the civil-rights bill? That is the question; and speaking as I do, and feeling as I speak, without prejudice, I will show what is the real objection to the bill known as the civil-rights bill. I think gentlemen of the House will bear me out when I say the title of the bill we had before us ought to be changed, and made to read thus: "A bill to protect the colored people in their social rights." That is the way it should read.

Now, Mr. Speaker the distinguished gentleman from Massachusetts [Mr. BUTLER] laid down the law, and it has not been controverted, that all men are entitled under the law to the right to go to a hotel, to ride in a public railway carriage, to interment, and to be taught in the public schools sustained by moneys raised by taxation.

It is laid down as the common law of the land. Now, let us see for a few minutes, Mr. Speaker, how the case stands. There is no railway car in all the South which the colored man cannot ride in. That is his civil right. This bill proposes that he should have the opportunity or the right to go into a first-class car and sit with white gentlemen and white ladies. I submit if that is not a social right. There is a distinction between the two. Now, there is not a hotel in the South where the colored man cannot get entertainment such as food and lodgings. That is his civil right. The bill of the committee provides that there shall be no distinction. Even if he is allowed to go into the dining-room, and is placed at a separate table because of his color, it will be a violation of this law. Placing him, therefore, at the same table with the whites is a social right.

Now, sir, provision has been made for free schools in my own native State of North Carolina. We have cheerfully taxed ourselves there for the education of our people, including the colored race; but separate schools are organized for the instruction of the latter. One of the civil rights of the colored man undoubtedly is the right to be educated out of moneys raised by taxation. His children, under the law, have that right; but this bill goes further, and provides that colored children shall go into the same school with white children, mixing the colored children and the white children in the same schools. I submit to the House whether that is not a social right instead of a civil right. Therefore it is I say this bill ought to be changed, or rather its title ought to be changed. The real objection, then, to civil rights, so called, is that it is not best for both races; that in fact it will be detrimental to the interests of both races.

Now, Mr. Speaker, I propose to show briefly how that will be. In the first place, the true policy in regard to the intercourse of mankind all over this broad earth is in the recognition of the fact that such intercourse is one made up of mutual interests. It is the interest of the hotel-keeper to entertain his guests, it is the interest of the railway company to transport passengers; the interests are mutual; and that is the true policy all the world over. But whenever you undertake to force persons of color into their social rights, then, in my judgment, you have done the colored man a serious damage. Let the people of the South alone, sir, and this thing will adjust itself. It will come out all right. In coming to this city the other day colored men were sitting in first-class cars with their wives, where they were admitted by the managers of the road; and I am told in this city one of the first hotels admits colored men as guests. It will adjust itself if let alone; but if you undertake to coerce society before it is ready, you will damage the colored man in all his interests, and at the same time do damage to the white race.

There are between four and five millions of colored people in the South, whose interests are intimately and closely connected with those of the white people. The one cannot well do without the other. Where does the colored man get his place to live, where does he obtain employment? In a great measure from the white men of the country, and almost entirely from those opposed to this bill. And I tell the House now, through you, Mr. Speaker, that the great majority of the people of the Southern States, of all political shades of opinion, are opposed to anything like force in this matter.

Look at my own State, sir. As I went home from the capital during the holidays I met with republican members of the Legislature of North Carolina who stated that we ought to oppose this bill. Republicans do not want it. They think it is wrong. A resolution was introduced into the Legislature of North Carolina in regard to this subject, and it received a very small vote. It did not receive the vote of the republican party. And, sir, it is my opinion that the colored people of the South *en masse* do not want it. They do not want to be brought into apparent antagonism to the white people, because their interests are closely connected together. The colored man cannot do well in the South, he cannot prosper, unless he has the sympathies, unless he has the fostering hand, unless he has the kind care, of the white man extended to him; his interests will suffer if this should not be the case.

And, sir, it is necessary anyhow in this world of ours that there should be kindness running from heart to heart. There has been enough trouble and enough sorrow in this world already. War has stamped its foot upon human sympathies. It has left its scars upon every human heart, sir; and now there ought to be sympathy, there ought to be kindness, there ought to be oneness of interest pervading the whole land. And these people need that thing. You rob the colored man by the passage of this bill more or less of the friendship of the owners of the soil in the South. And you rob him, sir, of the opportunity of education. Gentlemen may treat this statement lightly. The distinguished gentleman from Massachusetts [Mr. BUTLER] said the other day that he would not act under a threat. He regarded the declaration made here that the schools would be broken up as a threat. It was not a threat, sir, it is a solemn fact.

I ask the attention of the House to this fact: the University of South Carolina was one of the most honored in all the land. That university has turned out some of the most eminent men of this country—Presidents, Senators, governors, and distinguished military chieftains. Where, sir, is it now? In what condition is the University of South Carolina? A law was passed in South Carolina that colored students should be received into that institution. What has been the effect? Some time since there were only from six to nine scholars in the University of South Carolina; while the professors are paid out of moneys raised from the people by taxation. This is no threat, sir. It is a plain, simple truth, that in passing bills of this kind and having mixed schools you destroy the school system of the South. That is to be the effect; and you thereby lessen the chances of the colored children for an education.

There is another point to which I ask the attention of the House. A bill like this gives rise to an antagonism of races. If the people are let alone in the South they will adjust these things and there will be peace in the country. But by passing a bill of this kind you place a dangerous power in the hands of the vicious. Here comes a vicious colored man and presents himself at a hotel and demands that he be permitted to go to the table with the whites, and that he shall have his choice of rooms. The hotel-keeper, acting upon his right as he understands it, handed down from all ages, that "every man's house is his castle;" that no man can come into his house without his consent, recognizing that as being the old Anglo-Saxon law of our ancestors, may refuse. Then you have it placed in the power of this man to have the hotel-keeper arrested, tried, and fined a sum not less than $100 nor more than $5,000. And that, sir, would be placing a dangerous power in the hands of the vicious.

This bill, Mr. Speaker, will, more or less, bring about an antagonism

of the races; and that state of things would not be best for the colored man. I submit it in good faith, that if the question is ever presented in the South, shall this country be ruled by white men or ruled by colored men? the colored man is not able to stand any such an antagonism as that; he will necessarily, sir, go down. I ask what race has ever been able to stand before the Caucasian? Look at the history of the world. Where is the Indian? Why, sir, less than two centuries ago on this spot the Indian reared his wigwam and stood upon these hills and looked upon the broad, beautiful Potomac, or his eye swept over the hunting grounds of the West; and he had the title to this magnificent country. Where is he now? He has gone back, step by step, before the advancing march of the white man. No race, sir, in the world has been able to stand before the pure Caucasian. An antagonism of races will not be good for the colored man.

There is another objection to this bill. It begets hopes and raises an ambition in the minds of the colored man that can never be realized. It is true, sir, that we can find some ten or twelve members of Congress here from densely-populated regions of the South where the colored race is dominant. But how is it in other States? Where is the colored man from Massachusetts? Is he here? Where is even Fred Douglass, who is acknowledged to be a man of ability? Is he here? No, sir; he has not found his way into this House. This bill, therefore, as I have said, begets in the minds of these people hopes and an ambition that can never be realized; and in that view of the case it is unfortunate for them. And I say, sir, that it is not for the best interest of the white race that this bill should pass. And why? Because if the common schools are to be destroyed, which are beneficial to the colored man, their destruction will also be against the interests of the whites, and the poor white children of the South will fail to receive those educational advantages which they ought to have; and in that respect it will not be best for the white race.

Another view of this question, Mr. Speaker, is this: that by placing the colored race and the white race continually together, by throwing them into social contact, the result will be more or less that the distinction between them will be broken down, and that miscegenation and an admixture of the races will follow. Sir, it must necessarily follow on such close intercommunication. I presume that no man will stand upon this floor and say that it is best for all the races of men on the face of the earth to become one by amalgamation.

Let us look for a moment and see how it is. We are told that colored men have not succeeded in this country because they had been borne down by chains and slavery. I admit, sir, that the colored man when in a state of servitude had not much opportunity to develop his mind and expand the powers that God has given him; but will any gentleman on this floor undertake to say that the colored race has not had an equal chance in the world with the white race? I suppose no man will controvert the theory that colored men were at the tower of Babel, and that when God confounded the languages of men and sent them forth into the world the colored race was among them. Some went one way and some went another. Some went north and some south, some east and some west; they went into all portions of the world. Well, sir, what has been the history of the Caucasian race? It has gone on progressing; it has whitened every ocean on the globe with the sails of commerce; it has reared monuments which will be everlasting; it has stamped its language on the world—the strong German, the elegant French, the soft Italian, and the ever-living and ever-spoken English. What language has the colored man given to the world? He started on an equal footing with the white race—what has he done? Look at Africa. There she is, bowed down by superstition and under the shadow of death.

Sir, it is absurd for gentlemen to talk about the equality of the races. But let us give to the colored man the opportunity of improvement; let us give him an education. I for one will vote cheerfully and gladly for the appropriation of a portion of the proceeds of the splendid domain of this country for the education of the colored race; but I think it ought to be done in separate schools. Sir, we have already given him the opportunity to be educated; we have allowed him to hold office; we have seen and heard colored men on this floor; they are here now.

The bill ought not to pass; the matter ought to be left to the States. I will not undertake to argue the constitutionality of this question; that has been done by others, and well done. I have only spoken to the effect of the passage of such a measure, and what is best for the interests of both races; and I submit in concluding my remarks that we have really extended to the colored man everything that I think he ought to ask at our hands. If I belonged to the colored race I would not stand here and ask the passage of a law to force me into what are termed my civil rights. If I belonged to the colored race I would come up by my own merit. I would wait for time and opportunity, and I would not ask any help from Congress. I would not stand here as a beggar asking for these social rights; I would depend on my own merits. Sir, it reminds me of an anecdote that I heard up in the mountains of my own district which illustrates this point. There was a camp-meeting up there, and it was a very good time, and there were a great many shouting. The presiding elder went up to an old colored man and said to him, "Shout on, brother; shout on, if you feel like it; we shall all be white in heaven." The old fellow replied, "Bless the Lord, I feel the white coming now." [Laughter.] Now the rights of the colored man are coming on, and if he will place himself in a proper attitude he will secure them.

I hope if the bill is to pass that the amendment of the gentleman from Alabama [Mr. WHITE] will be adopted, leaving it to the school districts or townships to decide whether they will have mixed schools or not.

I thank the House for its attention.

Mr. RAINEY. Before the gentleman sits down I would like to ask him a question.

Mr. VANCE. Certainly.

Mr. RAINEY. The gentleman has just said that if he was a colored man he would not ask Congress to pass the civil-rights bill, which has for its object the removal of the disabilities imposed upon us by prejudice. I ask him what he thinks of those Southerners who ask Congress to remove from them their political disabilities on account of their action toward this Government?

Mr. VANCE. I might have expected something of that kind. I find that everywhere men are disposed to bring up the horrid skeleton of the war. Wherever a southern man goes he is almost sure to be confronted with the fact that he was a rebel, if you please; yes, sir, a rebel. I say it was right for the Congress of the United States to remove the disabilities of those men, and place them on an equality with others before the law. We have now been placed equal before the law. The colored man is placed equal before the law. I ask gentlemen why it is that the war is always flaunted in our faces? The distinguished gentleman from Massachusetts, [Mr. BUTLER,] the member from South Carolina, [Mr. ELLIOTT,] and the one just now questioning me, are all anxious, it seems, to bring up the troubles of the war. We do not want to deal with the dead past. Let the dead past bury its dead. Let the war be gone. No southern man is ashamed, thank God, to stand here and say that he did what he thought was right. No, sir. God Almighty has not branded the mark of Cain upon the brow of the southern man. He stood with his own sunny South; he stood with his own land; he stood with his own brethren and kindred. And, sir, at Chickamauga, Missionary Ridge, in the Wilderness, at Spottsylvania, and at Petersburgh, everywhere, the bones of my kindred and my countrymen lie in their narrow graves, wrapped in their bloody blankets, because of what they conceived and believed to be the best interests of human rights in this country of ours. Thank God, I am not ashamed of it; and I will not go back upon their memory.

Mr. FORT. Will the gentleman answer me a question?

Mr. VANCE. I will.

Mr. FORT. Does the gentleman still think that rebellion was right?

Mr. VANCE. Under the circumstances, yes; that is, place us back as we were, with the same surroundings.

Mr. FORT. I was going to ask you if you would do it again.

Mr. VANCE. Do not misunderstand me. I say, under the same circumstances. But they can never come up again. Secession is settled forever. No one wants or ever expects it to be revived. Now I will ask you a question. Would you not have done as we did if you had been there with us?

Mr. FORT. I think not. I cannot think of any circumstance that would induce me to raise my hand against my Government.

Mr. VANCE. I want to say this only: I have sworn with this right hand of mine to support the Constitution of the United States of America, and I intend to do so to the best of my ability.

When General Lee surrendered at Appomattox there was beheld the most sublime sight this world ever saw.

Mr. FORT. I want to ask the gentleman another question.

Mr. VANCE. Wait until I get through.

I say a more sublime sight never was seen than after the surrender of General Lee, with his ragged boys, and eight thousand muskets, at Appomattox. These men went home, resumed their labors in the field and elsewhere, and all over that land there was a generous outburst of sympathy for the return to the Government of their fathers and the old flag they had loved in the days past and gone.

Sir, I stand here to-day to defend the people of the South. They are true to this Government. But I would draw this line; it is that loyalty, as men choose to call it, does not, thank God, consist in devotion to a party. What is it? It is a true allegiance to the Constitution of our fathers. Gentlemen, we have rallied around that sacred instrument. Under it we propose to discuss questions and to dischargeour duties.

But I was going on to remark that when these men returned from Appomattox, there was a universal sentiment of good will and love springing up in their hearts. But what was the result? Instead of love and kindness we were met with disabilities and reconstruction. I could point gentlemen, if I had time, to the history of Russia. I wish I had here now a book called the Life of Catherine the Great. There was a revolution in Russia, and one hundred thousand lives were lost before it was quelled. What did they do? Did every stump-speaker throughout the land discuss the rebellion? No, sir; they did not do that. What did they do in Russia? They passed a law that no man should even allude to the rebellion. I commend this fact in history to the consideration of gentlemen.

And I say now the war has been over for these many years—how many I can hardly tell—and yet southern men are all the time confronted with this thing. Very well; if it is necessary for gentlemen to get up here and rake up this grinning skeleton, and to uncover the wounds of the war, in order to support a failing cause, let them do it.

I, for one, stand here under the broad flag of my country. Gentlemen may say what they will, but I am true to it; and I stand here to say that my position is for peace and fraternity.

We desire to meet our brethren of the North cordially, and to shake with them the hand of friendship. When that old philosopher, Greeley, said that he would shake hands with us across the bloody chasm, we looked and saw his hand with no weapon in it; and then the South rushed forward to the opening of the chasm with a desire to extend the hand across it and grasp the philosopher in that embrace, which we thought was right under the Constitution.

Mr. FORT. Will the gentleman answer me another question before he takes his seat?

Mr. VANCE. I yield the remainder of my time to the gentleman from Virginia, [Mr. WHITEHEAD.]

Mr. FORT. I desire to ask the gentleman from North Carolina——

Mr. WHITEHEAD. I hope this will not be taken from my time. I am not going to speak on the war. [Laughter.]

Mr. FORT. The gentleman from North Carolina, I believe——

The SPEAKER *pro tempore*. Does the gentleman from North Carolina yield?

Mr. VANCE. I leave it with my friend from Virginia whether I shall do so. He can dispose of his time as he pleases.

Mr. FORT. I understood the gentleman from North Carolina to say that he had sworn to support the Constitution——

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. FORT] cannot proceed unless it be taken from the time of the gentleman from Virginia.

Mr. WHITEHEAD. I do not yield, because I do not want this discussion of the late war to proceed further. I propose to discuss the proposition for increased taxation on the production of tobacco.

The SPEAKER *pro tempore*. The gentleman from Virginia declines to yield.

Mr. FORT. Has that gentleman the floor?

The SPEAKER *pro tempore*. Yes, sir.

Mr. FORT. Then I wish to state that, at a proper time, I wish to ask the gentleman from North Carolina another question.

Mr. VANCE. I am willing the gentleman should ask his question if my friend from Virginia will yield the time.

Mr. FORT. I hope it will not be taken out of the time of the gentleman from Virginia.

Mr. WHITEHEAD. I never was discourteous, either on the battlefield or anywhere else; but I do not see that any good is to come from fighting over what was settled eight years ago to my entire satisfaction. [Laughter.]

Mr. FORT. We do not wish to fight the war over; but we wish to understand the position of the gentleman from North Carolina. I hope the gentleman from Virginia will yield for my question.

Mr. WHITEHEAD. I will yield if you will give me about three minutes' additional time afterward.

Several MEMBERS. We will do that.

Mr. FORT. We are very forbearing and generous on this side of the House, and no doubt the gentleman from Virginia can have his time extended if necessary. Let me now put my question to the gentleman from North Carolina. He says that he has sworn to support the Constitution and the Government. Now I wish to know whether the leading men who engaged in the rebellion had not taken such an oath before they tried to overthrow the Government.

Mr. VANCE. Certainly. That question amounts to nothing. Everybody knows that leading men of the South had taken such an oath; and everybody knows that, after their States seceded, the oath was not considered binding, when the persons who had taken it were acting in another capacity. But it is not worth while to undertake to argue that matter.

Mr. FORT. I do not wish to argue it; but I wish to ask the gentleman another question. He states with much flow of language that, coming now into this Hall, he has again sworn to support the Constitution and the Government, and he vaunts his love for the flag. Yet he says that under like circumstances he would join in secession again. Now, I wish to ask him whether he would consider that perjury or not?

Mr. VANCE. Not. [Laughter.]

Mr. FORT. Then how much more is the second oath worth than the first? If the oath the gentleman has taken be worth anything, is not its violation perjury? I want an answer to this question. The gentleman from Virginia need not be so nervous about his time. If he wants time I presume he can have all he asks for.

Mr. VANCE. I submit that I did not bring up this discussion. I was going on to argue the civil-rights bill when I was interrupted. I have determined to be as polite as any other living man; and when the member from South Carolina [Mr. RAINEY] asked me a question I was disposed to answer it civilly. I did not bring on this discussion; but I say that I am not ashamed of what I did in the late war. I acted conscientiously in the sight of God; and I say that under similar circumstances I would do the same again. But I say to the gentleman that I hope such circumstances will never arise again.

Mr. FORT. I hope so, too.

Mr. VANCE. I do not believe they ever will.

A MEMBER. They never can.

Mr. VANCE. No, they never can; and that settles the question for all time. Now, I say to the gentleman that if he will come to my room, 608 M street, I shall be happy to talk over this matter with him; or, if he will come down into North Carolina among the "tarheels," I shall gladly discuss the matter with him. [Laughter.]

Mr. FORT. I hope the gentleman does not mean to insinuate a challenge.

Mr. VANCE. O, no!

Mr. FORT. For if so, I shall have to decline, because my State by law forbids me to engage in a duel.

TAXATION ON TOBACCO, ETC.

Mr. WHITEHEAD. Mr. Speaker, I had hoped "this cruel war was over." [Laughter.] I propose to submit some remarks upon the proposition now before the Committee on Ways and Means to impose additional taxation upon the production of tobacco and other products of my State. I am more interested in this question than in any military matters. I do not see that any good is to come from a discussion here upon what occurred before the surrender at Appomattox. I take it for granted that others who, like myself, surrendered at that time intend to support the Government as good citizens; or at least, like "Miss Nancy Jane" in the song, we want to "try and do the best we can." [Laughter.]

I ask attention to the consideration of the proposition of the Secretary of the Treasury that increased taxation be raised, in part, by an increase of four cents a pound in the tax upon tobacco, and by an increase of taxation on brandy, whisky, sugar, and coffee. In this subject I am vitally interested. I am not speaking for "buncombe;" I am not speaking specially to have my remarks printed; I desire the attention of members of the House to what I shall say, because my State is particularly interested in this subject. We raise better tobacco than is raised anywhere else on the face of the earth. By this system of taxation we are subjected to annoyances and oppression. The laboring man and the land-holder of my State are directly injured by the present internal-revenue system. I think I can show this to the satisfaction of any man who knows anything about this subject, and I think to the satisfaction of a great many here who in times past have seemed to know nothing about it.

Now, sir, the present tax on tobacco is twenty cents a pound upon the manufactured article. It is one-half of 1 per cent. upon tobacco in the hands of the planter, which is taken out of his pocket before he draws his money, by the operation of this internal-revenue system. Take the impoverished State of Virginia. When we came out of the war we had nothing but our bare land, and were laborers who worked it. That State has paid, even in its impoverished condition, millions of dollars out of the pockets of our people every year because of this unjust internal-revenue tax on tobacco. We paid in 1873, from a State well known to members of this House, if they paid any attention to the subject at all, to have been by war left destitute in its resources, $7,353,000 of internal-revenue tax. There are States which by the operation of the war made money, and which have never yet been oppressed until at this day, when the cry of a financial crisis is heard throughout the land, and then they come here, through their Representatives, demanding that Congress shall impose additional taxation upon us who have already been taxed again and again. Take Vermont, for instance, and it pays the miserable sum of $78,000 of internal-revenue tax. Maine pays only $214,000 of internal revenue. And while this is so, the proposition of the Secretary of the Treasury is not to impose any tax upon these States, which have not been affected by this internal-revenue taxation as we have been—not to go upon the incomes of the millionaires in those States, who have not been affected—not to increase the tariff, which might perhaps affect the North more than it would us; but the proposition of the Secretary of the Treasury is to impose still further taxation upon us in the South who are engaged in the raising of tobacco.

The internal revenue derived by the United States from tobacco in 1873 was $34,365,629, of which the State of Virginia paid $6,470,684; one-fifth of the whole revenue derived from the whole tobacco tax raised in the United States.

Mr. LOUGHRIDGE. Let me ask the gentleman from Virginia whether the people out West who chew tobacco, and the people of Vermont who chew tobacco, do not really pay the tax which is imposed upon it?

Mr. WHITEHEAD. That is a mistake you everlastingly fall into, and which seems to satisfy your conscience; you suppose the tobacco tax is really paid by you of the West and North, when in reality it is paid by the tobacco-growers of the South.

Mr. LOUGHRIDGE. Is not the tax paid by those who consume the tobacco?

Mr. WHITEHEAD. I am going to argue out that point to the fullest extent; I will show how it is in my own State. I will show to the gentleman from Iowa, [Mr. LOUGHRIDGE,] who I know is friendly and will help us if he can do so conscientiously on this subject, there is a tax, and not a small one, which the farmer pays absolutely. In the city of Lynchburgh and in the city of Richmond, in the State of Virginia, there are, every summer, buyers of tobacco from Canada. The effect of this internal-revenue law has been to drive the manufacture of tobacco into Canada, and a great deal of the manufactured article I believe is smuggled across the line into Michigan, thereby underselling the men who manufacture tobacco in this country. In Canada there is no tax upon tobacco, nor upon the sugar, licorice, or rum which enters into its manufacture; there is entire

exemption in favor of tobacco by the laws. These men from Canada come into our State every summer and buy tobacco for the purpose of shipping it to Canada for manufacture. One-half of 1 per cent. is deducted as internal-revenue tax when the bills are made out, and that tax is paid by the farmer who raises the tobacco, and not by the buyer in Canada, who purchases it for shipment. The Canadian manufacturer carries it to Canada without taxes. The result is that the Canadian manufacturer has, in effect, driven us from the markets of Mexico, and of the West Indies, and almost everywhere else in the world.

And more than that. You think the tax of twenty cents a pound upon chewing-tobacco, and upon the famous brands of smoking-tobacco, is paid by those who chew and smoke in Vermont and Iowa. I will show you that such is not the case. You do not pay it. The fact can be shown by proof, if necessary, that you do not pay one cent more for tobacco now than you paid for the best tobacco before the war. You do not pay for the best chewing-tobacco, what we call "plug-tobacco," and I believe you call "cavendish," more than you did before the war, or for the best brands of smoking-tobacco, "Lone Jack," "Brown Dick," and "Highlander." You do not pay for any of them more now than you did before the war. Who, then, pays the twenty cents per pound tax upon this tobacco, when we know it brings no more now than when there was no tax imposed upon it? How is that tax paid?

Now I think I will show you, sir. This list of sales in the cities in my State will show that before the war the price of fine fillers, which I may state, if you do not understand the operation, make the interior of plug, and of fine wrappers, which make on its outside the beautiful yellow color which you see on the tobacco—the price of those tobaccos now in our markets is from 50 to 100 per cent. less than it was before the war; while the prices of shipping tobacco, the coarse, heavy tobacco of Missouri and Kentucky, and made only on the richer lands of our State, are higher than before the war, because it is never manufactured and never pays the tax of twenty cents, but only pays the tax of one-half of 1 per cent., which the dealer in tobacco takes out of it; and that is all it pays when shipped to England; so that there is a discrimination in favor of foreign markets against the peculiar tobacco of Virginia and North Carolina—the fine chewing and smoking tobacco. Now, it is to the interest of my people, as well as to the interest of the people of North Carolina, to make this fine tobacco. But we cannot make it, because it takes more care, more attention, and more capital; and, therefore, it cannot be made, when bringing less in price, in competition with heavier shipping tobaccos, which require less attention, and they are ceasing to make this finer tobacco in my country. That is being driven from the country by this law, and we are making the coarser tobacco, coming into competition with our friends in Kentucky and Missouri, and reducing the price of all.

How does it operate? A planter comes into market to sell his tobacco. He has the tobacco suitable for the fine kinds of chewing and smoking. The manufacturer has to pay twenty dollars per hundred-weight, for it is estimated by the hundred-weight in my country, not by the pound; he has to pay the tax of five dollars as a buyer; he has to pay at least $2.50 per hundred-weight to make the boxes to receive the peculiar stamp which is necessary in order that the Government may not be cheated; and that is twenty-seven and a half cents per pound. Then he has to pay nine cents on his licorice, and the tariff on rum, sugar, and other ingredients. All that has to come out before that tobacco is put upon the market, besides the cost of manufacturing. And then if he should get as high a price as he expects, he must guarantee himself in the event of the tobacco spoiling by an accident—he must make himself his own insurer—and he does that by "backing" the price on the farmer. And there is a tacit agreement among all the manufacturers that they will not give beyond so much for a certain class of fillers and a certain class of wrappers; so that the farmer has the price of that kind of tobacco reduced. I have seen cases where the man has got fourteen dollars per hundred-weight for the class of tobacco for which he got nine dollars before the war, and cases where a man has got only fifteen dollars for fine tobacco for which he got forty-five dollars before the war.

Now, if that is not an objection to this whole system as far as the producer is concerned, I will add this to it. At any rate, whether the producer is thus made to pay the whole of the tax or not, it is divided between him and the consumer. But the manufacturer in no case intends to lose any of it, because he quits the business before he becomes a loser, so that when there is a division of the extra cost between the consumer and producer, every one knows that it is easier to cut down the price of an article when it is thrown upon the market by the farmer, who finds it necessary to sell, than it is to raise the price in the market after it is given out to the consumer.

Now, there is another objection to this law. There is a general objection—and every man who pretends to be a statesman knows it—there is a general objection to that system of taxation by means of espionage which invades every man's house, which sets a gauger to watch every distillery, and a detective to watch every tobacco manufacturer. Such a system renders the Government and the law offensive to the people, offensive to their ideas of liberty and to their general ideas of the treatment which should be given to the people by an honest government. It is a costly system also, and all its costliness, be it remembered, comes out of the pockets of the producer in the end.

I believe it was reported in Congress a year or two ago that one-fourth of the internal revenue was "lost" in the collection. I would not put it exactly in that way. I would spell the word "s-t-o-l-e-n." One-fourth of the internal revenue lost in the collection! Lost wheer? Lost precisely where this law is offensive—among the host of officers sent to watch the tobacco-houses of the men who make the tobacco.

Now all these taxes, as I have said, are offensive to the people; and while I do not come from a country that has spoken very strongly in favor of tariff, I beg to say that I would go for a tariff or anything else to abolish this law which operates burdensomely upon the people and to the injury of the standing of the Government among the simple people of the country, who find themselves harassed by officers, and in many instances taken and carried before courts at great expense on account of mere mistakes in the entries. I know of one case in my country where an honest old Tunker, one of the people known as Mennonites, who had never intended to do anything wrong in his life, left the stamp on his boxes. The Government had said that after the tobacco was sold the producer should destroy the stamp or be liable to a fine of $500 or to be put in the penitentiary. The man I speak of, not having seen that regulation, thought he would show his fidelity to the United States Government and his own honesty by leaving the stamp on the boxes, which he considered would show every one that he paid the Government its taxes, and acted on the principle of Mr. Wesley's doctrines that a man could not get to heaven who had cheated the Government out of its revenue. Well, a revenue officer went and told him that he had violated the law. He was very much astonished and said that he could not possibly have done it. The officer told him that he had, for he had left an uncanceled stamp upon the box. The old fellow replied that he had left it there expressly to show that he had paid the tax. He was indicted, and it cost him $200 or more to get out of the difficulty.

Now this law is not popular down my way where tobacco is grown and brandy made. It is not our fault, but the fault of those who made the law. The question is, who pays the tax, the consumer or the producer? Who paid the tax on cotton that you had here? There was a tax of five cents on cotton; why was it taken off? It was taken off simply for the selfish reason that you of the majority manufactured the whole of the cotton. Why was the income tax taken off? We raised, in 1867, $52,000,000 from that source, more than enough to supply the deficiency of which the Secretary of the Treasury now complains. In 1868 we raised $32,000,000, and in 1869 $34,700,000, from the same source. Why was that tax taken off? You took it off because you were paying it, and we were too poor to have any incomes on which to pay taxes. I wish to meet this question fairly and honestly; but this enormous amount of taxation is to be raised out of the black and white labor of my State and others which raise tobacco. If it is a luxury to you or to me to roll under our tongues the sweet morsel, it is no luxury to the hard-fisted man who makes it up in the mountains of my district. If it is a luxury, you must satisfy me that this tax comes from the consumer and not from the producer. The amount produced is less than in 1860, and yet the price is less.

Now, there is a reason why my State and the State of North Carolina are particularly interested in this subject. Missouri is very little interested in it. She makes a large, strong, coarse tobacco, that is shipped to Europe, but there are only two counties in which she makes fine tobacco. Limestone land will not make fine chewing-tobacco. That is a chemical and agricultural fact. You may put licorice in it, and rum, and weak brandy, and make it look like good chewing-tobacco, but it will be of the Navy sort. They made such tobacco in the North during the war. Our men, during the war, when on picket duty, used to swop genuine tobacco for genuine coffee, for we had been drinking coffee made out of grain, and the enemy had been chewing tobacco made out of the devil only knows what. [Laughter.] Why, sir, Massachusetts turned up a tobacco State during the war, and Connecticut went to raising tobacco, and Ohio manufactured a chewing-tobacco; and, sir, it would knock the horns off a bull to chew it. [Laughter.] I admit that you have got to making a considerable quantity of tobacco up that way, but you never can make tobacco that a gentleman will chew. You can only raise that kind of tobacco on the slopes of the Blue Ridge in Virginia and North Carolina.

Mr. CROSSLAND. I hope the gentleman will include Ballard County, Kentucky.

Mr. WHITEHEAD. Is that a mountain county?

Mr. CROSSLAND. It is.

Mr. WHITEHEAD. Then, I think, may be you may raise a little of it there; but I tell you, sirs, in all seriousness that the tax upon this sort of tobacco amounts to a direct tax upon the maker of it, and the result in my State is, that the cultivation of this kind of tobacco is being driven out and giving way to the cultivation of a coarse tobacco which has to be doctored and fixed up before any man can chew it.

Sir, I claim to be tolerably loyal, and I do not object to my State paying its share of taxes to the United States Government, although I do wish that some financial gentleman here would invent some scheme to raise the money in another way; but my State complains of this tax, because it is an unjust one. It has not complained of paying a fair proportion of the taxes necessary to support the Government; it has not raised any row here about salaries; it has not made any

mock professions of honesty and economy; but we have paid more than we ought to have paid, and we never knew how to make anything out of the Government. To be sure we dodged the reconstruction laws, borrowed a governor, and are here to-day as well off as any of you. I am not going to war upon this subject with my friend opposite from Illinois, [Mr. FORT,] but I want a fair chance in this matter. If you want to tax agricultural products, tax cotton and wheat and tobacco and other products alike, and give all a fair chance.

But if you intend to tax tobacco and not corn, I would like some gentleman to show me the religious reason for doing so. [Laughter.] If you want to tax brandy, I will tell you what is done in my State. I saw last fall an orchard with apples——

[Here the hammer fell.]

Mr. MELLISH obtained the floor.

Several MEMBERS. Let the gentleman from Virginia [Mr. WHITEHEAD] go on.

Mr. BURCHARD. I move that the time of the gentleman from Virginia be extended if he desires it.

The SPEAKER *pro tempore*. For how long?

Mr. WHITEHEAD. I will not take more than three minutes to round up on apples. [Laughter.]

Several MEMBERS. Give him five.

Mr. BURCHARD. I move that the time of the gentleman be extended for five minutes.

There being no objection, the motion was agreed to.

Mr. WHITEHEAD. I want to say a word on this brandy tax. We are not interested much in whisky. Of fourteen hundred and twenty-one distilleries in Virginia, only twenty-one make whisky, and I think they must be run by western men. Virginians know how to make brandy, but I do not believe they know much about making whisky, except one or two celebrated brands in Judge HARRIS's district.

The fear of being involved in trouble with the internal-revenue officers, and the uncertainty in regard to the tax, has had the effect, in places far distant from railroads, to stop almost entirely the process of distilling. Men have been dragged great distances to answer before the courts for an unintentional and innocent violation of the revenue laws in regard to distilling. One old man, who moved a keg of liquor a few hundred yards before it had been stamped, had to pay about $300 in consequence of being brought up to answer for violating that provision of the law which forbids the removal of distilled spirits from the place of distilling before stamping. That is a specimen of the troubles growing out of this law. A distinguished friend of mine in Virginia was made a wholesale liquor dealer without his knowledge or consent by an internal-revenue officer. [Laughter.] He did not know it at the time, nor understand how it was done.

The result of our internal-revenue system has been a real oppression to the people. Orchards have been left standing, and the fruit unsold. In a fine orchard in my section where at Christmas time thousands of bushels of apples were lying upon the ground more than six inches deep, the apples were offered at six and a quarter cents a bushel, with nobody to buy them. That statement sounds very much as if it might be put in an almanac, [laughter;] but it is the truth. This condition of things operates very unjustly to two important interests in our State, the interest of the land-holder and of him who works the land. We in our State have very little besides land; but we have as good land as any of you ever saw.

A MEMBER. Where?

Mr. WHITEHEAD. In Virginia. [Laughter.] The man who asked that question ought to have known the answer before asking it.

The result of this system of taxation upon brandy has been that in the county of Southampton, which formerly produced $60,000 of fruit every year, the production has been curtailed two-thirds. All over the State the produce of the orchard has been reduced, so that shortly after the war it was not one-fourth what it had been. We are doing a little better now, because the tax has been reduced to fifty cents. But, sir, if the tax were taken off altogether, we would cease to compete with the West, and under certain circumstances would cease to compete with any one, in regard to grain and meat, and would turn our attention wholly to the fine classes of tobacco and fruits. This would be an advantage to all sections of the country. It is desirable that our people should see that when they labor in the manufacture of tobacco and the production of fruit, they are not alone to be taxed upon the invitation of the Secretary of the Treasury, while cotton, wheat, cattle, and every agricultural product of other sections is allowed to go free. We alone ought not to be annoyed by the internal-revenue officers; we alone ought not to pay taxes on our agricultural products, or gentlemen had better look out for the grangers.

As I have already said, I do not make these remarks for "buncombe," and not particularly to have them printed. I have desired to address the House in advance of the action of the Committee on Ways and Means. I hope for an opportunity hereafter to put before that committee more fully the facts and the figures, with statements from men who understand this subject, showing that we have been improperly treated in this matter.

[Here the hammer fell.]

MONEY OF THE UNITED STATES.

Mr. MELLISH. Mr. Speaker, I congratulate myself that I speak before an audience not overpowering in numbers, for I have neither the gift nor the habit of oratory. Indeed, those who know my antecedents anterior to the time I was assistant appraiser at New York, will remember that my place has been with the short-hand reporters—that I have been in the habit, to be sure, of taking but not of making speeches—and therefore it would not be at all strange if, in such a transition, such a complete somersault, as it were, I should fail to make a taking speech. But I will not stop for further apology, except to say that I regret want of time has prevented the arrangement in my mind as I desired of the ideas I shall attempt to present.

The vast number of documents received from all parts of the country on finance indicate a wide-spread and deep interest in the subject at the present time. I purpose to offer some views in reference to the bill (H. R. 1014) "to provide the money of the United States and to regulate the value thereof," which I had the honor to present on Wednesday last. As it will take some time to read it, I would respectfully request that it be here inserted in the printed report. It is as follows:

A bill to provide the money of the United States, and to regulate the value thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the 1st day of July, 1874, each and every national banking association may determine for itself the amount of lawful money of the United States that it will keep on hand; but every association shall, on demand, redeem its circulating notes at such localities as are now, or may hereafter be, designated by law, either in coin or in United States legal-tender notes, or in United States interest-bearing bonds at par, as such association shall elect.

SEC. 2. That the Secretary of the Treasury of the United States is hereby authorized and directed to prepare for circulation, as standard value United States money, certificates of the denomination of one, two, five, ten, twenty, fifty, one hundred, two hundred, five hundred, one thousand, two thousand, five thousand, and ten thousand dollars, to express on their face, in words and conspicuous figures, the several above-named denominations, with vignettes, letters, numbers, signatures, and such engraved decorations as shall tend to prevent forgeries and imitations, and also express on their face that they are respectively, by the Constitution and laws of the United States, the standard and measure of values to the amount expressed on their face, in all transactions within the United States involving the payment of money, and receivable in payment of all debts, public and private, and shall be a legal tender, at their face value therefor, except the funded debt of the United States, which is by its terms payable in gold, and except as hereinafter provided, and shall be received in deposit at par by all national banks. Such certificates shall be put in circulation and applied by the Secretary of the Treasury under, in pursuance of, and in the manner in this act provided.

SEC. 3. That all customs duties due and payable to the United States shall be paid and collected in gold coin and paper currency as follows: From and after the 1st day of July, 1874, to and until the 30th day of June, 1875, both inclusive, said customs duties shall be paid and collected, one-fourth in Treasury notes, or other currency of the United States, or circulating notes of national banks, and three-fourths in gold coin of the United States; from and after the 1st day of July, 1875, to and until the 30th day of June, 1876, both inclusive, said duties shall be paid and collected, one-half in Treasury notes, or other currency issued by the United States, or circulating notes of national banks, and one-half in gold coin of the United States; from and after the 1st day of July, 1876, to and until the 30th day of June, 1877, both inclusive, said customs duties shall be paid and collected, three-fourths in Treasury notes, or other currency issued by the United States, or circulating notes of national banks, and one-fourth in gold coin of the United States; from and after the 1st day of July, 1877, the whole amount of customs duties shall be paid and collected in Treasury notes, or other currency issued by the United States, or circulating notes of national banks.

SEC. 4. That on and after the 1st day of July, 1874, all customs duties, proceeds of taxes, and sales of public lands, interest, and dues from all sources received for account of the United States in Treasury notes and circulating bank-notes, by each and every officer of the United States, shall be transmitted in the identical currency received to the Secretary of the Treasury. The Secretary of the Treasury shall issue and promulgate, to all Federal officers authorized to receive such moneys for account of the United States, rules, regulations, and instructions prescribing, directing, and regulating the time, manner, and means of transmitting such sums of money from the places where they are received to the Secretary of the Treasury at Washington, and such rules, regulations, and instructions shall have like obligation and effect as if the same were embodied in this act.

SEC. 5. That the Secretary of the Treasury on receiving, for account of the United States, Treasury notes and circulating bank-notes, as provided in the last section, shall cause a memorandum of all such notes to be made and kept in books appropriate for the purpose, and as often as the sum of notes so received shall amount to $1,000,000, he shall cause the same to be destroyed by burning them to ashes, as directed by section 24 of the act to provide a national currency, approved the 3d day of June, 1864. He shall cause a certificate and record of such destruction and burning to be made and entered in the books above mentioned, and a duplicate of so much of said certificate as relates to such portion of the destroyed paper currency as consisted of circulating notes of national banks (or associations) shall be transmitted to the several banks (or associations) the circulating notes of which shall have been destroyed, and then the amount of circulating notes permitted by law to be issued by such banks, respectively, shall be reduced to the extent of the circulating notes so destroyed; and when and as often as the circulating notes of any such bank or association shall have been destroyed under the provisions of this act to the amount of $50,000, the Secretary of the Treasury shall adjust the interest account with such bank or association, and release and deliver up an amount of the United States bonds pledged for the redemption of a like amount of the circulating notes of said bank or association.

SEC. 6. That immediately upon the destruction of any sum of Treasury notes and circulating bank-notes, in pursuance of the provisions of this act, the Secretary of the Treasury shall pay into the Treasury of the United States, of and from the United States certificates of standard value authorized and provided under the provisions of this act, an amount equal to the total sum of Treasury notes and circulating national-bank notes so destroyed as aforesaid, and such certificates so paid into the Treasury shall thereupon and thereafter become and be the lawful money of the United States, and as such shall be paid out of the Treasury of the United States for the purposes and in the manner provided by law.

SEC. 7. That it shall not be lawful for the Secretary of the Treasury to issue of the said certificates provided in pursuance of this act an amount at any time exceeding $300,000,000.

SEC. 8. That when, in pursuance of the provisions of this act, 80 per cent., or a larger per cent., of the circulating notes of each of the national banks and banking associations shall have been received by the Secretary of the Treasury, and destroyed, and an equivalent amount of the bonds of the United States shall have been returned to said banks and banking associations, notice shall be given thereof by the Secretary of the Treasury to each of such national banks and banking asso-

ciations. And thereafter circulating notes of national banks and banking associations shall not be received by the United States in payment of any public dues whatever, and thereafter the interest accruing on the bonds remaining in the possession of the Government as security for the redemption of circulating bank-notes shall not be paid to the banks until the whole amount of the circulating notes of such banks shall have been received and destroyed by the Secretary of the Treasury.

SEC. 9. That when under the provisions of the last section circulating notes of national banks and banking associations shall be no longer receivable by the United States in payment of public dues, the Secretary of the Treasury shall redeem such circulating bank-notes at par, at points and places designated by him, by issuing and delivering in exchange therefor equal amounts of the United States certificates of standard value provided in pursuance of this act to the parties presenting such circulating notes for redemption, and shall destroy the circulating notes thus redeemed in the manner hereinabove provided.

SEC. 10. That this act shall take effect immediately.

As introductory to my remarks, I desire to quote a few sentences from that great thinker, Calhoun—for, though he advocated one or two pestilential political opinions, his was, as a rule, one of the most logical minds America has yet produced.

In his speech on his amendment to separate the Government from the banks, October 3, 1837, Calhoun said:

It is, then, my impression that, in the present condition of the world, a paper currency, in some form, if not necessary, is almost indispensable in financial and commercial operations of civilized and extensive communities. In many respects it has a vast superiority over a metallic currency, especially in great and extended transactions, by its great cheapness, lightness, and the facility of determining the amount. * * * It appears to me, after bestowing the best reflection I can give the subject, that no convertible paper, that is, no paper whose credit rests on a promise to pay, is suitable for currency. It is the form of credit proper in private transactions between man and man, but not for a standard of value to perform exchanges generally, which constitutes the appropriate functions of money or currency.

No one can doubt but that the Government credit is better than that of any bank—more stable, more safe. Why, then, should it mix it up with the less perfect credit of those institutions? Why not use its own credit to the amount of its own transactions? Why should it not be safe in its own hands, while it shall be considered safe in the hands of eight hundred private institutions, scattered all over the country, and which have no other object but their own private profit, to increase which they almost constantly extend their business to the most dangerous extremes? And why should the community be compelled to give 6 per cent. discount for the Government credit blended with that of the banks, when the superior credit of the Government could be furnished separately, without discount, to the mutual advantage of the Government and the community? Why, let me ask, should the Government be exposed to such difficulties as the present by mingling its credit with the banks, when it could be exempt from all such by using, by itself, its own safer credit? It is time the community, which has so deep an interest in a sound and cheap currency, and the equality of the laws between one portion of the country and another, should reflect seriously on these things, not for the purpose of oppressing any interest, but to correct gradually disorders of a dangerous character, which have insensibly, in the long course of years, without being perceived by any one, crept into the State. The question is not between credit and no credit, as some would have us believe, but in what form credit can best perform the functions of a sound and safe currency.

Believing that there might be a sound and safe paper currency founded on the credit of the Government exclusively, I was desirous that those who are responsible and have the power should have availed themselves of the opportunity, &c.

Again in the same speech, he said?

It has another and striking advantage over bank circulation, in its superior cheapness, as well as greater stability and safety. Bank paper is cheap to those who make it; but dear, very dear, to those who use it, fully as much so as gold and silver. It is the little cost of its manufacture, and the dear rates at which it is furnished to the community, which give the great profit to those who have a monopoly of the article. Some idea may be formed of the extent of the profit by the splendid palaces which we see under the name of banking-houses, and the vast fortunes which have been accumulated in this branch of business; all of which must ultimately be derived from the productive powers of the community, and, of course, adds so much to the cost of production. On the other hand, the credit of Government, while it would greatly facilitate its financial operations, would cost nothing, or next to nothing, both to it and the people, and of course would add nothing to the cost of production, which would give every branch of our industry, agriculture, commerce, and manufactures, as far as its circulation might extend, great advantages, both at home and abroad.

Later still, (22d of March, 1838,) in his speech on the sub-treasury bill, Calhoun said:

I now undertake to affirm positively, and without the least fear that I can be answered, what heretofore I have but suggested, that a paper issued by Government, with the simple promise to receive it in all its dues, leaving its creditors to take it or gold and silver, at their option, would, to the extent that it would circulate, form a perfect paper circulation, which could not be abused by the Government; that it would be as steady and uniform in value as the metals themselves; and that if, by possibility, it should depreciate, the loss would fall, not on the people, but on the Government itself; for the only effect of depreciation would be virtually to reduce the taxes, to prevent which the interest of the Government would be a sufficient guarantee. I shall not go into the discussion now, but on a suitable occasion I shall be able to make good every word I have uttered. I would be able to do more—to prove that it is within the constitutional power of Congress to use such a paper, in the management of its finances, according to the most rigid rule of construing the Constitution.

Since introducing the bill my attention has been called to an article in the October number of the Westminster Review, and a paragraph therein so well expresses the purposes of this measure, that, with some slight modifications, I shall employ it for that purpose:

This is an attempt to establish a system of currency under which the sovereignty of the nation shall be the sole fountain of issue; under which no money shall circulate except on the credit of the state; under which all profits upon the issue of money shall form part of the revenue of the country. The power of issue is and ought to be a sovereign right. The profits of the manufacture of paper money should no longer be allowed to remain in private hands. It is high time that all rights of issue were gathered into the hands of the state, and that the profits upon paper currency were secured to the state, and appropriated to the reduction of taxation. Why should not there be returned to the Treasury the profit upon paper currency, instead of returning a loss and allowing the profit to slip through its fingers and find its way into private purses? In other words, why should not the creation of currency be made to pay the Government its profit instead of enriching private individuals? Private individuals make a very handsome profit upon the currency at the expense of the people and through the permission of Congress. It is you and I and all of us that are responsible for this state of affairs, and I ask the various reform and other organizations throughout the country to study this matter, as the most important that can engage their attention. It indeed affects every human interest.

No change should be made in the financial system of a country, unless such change can be shown to be an improvement. I agree with Webster, that "a strong impression that something must be done is the origin of many bad measures. It is better to do nothing than to do mischief." And I am free to say that a year ago I should not have favored the proposition now presented. But, having gone over this whole subject, I am of the opinion that the plan is suitable and desirable as an American system of currency, and if once in full operation would produce results of great value to the country. Two things, however, are to be considered: First, it is to some extent a departure from the formere urrency schemes of the world; secondly, it is likely to be opposed by numbers of men who have position as financiers, bankers, &c. For these reasons, perhaps, it is not likely to meet with favor in Congress.

Indeed, when I had explained this plan to an eminent financier in New York he admitted that its practical operation would be in the interest of the people; "but," he added, "it will be useless to attempt to get it passed by Congress, for so many members are interested in banks it will be impossible to obtain the necessary votes for any measure that will trench on monopoly and privileges enjoyed by these institutions."

I think, with many others, that our present currency is much the best we ever had, and I am not at all sure that it is not better than the currency of any other country.

In the address which I made on receiving the nomination for the place which I now occupy, I said that—

The public benefits resulting from a settled and continuous commercial and business system should not be lost sight of. The banker and the merchant, the manufacturer and the agriculturist, are required to transact business having regard to a future period of a year or more. To them it is of the utmost consequence that the laws and measures of administration that affect values should, as far as possible, be unchanged; and to as great a degree as possible, changes, when made, should be gradual and prudent. The welfare of these great interests is of the highest consequence to every individual of the nation. Let us have peace, and let well enough alone, unless a change can be proposed which shall be generally conceded to be an improvement.

It is in strict accordance with the views then expressed that I advocate this bill.

Some of the suggestions of required legislation presented on this floor make one's hair stand on end. It astonishes one to hear proposed a paper currency issued by authority of the United States which shall have no limit in quantity except "the wants and wishes of the people," with the possibility that we shall have transmuted into circulating bank-notes the total amount of the funded debt of the United States.

My notion is, that our recent crisis was produced by a too large creation of credits, mainly in railroad-building. To use the expressive phrase of Vanderbilt, "Railroads were built from nowhere to nowhere." It was, however, but a moderate deluge of bankruptcy, drowning only the great dealers on credit, a deluge that only overflowed, in a figurative sense, the docks and piers of New York, &c., filling the cellars and drowning the rats. But give us the currency system known as the convertibility-bond scheme, and we should have a period of unequaled (apparent) prosperity to be ended and succeeded by a deluge of bankruptcy which, figuratively, would submerge the steeple of Trinity and financially drown all (American) mankind. I suspect that you will find that most inflationists, unless quite ignorant on financial matters, are so because in some way connected with parties who are up to their ears in building the same kind of railroads which broke Jay Cooke & Co., and which ought to break the railroad men I have referred to, and I guess will, unless they are saved by an inflation which will be most damaging to the American people.

We read that some thousands of years ago a set of men put up a golden calf to worship; to hear men talk about a specie basis, it would seem as though a numerous progeny of those foolish persons of old were still at large and worship the gold bull. It is said that some of them have found their way into Congress. I do not propose to add to their number.

But to recur more directly to the subject of the bill. It is not sound logic to assume that because in all past experience the human family has found gold to be the necessary standard of commercial values, there cannot be a better standard; because the same argument applied to other affairs—such as locomotion by steam, &c.—would prevent all change, and consequently all improvement.

We have had the theory of specie payments, convertibility of paper money at pleasure into gold, but we have not had the fact. There never has been a time when the currency of the country was convertible into gold at the pleasure of the holder; that is, there has always been more paper currency than gold in the country. And in all probability the deficiencies and evils of that system, pointed out now by the anti-specie party, are the result of the fact that we had the theory

only, and not real convertibility. The system failed and was disastrous because we did not have what our theory required. But the experience of the past ought to be satisfactory that we cannot in the future have the theory realized in actual practice. It may be safely said that there is not gold enough in the world to be a sensible security for the paper currency actually in use in commerce; meaning by that to include not circulating notes only, but drafts and other evidences of debt.

Cannot it be safely assumed that a bill having pledged to its redemption all the property, private and public, in the United States, including gold itself, is not as well secured as the same note itself would be by a simple security of the gold only? If that be so, then the bill founded on the credit of the Government is better secured than the bill founded upon the gold that is within the reach of the parties that issued the bill. And the difficulty of rendering operative the great fact that all property of the country is pledged for its redemption is one of detail of administration and execution. With the powers of the Federal Government and its machinery, may it not be held that it is possible to provide that the fund pledged to the redemption of this class of bills shall be so well in hand and under control as to be able to redeem them on demand? Assuming that the methods may be provided by law to attain this end, we can then assert and maintain that the defeat of the system could only result by an overthrow of the powers of the Government. Allowing that the circulating notes of the country should become valueless because the government that controlled its securities was overthrown and destroyed, the same consequences would overthrow and destroy the gold basis if that system had been in operation. Witness the fate of the *assignats* when anarchy ruled in France. We may, therefore, infer that it is within the capacity of the Government of the United States to supply to its people a circulating medium that shall be of equal value in every part of our wide-spread domain, worth its legal value to every citizen in it in the purchase of commodities and in the payment of debts, and which will have certain characteristics or qualities not possessed by any gold coin, and yet of the greatest value to the people. That is to say, it will be a circulation that under no circumstances can be drawn away from us by the influence of foreign bankers, or foreign governments, or foreign conditions, until foreign governments and foreign bankers shall have adopted as their standard the same measure of value. The notes will be a legal tender. Whoever holds them can always pay his debts, and, except for foreign payments, he could want no more. With a sufficient supply of the legal tender of the country a man can always pay his creditors.

Such a circulation would have the fault, if it is a fault, that it could not be made, or would not be made, the medium of transactions in foreign commerce. The balance of trade between us and other countries with such a system would necessarily be paid in gold or silver—not gold or silver coin, but bullion. It is not easy to perceive why those balances cannot be just as well discharged in bullion as in coin.

In point of fact the precious metals usually take the form of bullion in foreign commerce; paper currencies are of no use there, and coins pass only as they contain more or less bullion. This would put us in the position of a trading people that had cut loose from gold and silver as a trading basis or measure of value, and allowed them to go into the category of merchantable commodities. But it is available to pay the balance to foreign countries, because in foreign countries gold and silver have a fixed and legal value.

It ought, perhaps, to be considered what would be the situation if this new revelation of government credit as a standard of value should be adopted by all commercial nations, and gold and silver, in the eye of all the world, should become a mere chattel; how then would the balance between us and foreign countries be liquidated and paid? This question would not be important if the change were to be confined to this country; but if it is fundamental and sound in this country, how can it be assumed that it will not be adopted by others?

We may here fairly assume that our proposed currency is entirely secure, and has all the attributes that we ask for it. But how about stability, and how shall we reconcile the claimed necessity for flexibility and the conceded necessity of stability? The new fiscal revelation does not claim, I believe, that the volume of currency has no effect upon the prices of commodities. Under the new as under the old system it is true that enlarging the volume of our measures of value directly tends to increase the prices of all commodities that are the subject of purchase and sale. Nothing is truer than that the value of a national currency changes as the government chooses to enlarge or contract the issue. Therefore, be careful that while you are exerting your ingenuity to produce flexibility in your currency so that under some automatic principle not fully described, (and called the convertibility theory,) there shall be in existence just the proper volume of currency to answer the exigencies of the day. Guard on the one hand against a redundancy, and on the other against a deficiency. Indeed, may we not fear that "elasticity" or "flexibility" of the currency will show when its visor is lifted that it is simply instability—the most objectionable feature that a currency can have? And it certainly illustrates the fitness of things that the great rubber man of New York should be the self-elected champion of an "elastic" currency.

Can this be left to the unregulated acts of individuals? Will it do to permit bankers and others to call on the Government for, and issue in circulation, greenbacks to as large an amount as they may choose to secure by the pledge of Federal bonds? Who can tell that under that system would not grow up inflation such as was never before known in the currency of any country? And who will venture to say that in case of such inflation of currency there would not be an enormous inflation of prices? And if the inflation of prices were great who can doubt that that would put an end to all exportation, and destroy our markets throughout the world?

A great merchant—I may say the leading merchant of the United States and the world—has had occasion to examine and the capacity to comprehend and apply the rules that govern trade, commerce, and currency with perhaps more wisdom and success than any man living. In a conversation which I had the honor to have with Mr. A. T. Stewart in New York City on the 30th of December last, he said:

> I had been anticipating financial difficulties in the country, and was preparing for it. I was in Europe when the crisis came; and it came suddenly and unexpectedly. We are in a measure governed in our business by the promise of the crops of the country. If a short crop is expected we curtail enterprises. If a large crop is expected we are likely to extend our business. The present year was expected to be a prosperous year for business; but the crisis came, and all who were in debt suffered. Those who were out of debt and had money were less seriously affected.
>
> I have always said that issuing bank currency based on bonds deposited with the Federal Government ought to have been avoided. I am still of that opinion. I insist that the volume of the currency ought not to be increased. This country will have reached its most secure financial position when gold and greenbacks are of equivalent value. Toward that point we have been for some time traveling. If we increase the currency we shall to that extent defer the time of reaching that desired point.

In respect to the collection of customs duties, Mr. Stewart said:

> I urged Mr. Chase in the beginning of our war troubles not to have the customs collected in a currency different from that used in the other transactions of the Government. I sought to convince him that it would have the effect to depreciate the value of the national currency, that is to say, the issues of Government credits. Mr. Chase said, "I agree with you; but how shall I get gold to pay the interest on my bonds?" I said, "Do as I do—go in the market and buy it." The present system compels the importing merchant to go to Wall street to buy gold, where he is subject to the disturbing influence of the gold speculators, who, in large measure, control that market. On this subject of collecting the customs duties, I am of opinion that the mistake of collecting them exclusively in gold ought to be corrected, and that payment of a portion thereof should be made in currency, increasing the amount thus payable from time to time until the whole shall be payable in currency. I am clearly of opinion that the amount of duties received will be sensibly increased by such a measure. And I am of opinion that the street market price of gold would be sensibly reduced by the same measure, and we should approach nearer to par as between greenbacks and gold.
>
> Referring to the schemes of optional conversion of bonds into greenbacks, and greenbacks into bonds, I regard it as simply a tampering with the currency. We want, we need, a stable currency of reasonable but not excessive volume, received everywhere throughout the country at par. And being stable, the prices of commodities of which it is the measure will themselves be stable, and the producer and the trader will be relieved from a large share of the hazards growing out of fluctuations in the standards of values. As an illustration of the evils of a fluctuating currency, suppose I sell goods on thirty days' time when gold is 10 per cent. premium, and at the end of thirty days gold is 15 per cent. premium, I lose several per cent. by the transaction, owing to the fluctuating currency. This illustrates in degree every transaction that is had under a fluctuating currency. It is the great risk of the trader, and greater still for the producer of commodities, because he has to do his business on several months' time. I have said that I should prefer to lose one-third of what I am considered to be worth to get to a specie basis rather than not have it, because then, in ten years, if not in five, I would be better off than now.

And thus emphatically ended Mr. Stewart's statement.

The cost of commodities depends upon the price of labor, which is the principal factor in it. A great inflation in prices of labor would put the cost of our commodities at figures so high that no other people could possibly take them. And as an attendant of that all other producing communities would offer the same commodities we have been accustomed to produce at prices much lower than we can at home, and bring about such a perfect disgust with tariff laws that would be required as the result of our inflated prices as would force the at least partial repeal of the tariff. In this way we would be led to a state of things where all our industrial enterprises would be broken down by foreign competition; selling at lower rates, all our leading commodities would necessarily be purchased abroad and have to be paid for in money because of the destruction of our export trade; and the only money we should have to pay it with would be our greenback circulation, which, under such a state of things, would probably be of so low value as compared with gold that we could not buy it except at a ruinous sacrifice.

This feebly painted picture of possible results might properly lead to the suggestion that if we accept the credit of the nation as our standard of values exercised through the medium of a paper currency there should be a reasonable maximum limit to its issue established by law. For, as Webster says forcibly and happily, "a sound currency is an essential and indispensable security for the fruits of industry and honest enterprise. Every man of property or industry, every man who desires to preserve what he honestly possesses, or to obtain what he can honestly earn has a direct interest in maintaining a safe circulating medium—such a medium as shall be a real and substantial representative of property; not liable to vibrate with opinions, not subject to be blown up or blown down by the breath of speculation, but made stable and secure by its immediate relation to that which the whole world regards as of a permanent value." We have already considered that a bill having pledged for its redemption all the property, public and private, in the United States, including gold itself, is at least as well secured as the same note would be by the simple security of the gold only.

"A disordered currency," he adds, "is one of the greatest of political evils. It undermines the virtues necessary for the support of the social system, and encourages propensities destructive of its happiness. It wars against industry, frugality, and economy, and it fosters the evil spirits of extravagance and speculation."

The change proposed would be a simple substitute of greenbacks for national-bank notes and canceling an equal amount of Federal bonded debt. The effect would be to make the whole circulation as good or better than greenbacks are now and save to the Treasury the interest on $350,000,000, or upward of $20,000,000 of gold annually, beside the use of the currency by the banks, which may be estimated at twenty or thirty millions more, making in all a subsidy of upward of $50,000,000 a year, or about $1,000,000 per week, making a total subsidy paid by the people to the banks for work which the Government could have done better at no expense whatever—I say making a total subsidy, which has been wrung from the people since the banks were established, of over $500,000,000, which, with the accruing interest thereon, would have been sufficient to have liquidated from one-third to one-half of the national debt.

By this arrangement the United States have paid to the banks the interest pledged on the securities. The banks have had the benefit of that. The Government pays in the first instance the interest on the securities which it would not have to pay if it issued the currency itself. To the extent that the Government issues greenbacks the United States gets a loan without interest. The Government has in effect given a subsidy equal to the amount of interest on the use of the currency issued by the national banks. Precisely how much this amounts to seems to belong in the category of those things which Lord Dundreary says "no fellah can find out." I will leave that to the experts. I will not claim that the estimate just given is at all accurate. Indeed, I am willing to put on record a statement in reference to this matter furnished to me by the president of one of the banks in the city of New York I propose to recur to this subject at some future time.

INCOME.

Six per cent gold on $100,000; say 10 per cent. premium	$6,600	
Six per cent. currency on three-fourths of $90,000, or $67,500, (one-fourth must be held as reserve according to law)	4,725	
		$11,325

COST OF—

$100,000 of sixes of 1867, say at 117, $117,000; one year's interest on $117,000	$8,190	
One per cent. Government tax on circulation, $90,000	900	
		9,090
		2,235

Showing a net profit of $2,235, over and above 7 per cent. per annum on the original investment of $117,000, the cost of $100,000 Government sixes, 1867, to secure circulation, $90,000.

But this does not fairly represent the loss sustained by the Government. For if the bonds were canceled and their amount out in greenbacks, the $3,600 of interest would be saved. And should not the interest on $90,000—equal to $5,300—be included, making in all $12,900? I think the real profit to the banks exceeds this sum.

Perhaps the grangers may deem the question of some moment, whether the millions upon millions the people are continually rolling into the bank-doors, and which go to support its officers and others interested in more than oriental luxury and splendor, and for which no consideration whatever is received on the part of the people, could not with profit to the country be diverted to construct lines of transportation in order that the poor farmer of the West may connect with market without being almost limitlessly mulcted by the railroad kings.

Let the grangers in these quiet winter evenings study up this matter, and ask themselves whether this thing should any longer be permitted. Let them in one column compute the sums poured down in everlasting showers upon the banks, and, in another, the cost of a four-line railroad from the extreme East to the extreme West, and then strike the balance.

For a moment consider the constitutional bearings of the question.

Article I, section 8, of the Federal Constitution provides that—

Congress shall have power to coin money, regulate the value thereof, and of foreign coin, and fix the standard of weights and measures.

Section 10 provides that—

No State shall enter into any treaty, alliance, or confederation; grant letters of marque and reprisal, coin money, emit bills of credit, make anything but gold and silver coin a tender in payment of debts.

In the first place, the bestowal of power carries with it an obligation for the exercise of that power whenever its exercise is needed for the general welfare of the people of the United States. And it is a sound proposition of law that when the United States shall have assumed its sovereign authority on the subject of coining money and regulating the value thereof, no other power within the jurisdiction of the United States has a right to do the same thing, or attempt to do the same thing. So that now the States are in the legal status where it would be unlawful to do any act of coining money, or in any way to assume to regulate the value thereof. That whole sovereign power granted to the Federal Government by the Constitution has been put in force by the Federal Government, to the exclusion of all minor jurisdictions, to wit, States, corporations, municipalities, and so forth, and in the proceedings of the Government in the matter of coining money and regulating the value thereof, it has the right under the Constitution to do any acts necessary and appropriate to that end.

We have seen that in section 10 of the first articlee of the Constitution we have the positive, expressive, and comprehensive proposition that no State shall emit bills of credit—that is, billsor notes for raising money on the mere credit of a State.

It is an attribute of sovereignty to issue anything that is to be used to circulate as money; and it is manifestly one of the acts that most materially affect the regulation of the value of money, because the value of money depends on its volume. Indeed the most direct way of affecting the value of money is to act upon its volume. A secondary way is to act upon the rate of interest it shall draw.

It seems strange that up to the time of the war the Federal Government never undertook to regulate the value of money in the United States. It was not until the nation was thought to be at death's door, and as a last resort, that the Government undertook to exercise that beneficent power which the wisdom of our fathers had conferred in the Constitution. And now, as we have seen already, the general Government having assumed that jurisdiction, no State is permitted to do any act to regulate the value of money circulating in the United States. The Federal Government, as soon as it took hold of the subject, gave the United States a currency that was of equal value in every hamlet in all its broad domain.

In confirmation of this view Mr. Webster, in his argument in the case of Ogden *vs.* Saunders, in the Supreme Court of the United States, January term, 1827, says:

That among the objects sought to be secured by the Constitution were commerce, credit, and mutual confidence in matters of property; and these required, among other things, a uniform standard of values or medium of payments. One of the first powers given to Congress, therefore, is that of coining money and fixing the value of foreign coins; and one of the first restraints imposed on the States is the total prohibition to coin money.

These two provisions are industriously followed up and completed by denying to the States all powers of emitting bills of credit, or of making anything but gold and silver a tender in the payment of debts. The whole control, therefore, over the standard of value and medium of payments is vested in the General Government. And again collating the grant to Congress and the prohibition on the States, a just reading of the provisions is this: "Congress shall have power to coin money, regulate the value thereof, and of foreign coin; but no State shall coin money, emit bills of credit, or make anything but gold and silver coin a tender in payment of debts."

These provisions respect the medium of payment, and, thus collated, their joint result is clear and decisive.

The Constitution, by its grants to Congress and its prohibitions on the States, has sought to establish one uniform standard of value or medium of payment.

But when a constitutional provision has had executive, legislative, judicial, and popular exposition, construction, and sanction for a series of years, is it not too late to appeal from the decision? Ought not the question to be considered *res adjudicata*?

A currency good in the payment of all debts would fix the price of commodities, and the value of debts would be adjusted to it. The price would be high or low, depending upon the volume of the currency. Perhaps there might be tables of the increase of population, and authority given the Government in the course of paying its expenses to issue a fixed increase of currency annually, to keep pace with the growth and the increase of population of the country, and to provide for the loss or destruction of the circulating medium; or that feature might be left to congressional action in the future when the necessity of the case should require it.

The Government could probably easily put out twice as many greenbacks as it now has in circulation, and retire the national-bank note currency without shaking public confidence.

The Government is the largest, most important, and most conspicuous entity with which the mass of the people are acquainted.

What the Government puts out it puts out as the standard of value in commercial transactions. The par will be expressed on the face of the certificate. The circumstances never can arise that will impeach it as a standard. And so useful and safe will it be that there would be no one seeking to subject it to the measure of any other standard.

There will never be any occasion for redemption, because there will not be any desire on the part of the holder that it should be redeemed—no more than the holder of a ten-dollar gold piece would ask to have it redeemed in another ten-dollar piece. The only difference between the paper and the gold is, you can melt down and sell as bullion the gold, but the paper you cannot. Gold is a commodity as well as a coin, while our certificate will be a coin alone, and will get its value entirely from its legal character. That gold coin is a metal, and can be melted down and sold as bullion, is a feature which is totally unimportant when you are talking about a measure of value. A yard-stick made of pine is just as good as one made of silver for the purposes of a yard-stick.

With some slight exceptions these bills shall be received for all public and private dues. This being the case, it cannot be said with truth that the bill is not worth its face absolutely. Apparently it is used under circumstances where its value will never be impeached.

With the system just hinted at may we not anticipate that our standard, being relieved from the influences that attend the former standard of value, will be so permanent, and will produce such a degree of prosperity, as to compel the prices of foreign commodities—gold included—to adjust themselves to it; producing a state of things when our currency and gold, the standard of other nations, by the operation of the laws of trade, shall have been brought to a state of equal

value. With the currency we advocate Government could at any time buy gold to pay its obligations requiring gold, as well as its citizens. Indeed, with the provision in regard to payment of customs duties, may we not reasonably expect that the national certificates will, before long, be worth their face in gold?

Government is the bull in the gold market, and he compels into confederation with him every importing merchant; and he makes a party in Wall street to bull gold in law. If he will put himself on a par with other traders and retire from Wall street, gold will cease to be sought for, except for the single purpose to be exported abroad to pay the balance of trade.

The first section of the bill provides for a repeal of the reserve. As a consequence there will be $150,000,000, more or less, of circulation set free. This will be to the advantage of the banks, for of course the less money lying idle the greater the dividend. These are certificates of value. They are different from Treasury notes in what they pretend to be. They (the certificates) pretend here to be the national standard of value, expressing the value on their face, and are issued as such, and not in the form of a promise to pay. They are a certificate of the standard of value of the United States money. In the case of greenbacks it was put on the simple ground that the Government would pay so much, and when the time came, and to the very last, they had not the means of paying for them. But in the case of the certificates it is the legal declaration that it shall be used as a measure of value in all transactions to that amount which gives them their value—the legal declaration of the sovereignty that they are a measure of value to that extent, and there is no other. The legal machinery run by the whole power of the sovereignty is supplied to enforce them as a measure of values in all transactions involving the payment of money. How to treat them after you get the authority and duty to create and issue this currency as provided in this bill: Suppose the Secretary of the Treasury has the bills printed and prepared. Then there come into the Treasury as customs duties, say $600,000, of which $300,000 are greenbacks, bank-bills, and currency. It belongs to the United States. It comes into the Treasury by operation of law.

The bill provides that such portion of this amount collected from customs or otherwise as is in bank-bills or currency, shall be canceled and retired, and an equal amount of these certificates shall be placed in the Treasury in place of the bank-notes. Then we have got it into a position where it will circulate from the Treasury, and an equal amount of the bonds pledged as security for the bank-notes, shall be released and be returned to the bank. I would retire the bank-notes and greenbacks both, and put certificates in their place and make it a uniform currency, and avail ourselves of the benefit that grows out of this substitution, including losses and counterfeit issues. Start anew; so that when this is worked out the currency of the country will be homogeneous—all alike—a sound, stable currency, of equal value throughout the United States, and receivable for any manner of obligation except funded United States obligations payable in gold.

It was a mistake to make a gold bull of the United States.

Stewart goes into the market and buys gold, and other importing houses also go into Wall street and bid against each other. The law drives them there, and the competition runs up the price and burdens the merchants and the country with a stimulated, excessive price. No industry or honest enterprise is benefited by this bulling of gold.

The Government desires gold at low rates. It takes the most active means to keep it at a high rate. Having done that, it occasionally goes into the market as a gold bear, and sells gold at a premium to the very importing merchants who are compelled by its own law to purchase gold to pay duties.

The issue of national currency through the banks constitutes a subsidy at the expense of the Federal Treasury and for the benefit of the banks in its practical operation. The banks make a great deal of money out of circulation. There is no practical redemption, and it is all out earning something all the time. In the first place, suppose a bank has placed bonds to the amount of $100,000 with the Comptroller of the Currency as security for the 90 per cent. thereof the bank issues as currency on that $100,000; the bank draws from the Government $6,000, more, or less, interest, which is equivalent to at least $7,000 in currency. Should the bank keep their currency out at 7 per cent. the two interests combined would equal about 14 per cent. But the probability is that the bank will receive a considerably higher interest than that. The people and the Treasury cannot afford to continue that, except so long as it shall be deemed indispensable to the safety of the bank system. And this is deemed a proper time to gradually withdraw that subsidy to the banks, wholly or partially. As an offset to this it is proposed immediately to relieve them of the excessive burden unused in their vaults—the reserve provided by law. This is deemed equivalent to enlarging their capacity to earn money by discounts to the extent of that reserve, which is named at $150,000,000.

There ought to be, in this view of the subject, an end to the claim that the banks have supported the Government. In fact the Government has supported the banks, and supplied them with a sum equal to their total capital, and on which they may now do business, and upon which it is hoped they may do business successfully without any further subsidy. If, on the contrary, it is found to be necessary for the purpose of preserving the banks to continue the subsidy, then the sooner we admit the necessity of getting along without banks of issue the better. One thing this bill will accomplish is the setting free their reserves; the other is, and the main feature is, that it will supply a currency for the banks and for the people that the banks will never be under any necessity for redeeming or for being prepared to redeem.

The Government has assumed jurisdiction. The Government has exercised its constitutional function, and must forever after control and direct the whole subject of the whole currency of the country. No matter what the past has been, the Government is now in the condition where it must go forward to regulate and control the currency of the country for good or for ill.

It is safe to say that no sound system can be gathered from the opinions or advice of classes of citizens who are engaged in special enterprises for private gains. All such opinions, if honest, will be mistaken and distorted.

The only sound system will be one that, on the whole, was best for the whole people and all the interests of the country. Such a system is not likely to be framed or devised in Wall street, nor in the factories of New England, nor in the iron-manufacturing establishments of Pennsylvania, nor even in the conclave of delegates of the grangers of the West. The views of such parties must necessarily be special, and limited to their own particular interest, and therefore unsound as applicable to the interests of the whole. But let me say that I am glad to see grangers and other organizations—the people in their primary capacity—holding frequent meetings to inform themselves upon and to discuss public affairs. A meeting every week, with a reading-room and library for reference, held in every school district in the United States, would do more for the education of the people than the passage of a hundred such bills as have been advocated by the gentleman from Massachusetts, [Mr. GEORGE F. HOAR,] which is only a gratuity to the States. Besides, such action on the part of the people would be one of the best possible checks against corruption.

The creation of currency is, in the present state of the world, the most important exercise of sovereignty. Its exercise is of more moment to the people than any other power conferred or exercised by the sovereignty. It touches every human interest. And, strange to say, the American people have not until just now, within the last twelve months, entered upon a serious consideration of the matter in its details.

In the first place the standard of values of commodities, so far as the people of the United States are concerned, must be fixed and certain. It should be fixed and unchangeable. It should be beyond the reach and influence of affairs and interests and measures outside of the United States. It should be such as is cheapest and most convenient and most easily understood.

The law fixes the measure of the foot and the yard and the mile, the standard of superficial measurement, the standard of weights; and they operate with convenience and success and perfect justice in the transactions of the people, and there is no basis for it, no gold or other basis for the standard, except what is contained in the laws of the nation. Why should it be that the measure of value of internal commerce needs to be placed upon any different basis than the constitution and laws of the sovereignty. It will be said that the standard will not serve in our transactions with foreign countries. This is admitted; and the consequence is a strong argument in favor of a standard. It will not serve as a standard in our transactions with other countries, and is therefore independent of all foreign conditions, and more reliable and equitable for that reason.

But in order to claim for our standard the effects that have been mentioned, we must make sure that it is not itself tampered with and from year to year contracted and expanded by unwise legislation. If, after experiment, it should appear that the views upon which this system is founded are sound and ought to be continued, the Constitution should be amended and a permanent standard fixed by that great charter, beyond the reach even of the law of Congress. It is claimed that such a standard would be far more stable and permanent, less liable to fluctuation by far, than gold. The gold medium is of itself so entirely flexible that three or four respectable gentlemen in the parlor of the Bank of England, by raising the rate of discount in the bank 3 per cent., can set the currents of gold running to the Bank of England from all nations with whom they have commercial transactions; the result of which is to change essentially the value of gold in London and all other points. So that in point of fact it is, perhaps, a commodity that fluctuates, not in as great degree, but more constantly than any other.

It is a popular error to suppose that gold is worth intrinsically anything like the value that is placed upon it conventionally by legal enactments and the consent of trading nations. In truth, intrinsically, gold is one of the least valuable of the metals. Conventionally, it is the most valuable. Take from it that conventional value placed upon it in use among men, and its value is very low in the scale of metals. Steel and zinc and tin and some of the other metals are intrinsically more valuable.

The Government undertakes by this bill—and it pledges its power and its faith—that the currency that it has established shall be equal to the value that has been fixed upon it in the hands of every holder. That faith and that power of our Government have been so exhibited and expressed in the history of the country that not one of the inhabitants of this wide Republic will doubt it. It offers to the citizens of the United States a standard of values in a circulating medium which shall divorce us from the exigencies and the schemes and the ambitions of all foreign populations, and leave us to pursue our career

of industry and civilization and accumulation without the embarrassments that result in all countries where the people are governed too much. Under this system the lawful currency of the country will at all times represent the values of the property and products of the country; and if sensible measures are taken to protect the people against undue expansion of the volume of the currency they can rely upon steady prices and uniform rewards of industry. These features are not possible with a currency based on the gold standard which is subject to be operated upon by increase or diminution with every people with whom we have intercourse, and by all governments that recognize the gold standard and by all the speculative schemes of bankers in every other country. The time has been within the memory of the youngest as well as the oldest of us when a resolution by the governors of the Bank of England, fixing the rate of discount of their bank, would raise or depress the price of every commodity in the United States.

This is what the certificate promises: it promises it shall be of the value expressed on its face to every holder; and the faith and power of the Government are pledged that it shall be so. The sovereign authority decrees it; and the laws have provided the means to enforce that authority.

It is a thing to thank God for that, by the progress of enlightenment from our recent experience, we are able to declare ourselves now as independent in our financial relations as in '76 we were to declare ourselves to be independent of the sovereign authority of Great Britain.

We were reasonably free and theoretically independent, but not actually independent nor actually free until the war of the rebellion. We had the forms of a sovereignty and the appearance of a government, but whether we were or not had never been tested until the question came whether we could govern ourselves. No people can be considered competent until the test has been had by a real trial. Our trial came; it was formidable and fearful; but in the end, by a million of bayonets and the sacrifice of hundreds of thousands of lives, we demonstrated that the people of the United States were sovereign—were able to govern themselves and maintain their integrity as a nation. The verdict of the world was rendered in our favor without further argument. And since that date we have a right to claim that we are a sovereign people, with the power of governing ourselves and defending ourselves against all assaults. Formerly the faith and power of the Government was a theory; now it is a demonstrated fact. In the act of issuing greenbacks as currency the very highest exercise of the sovereign power was exhibited with entire and complete success, so that no man from that day to this has ever questioned its value or doubts it now. We shall cut loose from a metallic basis, and the American system is to modify all other systems of finance.

The past, at least, of the republican party is secure; but it is a party of progress; and let it beware of the blandishments of the buxom banking Vivian, golden-gifted, profuse of amours, else, ere long, in the cold splendor of marble walls of banking institutions, from which is no escape forevermore, it will lie "lost to life, and use, and name, and fame." Rather, disinthralled, let it close up its ranks with the party of the future, and still, as of old, keeping step to the music of the Union, amid the appreciative applause of the nation, move solidly together to assured victory with the cry, and under the banner bearing the inscription, ONE COUNTRY, ONE CONSTITUTION, ONE CURRENCY.

Mr. CAIN obtained the floor.

Mr. KELLEY. I would like to put a question to the gentleman from New York, [Mr. MELLISH.]

Mr. MELLISH. I do not know whether I have time to answer the question.

Mr. KELLEY. If the gentleman from South Carolina [Mr. CAIN] will yield for a moment, I wish to ask the gentleman from New York a question. Did I apprehend him correctly in understanding him to state that the gold dollar is a standard of value?

Mr. MELLISH. As provided by the bill I have been considering?

Mr. KELLEY. No, sir. I understood you in general argument to assert that gold coin is the standard of value.

Mr. MELLISH. I understand that gold is the world's standard of value.

Mr. KELLEY. Is it not rather the measure of a standard?

Mr. MELLISH. I think that in practice it is the standard.

Mr. KELLEY. Is it?

Mr. MELLISH. In practice it is, and is so considered the world over.

Mr. KELLEY. Well, sir, is it the standard for regulating the value of a barrel of flour, as well when flour is but four dollars a barrel as when it is ten?

Mr. MELLISH. Certainly.

Mr. KELLEY. How can it be said to regulate the value of flour when it takes sometimes but four dollars, and sometimes ten, to pay for one hundred and ninety-six pounds of the same article put up in a common barrel.

Mr. MELLISH. Sometimes flour is worth more than at other times, and therefore brings a higher price.

Mr. KELLEY. May it not then be said with equal reason that gold is sometimes worth less than at other times? Are not both gold and flour commodities?

Mr. MELLISH. No, sir. Gold is the world's standard of value. Flour is at one time worth more than at another.

Mr. KELLEY. Is it not rather a measure of values, in local markets, than a standard of values?

Mr. MELLISH. I think it is the world's standard of value. I do not see how you can look at it in any other light.

Mr. KELLEY. That is a queer standard which sometimes measures two and a half times as much as at others.

Mr. MELLISH. It is the flour, not the gold, that changes, though, in a certain sense, everything is subject to change.

Mr. HUBBELL. Does not the question of supply and demand affect the value?

Mr. KELLEY. And has not the question of supply and demand also something to do with the value of gold? Is its purchasing power never affected by this law?

Mr. HUBBELL. Certainly.

Mr. KELLEY. Then how is it that that which is constantly changing its own value is a standard for the measure of the value of other articles?

Mr. SMITH, of Ohio. I wish to ask the gentleman from Pennsylvania what is the difference between the meaning of the word "measure" and the word "standard?" It takes sometimes more money to buy a barrel of flour than it does at others. How can that be a measure any more than it is a standard of value, as the gentleman asserts?

Mr. KELLEY. I have not asserted anything. I am an inquirer, in pursuit of information.

Mr. SMITH, of Ohio. So am I in pursuit of information. I wish to ask the gentleman how it is that the word "measure" differs in meaning from the word "standard?"

Mr. KELLEY. I do not like to take up more of the time of the gentleman from South Carolina, [Mr. CAIN;] but if he will allow me, I will say that the real measure of value is the money of account of each nation. There is no "currency of the world." The phrase is a delusion. If you will go to London with your trunk full of twenty-dollar gold pieces and undertake to spend one of them in a shop, you will find that you will have to go through the broker's shaving-shop, though it be dignified by the name of bank, in order to get the currency of England, just as we used to, when we had State bank-notes, and went beyond the limits of the State in which they were issued. You will then find that your "currency of the world" is United States currency, and that England does not recognize it, and that you will have to stand a shave to get it converted into sovereigns.

Then, if you cross the channel and go to France—having converted your United States gold currency into English gold currency—you will have to get it converted into French currency, or gold coins the unit of which is the franc, say into louis; and, with each change, you will be shaved by a broker—albeit it be called the Bank of England or the Bank of France—as you used to do when we had the old-fashioned State-bank notes.

But further, when you shall be about to start from France with your currency of the world reduced by having paid for two changes, and which has borne three forms and the stamp of three nationalities, you must determine how you will change it next. If you are going south to the Peninsula, you will want to get Spanish or Portuguese coinage. If you are going into Germany you will want quite another currency, to wit, the currency of Germany, which may be gold or silver. Leaving Germany with your "currency of the world" thus frequently changed through broker-shops, if you are too far northward, you will have to get another set of coins, to wit, the gold currency of Sweden. The truth is that gold coin outside of the country whose sovereign right to institute money they represent are but merchandise. There is no other currency of the world than commodities. The making of money pertains to the sovereignty of each nation.

Sir, the measure of value is, as I have said, found in the money of account known to nations respectively. It is dollars in the United States, pounds, shillings, and pence in England, francs in France, and I am not sufficiently acquainted with the subject to tell you what it is in Spain or Sweden, in Russia, Germany, Italy, Denmark, and other countries.

But if you recross the ocean with your "currency of the world" as coined in the last country you visited and go into South or Central America you must again submit to as many shaves there in getting your gold changed as you shall pass from one nationality to another; I reiterate the figure I used, and say just as you did with the old State-bank notes.

Now, sir, the standard of value is the money of account. The currency of the world is woven and spun at Manchester and Dundee, or forged at Birmingham, so far as England requires it to settle adverse international balances. The "currency of the world" that settles American balances in foreign lands is grown on our cotton and tobacco fields, is pumped out of our petroleum-wells, is found in the wheat-fields of the Northwest and the mines of the Rocky Mountains and Pacific slope. With that currency we settle international balances according to the standard of value in each country, which is the money of account as found on the books of merchants and quoted in mercantile journals within its limits.

Mr. SMITH, of Ohio. Another question.

Mr. KELLEY. Before I hear the question, I desire to say that I

cannot now consent to consume more of the time of the gentleman from South Carolina, [Mr. CAIN,] but will on next Saturday meet the gentleman here, and submit to be catechised by him all day.

CIVIL RIGHTS.

Mr. CAIN. Mr. Speaker, I feel called upon more particularly by the remarks of the gentleman from North Carolina [Mr. VANCE] on civil rights to express my views. For a number of days this question has been discussed, and various have been the opinions expressed as to whether or not the pending bill should be passed in its present form or whether it should be modified to meet the objections entertained by a number of gentlemen whose duty it will be to give their votes for or against its passage. It has been assumed that to pass this bill in its present form Congress would manifest a tendency to override the Constitution of the country and violate the rights of the States.

Whether it be true or false is yet to be seen. I take it, so far as the constitutional question is concerned, if the colored people under the law, under the amendments to the Constitution, have become invested with all the rights of citizenship, then they carry with them all rights and immunities accruing to and belonging to a citizen of the United States. If four, or nearly five, million people have been lifted from the thralldom of slavery and made free; if the Government by its amendments to the Constitution has guaranteed to them all rights and immunities, as to other citizens, they must necessarily therefore carry along with them all the privileges enjoyed by all other citizens of the Republic.

Sir, the gentleman from North Carolina [Mr. VANCE] who spoke on the question stated some objections, to which I desire to address a few words of reply. He said it would enforce social rights, and therefore would be detrimental to the interests of both the whites and the blacks of the country. My conception of the effect of this bill, if it be passed into a law, will be simply to place the colored men of this country upon the same footing with every other citizen under the law, and will not at all enforce social relationship with any other class of persons in the country whatsoever. It is merely a matter of law. What we desire is that our civil rights shall be guaranteed by law as they are guaranteed to every other class of persons; and when that is done all other things will come in as a necessary sequence, the enforcement of the rights following the enactment of the law.

Sir, social equality is a right which every man, every woman, and every class of persons have within their own control. They have a right to form their own acquaintances, to establish their own social relationships. Its establishment and regulation is not within the province of legislation. No laws enacted by legislators can compel social equality. Now, what is it we desire? What we desire is this: inasmuch as we have been raised to the dignity, to the honor, to the position of our manhood, we ask that the laws of this country should guarantee all the rights and immunities belonging to that proud position, to be enforced all over this broad land.

Sir, the gentleman states that in the State of North Carolina the colored people enjoy all their rights as far as the highways are concerned; that in the hotels, and in the railroad cars, and in the various public places of resort, they have all the rights and all the immunities accorded to any other class of citizens of the United States. Now, it may not have come under his observation, but it has under mine, that such really is not the case; and the reason why I know and feel it more than he does is because my face is painted black and his is painted white. We who have the color—I may say the objectionable color—know and feel all this. A few days ago, in passing from South Carolina to this city, I entered a place of public resort where hungry men are fed, but I did not dare—I could not without trouble—sit down to the table. I could not sit down at Wilmington or at Weldon without entering into a contest, which I did not desire to do. My colleague, the gentleman who so eloquently spoke on this subject the other day, [Mr. ELLIOTT,] a few months ago entered a restaurant at Wilmington and sat down to be served, and while there a gentleman stepped up to him and said, "You cannot eat here." All the other gentlemen upon the railroad as passengers were eating there; he had only twenty minutes, and was compelled to leave the restaurant or have a fight for it. He showed fight, however, and got his dinner; but he has never been back there since. Coming here last week I felt we did not desire to draw revolvers and present the bold front of warriors, and therefore we ordered our dinners to be brought into the cars, but even there we found the existence of this feeling; for, although we had paid a dollar apiece for our meals, to be brought by the servants into the cars, still there was objection on the part of the railroad people to our eating our meals in the cars, because they said we were putting on airs. They refused us in the restaurant, and then did not desire that we should eat our meals in the cars, although we paid for them. Yet this was in the noble State of North Carolina.

Mr. Speaker, the colored men of the South do not want the adoption of any force measure. No; they do not want anything by force. All they ask is that you will give them, by statutory enactment under the fundamental law, the right to enjoy precisely the same privileges accorded to every other class of citizens.

The gentleman, moreover, has told us that if we pass this civil-rights bill we will thereby rob the colored men of the South of the friendship of the whites. Now, I am at a loss to see how the friendship of our white friends can be lost to us by simply saying we should be permitted to enjoy the rights enjoyed by other citizens. I have a higher opinion of the friendship of the southern men than to suppose any such thing. I know them too well. I know their friendship will not be lost by the passage of this bill. For eight years I have been in South Carolina, and I have found this to be the fact, that the higher class, comprising gentlemen of learning and refinement, are less opposed to this measure than are those who do not occupy so high a position in the social scale.

Sir, I think that there will be no difficulty. But I do think this, that there will be more trouble if we do not have those rights. I regard it important, therefore, that we should make the law so strong that no man can infringe those rights.

But, says the gentleman from North Carolina, some ambitious colored man will, when this law is passed, enter a hotel or railroad car, and thus create disturbance. If it be his right, then there is no vaulting ambition in his enjoying that right. And if he can pay for his seat in a first-class car or his room in a hotel, I see no objection to his enjoying it. But the gentleman says more. He cited, on the school question, the evidence of South Carolina, and says the South Carolina University has been destroyed by virtue of bringing into contact the white students with the colored. I think not. It is true that a small number of students left the institution, but the institution still remains. The buildings are there as erect as ever; the faculty are there as attentive to their duties as ever they were; the students are coming in as they did before. It is true, sir, that there is a mixture of students now; that there are colored and white students of law and medicine sitting side by side; it is true, sir, that the prejudice of some of the professors was so strong that it drove them out of the institution; but the philanthropy and good sense of others were such that they remained; and thus we have still the institution going on, and because some students have left, it cannot be reasonably argued that the usefulness of the institution has been destroyed. The University of South Carolina has not been destroyed.

But the gentleman says more. The colored man cannot stand, he says, where this antagonism exists, and he deprecates the idea of antagonizing the races. The gentleman says there is no antagonism on his part. I think there is no antagonism so far as the country is concerned. So far as my observation extends, it goes to prove this: that there is a general acceptance upon the part of the larger and better class of the whites of the South of the situation, and that they regard the education and the development of the colored people as essential to their welfare, and the peace, happiness, and prosperity of the whole country. Many of them, including the best minds of the South, are earnestly engaged in seeking to make this great system of education permanent in all the States. I do not believe, therefore, that it is possible there can be such an antagonism. Why, sir, in Massachusetts there is no such antagonism. There the colored and the white children go to school side by side. In Rhode Island there is not that antagonism. There they are educated side by side in the high schools. In New York, in the highest schools, are to be found, of late, colored men and colored women. Even old democratic New York does not refuse to give the colored people their rights, and there is no antagonism. A few days ago, when in New York, I made it my business to find out what was the position of matters there in this respect. I ascertained that there are, I think, seven colored ladies in the highest school in New York, and I believe they stand No. 1 in their class, side by side with members of the best and most refined families of the citizens of New York, and without any objection to their presence.

I cannot understand how it is that our southern friends, or a certain class of them, always bring back this old ghost of prejudice and of antagonism. There was a time, not very far distant in the past, when this antagonism was not recognized, when a feeling of fraternization between the white and the colored races existed, that made them kindred to each other. But since our emancipation, since liberty has come, and only since—only since we have stood up clothed in our manhood, only since we have proceeded to take hold and help advance the civilization of this nation—it is only since then that this bugbear is brought up against us again. Sir, the progress of the age demands that the colored man of this country shall be lifted by law into the enjoyment of every right, and that every appliance which is accorded to the German, to the Irishman, to the Englishman, and every foreigner, shall be given to him; and I shall give some reasons why I demand this in the name of justice.

For two hundred years the colored men of this nation have assisted in building up its commercial interests. There are in this country nearly five millions of us, and for a space of two hundred and forty-seven years we have been hewers of wood and drawers of water; but we have been with you in promoting all the interests of the country. My distinguished colleague, who defended the civil rights of our race the other day on this floor, set this forth so clearly that I need not dwell upon it at this time.

I propose to state just this: that we have been identified with the interests of this country from its very foundation. The cotton crop of this country has been raised and its rice-fields have been tilled by the hands of our race. All along as the march of progress, as the march of commerce, as the development of your resources has been widening and expanding and spreading, as your vessels have gone on every sea, with the stars and stripes waving over them, and carried your commerce everywhere, there the black man's labor has gone to enrich your country and to augment the grandeur of your nationality. This was done in the time of slavery. And if, for the space of

time I have noted, we have been hewers of wood and drawers of water; if we have made your cotton-fields blossom as the rose; if we have made your rice-fields wave with luxuriant harvests; if we have made your corn-fields rejoice; if we have sweated and toiled to build up the prosperity of the whole country by the productions of our labor, I submit, now that the war has made a change, now that we are free—I submit to the nation whether it is not fair and right that we should come in and enjoy to the fullest extent our freedom and liberty.

A word now as to the question of education. Sir, I know that, indeed, some of our republican friends are even a little weak on the school clause of this bill; but, sir, the education of the race, the education of the nation, is paramount to all other considerations. I regard it important, therefore, that the colored people should take place in the educational march of this nation, and I would suggest that there should be no discrimination. It is against discrimination in this particular that we complain.

Sir, if you look over the reports of superintendents of schools in the several States, you will find, I think, evidences sufficient to warrant Congress in passing the civil-rights bill as it now stands. The report of the commissioner of education of California shows that, under the operation of law and of prejudice, the colored children of that State are practically excluded from schooling. Here is a case where a large class of children are growing up in our midst in a state of ignorance and semi-barbarism. Take the report of the superintendent of education of Indiana, and you will find that while efforts have been made in some places to educate the colored children, yet the prejudice is so great that it debars the colored children from enjoying all the rights which they ought to enjoy under the law. In Illinois, too, the superintendent of education makes this statement: that, while the law guarantees education to every child, yet such are the operations among the school trustees that they almost ignore, in some places, the education of colored children.

All we ask is that you, the legislators of the nation, shall pass a law so strong and so powerful that no one shall be able to elude it and destroy our rights under the Constitution and laws of our country. That is all we ask.

But, Mr. Speaker, the gentleman from North Carolina [Mr. VANCE] asks that the colored man shall place himself in an attitude to receive his rights. I ask, what attitude can we assume? We have tilled your soil, and during the rude shock of war, until our hour came, we were docile during that long, dark night, waiting patiently the coming day. In the Southern States during that war our men and women stood behind their masters; they tilled the soil, and there were no insurrections in all the broad lands of the South; the wives and daughters of the slaveholders were as sacred then as they were before; and the history of the war does not record a single event, a single instance, in which the colored people were unfaithful, even in slavery; nor does the history of the war record the fact that on the other side, on the side of the Union, there were any colored men who were not willing at all times to give their lives for their country. Sir, upon both sides we waited patiently. I was a student at Wilberforce University, in Ohio, when the tocsin of war was sounded, when Fort Sumter was fired upon, and I never shall forget the thrill that ran through my soul when I thought of the coming consequences of that shot. There were one hundred and fifteen of us, students at that university, who, anxious to vindicate the stars and stripes, made up a company, and offered our services to the governor of Ohio; and, sir, we were told that this was a white man's war and that the negro had nothing to do with it. Sir, we returned—docile, patient, waiting, casting our eyes to the heavens whence help always comes. We knew that there would come a period in the history of this nation when our strong black arms would be needed. We waited patiently; we waited until Massachusetts, through her noble governor, sounded the alarm, and we hastened then to hear the summons and obey it.

Sir, as I before remarked, we were peaceful on both sides. When the call was made on the side of the Union we were ready; when the call was made for us to obey orders on the other side, in the confederacy, we humbly performed our tasks, and waited patiently. But, sir, the time came when we were called for; and, I ask, who can say that when that call was made, the colored men did not respond as readily and as rapidly as did any other class of your citizens? Sir, I need not speak of the history of this bloody war. It will carry down to coming generations the valor of our soldiers on the battle-field. Fort Wagner will stand forever as a monument of that valor, and until Vicksburgh shall be wiped from the galaxy of battles in the great contest for human liberty that valor will be recognized.

And for what, Mr. Speaker and gentlemen, was the great war made? The gentleman from North Carolina [Mr. VANCE] announced before he sat down, in answer to an interrogatory by a gentleman on this side of the House, that they went into the war conscientiously before God. So be it. Then we simply come and plead conscientiously before God that these are our rights, and we want them. We plead conscientiously before God, believing that these are our rights by inheritance, and by the inexorable decree of Almighty God.

We believe in the Declaration of Independence, that all men are born free and equal, and are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness. And we further believe that to secure those rights governments are instituted. And we further believe that when governments cease to subserve those ends the people should change them.

I have been astonished at the course which gentlemen on the other side have taken in discussing this bill. They plant themselves right behind the Constitution, and declare that the rights of the State ought not to be invaded. Now, if you will take the history of the war of the rebellion, as published by the Clerk of this House, you will see that in 1860 the whole country, each side, was earnest in seeking to make such amendments to the Constitution as would forever secure slavery and keep the Union together under the circumstances. The resolutions passed, and the sentiments expressed in speeches at that time, if examined by gentlemen, will be found to bear out all that I have indicated. It was felt in 1860 that anything that would keep the "wayward sisters" from going astray was desirable. They were then ready and willing to make any amendments.

And now, when the civil rights of our race are hanging upon the issue, they on the other side are not willing to concede to us such amendments as will guarantee them; indeed, they seek to impair the force of existing amendments to the Constitution of the United States, which would carry out the purpose.

I think it is proper and just that the civil-rights bill should be passed. Some think it would be better to modify it, to strike out the school clause, or to so modify it that some of the State constitutions should not be infringed. I regard it essential to us and the people of this country that we should be secured in this if in nothing else. I cannot regard that our rights will be secured until the jury-box and the school-room, those great palladiums of our liberty, shall have been opened to us. Then we will be willing to take our chances with other men.

We do not want any discriminations to be made. If discriminations are made in regard to schools, then there will be accomplished just what we are fighting against. If you say that the schools in the State of Georgia, for instance, shall be allowed to discriminate against colored people, then you will have discriminations made against us. We do not want any discriminations. I do not ask any legislation for the colored people of this country that is not applied to the white people. All that we ask is equal laws, equal legislation, and equal rights throughout the length and breadth of this land.

The gentleman from North Carolina [Mr. VANCE] also says that the colored men should not come here begging at the doors of Congress for their rights. I agree with him. I want to say that we do not come here begging for our rights. We come here clothed in the garb of American citizenship. We come demanding our rights in the name of justice. We come, with no arrogance on our part, asking that this great nation, which laid the foundations of civilization and progress more deeply and more securely than any other nation on the face of the earth, guarantee us protection from outrage. We come here, five millions of people—more than composed this whole nation when it had its great tea-party in Boston Harbor, and demanded its rights at the point of the bayonet—asking that unjust discriminations against us be forbidden. We come here in the name of justice, equity, and law, in the name of our children, in the name of our country, petitioning for our rights.

Our rights will yet be accorded to us, I believe, from the feeling that has been exhibited on this floor of the growing sentiment of the country. Rapid as the weaver's shuttle, swift as the lightning's flash, such progress is being made that our rights will be accorded to us ere long. I believe the nation is perfectly willing to accord this measure of justice, if only those who represent the people here would say the word. Let it be proclaimed that henceforth all the children of this land shall be free; that the stars and stripes, waving over all, shall secure to every one equal rights, and the nation will say "amen."

Let the civil-rights bill be passed this day, and five million black men, women, and children, all over the land, will begin a new song of rejoicing, and the thirty-five millions of noble-hearted Anglo-Saxons will join in the shout of joy. Thus will the great mission be fulfilled of giving to all the people equal rights.

Inasmuch as we have toiled with you in building up this nation; inasmuch as we have suffered side by side with you in the war; inasmuch as we have together passed through affliction and pestilence, let there be now a fulfillment of the sublime thought of our fathers—let all men enjoy equal liberty and equal rights.

In this hour, when you are about to put the cap-stone on the mighty structure of government, I ask you to grant us this measure, because it is right. Grant this, and we shall go home with our hearts filled with gladness. I want to "shake hands over the bloody chasm." The gentleman from North Carolina has said he desires to have forever buried the memory of the recent war. I agree with him. Representing a South Carolina constituency, I desire to bury forever the tomahawk. I have voted in this House with a free heart to declare universal amnesty. Inasmuch as general amnesty has been proclaimed, I would hardly have expected there would be any objection on this floor to the civil-rights bill, giving to all men the equal rights of citizens. There should be no more contest. Amnesty and civil rights should go together. Gentlemen on the other side will admit that we have been faithful; and now, when we propose to bury the hatchet, let us shake hands upon this measure of justice; and if heretofore we have been enemies, let us be friends now and forever.

Our wives and our children have high hopes and aspirations; their longings for manhood and womanhood are equal to those of any other race. The same sentiment of patriotism and of gratitude, the same spirit of national pride that animates the hearts of other citizens,

animates theirs. In the name of the dead soldiers of our race, whose bodies lie at Petersburgh and on other battle-fields of the South; in the name of the widows and orphans they have left behind; in the name of the widows of the confederate soldiers who fell upon the same fields, I conjure you let this righteous act be done. I appeal to you in the name of God and humanity to give us our rights, for we ask nothing more. [Lond applause.]

[Mr. CROSSLAND addressed the House. His remarks will appear in the Appendix.]

Mr. MELLISH. Mr. Speaker, grave apprehensions seem to be entertained by gentlemen on the other side of the House from the passage of a bill guaranteeing equal civil rights to all American citizens. They appear to think that it will undermine the foundations necessary for the support of the social system. I do not share in these apprehensions. I know that where prejudice, passion, and fear are excited that arguments and appeals to reason have little effect. Besides, the subject has been already ably and eloquently presented. I will therefore merely refer to a fact that came within my own observation where the granting of equal rights in public conveyances that are often overcrowded was quietly brought about—indeed, so far as I am aware, without any protest—and this in a great city where prejudice against color was perhaps as intense as in any part of the world, and was kept constantly excited by appeals of democratic stump-speakers and by the democratic press, and which feeling, thus encouraged and stimulated, finally culminated in the most disgraceful riot known to history.

It is well known that for many years, while some of the lines of street-cars in the city of New York did not allow any colored passengers to ride in their cars, other lines placed upon their routes cars conspicuously labeled with these words: "Colored people allowed in this car." A person of color was not allowed to ride upon any other car; and thereby much inconvenience was occasioned to our colored fellow-citizens, to say nothing of the degradation implied by the practice. On one occasion the wife of an officer—and her husband was at the time fighting in the Union Army—got into an empty car near the Astor House to proceed up town. The conductor of the car, by perhaps a somewhat close scrutiny—for I observed at the trial that the lady had nearly straight hair and might easily have passed for simply a native of the tropics—discovered that she was partly of the African race. Thereupon, in accordance with the rules of the company, he ordered her out of the car. The lady declined to go. Then the conductor called a policeman, who, on hearing a statement of the case, ejected her from the car. The lady made a complaint against the patrolman which was heard before the commissioners of the metropolitan police department. It was not claimed that any unnecessary violence was used on the part of the policeman, or that he was guilty, in the technical sense of the phrase, of conduct unbecoming an officer, the whole matter turning on the question whether the officer had any right to eject the lady at all. After hearing the evidence the Hon. Thomas C. Acton, then president of the board of police—and who, of all men I ever knew, detests a mean act and will go as far as the farthest to secure equal and exact justice to the oppressed—told the officer in substance, that, if he ever saw a conductor attempting to put out a passenger from a street-car on account of color, or was called upon by a conductor to eject a passenger on that account, to immediately arrest such conductor and take him to the station-house, and see to it that the rights of the citizen were protected. The policeman was fined ten days' pay for the offense.

What was the consequence?

Why, as soon as the change could possibly be made, the managers of the street railroads of the city of New York caused to be erased from over their car-windows the inscription, "Colored people allowed in this car." And from that day to this colored citizens have rode indiscriminately and without molestation in all the street-cars of that city.

I venture to predict that the operation of this statute will be only beneficial—that it will produce none of the terrible results that have been conjured up by the affrighted imaginations of the opposition.

Mr. Speaker, the bill before the House is treated as a party question by the opposition. I, for one, am quite willing that the issue shall be thus made. What is this bill? It simply proposes to get the civil rights of black and white citizens settled on a basis of equality. I need not attempt to describe what the nation has done and suffered for the abolition of slavery and the establishing of equal rights of all American citizens, without regard to race or color. The struggle from beginning to end was the struggle between two parties, the republican and the democratic. The same spirit is here and now manifested. The civil-rights bill was filibustered against by the opposition with a pertinacity worthy of a better cause in the last Congress. As an indication of the spirit that still animates that party, I read from the RECORD the report of a scene enacted on this floor day before yesterday:

Mr. HARRIS, of Virginia. I know the objection that will occur to the mind of every gentleman on the other side of the House, and of every one here who differs from me on this question. They will say that it is prejudice—unjust prejudice. Admit that it is prejudice; yet the fact exists, and you, as members of Congress and legislators are bound to respect that prejudice. It was born in the children of the South—born in our ancestors, and born in your ancestors in Massachusetts—that the colored man was inferior to the white.

Mr. RANSIER. I deny that.

Mr. HARRIS, of Virginia. I do not allow you to interrupt me. Sit down; I am talking to white men; I am talking to gentlemen.

I shall watch the yeas and nays on this question, not with solicitude—for that it will pass by a large majority would seem scarcely to admit of doubt—but to see whether the division on the vote may not represent the division of parties. This is a proper sequel to the struggle of the democratic party in behalf of slavery.

And now, in the few brief moments I have at command, I shall confine myself to that feature of the question which has been made so prominent by the opposition. I refer to its aspect as a party question. We know that men are apt to be guided in their action by their gratitude or their apprehension, and their apprehension is sometimes the safer guide of the two. By the course of the debate here the question is pressed upon the colored man, to what party shall he lend the aid of his vote and influence? Let him ask himself the questions, What party maintained African slavery in the United States for one hundred years? What party in the United States sought to extend slavery into the entire Union? What party succeeded in their efforts in that direction to exact from the highest tribunal in the land a formal judicial decision that the colored man had no rights that a white man was bound to respect? What party, failing in the arts of politics to succeed in their efforts for the extension of slavery, resorted to the issues of war—that marshaled armies, and fought battles, and sacrificed human life, and destroyed property, created widows and orphans and brought upon the nation such woes as no enlightened people ever before suffered—for the single but infamous object of extending and perpetuating the slavery of the colored race? What party established the black laws of the slave States, by which marriage was made a nullity, the domestic relations a farce, by which the mother was deprived of her rights of maternity and robbed of an opportunity of exercising natural affection toward her offspring; that separated husband and wife and sold both and all like cattle in the market; that contemned the laws of modesty and virtue between the sexes, and made a traffic of female charms for the rewards of money? What party, in violation of the articles of war, assassinated and burnt and murdered the surrendered prisoners of Fort Pillow? Coming nearer my own home, in the city of New York, what party hung the colored man to the lamp-post, burned him over with kerosene, nailed to his breast-bone derisive placards, drove him from the streets into the protection of the police, and denied him in all forms the right to live which was at the same time accorded to the brute creation? If they know such a party, they will recognize in it the great enemy of their race; and they will not need to be advised not to give it their countenance and support.

On the other hand, if they know a party whose doctrines and whose measures have been uniformly for five and twenty years hostile to slavery and friendly to emancipation, if they know a party which during the fearful war of the rebellion, supported the Government, gave of their means, risked and sacrificed their lives in the field of battle by thousands and hundreds of thousands, and finally triumphed in the war which achieved the emancipation of their race, following political action by constitutional enactments intended and calculated to secure that freedom and equality forever; if they know such a party, whose great leader now was their great leader then, whose sword cut the rivet of their shackles, whose cannon blew away those shackles utterly and forever, they will not need to be advised to what party to accord their influence and their votes.

CHEAP TRANSPORTATION.

Mr. LOUGHRIDGE obtained leave to have printed in the CONGRESSIONAL RECORD remarks on cheap transportation.

And then, on motion of Mr. PARKER, of Missouri, (at four o'clock and twenty minutes p. m.,) the House adjourned.

PETITIONS.

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

By Mr. MYERS: The petition of Margaret Young, widow of John Young, late of the United States Marine Corps, for commutation money which was due her said husband under the artificial-limb act.

By Mr. WALDRON: The petition of G. F. Spence and others, of Oakville, Michigan, asking that all mail matter be prepaid at office of mailing.

Also, the petition of L. B. Christie, and others, of Monroe County, Michigan, soldiers of the late war, for equalization of bounties.

By Mr. WILLARD, of Vermont: The petition of William H. H. Buck, of Middlesex, Vermont, praying for a pension.

IN SENATE.

MONDAY, *January* 12, 1874.

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

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

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter of the Attorney-General, communicating, in obedience to a resolution of the