IN SENATE.

THURSDAY, *January* 21, 1875.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

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

ARMAMENT FOR SEA-COAST DEFENSES.

The VICE-PRESIDENT laid before the Senate the following message from the President of the United States:

To the Senate and House of Representatives:

In my annual message of December 1, 1873, while inviting general attention to all the recommendations made by the Secretary of War, your special consideration was invited to the "importance of preparing for war in time of peace by providing proper armament for our sea-coast defenses. Proper armament is of vastly more importance than fortifications. The latter can be supplied very speedily for temporary purposes when needed; the former cannot."

These views gain increased strength and pertinence as the years roll by, and I have now again the honor to call special attention to the condition of the "armament of our fortifications" and the absolute necessity for immediate provision by Congress for the procurement of heavy cannon. The large expenditures required to supply the number of guns for our forts is the strongest argument that can be adduced for a liberal annual appropriation for their gradual accumulation. In time of war such preparations cannot be made, cannon cannot be purchased in open market, nor manufactured at short notice; they must be the product of years of experience and labor.

I herewith inclose copies of a report of the Chief of Ordnance and of a board of ordnance officers on the trial of an eight-inch rifle converted from a ten-inch smooth-bore, which shows very conclusively an economical means of utilizing these useless smooth-bores and making them into eight-inch rifles capable of piercing seven inches of iron. The twelve hundred and ninety-four ten-inch Rodman guns should in my opinion be so utilized, and the appropriation requested by the Chief of Ordnance of $250,000 to commence these conversions is urgently recommended.

While convinced of the economy and necessity of these conversions, the determination of the best and most economical method of providing guns of still larger caliber should no longer be delayed. The experience of other nations, based on the new conditions of defense brought prominently forward by the introduction of iron-clads into every navy afloat, demands heavier metal and rifle-guns of not less than twelve inches in caliber. These enormous masses, hurling a shot of seven hundred pounds, can alone meet many of the requirements of the national defenses. They must be provided, and experiments on a large scale can alone give the data necessary for the determination of the question. A suitable proving-ground, with all the facilities and conveniences referred to by the Chief of Ordnance, with a liberal annual appropriation, is an undoubted necessity. The guns now ready for trial cannot be experimented with without funds, and the estimate of $250,000 for the purpose is deemed reasonable and is strongly recommended.

The constant appeals for legislation on the "armament of fortifications" ought no longer to be disregarded, if Congress desires in peace to prepare the important material without which future wars must inevitably lead to disaster.

This subject is submitted with the hope that the consideration it deserves may be given it at the present session.

U. S. GRANT.

EXECUTIVE MANSION, *January* 20, 1875.

The message was referred to the Committee on Military Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. HAMLIN presented a memorial numerously signed by citizens of the District of Columbia, asking for an act of incorporation to promote the manufacture and sale of any and all kinds of agricultural, mechanical, and other useful implements and articles within the District of Columbia; which was referred to the committee on the District of Columbia.

Mr. CONKLING presented the petition of Alice E. De Groot, and Theodore R. B. De Groot, administrators of the estate of William H. De Groot, deceased, praying payment of certain losses and damages, and to have refunded to them the amount of William H. De Groot's expenditures (less the amount paid to him by the Government) incurred by him as the assignee of the contract for furnishing brick for the Washington Aqueduct; which was referred to the Committee on Claims.

Mr. DENNIS presented papers relating to money erroneously paid by John G. Taylor, collector of customs at Annapolis, Maryland, who asks the passage of the necessary measures by Congress to relieve him from liability; which were referred to the Committee on Claims.

Mr. HAGER. I present the memorial of R. H. Brotherton and about 300 others, asking that the homestead act be so amended as to enable all settlers upon the even-numbered sections inside of railroad reservations to enter one hundred and sixty acres of land, instead of eighty as now provided by law. They state that they memorialize in behalf of themselves, residents of California, and others. They state, and correctly, that the most of the better class of lands in that State have been taken up by private Spanish or Mexican grants, leaving vacant and unoccupied only an inferior class of lands suited better for grazing than for agricultural purposes unless at the very great expense of irrigation. They ask that the law be amended as applicable to that State, so as to allow eighty acres of land in addition to those who have already entered eighty acres, and that hereafter all be allowed to enter one hundred and sixty acres instead of eighty acres within the railroad belt. I move that the memorial be referred to the Committee on Public Lands.

The motion was agreed to.

Mr. PRATT. I present the petition of John W. Haney, late of Company H, Eleventh Wisconsin Volunteers, praying to be allowed a pension. Several citizens of the city of Indianapolis, where he now lives, headed by Governor Hendricks, join in the petition. I move its reference to the Committee on Pensions.

The motion was agreed to.

Mr. WRIGHT presented a petition of members of the bar of Council Bluffs, Iowa, asking that the district court of the district of Iowa shall have concurrent jurisdiction in all cases with the circuit court of that district; which was referred to the Committee on the Judiciary.

Mr. MERRIMON presented the petition of Thomas H. Coates, of Raleigh, North Carolina, praying for a reconsideration and allowance of his claim for property taken for the use of the Army of the United States; which was referred to the Committee on Claims.

Mr. ROBERTSON presented the petition of John S. Riggs, J. D. Aiken, Evan Edwards, George W. Williams & Co., and others, business men and firms of Charleston, South Carolina, praying the passage of the bill (H. R. No. 3656) incorporating the Eastern and Western Transportation Company; which was referred to the Committee on Railroads.

Mr. MORTON presented the petition of James Calhoun, late second lieutenant Company D, Third Regiment of Indiana Cavalry Volunteers, praying to be allowed a pension; which was referred to the Committee on Pensions.

He also presented the petition of Joseph A. Stilwell, praying that a pension be allowed James A. Benham; which was referred to the Committee on Pensions.

Mr. CAMERON presented the petition of Anna Lombaert, Susan Hathwell, and Mary A. Davis, legal heirs of Captain John Arndt, of the revolutionary war, praying that they may receive the pension with land warrant which was due the said Arndt; which was referred to the Committee on Revolutionary Claims.

REPORTS OF COMMITTEES.

Mr. PRATT, from the Committee on Pensions, to whom was referred the bill (H. R. No. 3681) granting a pension to William M. Drake, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1438) granting a pension to Emily Phillips, widow of Martin Phillips, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Rosa Ward, of Moretown, Vermont, praying to be granted a pension on account of services rendered by her son, Andrew Ward, late of the First Vermont Battery, submitted an adverse report thereon; which was ordered to be printed, and the committee was discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the petition of Ann Toliver, mother of David Toliver, late of the One hundred and nineteenth Regiment United States Colored Infantry, praying to be allowed a pension, submitted an adverse report thereon; which was ordered to be printed, and the committee was discharged from the further consideration of the petition.

He also, from the same committee, to whom was referred the bill (H. R. No. 3722) granting a pension to John Fink, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WRIGHT, from the Committee on Civil Service and Retrenchment, to whom was referred the bill (H. R. No. 1243) to abolish the system of mileage, reported adversely thereon; and the bill was postponed indefinitely.

Mr. OGLESBY, from the Committee on Pensions, to whom was referred the bill (H. R. No. 3189) granting a pension to Frederick Vogel, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (H. R. No. 1644) granting a pension to Hannah E. Currie, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. OGLESBY. The Committee on Pensions, to whom was referred the bill (H. R. No. 3020) granting a pension to George Pomeroy, have had the same under consideration, and it appearing from a note accompanying the papers that after the bill had passed the House the Pension Bureau granted to Captain Pomeroy a pension, it is not deemed necessary to further consider the bill. We therefore recommend that it be indefinitely postponed. I make that motion.

The motion was agreed to.

Mr. OGLESBY, from the Committee on Pensions, to whom was referred the bill (S. No. 938) for the relief of Thomas G. Kingsley, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. SCOTT. The Committee on Claims, to whom was referred the bill (H. R. No. 1565) relating to the commissioners of claims, and for other purposes, have instructed me to report back the same with amendments and recommend its passage. I desire to call the attention of the Senate to the fact that this bill extends the time within which petitions for the allowance of claims may be filed before the commissioners of claims, as that is a subject in which Senators have taken an interest, and in making the report to further state that I make it in obedience to the instructions of the majority of the committee, and I do not concur in the report.

Mr. WRIGHT. I desire to say also in this connection, although it is unusual to do so, that the report does not have my concurrence, and I do not wish by my silence to be construed as approving the bill.

Mr. CRAGIN, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1086) to regulate promotions in the staff of the Marine Corps, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the joint resolution (S. R. No. 7) authorizing the reappointment of Robert L. May, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

He also, from the same committee, to whom was referred the petition of Kate Louise Cushing, widow of the late Commander William B. Cushing, praying to be allowed a pension, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

He also, from the same committee, to whom was referred the petition of citizens of Philadelphia and New Jersey, praying that a landing may be granted to the Red Bank Ferry Company at the foot of Broad street, Philadelphia, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Mrs. M. J. Coston, praying for compensation for the use of the inventions of the late Benjamin Franklin Coston, particularly that known as "the cannon percussion primer," asked to be discharged from its further consideration; which was agreed to.

Mr. SPENCER, from the Committee on Commerce, to whom was referred the memorial of Duff Green, giving his views on finances, exchanges, &c., asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

He also, from the same committee, to whom were referred resolutions of the Chamber of Commerce of the State of New York in favor of the adoption of the monitor life-saving raft for the use of steamships carrying passengers, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the memorial of Alexander Henderson, late consul at Londonderry, Ireland, asking payment of balance claimed to be due him for services as such consul, asked to be discharged from its further consideration; which was agreed to.

Mr. BOUTWELL, from the Committee on Commerce, to whom was referred the bill (S. No. 1053) to amend chapter 7 of title 33 of the Revised Statutes, reported adversely thereon, and moved its indefinite postponement; which was agreed to.

Mr. HAMLIN. I am directed by the Committee on Civil Service and Retrenchment, to whom was referred the bill (S. No. 980) fixing the salary of the President of the United States, to report adversely and recommend its indefinite postponement. I am also instructed by the committee to request that it go on the Calendar.

The VICE-PRESIDENT. The bill will be placed on the Calendar.

BILLS INTRODUCED.

Mr. HAMLIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1173) to incorporate the Stockbridge Agricultural, Manufacturing, and Commercial Company of the District of Columbia; which was read twice by its title, and, with the accompanying papers, referred to the Committee on the District of Columbia.

Mr. FERRY, of Michigan, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1174) for the relief of C. C. Barker and W. W. Williams; which was read twice by its title, and referred to the Committee on Commerce.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1175) extending the provisions of an act approved June 4, 1872, entitled "An act granting a pension to A. Schuyler Sutton;" which was read twice by its title.

Mr. ALLISON. I introduce this bill by request. I know nothing of its merits. I move that it be printed and referred to the Committee on Pensions.

The motion was agreed to.

Mr. ROBERTSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1176) permitting Lieutenant-Commander Frederick Pearson, of the Navy, to accept a decoration from the Queen of Great Britain; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. DENNIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1177) to incorporate the Washington City and Suitland Railroad Company; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. MORRILL, of Maine, asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1178) for the relief of certain creditors of the District of Columbia; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

SARAH S. COOPER.

Mr. INGALLS. The Committee on Pensions have instructed me to move a reconsideration of the vote by which the bill (H. R. No. 3713) granting a pension to Sarah S. Cooper was indefinitely postponed, and to ask that the bill, with the accompanying papers, may be recommitted to that committee for further action.

The motion was agreed to; and the bill was recommitted to the Committee on Pensions.

CLAIMS AGAINST THE UNITED STATES.

Mr. WRIGHT. On the 19th of May last I had the honor to introduce the joint resolution (S. R. No. 9) proposing an amendment to the Constitution of the United States. The joint resolution was laid upon the table. I move that it be taken from the table and referred to the Committee on Privileges and Elections.

The motion was agreed to; and the joint resolution was referred to the Committee on Privileges and Elections.

WITHDRAWAL OF PAPERS.

Mr. GOLDTHWAITE. I ask for an order that the papers in the case of Daniel J. Brown may be taken from the files and referred to the Committee on Claims.

Mr. SCOTT. I would inquire of the Senator from Alabama whether there has been an adverse report in that case?

Mr. GOLDTHWAITE. There have been two. It has been before the committee in the House, who reported favorably, and then there have been two or perhaps three unfavorable reports from the committee of the Senate.

Mr. SCOTT. The unfavorable reports have been subsequent to the favorable report?

Mr. GOLDTHWAITE. Yes, sir.

Mr. SCOTT. I must object then to these papers being withdrawn and recommitted to the committee.

The VICE-PRESIDENT. The Senator from Pennsylvania objects, and the order cannot be made.

IMPROVEMENT OF THE MOUTH OF THE MISSISSIPPI.

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

Resolved, That the Secretary of War be directed to furnish the Senate a detailed statement of amounts appropriated since 1870 for the improvement of the mouth of the Mississippi River, Fort Jackson and Fort Saint Philip, giving the name, amount paid each person, and date of payment, and for what.

CALL OF COMMITTEES.

The VICE-PRESIDENT. There being no further morning business, the Chair will call upon the Committee on Manufactures.

Mr. ROBERTSON. We have no business to present this morning.

The VICE-PRESIDENT. The Committee on Agriculture—[a pause.] The Committee on Military Affairs.

RETIREMENT OF ARMY OFFICERS.

Mr. LOGAN. I move that the bill for the relief of General Samuel W. Crawford be taken up.

The motion was agreed to; and the bill (H. R. No. 2093) for the relief of General Samuel W. Crawford, of the United States Army, was considered as in Committee of the Whole. It provides that the retirement as a colonel, on February 19, 1873, for disability on account of a wound received in battle, of Brevet Major-General S. W. Crawford, United States Army, be so amended that he shall be retired and be borne on the retired list of the Army as a major-general as of and from that date, he having been in the exercise of the command of a major-general at the time he was wounded, being then in command of the First Division of the Twelfth Army Corps.

The Committee on Military Affairs propose to amend the bill by striking out, commencing in line 8, the following words:

Major-general as of and from the said date, he having been in the exercise of the command of a major-general at the time he was wounded, being then in command of the First Division of the Twelfth Army Corps.

And in lieu thereof to insert:

Brigadier-general, he having held the rank of brigadier-general at the time he was wounded: *Provided*, That his retired pay as brigadier-general shall commence from the passage of this act.

SEC. 2. That all officers of the Army who have been heretofore retired by reason of disability arising from wounds received in action shall be considered as retired upon the actual rank held by them, whether in the regular or volunteer service at the time when such wound was received, and shall be borne on the retired list and receive pay hereafter accordingly; and this section shall be taken and construed to include those now borne on the retired list placed upon it on account of wounds received in action.

Mr. LOGAN. I desire to offer this additional amendment to be added to the second section:

Provided, That no part of the foregoing act shall apply to those officers who had been in service as commissioned officers twenty-five years at the date of their retirement, nor to those retired officers who had lost an arm or leg or both eyes by reason of wounds received in battle; and that all acts or parts of acts inconsistent herewith be, and are hereby, repealed.

I will state to the Senate that under an act of Congress which was passed in 1866 it was provided—

Officers of the regular Army entitled to be retired on account of disability occasioned by wounds received in battle may be retired upon the full rank of command held by them, whether in the regular or volunteer service, at the time such wounds were received.

It is very evident that this statute was passed to apply to particular persons. Persons in the regular Army might be retired, not on their own rank, but on the command they held at the time of receiving the wound. To illustrate, a colonel, for instance, might by accident be in command of a brigade. Although the brigade may not have been commanded by a brigadier-general, it is considered the command of a brigadier-general. If he were wounded while in command of that brigade, this law would retire him as a brigadier-general, retire him with a rank he never held. Why it was and why it has stood as the law so long I cannot tell. At the last Congress or the

Congress before it was repealed and the law made applicable only to the rank of the officer himself, without reference to the command. I do not desire to discuss it, but any one who knows anything about Army matters knows how unfair a law of this kind would be in its application to different officers.

The amendment that I have now offered is to the bill retiring Mr. Crawford. He is the only one, I believe, who was not retired under the act of 1866. He claimed to be retired as a major-general, but he was not a major-general; he held the rank of brigadier. This bill as we propose to amend it provides that he may be retired as a brigadier, that being the rank he himself held at the time and not the rank of his command, and at the same time the bill is so amended as to apply to all persons in the Army and provide that their retirement shall be according to the rank held by themselves and not the rank of command, for there is no such rank. I have stated it so that the Senate may understand it. It applies to those who have been retired under the act of 1866. Some men who never held a rank higher than major have been retired as colonels and brigadier-generals under that act.

There has been a great deal of complaint against the committee and especially against myself, on the ground that what we propose is a harsh measure. Some of the old officers who have been retired as major-generals, for instance, when they never held the rank, do not now want to have it changed. This is perfectly natural, and they have brought a great deal of pressure to bear on the Congress of the United States, and have defeated me two or three times in getting this measure passed. I then changed it. The amendment I offer now makes exceptions of certain men who have been retired. It makes an exception of a man who has been retired with the rank of command, if he lost an arm, if he lost a leg, if he lost both eyes, or if he had served in the Army twenty-five years at the time of his retirement. That makes an exception of all the old officers retired who were retired for wounds that absolutely rendered their services useless. There are a great many in the Army retired on a rank which they never held, and who are in as good health to-day as any of us. I submitted this bill to the Secretary of War, and he wrote me the following memorandum that I will read to the Senate:

I have looked over the amendment proposed to be added to this bill, and it strikes me that if adopted it will make the law more satisfactory and do away with the objections which may exist to the present law-bill of the House of Representatives No. 2093, as proposed to be amended in the Senate.

I submitted the bill to him, with the amendment. He said it would do away with the objections to the bill by making these exceptions. For instance, a certain gentleman in the State of New York, and a certain gentleman in the District of Columbia who has lost both eyes, and several men whom I could mention, are in the classes which are excepted; so that this makes the bill so that it will work no hardship to any one, but will be fair to all.

Mr. SCOTT. Before I discuss the actual point that is involved in the amendment reported by the Military Committee, I would ask for one moment the attention of the Senate to the standing of the officer affected by this bill in the first instance, and upon whose application for the benefit of the general law this amendment now comes in.

General Crawford was a surgeon in the regular Army in 1861 and attached to the command of Colonel Anderson, at Fort Sumter. His conduct at that time was such that very soon after hostilities commenced he was commissioned by President Lincoln a major in the regular Army. He passed through the several grades of major to brigadier-general, taking a very active and a very creditable part in military operations. At the battle of Antietam he received his wound, having been ordered to take the command of General Mansfield after he was killed upon the field. He participated in the battle of Gettysburgh and in the battles of the Army of the Potomac, and he was one of the few soldiers who were present at the firing of the first gun of the rebellion and who continued in active and valuable service down to the time the last gun was fired in the rebellion.

In 1866 the law which the Senator from Illinois has read was passed, which authorized the retirement of officers at the rank of command which they held at the time they were wounded. Under that law General Crawford made his application in August, 1871, to be retired, and he was entitled at that time to be retired with the rank of major-general. His services, however, were deemed to be of some importance to the Army, and, if I am correctly informed, at the request of the Secretary of War his application for retirement was not pressed at that time. He was at that time, if I remember correctly, in command in Alabama. In consequence of his application not being pressed, or for reasons satisfactory to the War Department, he remained in the service; and while his application for retirement was before the board the act of 1872 was passed, which repealed the act of 1866.

During the time the act of 1866 was in operation, seventy-two officers were retired. I have before me a list furnished by the Secretary of War of the officers who were retired, and upon looking over it to some extent—not fully—I find that one captain has been retired as a major-general and one lieutenant has been retired as a colonel. While I agree with the Senator from Illinois that, if it were a question of original construction, I should be inclined to think that the proper construction of that law was that they were to be retired upon the rank of the commission which they held at the time of their wounds, and not upon the rank of the transient or accidental command which they happened to hold; but here are seventy-two officers who have been retired, some of them perhaps officers in command in the very battle in which General Crawford received his wound; and thus, with his application pending at the time the law was repealed, he is cut off from the benefits of that act, and officers who were his inferiors in rank now have a superiority to him both in rank and in pay upon the retired list.

This bill was introduced for the purpose of giving him the benefit of that act, as his application was pending at the time it was repealed. It passed the House, and there was a very favorable report made there, showing, more fully than I can now state them, the reasons why General Crawford ought to have the benefit of that act. The Military Committee of the Senate, however, propose now to retire him with the rank of a brigadier-general, and then to add a section which will reduce all the officers who have been retired under that act to the rank of their commissions, with the exception of the few who will be saved by the last amendment now proposed.

If it be the pleasure of the Senate to reduce the seventy-two officers, with these exceptions, to the rank of their commissions instead of the rank of their command, then of course I have no objection to the amendment which has been proposed to retire General Crawford as a brigadier-general; but I would ask the Senator from Illinois, if it will comport with his idea of propriety, that the question shall be first taken upon this second section, which will bring the Senate to the square question of whether they will reduce the officers who have been retired, before he asks for the vote upon the other part of the amendment. If that be the sense of the Senate, then of course there is a disagreement between the Senate and House of Representatives on this bill, and unless the House concurs, it will be necessary to go to a committee of conference. I do not desire to take up time in protracting debate, but I wish to get this question as clearly as I can before the Senate and then have a decision upon it.

As I have already said, if it were a question of the original construction of the act of 1866, I should be inclined to think that the proper construction would be to retire all these officers upon the rank of their commission at the time; but it has been construed otherwise. They have been retired with the rank of command, and I think in justice to General Crawford, with the brilliant military record which he has, with his long service, with his wound incurred in that service, he ought not to be singled out as the pivot upon which this question is to turn. He ought to be retired, as his application was pending before this law was repealed, as others were, and not have an invidious distinction made against him. If, however, it be the policy of Congress to bring all these officers down together, then I shall have nothing more to say on the question of retiring him as a brigadier-general.

Mr. LOGAN. I do not desire to detain the Senate, but I will say to the Senator from Pennsylvania that I think some portion of his remarks has been made under a misapprehension of the facts. He speaks of the seventy-two officers who have been retired under the law of 1866, and speaks of the hardship, and he states that one captain had been retired as a major-general and one lieutenant as a colonel. What are the names?

Mr. SCOTT. I have a very long list. I cannot give the names just now.

Mr. LOGAN. He states the case of a captain. That rank was the rank the man held in the regular Army; that was not the volunteer rank he held. This law does not apply to that; this authorizes his retirement with the volunteer rank he held. He probably was retired on the rank he did hold at the time, and if so, the amendment does not affect him.

Mr. SCOTT. The Senator is mistaken. I have already said that the retirement was of a captain in the regular Army as a major-general, he holding the rank of major-general in the volunteers at the time; and the same in reference to the lieutenant. He was a lieutenant in the regular Army, and was retired as colonel because he was holding the command of a colonel in the volunteers.

Mr. CAMERON. If Senators will allow me, I think I can explain the case of the captain who was retired as a major-general. It was the case of Mr. Fessenden, I think. He was appointed a lieutenant at the beginning of the war and immediately promoted to a captaincy. Afterward he got a command in the volunteer service, and became a major-general in it, and he was retired on the rank he then held.

Mr. LOGAN. The Senator [Mr. SCOTT] will see that the distinction is not properly made. There is a misunderstanding, and frequently it has been apparent here, in confounding the two services. Rank in the regular Army is one thing, and rank in the volunteer Army is another thing. The officers are not retired on their rank in the regular Army, but they are retired on the rank they hold at the time in the volunteer Army. That captain held a major-general's commission; and therefore he was retired as major-general. He is not retired with the rank of his command, but retired, because he was a major-general, with his personal rank. So of the lieutenant. Neither of them is affected by this bill as amended. It only affects persons who were retired with the rank of their command. That is all this applies to; and it retires General Crawford with the rank he absolutely held, and not with his rank of command; and it brings all the rest down to the rank they absolutely held and not to a fictitious rank, which everybody admits is just. There is no officer in the Army to-day but will

admit that the old mode of retirement is an absurdity, and every man who will examine it that knows anything of military life knows it is a mockery.

Mr. SCOTT. I think the Senator from Illinois has misunderstood me. If I did not state, I certainly intended to state, that the seventy-two who were retired were retired upon the rank of command which they held when wounded. I do not intend to say that they held commissions entitling them to that rank, as General Crawford did in this instance. He was ordered to take the command of a major-general although he was an inferior officer. I intended to state that distinctly.

Mr. LOGAN. A major-general is commander of a division. I have known divisions in the Army to be commanded for months by a colonel who never had any higher rank. Every man on this floor who has been in the Army knows that that occurred frequently during the war. How absurd now it would be to retire that colonel as a major-general and give him three-fourths of $7,500 a year as retired pay! I could name, but I do not desire to do it, an officer who was a gallant officer, who is retired as a major-general in the Army under this statute, retired on account of a wound, but who is just as stout a man as I am, and probably more able physically to do business than I am, or at least as able to do so. But he was wounded, and under this statute he was retired as major-general, though his rank in the regular Army was that of a major. That is the way this law has been used. My object and the object of the Military Committee is only this, to let every man retired in the Army be retired with the rank he held at the time he received the wound. If it was the rank of brigadier-general, let him be brigadier-general, whether his commission in the regular Army was that of a captain, lieutenant, or what not.

I do not say anything about the statute except that it was very unfair at the time it was passed. Men never ought to have been retired in that way at all. The Army Register shows, as you will see by examining it, that this amendment does not work a hardship to any man. Every man who lost a leg or arm or his eyesight is excepted, and every man who served twenty-five years in the Army is excepted. Who are the men who lost a leg or arm? A right leg was lost by Thomas W. Sherman. He is excepted. Of these seventy-two officers all that have been wounded seriously are excepted under this amendment. Major-General John C. Robinson, late lieutenant-governor of New York, lost one leg. He is excepted by this amendment. Daniel E. Sickles lost the right leg. He is excepted by the amendment. George L. Hartsuff lost two legs, but he is dead and it does not apply to him. Richard W. Johnson is a retired brigadier-general. He is excepted because of the length of his service. Eli Long is excepted because of his length of service. Brigadier-General Gabriel R. Paul had both eyes shot out. He is excepted. He never had the rank he was retired on; he was retired by special act of Congress as a brigadier-general; and he is excepted on account of having lost his eyes, and I think that was proper. I could afford to do that. We could all afford to do it. John B. McIntosh lost a right leg. He is excepted.

These are the only persons on the retired list who have lost an arm, or a leg, or eyesight; and they are every one excepted.

Then the old men retired on that list, no matter what the rank, are excepted. Every man who served twenty-five years in the Army, so that his age is such that he ought to have support, is excepted.

This bill thus amended is no hardship. It is just. It only applies to young officers of the Army who have been retired on a rank they never held, which was an injustice to every other officer of the Army. We have an Army to-day of forty regiments. This law is repealed, but every man who is retired on account of wounds now in the Army is retired with the rank he holds.

Mr. SCOTT. As this amendment makes it in the nature of a general bill and the morning hour is just about expiring, I will ask that the morning hour be extended for the purpose of disposing of this bill.

Mr. MORTON. How long will it take?

Mr. SCOTT. Make it subject to the regular order.

The PRESIDING OFFICER, (Mr. FERRY, of Michigan, in the chair.) The Chair hears no objection to the extension of the morning hour for the purpose indicated.

Mr. LOGAN. Now, I want the Senate to understand what the meaning of this proposition is. Take, for instance, the soldiers of the Mexican war; we have some retired officers who served in the Mexican war. How were they retired? They were retired on the rank they held—their absolute personal rank. There they stand on the list to-day, retired on their actual rank. We have officers now who are wounded in the Indian service who are retired. How are they retired? On their absolute rank, on their personal rank, not the rank of command. By the action of the Senate and House of Representatives in 1866, you made exceptions to the general rule applicable to the Army, and you have seventy-two exceptions to the general rule that applies to those who served in the Mexican war and to the rest of the Army, and to all for the future. There stand these exceptions to all our rules and regulations, and to any rule that was ever established for any army in the world before. In the history of any army that I have ever examined I have not been able to find any such exceptions. I do not know of a case of any man ever being retired in any army until this statute passed on any rank except the rank he held; but you have made a law here to retire men on rank they never held, on a rank they never could have acquired, for some that I know myself never could have been major-generals in the Army, and yet they are retired as major-generals. They never held the office in the world, but happened accidentally to be thrown some day into the command of a division. I could name a gentleman, but I do not desire to do it, who is serving now in the civil service in Europe, who was retired on the rank of command. His own proper rank was very low, but he is retired tolerably high. Nine-tenths of the men retired on rank of command, when they never held the rank, are to-day occupying high positions, some of them in railroad employment, some in one employment and some in another, doing good business; and yet their retired pay to-day amounts to more than mine as Senator. I say it is unjust and wrong to the Army. I do not speak of the amount of pay they get; I do not care about that; but it is unjust to the Army of the United States, because they make exceptions to the rule, and you will find just such cases coming up every Congress.

I introduced by the voice of the Military Committee the bill that repealed this law of 1866. It was repealed. After it was repealed Mr. Crawford was retired on his actual rank, which is that of colonel. Everybody else has to be retired in the same way now. If you pass a bill giving Mr. Crawford the rank of his command that he held at that time, or the rank of his commission at that time, and do not make it applicable to the others who have been retired, you will have a dozen bills here every Congress for the officers retired hereafter. Each one will be asking you to retire him on the rank of command under this statute because Crawford was retired in that way, and thus you set the precedent. Mr. Crawford has been retired since the repeal of the law of 1866. Pass this bill without the amendment, and you set a precedent that will annoy us at every Congress; and we are certainly annoyed every year, not by applications of this character particularly, but in reference to rank and changes and things which are absolutely wrong and ought not to be permitted.

Mr. SCOTT. This was the only application pending at the time of the repeal.

Mr. LOGAN. That is true, and therefore his case might be somewhat exceptional; but yet it is a precedent for every other officer of the Army. His retirement as brigadier-general in my opinion is a fair retirement, for that was the volunteer rank he held. I have nothing to say against General Crawford, because my opinion is that he is a gallant officer; but this is fair and just to him. It increases his retired pay from that of colonel to brigadier-general and makes it fair all around and will stop special proceedings in Congress. For that reason I hope the Senate will adopt the amendment.

The PRESIDING OFFICER. The question is on the amendment to the amendment.

The amendment to the amendment was agreed to.

Mr. SCOTT. I wish to appeal to the Senator from Illinois, and ask him whether he will not let the vote be taken on the second section by itself before taking it on the amendment to the first section.

Mr. LOGAN. I have no objection to that.

Mr. SCOTT. I am willing to vote for the amendment in the first section if the second is adopted, but I do not feel at liberty to vote for both together.

Mr. LOGAN. I have no objection to the vote being taken in any way, but if that second section is stricken out, I shall do everything I can to defeat the whole bill, because that is the only section that makes it just.

Mr. SCOTT. I ask to have the vote taken on the second section first.

Mr. LOGAN. I have no objection; but I shall oppose the bill if it is not adopted.

The PRESIDING OFFICER. If there be no objection, the question will be divided and the vote first taken on the amendment reported as a second section.

The second section was agreed to.

The PRESIDING OFFICER. The question recurs on the amendment in the first section.

The amendment was agreed to.

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

It was ordered that the amendments be engrossed and the bill read a third time.

The bill was read the third time, and passed.

The title of the bill was amended so as to read: "A bill for the relief of Samuel W. Crawford, and to fix the rank and pay of retired officers of the Army."

ELECTION OF PRESIDENT AND VICE-PRESIDENT.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 16) proposing an amendment to the Constitution prescribing the manner of electing the President and Vice-President of the United States.

Mr. MORTON. Mr. President, it is pleasant to be able to present to the Senate a subject which is entirely above all party considerations and to which men of all parties can address themselves independent of the excitement which now seems to prevail throughout the country.

The proposition is to amend the Constitution of the United States as to the method of electing President and Vice-President, so as to bring the election home to the people as nearly as possible, and at

the same time to avoid the dangers that exist under the present method. No more important question can be considered by the Senate of the United States at this session of Congress; for in my opinion great dangers impend, owing to the imperfection of the present system of electing the President and Vice-President of the United States.

When we look back through the history of the country as to former elections, it becomes a matter of surprise that there have not been collisions and troubles resulting from the imperfections of our system. We may fairly assume that we have had a series of happy accidents by which these collisions have been avoided; but we cannot hope that these happy accidents will continue to occur; and in fact the dangers arising from the present system of election are greater now than they have been before in the history of the country, and will increase.

The system of electing the President and Vice-President by means of electors appointed by the Legislature of each State, as is well understood, had its origin in a profound distrust of the people. It was not believed by the framers of the Constitution to be safe to intrust the election of President and Vice-President to the people of the United States. Democracy was not so well understood then as it is now. It was believed that it was necessary to place the election of President and Vice-President in the hands of a small body of men, to be selected on account of their wisdom and of their character; that those men should be made entirely independent of the people and entirely independent of Congress; that their action should be unknown to the people and unknown to each other, so as to secure their complete independence. The first proposition in the convention of 1787 was that the President and Vice-President should be elected by the Congress itself. That was afterward changed, and it was then proposed that they should be elected by electors, and that these electors should be chosen by Congress. Then the plan was changed, and it was agreed that they should be elected by the States through the medium of electors, and that the electors should be chosen by the Legislatures of the several States; and the purpose was to place the election of electors and the election of President and Vice-President entirely beyond the control of Congress, that those elections should not be under the supervision of Congress. I will ask the Secretary to read the second clause of the first section of the second article of the Constitution.

The Chief Clerk read as follows:

> Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors, equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress: but no Senator or Representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

Mr. MORTON. The first point now to which I call the attention of the Senate is that the election of electors was placed absolutely under the control of the Legislatures of the several States and that Congress had no power over the election of these electors or to determine any question in regard to their election, but that the selection or appointment of electors was to be placed exclusively in the hands of the State Legislatures. The States could not by their constitutions control or in any manner change the appointment of electors; the power of a Legislature to appoint electors is conferred not by the State constitution, but is conferred by the Constitution of the United States, so that it is not in the power of a State constitution to take from the Legislature the power to appoint electors in any way that that Legislature may see proper. The Legislature may repeal any day the law by which electors are elected by the people. The Legislature may elect these electors by joint ballot of the two houses; it may authorize the governor to appoint them; it may authorize the supreme court of the State to appoint them; and this power has been exercised in various ways in various States. In some States the electors were once elected by separate districts, like members of Congress; in all the States now by general ticket. In some States in times past they were chosen by the different houses of the Legislature, and where the houses were divided in politics, the senate, for instance, being federal, and the house republican, they divided the electors by contract, the senate to choose so many and the house to choose so many. They have been elected by double and treble districts, by dividing the State into a number of districts less than the number of members of Congress, so that one district would elect two or three electors. In other words, various expedients and various methods have been adopted by the States at different times in the choice of electors, and this power to choose electors being placed absolutely with the Legislature of each State by the Constitution, it is in the power of any Legislature, at the next or before the next election, to withdraw the election from the people and choose electors in some other way that may seem good to the Legislature of the State, and Congress has no power to control it; it has no power to determine whether the election has been properly held or not. In other words, no contested election of electors can be determined by the Congress of the United States, because the Constitution has placed that election absolutely and entirely with the States. All the power that Congress has over the electors is contained in the third clause of that section, which is in these words:

> The Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States.

With these two exceptions everything is left to the States through their Legislatures.

This brings me to the consideration of the next proposition. Congress has no power to provide for contesting the election of electors. That power is devolved entirely upon the State Legislatures; and if they make no provision for cases of contested elections of electors Congress cannot do it, because it was the policy of the framers of the Constitution to make the election of President entirely independent of Congress, so that the Executive should be entirely independent of the Legislative; and therefore, if there is to be any provision made under the present Constitution for determining a contested election of electors, it must be made by the several States and cannot be made by Congress. All the power that Congress has is to fix the time when the electors shall be chosen by the States, and to determine the day when they shall come together as electors to cast their votes, which shall be the same day in all the States.

The next proposition that I call the attention of the Senate to is that the States have made no provision for contesting the election of electors. All the States have now provided for electing electors by general ticket by the vote of the people; but this is of recent origin. Up to 1824 eight States chose electors by the Legislature, and up to the beginning of the war in 1860 South Carolina chose her electors by the Legislature, just as she did her Senators. Now all the States, however, have agreed that they shall be elected by the people upon general ticket, so that whatever set of electors get the most votes in a State, if it is only a majority of five, cast the whole vote of the State.

But no State has provided any method of contesting the election of electors. Though this election may be distinguished by fraud, notorious fraud, by violence, by tumult, yet there is no method for contesting it; no State has passed a law for that purpose. Every State has passed laws for contesting the election of governor, of lieutenant-governor, of members of the Legislature, and of all State officers; but no State has made any provision for determining a contested election as to electors; so that whatever electors are certified to by the State authorities have the right to cast the vote, and there is no power in Congress or anywhere else to prevent them from doing it, although it may be known to the whole world that they were not honestly elected and have no right to cast the vote of that State.

Not only that, but the law passed by Congress in 1792 to carry out the provision of the Constitution prohibited any contest in effect either by the State or by Congress. That law provides that the electors shall assemble in the several States on the first Wednesday in December and cast their votes. It further provides that the electors shall be chosen, whether by the people or by the Legislatures, within thirty-four days of the time when they are required to cast their votes, so that no time is left between the selection and the vote for any contest; nor can there be any contest afterward. When the electors have cast their votes, they are *functus officio;* they can never meet again; their office has expired. When they meet and vote on the first Wednesday in December, their functions have expired; they can never be called together again.

And then the Constitution goes on to provide that they shall vote by ballot. Why? That it may not be known to each other how they voted; that it may never be known to the people how they voted; and then, that the vote shall be sealed up and sent to the President of the Senate and that he shall not open that vote until the day it is counted; that the vote is to be opened in the presence of the two Houses and at the very moment it is to be counted; so that if there is any informality in that vote, if there is any fraud or irregularity, there is no possibility of knowing it, there is no possibility of correcting it, because the sealed package is not to be opened until the very moment the vote is to be counted in the presence of the two Houses. It seems never to have occurred to the members of the Convention that there could be two sets of electors; it seems never to have occurred to them that there would be fraud or corruption or any reason why the votes of electors should be set aside. It is clearly a *casus omissus*, a thing overlooked by the framers of the Constitution, and there is no place to contest the vote either of the electors by the people, or by the Legislature, or the vote of the electors for President, because all that they have done is to be absolutely sealed until the very moment when the vote is to be counted.

Then, Mr. President, how is the vote to be counted? I come to that as the next consideration. The Constitution provides that the vote shall be sealed up when it is cast by the electors, and sent to the President of the Senate, and that he shall open the sealed paper in the presence of the two Houses, "and the votes shall then be counted." The two Houses are to come together, and they are to be as witnesses merely. They cannot act together as a joint convention; they cannot vote as one body. There is no function that they can perform when they are together. They are there simply as witnesses. The vote is to be sealed up and sent to the President of the Senate, and he is to open it in the presence of the two Houses, but the two Houses thus assembled can do nothing, whatever may be the irregularity, whatever may be the wrong visible on the face of the papers. They cannot act together as a joint convention; they cannot act as one body; they cannot act as separate Houses in the presence of each other; but the Constitution says "the vote shall then be counted." That is all that is to be done.

Now we see the power which is given to the President of the Senate, ordinarily the Vice-President of the United States. The sealed votes are to be sent to him and he is to open them in the presence of the two Houses, "and the votes shall then be counted." Suppose there are two sets of electoral votes, as from Louisiana at the last election, sent up to the Vice-President; he has two packages, and he causes both to be opened in the presence of the two Houses; who shall determine which set shall be counted? The one handed over by the Vice-President to be counted must be counted. The choice is left with him. There is no earthly power to correct it. If in the case of Louisiana the Vice-President had handed over to the tellers the electoral votes that had been certified to by McEnery, they must have been counted; there was no power to prevent it; or if on the other hand he had handed over those that had been signed by Kellogg, they must have been counted. The two Houses together could do nothing. The two Houses separately could do nothing. This is a case where this great power is vested in the hands of the Vice-President because of an omission in the Constitution. There is no power provided anywhere to determine which of these two sets of electoral votes should be counted, and it depends upon him as to which set he will hand over.

Mr. SARGENT. Does not a disagreement between the two Houses reject a vote?

Mr. MORTON. I am coming to that after a while. That is a very important question. See what a vast power is placed in the hands of the Vice-President. He may understand, as likely he will, the contents of the different papers that are placed in his hands, and he may be a candidate himself for election. That has so happened six times. It has happened six times that the Vice-President has opened and counted the votes where he himself was a candidate. John Adams as Vice-President opened and counted the votes and declared himself elected in 1797. Mr. Jefferson as Vice-President opened and counted the votes in 1801, when he was a candidate for President, and he declared the vote to be a tie. Suppose in that case there had been two sets of electoral votes from a State, certified to, and in his hands, one of which would have made a tie, and the other of which would have elected him President; there was no constitutional power anywhere to prevent him from handing over that set which would have elected himself as President. Nor could his action have been revised in any possible way. Again in 1821 Mr. Tompkins counted the votes when he himself was a candidate for re-election as Vice-President. In 1837 Mr. Van Buren counted the votes and declared himself elected President of the United States. In 1841, Mr. Johnson counted the vote when he was a candidate for re-election as Vice-President. In 1861 Mr. Breckenridge opened and counted the vote when he was a candidate for President. True, it was done honestly in all these cases; but suppose a case where the election is close, where by opening one set of papers the Vice-President is to be elected President, and by opening another set he is to be defeated, or where by refusing to count at all the vote of a particular State the result will be to elect him or to elect the candidate of his party! You see what a monstrous and irresponsible power has been placed in the hands of the Vice-President or the President of the Senate.

I have spoken of the theory of the electoral college; and now let us consider how completely it has failed, let us see how completely that theory has been reversed in practice. What was the theory? That the President should not be elected by the people—the people could not be trusted—but the election was to be vested in the hands of select men, who were to come together and act as deliberative, independent bodies. They were all to vote on the same day, so that there should be no collusion between them. The votes could not be cast on different days, where there might be correspondence with different States so as to control the last elections. That might take place; but the Constitution requires that the electors shall vote in all the States on the same day. And how are they to vote? Vote by ballot, so that one elector may not know how the others vote, and so that the people shall never know how they vote; but they were to deliberate, to be deliberative bodies. They were to consider and discuss, and were thus made independent of all knowledge by the people, that they might act entirely independent of all improper considerations or influences. That was the theory.

How has it turned out in practice? It has turned out in practice that the electors are pledged in advance to vote for a particular candidate; that they have been elected as mere agents, to cast their votes for the candidates of their party, a pledge that has never been violated and the violation of which would bring upon the offending party all the indignation that society could invent. It never has been violated and it probably never will. Therefore the theory is a total failure. Instead of being deliberative bodies, they are pledged in advance to vote for particular men. Therefore the reasons for the electoral college have gone. Why not let the people vote themselves for the presidential candidates, instead of voting for electors who are pledged to do the same thing?

Now, let me consider some of the dangers and difficulties attending this system. In the first place, by law when electors have died since their election, or fail to attend, then the others may fill their vacancies. In the case of Texas at the last election, when the electors met to vote four were absent, just one-half the whole number. The other four supplied the vacancies by election. Suppose there should be five in favor of one candidate and five in favor of another and one elector dies. Then one five will have the majority over the other, and they can fill the vacancy, and they can thus secure a majority in the electoral college.

But let us look at the unfairness of it in another particular as now adopted. They vote by general ticket in all the States. That set of electors that get a majority of one vote cast the vote of the whole State. A majority of one will cast the entire vote of New York; so that nearly two million and a half of people are utterly silenced in their vote for President. It becomes an election by States. That was not intended by the framers of the Constitution. They did not intend to make it an election by States in one particular, because they expected the electoral colleges to be deliberative bodies, and as deliberative bodies to divide up, some to vote for one candidate and some for another; but it has turned out in practice that the electors are all pledged in advance to vote for a particular candidate, and that one set or the other set will be elected as an entirety, and they come together and cast the vote of the State. It is therefore a vote by States; and under the present system ten States can elect a President of the United States. It is just the same thing as if every man in those ten States had cast their votes for those candidates—a thing never likely to happen; but that is the effect of it. It is an election now by States. It is not a national election. It is removed further from a national election than was contemplated by our fathers, because they supposed these electors would divide—first deliberate, first discuss and consider with each other, and then divide the votes; but it turns out they do not do so. They are pledged in advance. They vote as a unit; and therefore the vote of New York, of Indiana, of Pennsylvania, of Illinois, is given as an entirety. It is therefore an election by States. It enables a small minority of the people of the United States to elect a President. Let us suppose, for example, that one man receives enough electoral votes to elect him; that he has carried enough States by small majorities to give him 186 electoral votes. If you please, he has carried New York by 5,000, Pennsylvania by 3,000, and so on, so that his aggregate majority in those States is less than 50,000. His opponent carries the other States by large majorities, so that it may turn out that his opponent will have half a million majority of the popular vote of the United States.

Mr. BAYARD. That was the case with Mr. Lincoln, I believe. He had a very small minority of the entire popular vote of the United States.

Mr. MORTON. But the remaining vote was divided between two other candidates.

Mr. BAYARD. I say he had a small minority of the entire popular vote of the United States.

Mr. MORTON. Yes, he had. It turns out that four Presidents have had less than a majority of the popular vote, and it is the possibility at all times under this system that a small minority of the votes of the people may elect a President of the United States. That is anti-republican; it is anti-democratic; and that possibility of itself calls for a change in the method of electing a President and Vice-President of the United States.

For my part, I would much rather elect the President by the people of the United States as one entire community, but I know we cannot change the Constitution to that effect. I know the small States will never vote for that; but I would prefer it. But the next and the nearest approach that we can make to an election by the people is to elect by districts. Now, I wish to read from the report, which is more accurate than I can state it. I wish to show by past history how far the electoral college has come from representing the popular vote, and how much nearer the district system will approach to it, and I will ask the attention of the Senate to this extract from the report, which has been carefully prepared.

Mr. OGLESBY. From what report does the Senator read?

Mr. MORTON. The report made by the Committee on Privileges and Elections. In the first place, I will state that so far as I can gather the evidence the electoral college has never come within 10 per cent. of representing the popular vote, and it several times has differed from it more than 30 per cent.

The following statement of the result in the different presidential elections from 1872 back to 1844 will establish the truth of what we have said:

In 1872 General Grant received 55 per cent. of the votes of the people; in the electoral college he received 81 per cent.

In 1868 General Grant received 52 per cent. of the popular vote, and 73 per cent. of the electoral vote.

In 1864 Mr. Lincoln received 55 per cent. of the popular vote, and 91 per cent. of the electoral vote.

In 1860 Mr. Lincoln received only 40 per cent. of the popular vote; he received 59 per cent. of the electoral vote.

In 1856 Mr. Buchanan received only 45 per cent. of the popular vote; he received 59 per cent. of the electoral vote.

In this election Fillmore received 25 per cent. of the popular vote, and only 2 per cent. of the electoral vote; but fourteen of his friends were elected to Congress.

In 1852 Pierce received 51 per cent. of the popular vote, and 85 per cent. of the electoral vote.

In 1848 General Taylor received 47 per cent. of the popular vote, and 56 per cent. of the electoral vote. At this election Mr. Van Buren received about 10 per cent. of the popular vote, and received no electoral vote; but three of his friends were elected to the House of Representatives.

In 1844 Mr. Polk received not quite 50 per cent. of the popular vote. He received 62 per cent. of the electoral vote.

To compare the district system with the general-ticket system and to see how much nearer it comes to representing the people, I call the attention of the Senate to the following statements. I will take the four States of Pennsylvania, Ohio, Indiana, and Illinois:

These States voted solidly for Mr. Lincoln in 1860, casting 74 electoral votes.

At the same election they returned sixty-six members of Congress, of whom twenty-four were democrats.
In 1864 the same States cast 76 electoral votes for Mr. Lincoln again, and elected the same year sixty-eight members of Congress, of whom sixteen were democrats.
In 1868 the same States threw 76 electoral votes solidly for General Grant, and elected sixty-eight members of Congress, of whom twenty-two were democrats.
In 1872 the same States again voted solidly, giving 85 electoral votes to General Grant, and elected seventy-seven members of Congress, of whom twenty-five were democrats.
In these four States the democratic strength, as compared with the republican, has been about as 9 to 10, but under the operation of the general-ticket system they had been wholly unrepresented in the electoral college; but in the House of Representatives, under the district system, they have had an average of nearly one-third of the members.

Now I will take the State of New York alone for the same period:

In 1860 New York cast her thirty-five electoral votes solidly for Mr. Lincoln' At the same time she elected thirty-three members of Congress, of whom nine were democrats. In 1864 she again cast her thirty-three electoral votes solidly for Mr. Lincoln, and at the same time elected thirty-one members of Congress, of whom eleven were democrats. In 1868 she cast her thirty-three electoral votes solidly for Mr. Seymour. The State was carried for Mr. Seymour by his overwhelming majority in the city of New York, about the character of which grave charges were made, but of which the committee expresses no opinion; but the rest of the State, unaffected in their districts by this large majority in the city, returned eighteen out of the thirty-one members of Congress, who were opposed to Mr. Seymour, thus showing conclusively how the voice of the people of New York outside of the city had been stifled in the presidential election by the city majority, operating through the general-ticket system.

There is a very fair illustration of the dangers of the general-ticket system. A large fraud in the city of New York controls the election for governor, controls the election for President; but in the election of members of Congress by districts, out of the city, not being affected by this large fraud in the city, they elected eighteen republicans out of thirty-one members of Congress, showing what would have been the voice of New York if the country had not been stifled by the enormous fraud committed in the city, about which fraud there was scarcely any dispute and will be scarcely any now. These cities present the elements of fraud: New York, Philadelphia, Boston, Cincinnati, Saint Louis, and New Orleans, all these large cities; and the fraud committed in a city may control the vote of a whole State, so far as the election by general ticket is concerned; but if the election is by districts, that fraud only affects the district in which it is committed, and will not control the vote of the whole State. Here is great temptation to fraud; because where parties are closely divided in a State, with but a small margin one way or the other, there is great temptation to commit a fraud which determines the vote of the whole State. By the election by districts you do not bring the vote absolutely home to the people as you would by a vote as one community, but you come as near to it as possible. You find that the district system approaches more nearly by one-third to the whole popular vote than the election by general ticket in the present method. I would prefer to elect the President by the vote of the whole people as one community; yet I think we cannot do that. I then prefer to come as near to it as possible, to elect the President by districts; and that is what we propose by this amendment. We propose, in the first place, that the candidate who gets the highest number of votes in a State shall have two presidential votes. This is to preserve the autonomy and the power of the small States. They now have two presidential electors, two votes at large, as they have two Senators. We preserve that theory by giving them two presidential votes; and the man who gets the highest vote in the State shall get those two votes. Then we have the State divided into as many districts as it has members of Congress, and the candidate who gets the highest vote in a district has the vote of that district. He may not have a majority, but if he has a plurality, if he has more votes than any other candidate, he gets the vote of the district, and it counts one. This brings the election home to the people as nearly as possible. So far as these districts are concerned, we leave the power to make the districts just as it is now with regard to members of Congress. The States now district themselves by their Legislatures, but Congress has the power at any time to lay off the districts for electing members of Congress. It has never been exercised, but that power is reserved to Congress. And we make the same provision in regard to these presidential districts; that is, leave the States to form them in the first place, but reserve the power in Congress to alter them or to change them at any time. These districts may be gerrymandered, as they are for Congress. That has been done; it is an evil; you cannot correct it altogether. But we require the districts to be composed of contiguous territory as nearly as possible, and as nearly equal in population as possible. Under the system of electing members of Congress by districts instead of by general ticket, as I have already shown, you approach one-third more nearly to the popular vote than by electing by the general ticket. In the States that I have mentioned the votes were cast solidly for one candidate for President, yet the same States elected nearly one-third of all their members of Congress on the other side, electing democrats, showing that by the district system you give to the people of the States comparatively a voice in the election of President according to their views.

There is another question involved in electing by districts as compared with general ticket, and that is that when you elect by general ticket under the present system no man can vote unless he has a party in the State large enough to hold a convention and put an electoral ticket in the field. If I want to vote for a particular candidate and that candidate has no party in my State, though he may have a strong party in other States, I cannot do it; I must vote for electors who will vote for him. I cannot put an electoral ticket into the field myself, but there must be a party convention to do it. Therefore I am disfranchised in point of fact, unless there is a convention held in that State which will appoint an electoral ticket to vote for the candidate I am in favor of. How did this operate in the South in 1856 and in 1860? In 1856 there were thousands of republicans in the South who did not vote because there were no electoral tickets in the field for Frémont and Dayton. That peculiar state of public opinion prevailed in those States that republicans could not meet in convention and nominate electoral tickets. Therefore the votes of those men that were in favor of Frémont and Dayton were entirely lost; they could not vote at all. Under the present system, to enable a man to vote, there must be enough men of his own way of thinking in his State to put an electoral ticket in the field that he may vote for it. Now, this can hardly be called republican. The government is republican which enables every man to vote directly for the man of his choice, although there may not be another man in the whole State that feels as he does. A particular candidate may have a majority in some States, but he may have scarcely any friends in others; his friends may all be in one district; they may be concentrated; but unless there is a convention, a caucus, if you please, to nominate candidates for electors, his friends are excluded from voting, because they cannot vote directly but must vote for intermediate men.

Now, Mr. President, I consider another question, and that is the danger of the present system. Mark you, no State in this Union has a law to contest the election of electors, and there is no room for a State law; there is no time for it, even if the States were disposed to enact laws. Congress has no power, there is no power to judge except the President of the Senate. He is irresponsible; he is the depositor of all the votes, and as to whether these votes shall be cast depends entirely upon himself, so far as the Constitution is concerned. Suppose that the election of President had depended in 1872 upon the vote of Louisiana, or upon the vote of Arkansas, or upon the vote of Texas, would we not in all probability have been involved in revolution? If the election of Greeley had depended upon counting the votes certified to by McEnery, or the election of Grant had been dependent upon counting the votes certified to by Kellogg, I ask you what would have been our condition? If it had been decided either way in all probability there would have been resistance and there would have been rebellion. It is full of danger. We have escaped it thus far. It was a matter of congratulation to both democrats and republicans that Grant's majority was so large as to make the vote of Louisiana, of Arkansas, and of Texas unimportant; but if it had been otherwise, if the election was to depend upon the vote of any one of those States, what would have been the result?

Mr. President, let me consider the result in 1857, when Buchanan and Frémont were candidates. The electoral vote of Wisconsin was not cast on the day fixed by law. The Constitution requires all these votes to be cast upon the same day. There was a snow-storm in Wisconsin that prevented the electors from coming together and voting upon that day. They voted upon the next day. When they came to count the votes in 1857, a motion was made by a Senator to reject the vote of Wisconsin because it was not cast upon the day provided by law. I think the objection itself was good; but what was the decision of the President of the Senate, Mr. Mason? He decided that the motion was out of order. He said nothing was in order but to count the votes. He overruled the motion, and he would have overruled a motion to exclude the vote of any State. He took the view of his power, and I think it was correct, that the two Houses were there simply as witnesses; they were not there to make motions, they were not there to offer objections; but they were simply there to witness the count; and so he decided. And when motion after motion was made to exclude the vote of Wisconsin because it was not cast as required by law, he decided every time that nothing was in order but to count the votes. And when they had counted the votes, he said the purpose for which they had assembled had been discharged, and the two Houses separated. They had a great debate in the House over the question, which lasted two or three days, and they came to the conclusion, substantially, that the two Houses had no power over the question. They had a debate in the Senate, and they arrived at the same conclusion in the Senate, although not by resolution, that they were powerless. Now, suppose the election had turned upon the vote of Wisconsin; that by counting the vote of Wisconsin Frémont would have been elected; that by rejecting it Buchanan would have been elected. If Mr. Mason had excluded the vote of Wisconsin, his party would have supported it; if he had received the vote of Wisconsin, the republicans would have supported it; and in that case he would have had, beyond all question, the decision of the election in his own hands. In either case it would, in all probability, have resulted in violence, in insurrection. The danger was escaped in that case because Buchanan was elected independently of the vote of Wisconsin, and it was no matter how it was cast. But the point to which I call the attention of the Senate was the decision of the Vice-President in that case, that nothing was in order but to count the votes, and that the Houses were there simply to witness that count, but without having any power whatever.

Now, Mr. President, I come to the consideration of what is called the twenty-second joint rule of the two Houses.

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

Mr. MORTON. Certainly.

Mr. SARGENT. The Senator, by his amendment, it seems to me, does not make provision for one contingency. It may be a remote contingency, but still it may arise, and that is in case no person should receive a majority of the votes thus cast in the various districts, or if two persons receive the same number, it does not provide which shall have the place or how that controversy shall be settled. Perhaps it is not so remote a contingency, when we find the remarkable fact that in districts where thousands and tens of thousands of votes are cast, still on counting them they come out nearly even. There seems to be some law of chance which leads to parallels in such cases that are really remarkable. It certainly would not be very remarkable if, after all the votes are cast in the districts and the additional votes are given in the proper manner, it should be found that two persons have an equal number.

Mr. MORTON. I will state that that contingency is not provided for by the amendment. The committee did not agree upon it. I was of the opinion that in such cases as that the election would be by both Houses of Congress in joint convention, each Senator and each Representative having one vote. I will come to the consideration of that after a while. But in regard to the question of majority we provide for that. We dispense with the requirement of a majority and we adopt the plurality system, and I will now speak of that. We intend to avoid an election by the House altogether, and that that candidate having a plurality shall be elected and not require a majority of all the votes cast. We now require a majority of all the electors appointed to elect, and if no candidate gets a majority of all, then the election goes to the House of Representatives, and the election is there not by each member having a vote, but the election is by States. Now one word as to the plurality rule. It is adopted by all the States except three in the election of State officers. It is adopted by all the States in regard to the election of members of Congress, and no complaint is made of it. It is adopted by the States in the election of electors. The electors who have a plurality are elected. A majority is not required to elect electors, even, under the present system. We believe that the election there should be final, that there should be no second election required, and that that candidate who has a plurality of all the votes, that is, a majority over anybody else, shall be elected. It has worked well in the States; it has been used in most of the States for a hundred years, and no State now proposes to go back from the plurality to the majority system. I now ask for the reading of the twenty-second joint rule.

The Chief Clerk read as follows:

The two Houses shall assemble in the Hall of the House of Representatives at the hour of one o'clock p. m., on the second Wednesday in February next succeeding the meeting of the electors of President and Vice-President of the United States, and the President of the Senate shall be their presiding officer; one teller shall be appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed, as they are opened by the President of the Senate, the certificates of the electoral votes; and said tellers, having read the same in the presence and hearing of the two Houses then assembled, shall make a list of the votes as they shall appear from the said certificates; and the votes having been counted, the result of the same shall be delivered to the President of the Senate, who shall thereupon announce the state of the vote and the names of the persons, if any, elected; which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and, together with a list of the votes, be entered on the Journals of the two Houses. If, upon the reading of any such certificate by the tellers, any question shall arise in regard to counting the votes therein certified, the same having been stated by the Presiding Officer, the Senate shall thereupon withdraw, and said question shall be submitted to that body for its decision; and the Speaker of the House of Representatives shall, in like manner, submit said question to the House of Representatives for its decision; and no question shall be decided affirmatively, and no vote objected to shall be counted, except by the concurrent votes of the two Houses; which being obtained, the two Houses shall immediately reassemble, and the Presiding Officer shall then announce the decision of the question submitted, and upon any such question there shall be no debate in either House; and any other question pertinent to the object for which the two Houses are assembled may be submitted and determined in like manner. At such joint meeting of the two Houses seats shall be provided as follows: For the President of the Senate, the "Speaker's chair;" for the Speaker, a chair immediately upon his left; the Senators in the body of the Hall, upon the right of the Presiding Officer; for the Representatives, in the body of the Hall not occupied by the Senators; for the tellers, Secretary of the Senate, and Clerk of the House of Representatives, at the Clerk's desk; for the other officers of the two Houses, in front of the Clerk's desk and upon either side of the Speaker's platform. Such joint meeting shall not be dissolved until the electoral votes are all counted and the result declared; and no recess shall be taken unless a question shall have arisen in regard to counting any of such votes, in which case it shall be competent for either House, acting separately, in the manner hereinbefore provided, to direct a recess, not beyond the next day at the hour of one o'clock p. m.

Mr. MORTON. The first point to which I call the attention of the Senate is that this twenty-second joint rule is grossly unconstitutional. No provision can be found in the Constitution that gives a shadow of power for its adoption. Not only is it without authority, but it is in violation of the very theory of the Constitution. The intention was to place the election of President independent of Congress, to make the Executive independent of the Legislature, but this makes the election of President to depend upon either House, not by a law, but by a joint rule. It enables the Senate by a vote to throw out the vote of North Carolina or New York; it enables the House of Representatives to do the same thing. What is the provision? When you come to look at it, it is monstrous. It is astonishing how that rule could ever have been adopted. The two Houses are assembled to count the votes, and a formal objection is made, if you please, to counting the vote of New York, entirely formal; there may be no sense in it, no foundation for it, but if anybody objects, then the two Houses must separate and they must vote upon this objection, and unless it is overruled by both Houses the vote is rejected. If the Senate sustains the objection, the vote of New York is thrown out. If the House sustains it, the vote of New York is thrown out. It enables either House without debate—they must not debate without adjournment—they must not adjourn to consider, but they must decide summarily; it enables either House to throw out the vote of any or of all the States.

We had an illustration of that the last time the votes were counted. A formal objection was made to receiving the vote of Arkansas. The Houses separated and voted. What was the result? What was the objection to receiving the vote of Arkansas? When you came to look at the seal upon the certificate it did not appear to be the seal of the State. Upon close examination it was found to be the seal of the secretary of state and not the great seal of the State. Upon that technicality the vote of Arkansas was lost, the people of Arkansas were disfranchised in the presidential election. It turned out, I believe, that the State had no other seal, and that the seal was put to that certificate that is put to all papers required to be certified by the executive department of Arkansas; and yet upon that objection the vote of Arkansas was lost. The House overruled the objection, but the Senate sustained it. Suppose it had been New York, the vote of New York—the vote of five millions of people—would have been thrown out upon the mere technical objection by one House. There would be more sense in it if it required the concurrence of both Houses to throw out the vote of a State, but by this rule one House may reject the vote of a State. And so it may reject the votes of all the States, and you may in every case throw the election of President into the House of Representatives.

To show you some of the objections offered upon that occasion, I want to refer to the proceedings that took place at the time. For example, a motion was made to reject a part of the vote of Georgia cast for Horace Greeley upon the ground that he was dead. It would have been very important in determining the question of the majority if the election had been close. The Senate overruled that motion, and decided that the votes cast for Horace Greeley must be counted, so that they would count in making up the majority of all the electoral votes. The House sustained the objection, and the vote of Georgia in part was lost simply because the House of Representatives sustained the objection. There the two Houses disagreed. They disagreed in the case of Arkansas. Now we come to the case of Texas. Objection was made to receiving the vote of Texas. I will read what the objection was, to show the character of it. Mr. Trumbull, a very able lawyer as you all know, objected on this ground:

Because there is no certificate by the executive authority of that State that the persons who voted for President and Vice-President were appointed as electors of that State, as required by the act of Congress.

The certificate was informal, had not been made out correctly. That was Mr. Trumbull's objection. It was afterward re-enforced by Mr. Dickey, of the House:

Mr. Dickey objected to the counting of the electoral vote of the State of Texas, because four electors, less than a majority of those elected, undertook to fill the places of other four electors, who had been elected and were absent.

The two Houses separated and voted. We overruled the objection in the Senate by a vote of 34 to 24; I believe the vote in the House was still closer; but a change of six votes in the Senate would have thrown out the vote of Texas. Luckily nothing depended upon it; but if the election of one candidate or the other had depended upon it, what would have been the result in that case? Then we come to the vote of Mississippi. A formal objection was made to the vote of Mississippi. We overruled it; the House overruled it by a small majority; but it happened that nothing depended upon that vote. It was not very important; but it shows the possiblity of doing the thing. Now let me suppose a case where the Senate belongs to one party and the House to another in point of majority and we come to count the votes. If you please, a democratic State is called. We look at the certificate. It is informal in some respect; some little objection may be made to it in the nature of a special demurrer. We separate, and vote. The Senate being republican, we throw out the vote. The next State called is a republican State. Some little objection is found to that, because a good lawyer can always pick some little flaw in a certificate. The two Houses separate, and the House of Representatives throws out that vote. And thus we throw out first on the one side and then on the other, till they are all gone, and the election goes for nothing.

This is not only possible but it is probable. Here we have a rule—not a law, but a simple rule agreed upon between the two Houses—by which either House, against the other, may throw out the vote of every State in this Union for President and disfranchise the people and throw the election into the House of Representatives. There could not be a grosser violation of the Constitution of the United States. It was not intended to give Congress any power over the electoral votes; but here by a simple rule, never passed as a law, never approved by the President of the United States, either House of Congress is enabled to disfranchise any and every State in this Union and to throw the election into the House of Representatives. If that is not full of danger, I cannot conceive what is. You take a time when parties are bitter, when party spirit runs high. The election of President is a great prize; the office commands vast patronage and vast power; and here is a rule which enables either House to

cast out the vote of any or of all States, disfranchise the people, and throw the election into the House of Representatives. It makes Congress a canvassing board, a thing that the Constitution expressly prohibited, not in words but in effect, by various provisions. While the Constitution attempted to withdraw the election entirely from Congress, here is a rule that puts it in the hand of either branch. It does not require a joint vote to disfranchise New York, but enables either the House or the Senate to disfranchise New York, Mississippi, or Indiana.

Now, sir, I come to the question of an election by the House of Representatives. We have a rule that enables either House to throw the election there. What is an election by the House of Representatives? There they vote by States. They do not elect the President by a majority of the members of that House, giving it some sort of a popular character, but they vote by States. Nevada has one vote; New York has one vote. Nevada with forty-two thousand people has the same vote as New York with five million—one hundred and fourteen times the population of Nevada.

There was some calculation made as to the possibility of an election by the House, and I want to read it from the report, as being better stated than I can do it now. Let me call the attention of the Senate to the possibility of an election by the House of Representatives. In the election of a President by the House of Representatives under the present apportionment, each State having one vote, forty-five members out of two hundred and ninety-two can make the election. For example:

Delaware, Nebraska, Nevada, and Oregon have each one member, and four members would cast the votes of those four States; Rhode Island and Florida have each two, and four members would cast the votes of those States; Minnesota, New Hampshire, West Virginia, Vermont, and Kansas have each three members, and two votes in each, or ten members; in all five, would cast the votes of those five States; Arkansas, California, and Connecticut have four members each, and three in each, or nine in all, may cast their votes; Maine and South Carolina have each five members, three of whom in each, or six in both, may cast their two votes; Maryland, Mississippi, and Texas have each six members, and four in each, or twelve in all, may cast the vote of those three States. This makes nineteen States, or a majority of the States in the Union, and forty-five members may cast their votes and elect a President of the United States against the wishes of the other two hundred and forty-seven members of the House of Representatives.

This may not be likely to happen; but this can be done under the election of a President by the House of Representatives. Why, sir, to call that republican or to call it democratic is to make nonsense of it. It is as far removed as possible from what may be considered a democratic or republican election of a President of the United States. And see how it is done: The voting is by members elected two years before. Members elected two years before on different issues, when the politics of the country were entirely different from what they are when the election takes place, are to choose the President of the United States and do it by States.

The election of a President by the House of Representatives is full of danger. It has been tried twice, and each time we came near making shipwreck. Can this Government stand the strain of another election by the House of Representatives? The monstrous injustice of giving forty-two thousand people in the State of Nevada the same voice in electing a President that New York with five million has is too great a strain for the Constitution of the United States. In 1801 it came near making shipwreck. They balloted until nearly the 4th of March, and then an election was secured by a change brought about under circumstances that I will not now state, not reflecting great credit upon the parties engaged in that change. In 1825 John Quincy Adams was elected by the House. The election was said to have been brought about by the action of Mr. Clay in securing for Mr. Adams the vote of Kentucky. Mr. Clay was afterward appointed Secretary of State. He never recovered from it. It was too great a power. I do not believe that Mr. Clay was guilty of corruption; I think that is not the general opinion; but the fact that Mr. Clay caused the vote of Kentucky to be cast for Mr. Adams, and that Mr. Adams afterward appointed him Secretary of State ruined the prospects of Henry Clay; he never recovered from it. And now think of the grand opportunities for corruption. Take those States where one Representative casts the vote of the State; take the State of Nevada, or any other State that has but one member; that one Representative has the same power as all the Representatives of the State of New York. The patronage of the President is ample enough to reach every member of that House. You cannot conceive of grander opportunities for corruption than with a Representative from a State where there is but one Representative, or where a Representative may cast the casting vote in the delegation of a State and determine the vote of it. It is not only anti-republican essentially; it was the result of a compromise; but it is full of danger; and in these days, when there is so much said about the danger of corruption, we cannot contemplate without horror the idea that the election may be placed in the House, where a few members of the House by the sale of their votes or the promise of office to themselves or to their friends may determine the election and elect a President for forty or forty-two millions of people.

We ought never to have another election by the House of Representatives, and when we look back to the reasons that brought about the adoption of that provision of the Constitution, we find they have wholly failed; they are all gone; and the convention, if assembled now to adopt the Constitution, would never think of providing for an election by the House of Representatives, each State having one vote. If there was a tie-vote, as suggested awhile ago by the Senator from California, and it was provided that both Houses of Congress might assemble in joint convention, each Senator and each Representative having one vote, that would come much nearer to an equality among the people and to making the election of a popular character than to give to each State one vote in the House of Representatives, because then each State would have a vote in the joint convention somewhat according to its population; and the number of men necessary to be corrupted in order to control the election would be much larger than under the present system. Therefore we should not tolerate the longer continuance of this provision in the Constitution of the United States.

Mr. President, to sum up the points which I am making against the present provisions of the Constitution and in favor of the proposed amendment, I will state that the theory of the electoral college grew out of a distrust and unwillingness to allow the President of the United States to be elected by the people; that the theory was that the election should be committed to a body of men who should be made entirely independent, who should meet and deliberate and vote secretly, so that they might be independent; that their action should never be known, they should vote by the ballot, but all of that has been reversed by pledging them in advance to vote for particular candidates; that by the general-ticket system the vote is by States, it is an election by States, it is not national in its character; that a few States may control the election, so that now attention is paid only to the votes of the larger States; the votes of the small States have very little consideration, but under the plan proposed each district must be counted by itself and it is the same thing whether it is in a large State or in a small State; that under the present system a small minority of the people of the United States may elect a President against a very large majority for the defeated candidate; that under the present system the electoral vote has never approached within 10 per cent. of the popular vote and has varied from it several times from 30 to 35 per cent.; that under the present system an election may be had by the States in the House of Representatives in defiance of the popular vote and in defiance of the plurality vote of the electors.

General Jackson in 1824 had the largest popular majority that any President has ever received in the United States, and he had a large plurality of the electoral votes also; but there were four candidates, and he did not get a majority of all the electors. The election went to the House of Representatives, and Mr. Adams, who did not receive one-third of the popular vote, was elected over General Jackson. What has been done may be done again.

Then there is no method now of contesting a fraudulent election of electors. Though the fraud may be so open that the world knows it, yet that vote must be counted unless the President of the Senate shall take the responsibility of withholding the vote on the day when it is to be counted. I say further that there is no power in Congress, that there is no room left to the States, in point of fact, to contest the election of electors; that under an election in the House, the vote being taken by States, forty-five members of that House may elect a President against the wishes of two hundred and forty-seven; that the States casting the vote may have a population of only one-fifth of the entire population of the United States.

Mr. President, the original theory that the people could not be intrusted with the election has failed. We now understand that large constituencies are safer than small constituencies. The patronage of the President is ample to reach every elector; it is ample to reach every member of the House of Representatives, but it is not ample enough to reach the people of the United States where they vote directly for the candidate of their choice. We are in danger of a collision at any time. In a closely contested election, to be decided by fraudulent votes, to be decided by arbitrary conduct on the part of the President of the Senate, there is danger of revolution. Our forefathers were wise, but they seem never to have contemplated the possibility that there might be two sets of electors or that electors might be chosen by fraud or by violence. The debates do not show that these things were ever contemplated, and there is not one word in all the debates of the convention of 1787 to show that it was contemplated or expected that the electors would be chosen by the people; on the contrary the expectation was that they would be chosen by the Legislatures of the States, and the power was put into their hands, and when the Legislatures have committed this power to the people they have done a thing that was never contemplated by the framers of the Constitution, but they have done it under circumstances under which revolution or insurrection may arise.

Now, I submit to the members of the Senate that this question is too important to be passed over. It ought not to go over this session without action. You may not be able to agree upon this amendment, but perhaps you can agree upon something by which we can take away all or a part of the dangers by which we are surrounded; and I submit that the Senate ought never to give up the consideration of this question until something has been decided that we may send to the House of Representatives for their concurrence.

It is more important than any other measure that can possibly come before us. It is not new. For more than seventy years attempts have been made, at different times, to change the Constitution so as to avoid some of these dangers. Amendments have passed the Senate and the House four times by a two-thirds majority to avoid some of these evils,

and yet finally failed. The question is not new. The remedy proposed is not new, it is almost as old as the Constitution. Seventy years ago some of the ablest men in the Senate of the United States foresaw these dangers, but they have been allowed to sleep along. But shall we allow them to sleep along until the danger comes, until the actual collision takes place? If we are patriots, without distinction of party, without regard to our party differences upon other questions, we will address ourselves to the great work of so amending our Constitution as to avoid the great dangers that lie at the very threshold.

Mr. President, I have spoken longer than I intended, but the subject was so important that I could not forbear so much.

Mr. THURMAN. Mr. President, more than two years ago I submitted some remarks to the Senate upon the question which has been to-day discussed by the Senator from Indiana, and when afterward the Senator from Indiana brought the subject formally before the Senate by the introduction of a resolution of instructions to the Committee on Privileges and Elections, I was very much rejoiced that he did so, and I voted for the instructions with the greatest pleasure, as I believe every member of the Senate did; and I hoped for a report from that committee with which we might all agree.

The dangers to which we are subjected have not been exaggerated by the Senator from Indiana; the difficulties under which we labor have not been exaggerated at all; but it does seem to me that the remedy proposed by the committee in the resolution now under consideration really fails to meet the very danger which is most menacing. That there may be frauds in the election we all know. That there may be fraudulent returns in the States and a fraudulent count of returns, with the experience of Louisiana before us, needs no proof. But the greatest difficulty, the most menacing of all, is the count of the electoral votes here in Washington. If the result of the presidential election had depended on the votes of Arkansas and Texas at the last count that was made, we might have seen this country plunged in civil war. And before that we once witnessed the most extraordinary spectacle when the votes were counted in February, 1869, when the President of the Senate, or the acting Vice-President as he was called, announced that under a resolution passed by the two Houses of Congress the vote of the State of Georgia should be counted if it did not change the result; but that if it should change the result it was to be rejected.

With these dangers menacing us, liable at any moment by this mode of counting the vote to see this country convulsed from one end to the other, not in a sectional way, but in a way that may reach every hamlet in the land, I must confess I was a little surprised when I looked at this report to find that it provides no sufficient or safe mode of counting the electoral vote.

Mr. MORTON. Will the Senator allow me a word just there?

Mr. THURMAN. Certainly.

Mr. MORTON. I intended to speak of that part of the amendment providing a tribunal for the decision of contested elections. It was a subject of grave consideration in the committee. Some were in favor of constituting the Supreme Court of the United States the tribunal to decide questions of contested elections; others thought the circuit courts or the district courts of the United States should be provided; others again thought there ought to be a special tribunal created by Congress. It was then thought better to place the whole matter in the decision of Congress to provide this tribunal. If we should put any special tribunal into the Constitution, it might not work well, and it might be difficult to change it. It was thought better, therefore, to leave the whole subject to Congress, believing that Congress would come to a safe and wise conclusion, because the subject was necessarily not of a party character, but one upon which men would differ or act together simply as they were patriots and lovers of their country, and we therefore inserted this provision:

The Congress shall have power to provide for holding and conducting the elections of President and Vice-President, and to establish tribunals for the decision of such elections as may be contested.

We could therefore establish, if Congress thought proper, the Supreme Court as the tribunal, or the circuit courts in the different parts of the United States, or we could establish an independent tribunal for this very purpose. The whole power is left to Congress, where it did not rest before.

Mr. SARGENT. Does the Senator think that the use of the word "establish" there implies "new?"

Mr. MORTON. Not necessarily. We thought it would apply to any tribunal that might be selected.

Mr. THURMAN. Mr. President——

Mr. CONKLING. Will the Senator from Ohio allow me to ask the Senator from Indiana a question?

Mr. THURMAN. Certainly.

Mr. CONKLING. Was it the opinion of the Committee on Privileges and Elections that, under the Constitution as it stands now, Congress has not the power to dispense not only with the twenty-second joint rule, but to put in its place a mode safer for ascertaining and counting the electoral votes?

Mr. MORTON. I cannot speak for all the members of the committee. I think there can be no doubt that Congress can dispense with the twenty-second joint rule; and that if nothing else be done that ought to be done. But it was my opinion, and I think the opinion of other members of the committee, though I will not undertake to speak for them, that Congress has no jurisdiction over the question; that the question of appointing electors and determining who are appointed is a question that belongs to the Legislatures of the several States, and that the other provisions of the Constitution show that it was intended to take the whole subject out of the hands of Congress except in regard to two things which are specially mentioned; first, the time of choosing the electors by the Legislatures, and, second, the time when the votes shall be cast by the electors, which shall be on the same day in all the States. My own conviction is that Congress has no power over the subject whatever, and that the power of the Vice-President results *ex necessitate rei* from the absence of any power to control him. He is the depositary of the electoral votes; they are not to be opened by him, not to be inspected until the very moment when the vote is to be counted, so that there is no room or time for correcting informalities in the vote that may have been made by the electors, and the electors being *functus officio* on the day they cast their votes, the first Wednesday in December, they cannot be called together for any purpose. It is a *casus omissus*, where no provision has been made at all on the subject.

Mr. THURMAN. I was aware that in the resolution reported by the committee there is a provision that Congress shall have power to provide for counting these votes, and indeed for much more than that; but I, for one, am not willing to confide that power to Congress. I want the tribunal that shall count these votes to be provided for in the Constitution. Whether it be the Supreme Court or whether it be some tribunal created for that specific purpose, whatever it may be, I want it provided for in the Constitution. I do not want the laws that are to affect these great privileges, that are to operate on this great subject, to be at the mercy of the dominant faction for the time being in Congress, whatever party that faction may be. I want it fixed in the fundamental law, so that every party shall be compelled to obey it. Therefore, with great respect to the committee and to the able chairman of it who has devoted so much patriotic labor to this subject, I do say that in my humble judgment the report is manifestly defective in this particular; that it will not do; it will not cure the evils, and the greatest of all the evils, that attend this subject.

Nor, while I am up, I may be permitted to remark, do I agree with the Senator from Indiana that the counting of the votes and the declaration of the result belongs, under the Constitution of the United States, to the Vice-President alone. That is not the interpretation that has been placed on the Constitution heretofore. If so, you never would have the joint rule on the subject which now exists. The Constitution does provide that the President of the Senate shall open the returns in the presence of both Houses of Congress, and that the votes shall be counted and the result declared. It does not say in so many words that the Vice-President shall count them; it does not say that he shall decide any question; it does not say that he shall even declare the result. What, then, is the natural interpretation to be placed on the Constitution? It is governed by that great and general rule, that when a duty is to be performed under the Constitution, and no specific mode of performance is pointed out in the Constitution, it is remitted to the law making power to provide the mode. That is a rule of universal application. Where a power is conferred upon the Federal Government, and no officer or Department is specifically charged with that power, then that power is to be regulated according to the dictates of the law-making power, the Congress of the United States. Therefore I am not at all prepared to say that those who have gone before us, who have for so long a time interpreted this provision of the Constitution to authorize a joint rule on the subject, have interpreted it wrong. My own impression is that they have rightly interpreted it. At the same time I do not wish to be understood as exactly approving the present rule. I think it would have been better if the rule as originally advocated had been adopted, that the vote of every State should be counted unless both Houses of Congress agreed to reject it. Now the rule is just the other way. Every presumption is in favor of the regularity of the returns, every presumption is in favor of the legality of the vote, and yet, assuming really that *prima facie* the return is not regular or that the vote is corrupt, it is put in the power of either House of Congress under this rule to reject the vote of a State. I do not think it should be so. I think the rule should be as it was very near being, for the vote was exceedingly close upon it, that the vote of every State should be counted unless both Houses concurred in rejecting it.

But I must say that the rule in my judgment is defective in another particular. It prohibits debate absolutely, and the ruling was so strict on that subject at the last count of the returns that the Vice-President ruled out of order anything in a resolution offered on this floor that contained the slightest recital, because, he said, that was argument. He would not allow a resolution that had any preamble; he would not allow a resolution in the body of which was contained any recital or any statement of positions of law. He ruled them all out as being in their nature argument, and we were compelled to vote here blindly upon every question that came up before us. Take the very case of Texas, if I am right about the State; I think it was Texas. The Senator from Indiana will correct me if I am wrong. There the objection was that the return was under the seal of the secretary of state.

Mr. CONKLING. Arkansas.

Mr. THURMAN. I thought it was Texas.

Mr. SARGENT. Texas was where four electors were chosen by the other four.

Mr. THURMAN. Take Arkansas. It matters not which State it was. There the objection was that the return was under the seal of the secretary of state, and not under the great seal of the State. It was of the utmost consequence to know whether the State of Arkansas had a great seal, or whether the seal of the secretary of state was the only seal that was used in that State. I remember perfectly well when questions were asked on that subject objection was made that they should not be answered, for that would be in the nature of debate; and we had to go up and look at that seal and see whether it was the seal of the State of Arkansas or only the seal of one of the departments of government in that State. And that was not all, sir. We had then to hunt up the constitution of Arkansas, those who had time to do it, to find whether that State has a great seal or not, and then were not at liberty to communicate the result in open debate. I know we did violate the rule by communicating the result. It was spoken of. Members from their seats spoke of it; others spoke of it in one way and another; but it was all decided by the Vice-President to be out of order; and for what reason, pray? That you might decide on the election of President of the United States between the rising and the setting of the sun on that day. It was wrong. Sufficient time to have discussed every one of those questions fully and to have them decided correctly should have been given, but your rule did not permit it.

I mention this for the purpose of showing that we have in our own hands the power to remedy some of those evils which have existed in the count before and which may have operated unjustly. I remember that I voted to reject the vote of one of those States—I forget whether it was Arkansas or whether it was Texas, one or the other—and I never cast a vote that gave me more pain in my life, for it looked like casting out the vote of a State on a mere technicality; and yet I could not get rid of the positive act of Congress and the provision of the Constitution, as I then thought, upon the light I had before me. Possibly my doubts might have been removed if we could have had the whole facts before us and discussed the question; but your iron rule prevented all debate. Even information on the subject is cut off by that rule. I hope, therefore, to see that rule amended so that we shall not have everything like information to enable us to exercise one of the highest functions of Congress debarred from us and not considered by us.

Mr. President, there is another matter in this resolution that requires the gravest consideration. It proposes a sweeping change in the mode of electing the President of the United States. I will not refer to the abolition of the college of electors. I do not think that is a matter of so much importance; but I refer to that change by which the President is to be elected by a plurality instead of by a majority. That is a sweeping change, that is a mighty change, I may say, in our mode of electing the Chief Magistrate of this country; and when we come to consider the power that that Chief Magistrate exercises in the country, when we come to consider the tendency to increase his power, when we come to look at the facts that show the mighty growth of executive power in this country, it behooves us to take care that we move slowly in the direction of so fundamental a change as that proposed by the report of this committee. I will not say that under no possible circumstances might such a change be undesirable, but I want to amend the Constitution of this country, when it is amended, with the utmost care. It is not a thing to be lightly dealt with. It is not a by-law, or an ordinance, or an ordinary act of legislation that is to be changed every day with every tide of public sentiment or according to the notion of any party that happens to be dominant in the Halls of Congress. Changes in it should be made with the utmost care by every one engaged in making those changes, from their inauguration in either House of Congress to the final votes of the people or of the Legislatures by which amendments are to be ratified or rejected. Therefore, it does seem to me that a proposition so sweeping as this deserves, and must receive before it can be acted upon, the most ample consideration of the Senate.

Mr. President, I did not rise to make a speech on this subject. I only rose to express these views and ask the Senator from Indiana to consent that this resolution may be laid over to some other day sufficiently remote in the session to give Senators a chance to consider it. This is the first time it has been brought to the attention of the Senate. The report, it is true, was made at the last session, but nothing was done with it except to print it and let it lie on the table. The Senator has now brought it up for consideration for the first time, and for the first time we have his views in its support. Let its further consideration, unless some Senator wishes to speak on it now, lie over to some convenient day, which will give us all an opportunity to study it and to study the report more carefully than we can yet have done.

Mr. CONKLING. Mr. President, the Senator from Ohio has not failed to say several things in which in effect I concur. Just before concluding his observations, he said that a subject like this required very full and ample consideration. In that I agree, and I should more immediately agree with the remark had the Senator extended it to others, as well as ourselves, by whom this proposition must be considered. It cannot become one of the ordinances of the Constitution until it has been so much considered by the States that three-fourths of all the States shall ratify it; and that fact at this moment outweighs all the other facts that occur to me connected with it. A presidential election is to occur in about two years, without stopping to be accurate.

Mr. OGLESBY. Less than two.

Mr. CONKLING. My friend reminds me "less than two," but I speak in round numbers. If there be an emergency, if there be serious importance in this subject, all Senators will agree that its gravity is as likely to be illustrated at the next Presidential election as at any election we can now forecast. A remedy, therefore, for the evil, a mode of avoiding the danger, if danger exists, could be commended by nothing more than its timeliness, by nothing more than the fact that it would take effect on that occasion, that first occasion, that, for aught we know, most important occasion, when the need of purity of legislation will be felt. Can any Senator hope that this proposed amendment will become a part of the Constitution by the action, first of the two Houses of Congress, and then by the action of three-quarters of the States, in season to enable Congress, proceeding under the sixth subdivision of this article, "to establish tribunals for the decision of such elections as may be contested?" Surely such a result is not only improbable; it is impossible, or next door to it; and I think the honorable Senator from Indiana, commending warmly as he does this proposed amendment, does not expect from it that which will put an end to these difficulties in season for 1876. If I am right in that, we are brought not so immediately to the question when, or how, or with what result this amendment shall be considered, as with the question what we should do now, if we should do anything during this fast-ebbing session, to establish safe and certain modes of ascertaining the next presidential election.

I do not intend at this time, or probably at any time, to detain the Senate upon that subject. I venture, however, to ask the attention of the Senate, and especially of the Senator from Indiana, to the language of the Constitution upon which some comment has been made by the Senator from Ohio. We find in the Constitution as it stands these words:

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates—

That is his function—

> and the votes shall then be counted—the person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of electors appointed.

That language is very spare. The words are very few. It is certainly wanting in many an amplification which would be convenient to a student of the Constitution and convenient to a legislator looking for ways in which it might be enforced; but, as the honorable Senator from Ohio very seasonably reminds us, there are certain canons of construction which help out these words. There are familiar rules, found even in the Constitution itself, but more especially rules in the light of which all written instruments, even constitutions, are to be read, which assist and aid in effectuating this provision. I will not at this time ask the Senate to listen to an opinion from me as to power conferred by the Constitution to adopt this twenty-second joint rule, but if I read article 12 with so much latitude as to convince me that the twenty-second joint rule is within its permission, I think I should be willing to rely even upon my own ingenuity then to devise ways and modes, under a reading of the Constitution as broad as that, which would go very far to avoid and guard against the danger that surrounds the count. Certainly I think few lawyers will study the twenty-second joint rule and deny that some of its provisions are at least questionable in respect of the power given by the Constitution thus to direct and govern the counting of the votes.

Returning for a moment to these words in the Constitution, we find that the President of the Senate is to do but one thing, which is to open, and of course manually to present, and be the custodian of, the returns upon which the election is to depend, which are called in this provision of the Constitution "the certificates." Then we find the language changes, and it ordains in most mandatory phrase that "the votes shall then be counted." There, I submit, is appropriate domain for legislative discretion, either by legislation or by a joint rule, if concurrent action between the two Houses rather than legislative action be preferred. I find added:

> The person having the greatest number of votes for President shall be the President.

Those are not superficial words. They do not relate to the *modus;* they are not confined to the count; but they go to the ultimate result, and declare that the person having the greatest number of votes shall be the President. Stopping where I am, as I do not mean to detain the Senate, I cannot doubt, until some Senator shall adduce reasons which have never been given in my hearing, that there lies within the limits of that provision an opportunity not only to dispense with the twenty-second joint rule, but to put in its place a rule or a statute under which those words can certainly be enforced, under which the votes can be counted and counted in the presence of the two Houses, and under which the person for whom a majority of them has in truth been cast shall be the President. Of the details I say nothing; of the merits of the proposed constitutional amendment I say nothing; but I do say, and had I the power to do it and believed it to be necessary, I would bring it home to every Senator and impress it upon him, that we shall fall short in an urgent and imminent duty if the 4th of March witnesses a dissolution of these

two Houses without their having devised some mode better than the twenty-second joint rule of ascertaining and recording and establishing the will of the people expressed by elections in the States as to the choice of a Chief Magistrate; and whenever any committee, whatever may be the fate ultimately of this or another constitutional amendment, will propose legislation (upon which we can act at once, and which need not be postponed to the distant by and by of ratifications in States) looking to this end, I hope it will be the pleasure of the Senate to address itself very promptly and diligently to that legislation.

Mr. EDMUNDS. There is great force in what the Senator from New York has said touching the doubts that may arise respecting the twenty-second joint rule. I think myself that there is constitutional power in the legislative branches of the Government to regulate the exercise of the power conferred in the Constitution respecting the election of President and Vice-President, just as in all other powers granted in the Constitution Congress has always exercised and must always exercise the authority to regulate the methods and manners through which the ends looked to in the Constitution are to be reached. We have always done that as to the courts, in many respects as to elections, and in fact respecting the exercise of almost every one of the powers granted in the Constitution. But whether it is competent for the two Houses, not acting in a legislative capacity, but each acting for itself, to provide a rule by which it is in the power of either House to prevent the counting of every vote that may be returned from a State is open to very grave question indeed.

It is plain enough, I think, that Congress cannot by a law declare that the Vice-President of the United States, or rather the President of the Senate, whoever he may be, should not open and count the returns made from the various States; but the manner of such a count, what should be regarded as in law a vote of a State, the means of ascertaining whether it is the legal vote of the State, it appears to me, must be the subject of legislative provision. And so also I think it safe to say—perhaps safer than what I have already said—that Congress may provide by law a tribunal, which in case of a dispute after the function named in the Constitution has exhausted itself of this opening and counting of the votes, shall have the power to decide who is legally elected President of the United States; not to review the action which the Constitution declares the Presiding Officer of the Senate shall take in the presence of the two Houses, but to ascertain in a method pointed out by law what are the votes that the States have given, and who therefore is the person who has received, in the language of the Constitution, the greatest number of votes.

If I am not mistaken in my recollection, I at one time prepared and presented a bill on that subject, and I have given considerable attention to it, because no man, no matter what party he belongs to, (after the experience we have had, when the candidates of a certain party received a large majority of the votes, of the disorder, the excitement, the difficulties, the disputes that arose in respect of what were called the votes of States, which, if counted or not counted, would produce no difference in the result,) can fail to see that when the counting of the vote of a particular State, or of a paper that is presented as the vote of a particular State, is to make A or B the President, there will necessarily result an excitement, a difficulty, and a disorder which every lover of his country would greatly regret, and which every legislator, so far as he has the power under the Constitution to do it, ought to provide against. I concur, therefore, most heartily in what the Senator from New York has said, that there ought to be a very careful investigation of this question, in order that, so far as we have the legislative power, if we have it at all—and I think we have—we may provide in the constitutional way for ascertaining what the will of the people of the various States may be from time to time in respect of the election of a Chief Magistrate.

Mr. THURMAN. The Senator from Indiana is not in now and I dislike to make the motion which I rose to make, in his absence. If no Senator desires to say anything further on this subject now, I will make the motion, and if the Senator from Indiana should come in and desire it to be reconsidered I will submit to that; or perhaps the Senator can be sent for.

Mr. ANTHONY. If the Senator from Ohio will allow me, I will move that the Senate proceed to the consideration of executive business. I should hardly like to have the question postponed in the absence of the Senator from Indiana.

Mr. THURMAN. I will make my motion and then give way for the Senator's motion.

Mr. ANTHONY. Very well.

Mr. THURMAN. I move that the further consideration of this subject be postponed until the first Monday of February.

Mr. SHERMAN. I desire to move to take up the question pending in regard to Louisiana, but I do not wish to do so until the Senator from Indiana is present. That will supersede this as a matter of course, if it is taken up.

Mr. ANTHONY. I am quite sure that the Senator from Indiana, although he is desirous that there should be ample discussion on this question, as every Senator must desire, does wish to have it disposed of if possible without interruption. I hope therefore that no motion of the kind now proposed will be put in his absence.

The VICE-PRESIDENT. The Senator from Ohio moves that the further consideration of the joint resolution be postponed until the first Monday of February.

Mr. ANTHONY. Pending that motion, I move that the Senate proceed to the consideration of executive business.

The VICE-PRESIDENT. The question is on the motion of the Senator from Rhode Island.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at three o'clock and twenty-two minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, *January* 21, 1875.

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

The Journal of yesterday was read and approved.

AFFAIRS IN LOUISIANA.

Mr. FINCK. I ask unanimous consent to present a joint resolution of the General Assembly of the State of Ohio, and to move that it be laid on the table and printed.

Mr. ELDREDGE. I ask that the joint resolution be read.

The Clerk read as follows:

Resolved by the General Assembly of the State of Ohio, That the recent expulsion of the members and officers of the Louisiana house of representatives by an armed force of United States soldiers, after the body had been duly organized in a manner similar to that which the courts of the State had pronounced lawful and proper, was an outrage utterly defenseless in its atrocity, and calls for the severest censure and punishment on all its actors, aiders, and abettors.

Resolved, That the governor be requested to furnish a copy of this resolution to each of our Senators and Representatives in Congress and to the governors of the several States.

GEORGE L. CONVERSE,
Speaker of the House of Representatives.
ALPHONSO HART,
President of the Senate.

Mr. GUNCKEL. It ought to be stated that, as they were entitled under the constitution of Ohio, the republican members of both houses protest against that resolution. That protest should be presented with the resolution.

Mr. SYPHER. I object to the reception of the resolution for the reason that it does not recite the truth.

Mr. COX. On behalf of my old State I say that every word of it is true.

Mr. PELHAM. And I say it is not true.

Objection having been made, the resolution was not received.

Mr. MOREY, by unanimous consent, presented a memorial to the House of Representatives of the United States from 52 republican members of the house of representatives of the State of Louisiana; which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. BANNING. I ask unanimous consent to present a resolution passed by an indignation meeting held at Cincinnati, Ohio, January 16, 1875, on the interference by the military authority of the United States in Louisiana.

Mr. GUNCKEL. I make the point of order that this is neither a petition nor a memorial nor the resolution of a State Legislature, and that it cannot be received under the rules.

The SPEAKER. If the gentleman objects, that is sufficient.

Mr. GUNCKEL. I object.

The SPEAKER. Even if it were a paper of any one of the classes which the gentleman has stated, it would not be in order to present it now except by unanimous consent.

Mr. COX. I understand the gentleman from Ohio [Mr. GUNCKEL] wanted to bring in a minority report of a Legislature, a thing which was never heard of.

OHIO RIVER IMPROVEMENT.

Mr. NEGLEY, by unanimous consent, presented a memorial of the citizens of Alleghany County, Pennsylvania, relative to the Ohio River Improvement and Transcontinental Railways; which was referred to the Committee on Commerce, and ordered to be printed.

WASHINGTON AND OHIO RAILROAD COMPANY.

Mr. SMITH, of Virginia, by unanimous consent, from the Committee on Railways and Canals, reported back the petition of the Washington and Ohio Railroad Company for aid in the construction of their road to the Ohio River; and the same was ordered to be printed and recommitted, not to be brought back by a motion to reconsider.

AFFAIRS IN LOUISIANA.

Mr. FINCK. I move to reconsider the vote by which the memorial of republican members of the house of representatives of Louisiana was referred to the Committee on the Judiciary.

The SPEAKER. That cannot be done. A reference of that kind is not subject to reconsideration. None of the references made on the floor of bills, &c., at the request of members, can be reconsidered. The reference is made by unanimous consent, and if a gentleman loses his opportunity to object, he cannot afterward move to reconsider.

CRUELTY TO ANIMALS.

Mr. LAMPORT, by unanimous consent, from the Committee on Agriculture, presented a report in writing on the act to amend an act to prevent cruelty to animals while in transit by railroad and other means of transportation within the United States, approved March 3, 1873; and the same was ordered to be printed and recommitted, not to be brought back on a motion to reconsider.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, informed the House that the Senate had passed, with amendments, in which the concurrence of the House was requested, bills of the House of the following titles:

The bill (H. R. No. 3818) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1876, and for other purposes;

The bill (H. R. No. 3823) making appropriations for fortifications and other works of defense for the fiscal year ending June 30, 1876; and

The bill (H. R. No. 3911) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1876, and for other purposes.

CHESAPEAKE AND DELAWARE BAYS.

On motion of Mr. SAWYER, by unanimous consent, the Committee on Commerce was discharged from the further consideration of the following resolution; and the same was referred to the Committee on Railways and Canals:

Resolved That the Secretary of War be directed to report to this House the most feasible route for a ship canal over the narrow peninsula which separates the Chesapeake and Delaware Bays, and also approximate estimates of the cost of the same per mile, together with the probable distance saved by said canal between Baltimore and New York, the ports of New England, and all European ports, and the advantage likely to accrue from the construction of said work to the commerce of the United States in the development of our trade and commerce and the probable saving of time.

AMENDMENT OF POSTAL LAWS.

Mr. COBB, of Kansas, by unanimous consent, from the Committee on the Post-Office and Post-Roads, reported a bill (H. R. No. 4456) to amend certain postal laws; which was read a first and second time, recommitted to the committee, and ordered to be printed.

MRS. LUCY R. SPEER.

On motion of Mr. BUFFINTON, by unanimous consent, the Committee on Accounts was discharged from the further consideration of the petition of Mrs. Lucy R. Speer for a special appropriation to pay for her deceased husband's services under the act of March 3, 1873; and the same was referred to the Committee on Claims.

J. J. BROWN.

Mr. YOUNG, of Georgia, by unanimous consent, introduced a bill (H. R. No. 4457) for the relief of J. J. Brown, late a first lieutenant in the Second Regiment Arkansas Cavalry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

HARBOR OF NEW HAVEN, CONNECTICUT.

Mr. CONGER, by unanimous consent, from the Committee on Commerce, reported the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to make report to this House from the surveys already made in regard to the expediency of widening and deepening the main channel of New Haven, Connecticut, to a depth not exceeding twenty feet, and also the expediency and estimate of expense of a breakwater between the eastern shore of the entrance of said harbor and the "southwest ledge," so called, or such part of said distance as may be found most expedient or necessary for the protection of said harbor.

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

The latter motion was agreed to.

SAINT JOSEPH'S HARBOR.

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

Resolved, That the Secretary of War be, and he is hereby, requested to furnish this House with a report of the condition of Saint Joseph's Harbor and River, and what appropriation, if any, is necessary in the interest of commerce to carry on and perfect the improvements at that point.

Mr. CONGER moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

APPROPRIATION BILLS.

Mr. GARFIELD. A few moments ago a message from the Senate announced the return of three of the general appropriation bills, with amendments. I ask unanimous consent that those bills be referred to the Committee on Appropriations, and that they be printed with the amendments of the Senate and the amendments numbered.

No objection was made, and it was so ordered.

CHANGE OF REFERENCE.

On motion of Mr. SAWYER, by unanimous consent, the Committee on Commerce was discharged from the further consideration of resolutions of the Legislature of Wisconsin, concerning the memorial of the Chamber of Commerce of the city of Wilmington, and the same were referred to the Committee on Claims.

AGRICULTURAL COLLEGE, COLUMBUS, OHIO.

Mr. BUNDY, by unanimous consent, introduced a substitute for House bill No. 4460, to grant to the State of Ohio, for the use and benefit of the Agricultural College at Columbus, Ohio, the unsold and unappropriated lands in said State; which was referred to the Committee on the Public Lands, and ordered to be printed.

PUBLIC BUILDINGS IN BALTIMORE.

Mr. SWANN, by unanimous consent, submitted the following resolutions; which were read, considered, and adopted:

Resolved, That the Committee on Appropriations be requested to ascertain and report the condition and capacity of the existing preparation of the city of Baltimore to accommodate the vast trade which is already beginning to tax the capacity of that great commercial center, and the extent and accommodation of all the public buildings heretofore authorized by the Government, whether completed or in progress of enlargement at this time; and the adequacy of the same to the national wants either now or soon to be developed.

Resolved further, That said committee be requested, should the same be deemed advisable, to procure the most reliable information upon the same from the actual results already in course of development, and that a report be made at an early day setting forth all the facts connected with this important subject, and the wants of said city of Baltimore in its connection with the centers of trade in the West and Nor'hwest and the leading cities of the sea-board as well as the national capital, and her just claim to the national countenance and support by her relations with other commercial centers.

Resolved further, That said committee be requested in their action to consider the propriety of placing said city of Baltimore upon a fair and equal footing with all other cities having the same claims to the national favor and support; and that said committee be instructed to report to this House such recommendation for custom-house, post-office, and other necessary facilities as may be demanded by the growing trade of said city, as the result of said investigation may prove just and equal, and in accordance with the pressing wants of so large a class of the people.

Mr. SWANN moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TAXATION OF NATIONAL BANKS.

Mr. PARSONS. I have here a memorial of the national banks of the city of Cleveland, Ohio, in relation to the taxation of national banks. I ask that it be read and referred to the Committee on Banking and Currency, and be printed.

Mr. SENER. I object to taking up the time of the House by reading such a paper.

Mr. PARSONS. Then I ask that it be referred and printed, and also printed in the RECORD.

No objection was made, and it was so ordered.

The memorial is as follows:

To the Senate and House of Representatives of the United States:

The undersigned, representatives of national banks in the city of Cleveland, respectfully represent that the taxes assessed on national banks in Ohio are exorbitant, unequal, unjust, and oppressive.

Exorbitant, inasmuch as they are not only assessed for county, State, and municipal purposes, but also by the General Government, on capital stock, circulation, and deposits.

Unequal, inasmuch as money invested in bank stock is required to pay three or four times as much tax as money invested in real estate or any other species of property.

Unjust, inasmuch as State banks, savings-banks, and private bankers, with whom national banks have to compete for business, are more lightly taxed, if at all, and enjoy immunities not guaranteed to national banks.

Oppressive, inasmuch as the tax in the aggregate amounts to nearly, if not quite, 5 per cent. on the capital stock, while they are restricted to the legal rate of interest, which in Ohio is 6 per cent., or by contract 8 per cent.

We therefore beg you will so modify the national-bank act as to relieve national banks from excessive taxation.

ROBERT HANNA,
President Ohio National Bank.
JOHN F. WHITELAW,
Cashier National City Bank of Cleveland.
A. K. SPENCER,
Cashier First National Bank of Cleveland.
J. COLWELL,
Cashier Commercial National Bank of Cleveland.
W. L. CUTLER,
Cashier Merchants' National Bank of Cleveland.
H. GARRETSON,
President Second National Bank of Cleveland.

PUBLIC BUILDING IN JERSEY CITY.

Mr. PLATT, of Virginia, by unanimous consent, reported from the Committee on Public Buildings and Grounds a bill (H. R. No. 4458) relating to a site for a public building at Jersey City, New Jersey; which was read a first and second time, ordered to be printed, and recommitted.

Mr. WILLARD, of Vermont. Not to be brought back by a motion to reconsider.

The SPEAKER. That will be the order.

ALFRED FRY.

Mr. PACKARD. I ask unanimous consent to introduce for consideration at this time a bill for the relief of the heirs of Alfred Fry.

The SPEAKER. The bill will be read, after which objections will be in order.

The bill provides that an act entitled "An act for the relief of Al-

fred Fry," approved June 20, 1874, shall be amended so as to read as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and is hereby, authorized and directed to pay, out of any money now appropriated or hereafter to be appropriated for the payment of the Army, to the administrator of the estate of Alfred Fry, deceased, late captain Seventy-third Regiment Indiana Volunteers, for the use of the heirs of said Alfred Fry, the pay and emoluments of a captain of infantry from the 30th day of August, 1863, the date of his commission, to the 17th day of March, 1865, the date the said Alfred Fry was mustered as captain, as if the said Alfred Fry had been mustered as captain on the date of his commission, first deducting whatever sum may have been paid him as lieutenant during the period for which pay is hereby allowed as captain.

Mr. HAWLEY, of Illinois. Does this bill come from any committee?

Mr. PACKARD. It does substantially. The facts about the case are these——

Mr. YOUNG, of Georgia. I object to the bill.

Mr. RANDALL. Then I call for the regular order.

Mr. DONNAN. If my colleague on the Committee on Military Affairs, the gentleman from Georgia, [Mr. YOUNG,] will hear me one moment I am sure he will not object to this bill. A bill was passed by the last Congress for the relief of Captain Fry, and just before it became a law the applicant for whose relief it was passed died. This bill is simply to so amend the law that the proceeds may go to his heirs.

Mr. SPEER and others. That is right.

No objection being made, the bill (H. R. No. 4459) was received, read three times, and passed.

FREEDMAN'S SAVINGS AND TRUST COMPANY.

Mr. DONNAN. I rise to make a privileged report from the Committee on Printing. I report the following resolution:

Resolved, That there be printed twenty-five hundred extra copies of the report of the Commissioners of the Freedman's Savings and Trust Company, with the letter of the Secretary of the Treasury on the same subject, and accompanying documents, for the use of the said commissioners.

It will be noticed that this is not for the use of the House, but for the commissioners. The expense of printing is trifling—between eight and nine cents a copy.

The resolution was adopted.

Mr. RANDALL. I now call for the regular order.

INDIAN APPROPRIATION BILL.

The SPEAKER. The first business in order is the consideration of the privileged motion which came over from last evening. The Indian appropriation bill, upon the question of its engrossment and third reading, was rejected by the House. The gentleman from Iowa [Mr. LOUGHRIDGE] moved to reconsider that vote, and the pending question is upon the motion to lay the motion to reconsider on the table.

Mr. HALE, of Maine. Let me submit a proposition which perhaps will be acceptable.

Mr. LOUGHRIDGE. I object to any proposition. Let us have a vote.

Mr. HALE, of Maine. Then let the bill go.

Mr. HOLMAN and Mr. SPEER called for the yeas and nays.

The SPEAKER. The yeas and nays have already been ordered; and the question is upon laying on the table the motion to reconsider the vote by which the House refused to order the Indian appropriation bill to be engrossed and read a third time.

The question was taken; and there were—yeas 81, nays 165, not voting 42; as follows:

YEAS—Messrs. Arthur, Atkins, Begole, Bell, Bland, Blount, Bromberg, Brown, Buffinton, Burchard, Burleigh, Caldwell, Cannon, Amos Clark, jr., Freeman Clarke, Clayton, Clymer, Coburn, Cook, Cox, Creamer, Crossland, Danford, Durham, Farwell, Finck, Fort, Foster, Glover, Gooch, Gunckel, Eugene Hale, Hamilton, Henry R. Harris, John T. Harris, Havens, John B. Hawley, Holman, Howe, Knapp, Lawson, Magee, Martin, McNulta, Merriam, Milliken, Mills, Monroe, Morrison, Neal, O'Brien, O'Neill, Packer, Page, Hosea W. Parker, Pierce, Randall, Read, Ellis H. Roberts, Ross, Henry B. Sayler, Milton Sayler, Scofield, Sener, Lazarus D. Shoemaker, A. Herr Smith, John Q. Smith, Southard, Speer, Sprague, Stephens, Storm, Wells, Whitehouse, Whitthorne, Charles W. Willard, Charles G. Williams, Ephraim K. Wilson, Wolfe, Wood, and Pierce M. B. Young—81.

NAYS—Messrs. Adams, Albert, Albright, Ashe, Averill, Barber, Barrere, Berry, Biery, Bowen, Bright, Buckner, Bundy, Burrows, Roderick R. Butler, Cain, Carpenter, Cason, Cessna, Chittenden, John B. Clark, jr., Clements, Stephen A. Cobb, Comingo, Conger, Corwin, Cotton, Crittenden, Crooke, Crounse, Darrall, Davis, Dawes, De Witt, Dobbins, Donnan, Dunnell, Eames, Field, Freeman, Garfield, Giddings, Gunter, Hagans, Robert S. Hale, Hancock, Harmer, Benjamin W. Harris, Harrison, Hatcher, Hathorn, Joseph R. Hawley, Hays, Gerry W. Hazelton, John W. Hazelton, Hendee, Hereford, E. Rockwood Hoar, Hodges, Hooper, Hoskins, Houghton, Hubbell, Hunter, Hurlbut, Hyde, Hynes, Kasson, Kelley, Kellogg, Lamar, Lamison, Lamport, Lawrence, Leach, Lewis, Lofland, Loughridge, Lowe, Lowndes, Luttrell, Lynch, Maynard, McCrary, James W. McDill, McLean, Moore, Morey, Myers, Negley, Nesmith, Niles, Nunn, Orr, Orth, Packard, Isaac C. Parker, Parsons, Pelham, Perry, Phelps, Pike, James H. Platt, jr., Thomas C. Platt, Poland, Potter, Pratt, Rainey, Ransier, Rapier, Ray, Richmond, Robbins, James W. Robinson, Rusk, Sawyer, John G. Schumaker, Henry J. Scudder, Isaac W. Scudder, Sessions, Shanks, Sheats, Sheldon, Sherwood, Sloan, Sloss, Small, H. Boardman Smith, J. Ambler Smith, William A. Smith, Snyder, Stanard, Standiford, Starkweather, St. John, Stone, Strait, Strawbridge, Swann, Sypher, Taylor, Christopher Y. Thomas, Thompson, Thornburgh, Todd, Townsend, Tremain, Vance, Waddell, Waldron, Wallace, Jasper D. Ward, Marcus L. Ward, White, Whitehead, Whiteley, Wilber, George Willard, John M. S. Williams, William Williams, William B. Williams, Willie, James Wilson, Woodworth, and John D. Young—165.

NOT VOTING—Messrs. Archer, Banning, Barnum, Barry, Bass, Beck, Bradley, Benjamin F. Butler, Clinton L. Cobb, Crutchfield, Curtis, Duell, Eden, Eldredge, Frye, Herndon, Hersey, George F. Hoar, Hunton, Kendall, Killinger, Lansing, Marshall, Alexander S. McDill, MacDougall, McKee, Mitchell, Niblack, Pendleton, Phillips, Purman, William R. Roberts, James C. Robinson, Schell, Smart, George L. Smith, Stowell, Charles R. Thomas, Tyner, Walls, Wheeler, and Jeremiah M. Wilson—42.

So the motion to reconsider was not laid on the table.

The SPEAKER. The question now recurs: Will the House reconsider the vote by which it refused to order the bill to be engrossed and read a third time?

Mr. WILSON, of Iowa. Is it in order now to move a recommitment of the bill?

The SPEAKER. It is not.

Mr. WILSON, of Iowa. Is it in order to move to reconsider the vote by which the previous question was seconded and the main question ordered?

The SPEAKER. It is not, because that order has been partly executed.

The motion to reconsider was agreed to.

Mr. RANDALL. Is not the operation of the previous question now exhausted?

The SPEAKER. The question now recurs immediately, whether the House will order the engrossment of the bill. That question not having been disposed of, the operation of the previous question is not exhausted until that question is taken.

Mr. HAWLEY, of Illinois. Is it in order now to move to recommit the bill with instructions?

The SPEAKER. It is not.

Mr. WILSON, of Iowa. Is it in order to move to reconsider the vote by which the previous question was ordered?

The SPEAKER. It is not, because the previous question was partly executed—on two separate amendments.

Mr. WILSON, of Iowa. But we reconsidered all that action, and we stand now where we did before the previous question was ordered.

The SPEAKER. No; the House has simply reconsidered the question whether the bill shall be ordered to be engrossed and read the third time.

Mr. HALE, of Maine. In other words, the only way to defeat the Choctaw claim is to vote down the Indian appropriation bill.

The SPEAKER. The Chair did not so state.

Mr. CONGER. Is it too late to reconsider the vote by which the Choctaw amendment was adopted?

The SPEAKER. The motion to reconsider was in that case made and laid on the table.

Mr. RANDALL. After we shall again have voted upon the engrossment of the bill, will not the previous question be then exhausted?

The SPEAKER. Of course.

Mr. RANDALL. Then a motion to recommit will be in order.

The SPEAKER. A motion to recommit will be in order after the engrossment has been ordered. The Chair will state the precise process, so that members may vote intelligently. The question is now, will the House order the bill to be engrossed and read a third time? If the House should do so, then it will be the right of the gentleman from Iowa, [Mr. LOUGHRIDGE,] who has charge of the bill, to call the previous question upon the passage of the bill. Should the House refuse to second the previous question upon the passage of the bill, then the motion to recommit with or without instructions will be in order.

Mr. HALE, of Maine. But, Mr. Speaker, as I understand, the motion to recommit with instructions could not be made before there was a vote by tellers simply on the previous question.

The SPEAKER. It could not.

Mr. HALE, of Maine. So that, if upon that vote the previous question should be ordered, then the motion which I indicated yesterday I would like to make would be shut out.

The SPEAKER. Of course.

Mr. CESSNA. Let us shut it out.

Mr. RANDALL. But the members who gave the 120 votes yesterday could, if they desire to do so, vote down the previous question, and then the motion of the gentleman from Maine would be in order.

The SPEAKER. The Chair does not think that this is a very abstract question; the point is very plain.

Mr. SHANKS. Is it in order, under the guise of parliamentary inquiries, to get in speeches upon the bill?

The SPEAKER. It is not parliamentary so to do.

Mr. SHANKS. Then I object to any further proceeding of that kind.

Mr. HALE, of Maine. We cannot get them in in any other way.

Mr. WILLARD, of Vermont. If we second the demand for the previous question, can we not have the yeas and nays on ordering the main question?

The SPEAKER. Of course, that is the A B C of the rule. The question now recurs on reconsidering the vote by which the House refused to order the bill to be engrossed and read a third time.

The House divided; and there were—ayes 101, noes 54.

Mr. SENER demanded the yeas and nays.

The yeas and nays were not ordered, 17 only voting in the affirmative.

So the House reconsidered the vote by which the engrossment and third reading of the bill were refused.

Mr. LOUGHRIDGE. I demand the previous question on the pending motion.

The SPEAKER. The question recurs on ordering the bill to be engrossed and read a third time, on which the previous question is still operating.

The bill was ordered to be engrossed and read a third time.

Mr. LOUGHRIDGE. I now demand the previous question on the passage of the bill.

Mr. HOLMAN. If that is voted down, will it be in order to recommit the bill?

The SPEAKER. The Chair has stated that three times.

The Speaker appointed Mr. LOUGHRIDGE and Mr. RANDALL as tellers.

The House divided; and the tellers reported—ayes 99, noes 104.

So the House refused to second the demand for the previous question.

Mr. HALE, of Maine. I now move the bill be recommitted to the Committee on Appropriations with instructions to report the same back as it now stands before the House with the exception of the so-called Choctaw amendment, and on that motion demand the previous question.

The previous question was seconded and the main question ordered.

Mr. BUCKNER. Is it in order to move also to include the Chickasaw amendment?

Mr. HALE, of Maine. I hope the gentleman from Missouri will not insist on that amendment, as it will only complicate this still further. The Chickasaw is a small matter, and has no such points of objection as the Choctaw amendment.

Mr. LOUGHRIDGE. I hope the gentleman from Missouri will insist on his amendment.

Mr. SHANKS. I have advocated the Choctaw claim because I know it is just. If one is out I want the other out also. I want everything out that is honest if you strike out the Choctaw claim.

Mr. HALE, of Maine. I did not vote for the Chickasaw claim. My only object is to get out the big claim. I have no objection to the amendment if the House choose to vote on it.

Mr. CONGER. Do the instructions include the Chickasaw amendment?

The SPEAKER. They do not.

Mr. CONGER. I move to reconsider the vote by which the previous question was seconded, in order to get that amendment included.

The House refused to reconsider the vote by which the previous question was seconded—42 only voting in the affirmative.

The SPEAKER. The question now recurs on the motion of Mr. HALE, of Maine, to recommit with instructions.

Mr. SHANKS. What becomes of the Chickasaw amendment?

The SPEAKER. The House has refused to include that in the instructions.

Mr. SHANKS. I am sorry it did.

Mr. HANCOCK. I demand the yeas and nays on the pending motion.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative—yeas 120, nays 130, not voting 38; as follows:

YEAS—Messrs. Albright, Archer, Arthur, Banning, Barber, Bass, Begole, Bell, Biery, Bland, Blount, Bromberg, Brown, Buffinton, Bundy, Burchard, Burleigh, Burrows, Cannon, Chittenden, Amos Clark, jr., Freeman Clarke, Clayton, Clymer, Coburn, Conger, Cook, Cotton, Cox, Creamer, Crounse, Curtis, Danford, Donnan, Durham, Eldredge, Farwell, Field, Finck, Fort, Foster, Freeman, Gunckel, Eugene Hale, Robert S. Hale, Hamilton, Henry R. Harris, John T. Harris, Havens, John B. Hawley, Gerry W. Hazelton, E. Rockwood Hoar, Holman, Howe, Hurlbut, Kasson, Kelley, Knapp, Lawson, Lofland, Lynch, Magee, Martin, McCrary, James W. McDill, McNulta, Merriam, Monroe, Morrison, Myers, Neal, O'Brien, O'Neill, Packard, Packer, Page, Hosea W. Parker, Pierce, Pike, Potter, Randall, Read, Ellis H. Roberts, James W. Robinson, Ross, Henry B. Sayler, Milton Sayler, Scofield, Henry J. Scudder, Isaac W. Scudder, Sener, Sherwood, Lazarus D. Shoemaker, A. Herr Smith, H. Boardman Smith, John Q. Smith, Southard, Speer, Sprague, Stephens, Storm, Strawbridge, Taylor, Charles R. Thomas, Thompson, Todd, Waldron, Jasper D. Ward, Marcus L. Ward, Wells, Whitehouse, Charles W. Willard, George Willard, Charles G. Williams, William B. Williams, Ephraim K. Wilson, James Wilson, Wolfe, Woodworth, and Pierce M. B. Young—120.

NAYS—Messrs. Adams, Albert, Atkins, Averill, Barrere, Barry, Beck, Berry, Bowen, Bright, Buckner, Benjamin F. Butler, Roderick R. Butler, Cain, Caldwell, Carpenter, Cason, Cessna, John B. Clark, jr., Clements, Clinton L. Cobb, Stephen A. Cobb, Comingo, Corwin, Crittenden, Crooke, Crossland, Crutchfield, Darrall, Davis, Dawes, DeWitt, Dobbins, Dunnell, Eames, Garfield, Giddings, Glover, Gunter, Hagans, Hancock, Harmer, Benjamin W. Harris, Hatcher, Hathorn, Joseph R. Hawley, Hays, John W. Hazelton, Hendee, Hereford, Herndon, Hodges, Hooper, Hoskins, Houghton, Hubbell, Hunter, Hyde, Hynes, Kellogg, Lamar, Lamport, Lansing, Leach, Lewis, Loughridge, Lowe, Lowndes, Maynard, McLean, Milliken, Mills, Moore, Morey, Negley, Nesmith, Niblack, Niles, Nunn, Orr, Orth, Isaac C. Parker, Pelham, Pendleton, Perry, Phillips, James H. Platt, jr., Thomas C. Platt, Poland, Pratt, Rainey, Ransier, Rapier, Ray, Richmond, Robbins, Sawyer, Sessions, Shanks, Sheats, Sheldon, Sloan, Sloss, J. Ambler Smith, William A. Smith, Snyder, Stanard, Standiford, Starkweather, St. John, Stone, Stowell, Strait, Swann, Sypher, Thornburgh, Townsend, Tremain, Vance, Waddell, Wallace, White, Whitehead, Whiteley, Whitthorne, Wilber, John M. S. Williams, William Williams, Willie, and John D. Young—130.

NOT VOTING—Messrs. Ashe, Barnum, Bradley, Duell, Eden, Frye, Gooch, Harrison, Hersey, George F. Hoar, Hunton, Kendall, Killinger, Lamison, Lawrence, Luttrell, Marshall, Alexander S. McDill, MacDougall, McKee, Mitchell, Parsons, Phelps, Purman, William R. Roberts, James C. Robinson, Rusk, Schell, John G. Schumaker, Small, Smart, George L. Smith, Christopher Y. Thomas, Tyner, Walls, Wheeler, Jeremiah M. Wilson, and Wood—38.

So the House refused to recommit with instructions.

Mr. HOLMAN. I move to lay the bill upon the table.

The SPEAKER. Pending the vote on the passage of the bill the gentleman from Indiana moves to lay it upon the table.

Mr. HOLMAN. Is a motion to recommit without instructions in order?

The SPEAKER. It is not, because the next vote will be on the passage of the bill, the previous question operating clear through.

Mr. HOLMAN. Is it in order to move to reconsider the vote?

The SPEAKER. No, as it has been partly executed.

Mr. HOLMAN. I insist on the motion to lay upon the table, as that is the only vote which will accomplish the object.

Mr. SPEER demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 114, nays 132, not voting 42; as follows:

YEAS—Messrs. Albright, Archer, Arthur, Ashe, Atkins, Banning, Barber, Bass, Beck, Begole, Bell, Biery, Bland, Blount, Bromberg, Brown, Buffinton, Burchard, Burleigh, Burrows, Caldwell, Cannon, Chittenden, Amos Clark, jr., Freeman Clarke, Clayton, Clymer, Coburn, Conger, Cook, Cox, Creamer, Crittenden, Crossland, Curtis, Danford, Donnan, Durham, Finck, Fort, Foster, Glover, Gunckel, Eugene Hale, Robert S. Hale, Hamilton, Henry R. Harris, John T. Harris, John B. Hawley, Gerry W. Hazelton, E. Rockwood Hoar, Holman, Howe, Hurlbut, Hyde, Lamison, Lawrence, Lawson, Magee, Marshall, McCrary, McNulta, Merriam, Milliken, Mills, Monroe, Morrison, Neal, Niblack, O'Brien, O'Neill, Packard, Packer, Page, Hosea W. Parker, Phelps, Pierce, Pike, Potter, Randall, Read, Ellis H. Roberts, James W. Robinson, Ross, Henry B. Sayler, Milton Sayler, Scofield, Henry J. Scudder, Sener, Sherwood, Lazarus D. Shoemaker, A. Herr Smith, John Q. Smith, Speer, Sprague, Storm, Taylor, Thompson, Todd, Jasper D. Ward, Marcus L. Ward, Wells, Whitehouse, Whitthorne, Charles W. Willard, George Willard, Charles G. Williams, William B. Williams, Ephraim K. Wilson, James Wilson, Wolfe, Wood, Woodworth, and Pierce M. B. Young—114.

NAYS—Messrs. Adams, Albert, Averill, Barrere, Barry, Berry, Bowen, Bright, Buckner, Benjamin F. Butler, Roderick R. Butler, Cain, Carpenter, Cason, Cessna, John B. Clark, jr., Clements, Clinton L. Cobb, Stephen A. Cobb, Comingo, Corwin, Cotton, Crooke, Crounse, Crutchfield, Darrall, Davis, Dawes, DeWitt, Dobbins, Dunnell, Eames, Freeman, Garfield, Giddings, Gooch, Gunter, Hagans, Hancock, Harmer, Benjamin W. Harris, Harrison, Hatcher, Hathorn, Joseph R. Hawley, Hays, John W. Hazelton, Hendee, Hereford, Herndon, Hodges, Hooper, Hoskins, Houghton, Hubbell, Hunter, Hynes, Kasson, Kelley, Kellogg, Lamar, Lamport, Lansing, Leach, Lewis, Loughridge, Lowe, Lowndes, Lynch, Maynard, James W. McDill, McLean, Moore, Morey, Negley, Nesmith, Niles, Nunn, Orr, Orth, Isaac C. Parker, Pelham, Pendleton, Perry, Phillips, James H. Platt, jr., Thomas C. Platt, Poland, Pratt, Rainey, Ransier, Rapier, Ray, Richmond, Robbins, Rusk, Sawyer, Isaac W. Scudder, Sessions, Shanks, Sheats, Sheldon, Sloan, Sloss, Small, H. Boardman Smith, J. Ambler Smith, Snyder, Stanard, Standiford, Starkweather, St. John, Stone, Stowell, Strait, Swann, Sypher, Christopher Y. Thomas, Thornburgh, Townsend, Tremain, Vance, Waddell, Wallace, White, Whitehead, Whiteley, Wilber, John M. S. Williams, William Williams, Willie, and John D. Young—132.

NOT VOTING—Messrs. Barnum, Bradley, Bundy, Duell, Eden, Eldredge, Farwell, Field, Frye, Havens, Hersey, George F. Hoar, Hunton, Kendall, Killinger, Knapp, Lofland, Luttrell, Martin, Alexander S. McDill, MacDougall, McKee, Mitchell, Myers, Parsons, Purman, William R. Roberts, James C. Robinson, Schell, John G. Schumaker, Smart, George L. Smith, William A. Smith, Southard, Stephens, Strawbridge, Charles R. Thomas, Tyner, Waldron, Walls, Wheeler, and Jeremiah M. Wilson—42.

So the motion to lay the bill on the table was not agreed to.

The SPEAKER. The question recurs, will the House pass the bill?

Mr. CLYMER and Mr. SPEER called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 120, nays 126, not voting 42; as follows:

YEAS—Messrs. Adams, Albert, Averill, Barrere, Barry, Berry, Bowen, Buckner, Benjamin F. Butler, Roderick R. Butler, Cain, Carpenter, Cason, Cessna, John B. Clark, jr., Clements, Clinton L. Cobb, Stephen A. Cobb, Comingo, Corwin, Crooke, Crutchfield, Darrall, Davis, Dawes, DeWitt, Dobbins, Dunnell, Eames, Freeman, Garfield, Gooch, Gunter, Hagans, Hancock, Harmer, Benjamin W. Harris, Harrison, Hathorn, Joseph R. Hawley, Hays, John W. Hazelton, Hendee, Hodges, Hooper, Hoskins, Houghton, Hubbell, Hunter, Hynes, Kelley, Kellogg, Lamar, Leach, Lewis, Loughridge, Lowe, Lowndes, Maynard, James W. McDill, McLean, Moore, Morey, Negley, Nesmith, Niles, Nunn, Orr, Orth, Packard, Isaac C. Parker, Pelham, Pendleton, Perry, Phillips, James H. Platt, jr., Thomas C. Platt, Poland, Pratt, Rainey, Ransier, Rapier, Ray, Richmond, Rusk, Sessions, Shanks, Sheats, Sheldon, Sloan, Sloss, Small, H. Boardman Smith, J. Ambler Smith, William A. Smith, Snyder, Stanard, Standiford, Starkweather, St. John, Stone, Stowell, Strait, Swann, Sypher, Charles R. Thomas, Christopher Y. Thomas, Thornburgh, Townsend, Tremain, Vance, Waddell, Wallace, White, Whitehead, Whiteley, Wilber, John M. S. Williams, William Williams, and Willie—120.

NAYS—Messrs. Albright, Archer, Arthur, Ashe, Atkins, Banning, Barber, Bass, Beck, Bell, Biery, Bland, Blount, Bromberg, Brown, Buffinton, Burchard, Burleigh, Burrows, Caldwell, Cannon, Amos Clark, jr., Freeman Clarke, Clayton, Clymer, Coburn, Conger, Cook, Cotton, Cox, Creamer, Crittenden, Crossland, Curtis, Danford, Donnan, Durham, Eldredge, Farwell, Field, Finck, Fort, Foster, Giddings, Glover, Gunckel, Eugene Hale, Robert S. Hale, Hamilton, Henry R. Harris, John T. Harris, Hatcher, Havens, John B. Hawley, Gerry W. Hazelton, Hereford, Herndon, E. Rockwood Hoar, Holman, Howe, Hurlbut, Hyde, Kasson, Knapp, Lamison, Lawrence, Lawson, Lofland, Lynch, Magee, Martin, McCrary, McNulta, Merriam, Milliken, Mills, Monroe, Morrison, Neal, Niblack, O'Brien, O'Neill, Packer, Hosea W. Parker, Phelps, Pierce, Pike, Potter, Randall, Read, Robbins, Ellis H. Roberts, James W. Robinson, Ross, Henry B. Sayler, Milton Sayler, Scofield, Henry J. Scudder, Sener, Sherwood, Lazarus D. Shoemaker, A. Herr Smith, John Q. Smith, Southard, Speer, Sprague, Storm, Strawbridge, Taylor, Thompson, Todd, Marcus L. Ward, Wells, Whitehouse, Whitthorne, Charles W. Willard, George Willard, Charles G. Williams, William B. Williams, Ephraim K. Wilson, James Wilson, Wolfe, Wood, Woodworth, John D. Young, and Pierce M. B. Young—126.

NOT VOTING—Messrs. Barnum, Begole, Bradley, Bright, Bundy, Chittenden, Crounse, Duell, Eden, Frye, Hersey, George F. Hoar, Hunton, Kendall, Killinger, Lamport, Lansing, Luttrell, Marshall, Alexander S. McDill, MacDougall, McKee, Mitchell, Myers, Page, Parsons, Purman, William R. Roberts, James C. Robinson, Sawyer, Schell, John G. Schumaker, Isaac W. Scudder, Smart, George L. Smith, Stephens, Tyner, Waldron, Walls, Jasper D. Ward, Wheeler, and Jeremiah M. Wilson—42.

So the House refused to pass the bill.

Mr. HOLMAN. I move to reconsider the vote by which the House refused to pass the bill; and also move to lay the motion to reconsider on the table.

Mr. LOUGHRIDGE. On that I ask the yeas and nays.

Mr. GARFIELD. I desire to make a suggestion to the House, if the gentleman from Indiana [Mr. HOLMAN] will allow me.

Mr. HOLMAN. I withdraw my motion for the present.

Mr. LOUGHRIDGE. I ask the yeas and nays on the motion to reconsider.

Mr. HOLMAN. I renew my motion to reconsider the vote by which the House refused to pass the bill and to lay the motion on the table.

Mr. LOUGHRIDGE. And on that motion I call for the yeas and nays.

The question being taken on ordering the yeas and nays, there were ayes 37, a sufficient number.

So the yeas and nays were ordered.

Mr. HOLMAN. I withdraw the motion to reconsider and to lay the motion to reconsider on the table.

Mr. DAWES. I rise to a privileged question.

Mr. LOUGHRIDGE. I move to reconsider the vote by which the House refused to pass the bill.

Mr. RANDALL. Which way did the gentleman vote?

The SPEAKER. It is the duty of the Chair to make that inquiry.

Mr. RANDALL. I was asking the gentleman through the Chair.

The SPEAKER. Did the gentleman from Iowa vote on the prevailing side?

Mr. LOUGHRIDGE. I did not. I desire to ask the Chair if the gentleman from Indiana can withdraw his motion after the yeas and nays have been ordered.

The SPEAKER. He can.

MRS. MARY L. WOOLSEY.

On motion of Mr. SCOFIELD, by unanimous consent, the Committee on Naval Affairs was discharged from the further consideration of the memorial of Mrs. Mary L. Woolsey, widow of M. B. Woolsey, late a commodore in the United States Navy; and the same was referred to the Committee on Invalid Pensions.

INDIAN APPROPRIATION BILL.

Mr. HYDE. I move to reconsider the vote by which the House refused to pass the bill.

The SPEAKER. Did the gentleman vote on the prevailing side?

Mr. HYDE. I did.

Mr. HOLMAN. And I move to lay the motion to reconsider on the table.

Mr. PARKER, of Missouri. On that motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. KASSON. Before the vote is taken I ask the Chair to state the position in which this motion, if it is carried, will leave the bill.

The SPEAKER. That is a proper parliamentary inquiry. The effect of the vote, if the House lays the motion to reconsider upon the table, is that the bill is absolutely dead beyond the power of the House to take it up except by unanimous consent or upon a suspension of the rules.

Mr. HALE, of Maine. Does it not leave the bill exactly where the House has left it by the last vote?

The SPEAKER. It leaves the bill defeated.

Mr. HALE, of Maine. Where the House left it?

The SPEAKER. No; the House by the vote last taken left it open to reconsideration; but when the House by a vote lays on the table the motion to reconsider, it leaves the bill defeated.

Mr. HALE, of Maine. What is the position of the bill if the House does not reconsider its last vote?

The SPEAKER. The Chair does not apprehend the question of the gentleman from Maine.

Mr. HALE, of Maine. The vote just taken, unless it be reconsidered, kills the bill.

The SPEAKER. Certainly.

Mr. HALE, of Maine. Tabling the motion to reconsider that vote does nothing more than that.

The SPEAKER. The Chair still fails to see the distinction which the gentleman from Maine intends to make. Of course the adoption of the motion to lay on the table the motion to reconsider kills the bill beyond the power of the House to revive it.

Mr. SHANKS. It buries the dead bill.

The SPEAKER. The Chair does not think that so plain a parliamentary point as this should be discussed. Every one who knows the *principia* of parliamentary law knows that if a bill is lost and a motion to reconsider the vote by which it was lost is laid upon the table, the bill is dead.

Mr. KASSON. When I put my question to the Chair I appreciated the parliamentary position of the question; but I thought that some members of the House did not. I beg leave now to ask this question: Whether the member of the Committee on Appropriations who has charge of this bill will, if the vote just taken is reconsidered, allow us to vote on the bill if we can get at it, as we can, I think, without the Choctaw clause in it, or does he intend to force the Choctaw provision on us?

Mr. SHANKS. That would require unanimous consent, which cannot be had.

Mr. PARKER, of Missouri. I desire to make a parliamentary inquiry.

Mr. KASSON. I ask my colleague, [Mr. LOUGHRIDGE,] who is in charge of this bill, for an answer to my question.

Mr. LOUGHRIDGE. I will answer it. We have not forced the Choctaw clause on the House. The House by a majority of 40 votes put it in the bill yesterday. How, then, are we forcing it on the gentleman or on the House?

Mr. KASSON. That was not on a full vote, because all the votes taken this morning indicate that the House wants to get rid of this Choctaw clause.

Mr. SHANKS. The House refused by a large majority to refer the bill back to the committee with instructions to strike out the provision in relation to the Choctaw claim.

Mr. SENER. Is not all this proceeding by unanimous consent?

The SPEAKER. It is; but the Chair will answer any questions which tend to explain the parliamentary effect of a vote.

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

Mr. PARKER, of Missouri. The question I desire to ask is, if the motion to reconsider is laid on the table and thus the bill is killed beyond redemption, what right has the Committee on Appropriations in the premises? Can it at any time report a new Indian bill or do we have to wait for the call of that committee? That is the question I want determined. If the House is willing to take the responsibility of killing all these appropriations for the Indians, let it be done.

Mr. RANDALL. The House takes no such responsibility.

Mr. HALE, of Maine. The committee can report a new bill to-morrow.

Mr. PARKER, of Missouri. I would like to have the Speaker answer my question. I trust my friend from Maine in some things; but not in everything.

Mr. FORT. I desire to ask a parliamentary question. If this motion be not adopted, will it then be in order to move to reconsider the vote by which the previous question was ordered, so that we may strike out the Choctaw clause or have a vote on that question directly?

The SPEAKER. If the House should reconsider the vote by which it refused to pass the bill, it is then divested of the previous question, but not far enough back to allow an amendment. The amendable stage of a bill is when it is upon its engrossment and third reading. If the bill be carried beyond that point, it is not in the power of the House to adopt an amendment to it unless by unanimous consent. But it is in the power of the House to recommit this bill to the Committee of the Whole on the state of the Union, or to any standing committee with or without instructions.

Mr. HALE, of Maine. I desire to say one thing in connection with the language used by the Chair, which was very strong. The Chair said that if this motion to lay the motion to reconsider on the table was carried, then this appropriation bill was killed beyond resurrection.

The SPEAKER. Just as much as if it had never existed.

Mr. HALE, of Maine. Does the Chair mean by that to say that it is not within the province of the Committee on Appropriations to report *ab initio* an Indian appropriation bill, without this Choctaw claim, if that committee chooses to do so?

The SPEAKER. The Chair did not say anything about any bill hereafter to be reported; the Chair was talking about this bill.

Mr. HALE, of Maine. Is it not within the power of the Committee on Appropriations to report such a bill?

The SPEAKER. That is not a parliamentary point for the Chair to rule upon now. Whether the Committee on Appropriations may or may not report a bill simply for the Chair to rule it out is not a parliamentary question. But there is never any place where the House of Representatives can get itself that a majority is not perfectly competent to do what they want to do. If the majority of the House wish to pass this bill without the Choctaw claim in it, it is perfectly competent for the majority to do so.

Mr. SCOFIELD. If the Chair will state in this case how that can be done, he will oblige some members here, because there is an apparent majority who want to vote for the bill; and there appears also to be a majority in favor of the Choctaw claim.

The SPEAKER. The Chair will take some time to explain the situation. If the motion of the gentleman from Maine [Mr. HALE] had prevailed to recommit this bill to the Committee on Appropriations with instructions to report it back without the Choctaw claim, it would then have required unanimous consent to consider it in the House. Under the rule it would have to go to the Committee of the Whole. The Committee on Appropriations is privileged to report at any time for reference only. Therefore had that motion prevailed the House would have got itself right back where it stood yesterday in Committee of the Whole on the Indian appropriation bill.

Mr. HALE, of Maine. That is what I expected when I made the motion.

The SPEAKER. Should the House reconsider the vote whereby it refused to pass this bill, and should then recommit the bill to the Committee of the Whole on the state of the Union, it can then do with it what it pleases, and will be in the same situation that it was in when the bill was before in Committee of the Whole. That is the mode the rules plainly point out in such cases; and it is for the majority of the House to so order or not as they please.

The Chair has gone a little further perhaps than is his proper province in the way of suggestion. But he has done so because he has thought there may be some members who are a little confused in regard to the situation. If the House shall table the motion to reconsider, of course this bill will then be absolutely beyond the power

of the House to touch. And now, as the gentleman from Maine [Mr. HALE] has put a supposititious case which the Chair very seldom rules upon, the Chair will rule that the Committee on Appropriations are authorized to report sundry enumerated appropriation bills, among which is the Indian appropriation bill. Having reported the Indian appropriation bill, if the House chooses to dispose of that bill in any way, to refer it, to table it, to defeat it in any manner, the Chair does not know where the rule gives the Committee on Appropriations the right to report another bill of the kind during the same session.

Mr. HALE, of Maine. It would require a suspension of the rules to permit them to report such a bill?

The SPEAKER. A majority of the House can to-day control the whole matter. It is now quite within the power of the majority to control this bill, to refer it to the Committee of the Whole on the state of the Union, which committee can report it back to the House without the Choctaw claim.

Mr. FORT. We can reconsider the vote whereby the House refused to pass the bill and then recommit the bill to the Committee of the Whole on the state of Union.

The SPEAKER. Certainly; because if the vote by which the House refuses to pass the bill is reconsidered, then the bill is divested of the previous question, because the previous question will have then been exhausted. The question now is, "Will the House lay upon the table the motion to reconsider the vote refusing to pass the bill?"

Mr. RANDALL. Will the Speaker cite any instance in support of such a ruling as that just made by him, where an appropriation bill having been defeated, the Committee on Appropriations was therefore deprived of the right subsequently to report another?

The SPEAKER. The Chair did not say that they would be deprived of the right to report it. But the Chair has never known in his experience in the House, which is just coequal with that of the gentleman from Pennsylvania, [Mr. RANDALL,] an instance where an appropriation bill was defeated, except one, and that on the last day of the session.

Mr. HALE, of Maine. Did the Chair ever know an instance of such an amendment as this being put on an appropriation bill?

Mr. PARKER, of Missouri. I can give the gentleman an instance where two railroad companies in New England got a grab at the Treasury by an amendment to an appropriation bill.

Mr. HOLMAN. If I have the right, I will withdraw the motion to lay the motion to reconsider on the table, and will call the yeas and nays on the direct motion to reconsider.

The SPEAKER. The gentleman has the right to do that.

Mr. KASSON. We can reconsider without the yeas and nays.

The question was taken upon ordering the yeas and nays, and there were 13 in the affirmative; not one-fifth of the last vote.

So the yeas and nays were not ordered.

The question was then taken upon the motion to reconsider; and upon a division there were—ayes 109, noes 61.

Before the result of the vote was announced,

Mr. SPEER said: Is it in order to ask for tellers on ordering the yeas and nays on the motion to reconsider?

The SPEAKER. That is not now in order, because the gentleman allowed the decision of the Chair that the yeas and nays had not been ordered to stand. The gentleman can call for tellers on the motion to reconsider.

Mr. SPEER. I do not call for that.

The SPEAKER. Then the motion to reconsider is agreed to.

Mr. FORT. If in order, I now move to recommit this bill to the Committee of the Whole on the state of the Union.

Mr. LOUGHRIDGE. I call for the previous question on the passage of the bill.

The SPEAKER. The Chair thinks that would not be the parliamentary process. The significance of the vote which has just been taken is that the House desires to vote upon a motion to recommit.

Mr. FORT. I move to recommit the bill to the Committee of the Whole, and on that motion I call the previous question.

The SPEAKER. The House having voted to reconsider, the question recurs, "Shall the bill pass?" pending which the gentleman from Illinois [Mr. FORT] moves that the bill be recommitted to the Committee of the Whole.

Mr. HYNES. Is a motion to recommit in order after the third reading of the bill?

The SPEAKER. O, yes; entirely so.

The previous question was seconded and the main question ordered.

The SPEAKER. A member has suggested a recommitment to the Committee of the Whole with instructions; but that is not necessary. The Committee of the Whole being composed of precisely the same members as the House, it is not usual to add instructions to a motion to recommit, as is often done upon a reference or recommitment to one of the standing committees.

Mr. HALE, of Maine. But is it proper to offer an amendment instructing the Committee of the Whole?

The SPEAKER. The Chair has never known an instance of that kind, because, as has just been remarked, the Committee of the Whole comprises precisely the same members as the House; and to instruct the Committee of the Whole would be the House instructing itself.

Mr. STARKWEATHER. Besides, the gentleman has once moved to recommit with instructions, and that motion has been voted down.

Mr. SPEER. On this question we had better have the yeas and nays.

Mr. SMITH, of Ohio. When the bill is reported back to the House, what will be the order of proceeding?

The SPEAKER. The proceeding will begin *de novo*.

Mr. MAYNARD. If this bill goes back to the Committee of the Whole, will it not be subject to be revised from the beginning? Shall we not have to go through the consideration of the whole text of the bill again?

The SPEAKER. On a strict ruling that would be so. If any gentleman should object to the previous work of the Committee of the Whole being regarded as conclusive, it would be within his power to force the Committee of the Whole to go through with the bill again. There is no doubt about that.

Mr. MAYNARD. In other words, it might take another week to get where we are now.

The question being taken on the motion of Mr. FORT to recommit the bill to the Committee of the Whole on the state of the Union, there were—ayes 109, noes 65.

Mr. PARKER, of Missouri. I call for the yeas and nays.

On ordering the yeas and nays there were ayes 26, noes not counted.

The SPEAKER. The vote upon ordering the yeas and nays is so close that the Chair will direct the question to be determined by tellers. The gentleman from Illinois, Mr. FORT, and the gentleman from Missouri, Mr. PARKER, will act as such.

The House divided; and the tellers reported ayes 44, noes not counted.

The SPEAKER. The tellers report more than one-fifth of the last vote as voting for the yeas and nays; and they will be considered as ordered.

The question was taken; and there were—yeas 140, nays 103, not voting 45; as follows:

YEAS—Messrs. Albert, Albright, Archer, Arthur, Barber, Begole, Bell, Biery, Bland, Blount, Bright, Bromberg, Brown, Buffinton, Bundy, Burchard, Burleigh, Burrows, Caldwell, Cannon, Chittenden, Amos Clark, jr., Freeman Clarke, Clayton, Clymer, Stephen A. Cobb, Coburn, Conger, Corwin, Cotton, Cox, Creamer, Crittenden, Crooke, Crossland, Crounse, Curtis, Danford, Donnan, Durham, Eames, Farwell, Field, Finck, Fort, Foster, Glover, Gunckel, Eugene Hale, Robert S. Hale, Hamilton, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Havens, John B. Hawley, Joseph R. Hawley, Gerry W. Hazelton, Hendee, E. Rockwood Hoar, Holman, Howe, Hubbell, Hunter, Hurlbut, Hyde, Kasson, Kelley, Knapp, Lamport, Lawrence, Lowndes, Lynch, Martin, McCrary, James W. McDill, McNulta, Merriam, Milliken, Monroe, Morrison, Myers, Neal, Nesmith, Niblack, O'Brien, O'Neill, Orr, Packard, Packer, Page, Hosea W. Parker, Phelps, Pierce, Pike, Potter, Randall, Robbins, Ellis H. Roberts, James W. Robinson, Ross, Henry B. Sayler, Milton Sayler, Scofield, Henry J. Scudder, Isaac W. Scudder, Sener, Sherwood, Lazarus D. Shoemaker, Small, A. Herr Smith, H. Boardman Smith, John Q. Smith, William A. Smith, Southard, Speer, Sprague, Stanard, Storm, Strawbridge, Taylor, Thompson, Thornburgh, Todd, Tyner, Waldron, Wallace, Jasper D. Ward, Marcus L. Ward, Wells, Whitehouse, Charles W. Willard, George Willard, Charles G. Williams, William B. Williams, Ephraim K. Wilson, James Wilson, Wolfe, and Wood—140.

NAYS—Messrs. Adams, Ashe, Atkins, Averill, Barrere, Barry, Beck, Berry, Bowen, Buckner, Benjamin F. Butler, Roderick R. Butler, Cain, Carpenter, Cason, Cessna, John B. Clark, jr., Comingo, Cook, Crutchfield, Darrall, Davis, DeWitt, Dobbins, Dunnell, Eldredge, Garfield, Giddings, Gooch, Gunter, Hagans, Hancock, Harmer, Hatcher, Hathorn, Hays, John W. Hazelton, Hereford, Herndon, Hodges, Hooper, Hoskins, Houghton, Hynes, Kellogg, Lamar, Lamison, Lawson, Leach, Lewis, Lofland, Loughridge, Lowe, Luttrell, Magee, Maynard, McLean, Mills, Moore, Morey Negley, Niles, Nunn, Orth, Isaac C. Parker, Pelham, Pendleton, Perry, Phillips, James H. Platt, jr., Thomas C. Platt, Poland, Pratt, Rainey, Rapier, Richmond, Rusk, Sessions, Shanks, Sheats, Sloan, J. Ambler Smith, Snyder, Standiford, Starkweather, St. John, Stone, Strait, Swann, Charles R. Thomas, Christopher Y. Thomas, Townsend, Waddell, White, Whitehead, Whiteley, Whitthorne, Wilber, John M. S. Williams, William Williams, Willie, John D. Young, and Pierce M. B. Young—103.

NOT VOTING—Messrs. Banning, Barnum, Bass, Bradley, Clements, Clinton L. Cobb, Dawes, Duell, Eden, Freeman, Frye, Hersey, George F. Hoar, Hunton, Kendall, Killinger, Lansing, Marshall, Alexander S. McDill, MacDougall, McKee, Mitchell, Parsons, Purman, Ransier, Ray, Read, William R. Roberts, James C. Robinson, Sawyer, Schell, John G. Schumaker, Sheldon, Sloss, Smart, George L. Smith, Stephens, Stowell, Sypher, Tremain, Vance, Walls, Wheeler, Jeremiah M. Wilson, and Woodworth—45.

So the bill was recommitted to the Committee of the Whole on the state of the Union.

The SPEAKER. As this proceeding is somewhat unusual, the Chair will take the opportunity of saying that the bill as it now goes to the Committee of the Whole goes as though it were entirely a new bill, and it is therefore in order to strike out anything that is in it. It is in the power of a majority of the committee to amend it just as may be deemed fit.

Mr. GARFIELD. I move the House resolve itself into the Committee of the Whole on the Indian appropriation bill.

Mr. KASSON. Pending that motion, I hope the gentleman will move to close debate.

The SPEAKER. The Chair was about to recognize the gentleman who moved to recommit.

Mr. GARFIELD. He allows me to make my motion. I also move all debate be limited to ten minutes.

Mr. LOUGHRIDGE. Make it one minute.

Mr. GARFIELD. I move all debate be limited to one minute. Amendments of course will be in order.

ENROLLED BILL.

Mr. PENDLETON, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled an act

(S. No. 1009) to enable the Commissioner of Agriculture to make a special distribution of seeds; when the Speaker signed the same.

CHARLES A. WETMORE.

Mr. DAWES. I rise to a question of privilege which will occasion, I think, no debate. I have in my hand a communication addressed to the Speaker by Charles A. Wetmore. It has been laid before the Committee on Ways and Means, and in their opinion is a sufficient apology for the performance of yesterday, and if it should be satisfactory to the House I move he be discharged from the custody of the Sergeant-at-Arms.

The Clerk read as follows:

WASHINGTON, D. C., *January* 21, 1875.

SIR: I deem it due to the House of Representatives, the Committee on Ways and Means, and myself to make the following explanation:

On yesterday I was called to the bar of the House to answer a certain question which I had refused to answer before the Committee on Ways and Means. The question being propounded to me by the Speaker, considering myself still under oath, I gave as full and complete an answer as was, or is in my power. Exception, however, was taken to accompanying remarks intended by me to explain my failure to answer fully before the committee, by which remarks I certainly intended no disrespect to the House or any of its members.

The impression which I wished to convey concerning the proceedings before the committee was that they had had the effect to confuse my recollection and to prevent intelligent answers. I am not sure that some of my impressions of what occurred in the committee were correct—I mean those to which, when I related them, exceptions may have been taken. In making my statement I did not intend to do any injustice to the committee or any of its members, yet frankly admit that I may have done so.

So far as the House of Representatives is concerned, I did not intend to cast any reproach upon it; on the contrary, I felt grateful to it for giving me time to answer, and so desired to express myself. If my remarks conveyed any other impression, it was unintentional, and I regret it—and I so, with respect to the House, ask that they may be construed.

Knowing of nothing else that I can do, I respectfully ask for a reconsideration of my case.

Respectfully,

CHAS. A. WETMORE.

Hon. JAMES G. BLAINE,
Speaker House of Representatives.

The motion was agreed to; and Mr. Charles A. Wetmore was ordered to be discharged from custody.

Mr. DAWES moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HON. GEORGE Q. CANNON, DELEGATE FROM UTAH.

Mr. SMITH, of New York, from the Committee on Elections, submitted a report in the matter of GEORGE Q. CANNON, Delegate from Utah; which was ordered to be printed, and laid on the table.

INDIAN APPROPRIATION BILL.

Mr. HOLMAN. As the Indian appropriation bill goes to the Committee of the Whole as a new bill, the limitation applies only to the general debate.

Mr. GARFIELD. I do not propose to cut off the five-minute debate on amendments.

The SPEAKER. It is not in the power of the House to limit the five-minute debate until after it has begun.

Mr. GARFIELD. I wish to get the House in committee and after one minute to have the bill open to amendment under the five-minute rule. I do not suppose any further general debate is desired.

Mr. HAMILTON. I move the House adjourn.

Mr. GARFIELD. I suppose there has been a struggle here in good faith, and when in Committee of the Whole we will have a chance to settle it without external reasons or delay of the session.

The House divided; and there were—ayes 52, noes 88.

So the House refused to adjourn.

TAX AND TARIFF BILL.

Mr. MAYNARD. We have already consumed a good deal of time on the Indian appropriation bill, and I rise now for the purpose of making a privileged report.

Mr. GARFIELD. Can this report come in pending my motion?

The SPEAKER. The rule is very strict as to the high privilege of a conference report. It is in order at any time except when the rules are suspended.

Mr. GARFIELD. My motion is to suspend the rules.

The SPEAKER. But that does not suspend them. The Clerk will read the rule on the subject, because we may have frequent occasion to know what it is.

The Clerk read as follows:

Indeed, under the practice, reports of conference committees are received at any time, (except when the rules are suspended,) even during the pendency of a motion to adjourn or to adjourn over, and, like the motion to go to the Speaker's table, may interrupt a member who is on the floor speaking.

The SPEAKER. It is due the Chair should state, this privilege made so very high relates only to the making of the conference report. It does not force upon the House the consideration of it. The House can postpone it to any day.

Mr. GARFIELD. I raise the question of consideration, then.

The SPEAKER. The gentleman from Tennessee [Mr. MAYNARD] submits the following conference report on the tax and tariff bill.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 3572) "to amend existing customs and internal-revenue laws, and for other purposes," having met, after full and free conference have agreed to recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 7, 8, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31, 32, and 36; and agree to the same.

That the Senate recede from its amendments numbered 1, 15, and 16.

That the House recede from its disagreement to the fifth amendment of the Senate, and agree to the same with an amendment as follows: Insert in lieu of the words proposed to be stricken out the words: "*Provided, also*, That there shall be an allowance of 5 per cent., and no more, on all effervescing wines, liquors, cordials, and distilled spirits in bottles, to be deducted from the invoice quantity in lieu of breakage;" and the Senate agree to the same.

That the Senate recede from its sixth amendment, and agree to the clause proposed to be stricken out with an amendment as follows: Strike out "ten" and insert "eight;" and the House agree to the same.

That the Senate recede from its thirtieth amendment, and agree to the section proposed to be stricken out with an amendment as follows: Strike out all of section 23 after "States," in line 17, page 14, and insert in lieu thereof the words "when such persons are designated or acting as officers or deputies or persons having the custody or disposition of any public money;" and the House agree to the same.

That the House recede from its disagreement to the thirty-third amendment of the Senate, and agree to the same with an amendment as follows: In lieu of "23" (the number of the section) insert "24;" and the Senate agree to the same.

That the House recede from its disagreement to the thirty-fourth amendment of the Senate, and agree to the same with an amendment as follows: In lieu of "24" (the number of the section) insert "25;" and the Senate agree to the same.

That the House recede from its disagreement to the thirty-fifth amendment of the Senate, and agree to the same with an amendment as follows: In lieu of "25" (the number of the section) insert "26;" and the Senate agree to the same.

They further recommend that in section 7, page 5, line 21, after the word "returned," the word "empty" be inserted; that in section 7, page 5, line 17, "1874" be stricken out and in lieu thereof "1875" inserted; that in section 14, page 9, line 17, "1874" be stricken out and "1875" inserted in lieu thereof.

HORACE MAYNARD,
HENRY H. STARKWEATHER,
Managers on the part of the House.

JOHN SHERMAN,
FREDK. T. FRELINGHUYSEN,
Managers on the part of the Senate.

GENERAL SAMUEL W. CRAWFORD.

A message from the Senate, by Mr. SYMPSON, one of their clerks, informed the House that the Senate had passed, with amendments in which the concurrence of the House was requested, the bill (H. R. No. 2093) for the relief of General Samuel W. Crawford, United States Army.

TAX AND TARIFF BILL.

The SPEAKER. The gentleman from Ohio [Mr. GARFIELD] raises the question of the consideration at this time of the report of the committee of conference which has just been presented.

Mr. GARFIELD. I do so on two grounds: the first is that, in order that we may judge of the merits of this report, we should have the chance to see it in print, so as to know what the conference report is. And in the second place the House is now in a critical situation in regard to the Indian appropriation bill, and we ought if possible to get to an adjustment of that matter before we have drifted farther away from it.

Mr. MAYNARD. I desire to say, so far as the printing is concerned, that the conference report was printed in the RECORD of yesterday in the proceedings of the Senate. So far as the other point of the gentleman from Ohio is concerned, we have given more than a week, to the exclusion of the morning hour, to the Committee on Appropriations in the consideration of the Indian bill; and after we have given them all that time members of the committee come here after every amendment has been acted on in the House and engineer its defeat. When they have done that I think they are not in a good attitude to throw that bill now in the way of the consideration of this conference report.

Mr. COX. I desire to be heard for a moment.

The SPEAKER. Debate on the question of consideration can only be by unanimous consent.

Mr. BUTLER, of Massachusetts. I think the report ought to be printed before we are called upon to act upon it.

Mr. COX. Mr. Speaker——

Mr. PELHAM. I object to any further debate.

The question being taken on the question of consideration, there were—ayes 72, noes 60.

Mr. COX. Will it be in order for me to enter a motion to lay the conference report on the table?

The SPEAKER. The Chair has never entertained a motion to lay a conference report on the table. The question is taken directly on agreeing to it.

Mr. GARFIELD. I ask for tellers.

The SPEAKER. As no quorum voted, the Chair orders tellers, and appoints the gentleman from Ohio, Mr. GARFIELD, and the gentleman who makes the report, Mr. MAYNARD.

The House again divided; and the tellers reported ayes 108, noes not counted.

So the House agreed to consider the report.

The SPEAKER. The gentleman from Tennessee [Mr. MAYNARD] is entitled to the floor.

Mr. MAYNARD. This bill, known on our files as House bill No. 3572, was passed in the House on the 1st of June, 1874. As it passed the House it contained twenty-nine sections, involving a great many different subjects, beginning in the first section with the duty on silk goods, and concluding with a tax upon all sales of stocks, bonds, gold and silver bullion and coin, and other securities. It went to the Sen-

ate. It there received between thirty and forty different amendments. Those amendments, for the most part, were merely verbal. The substantial amendments amounted in all to not more than five or six. Nothing was added to the bill. The amendments were in the nature of subtractions doing away with the provisions of the bill as we passed it.

The bill came back to the House with the amendments. They were non-concurred in. It was sent to a committee of conference near the close of the last session. After undergoing some slight discussion, the report was disagreed to, and a new conference ordered by the House; and conferees were appointed. The Senate took no action on the subject at the last session. Previous to the adjournment or recess in December of the present session, the Senate granted the conference, and appointed conferees; and the committee of conference have been giving the subject such attention and time as they had at their command while attending to other duties.

The points mainly in dispute between the two Houses appertain to the duties on imported wine and on hops, and the provision allowing the producer of tobacco to sell to the amount of $100; and the tax of $\frac{1}{20}$ of 1 per cent. on the sale of bonds, gold and silver bullion, and other securities.

Mr. LOUGHRIDGE. Did the committee strike out the provision, as to the tax on the sales of gold and bonds?

Mr. MAYNARD. It did. The first question of the tax on wines was one that interested the wine producers of the country, and petitions were submitted to us which I hold in my hand, asking us to concur in the Senate amendment as satisfactory to the wine producing interests of the country. The committee agreed to the Senate amendments, leaving, as will be seen by the report, the duty on all wines imported in casks at 40 cents a gallon, and on all still wines imported in bottles at $1.60 a gallon.

Upon the subject of hops, which was much debated in the House, and upon which there was much interest felt, the House had fixed the duty at 10 cents a pound. The Senate had stricken that out, leaving the duty as it now stands, at 5 cents a pound. The committee of conference compromised the difference, by fixing it, as they did in the report, at 8 cents a pound.

The proposition to exempt $100 worth of tobacco, in the hands of the producer, received very strenuous opposition from the Commissioner of Internal Revenue, who appeared in person before the conference committee and protested against it, and was able by his representations to overcome the earnest expostulations of those who favored it.

The conferees on the part of the Senate refused, as they had done in the previous conference, to concede this, and regarding the bill as very valuable and very important in those portions of it which had been concurred in by both Houses of Congress, the conferees on the part of the House, not having changed their own opinion as to the propriety of this measure, conceded to the conferees on the part of the Senate this point in order thereby to save those portions of the bill in which both Houses had agreed. We concurred in the amendment of the Senate, which practically leaves the law as it now stands.

Mr. HALE, of Maine. What was the action of the committee as to the amendment to section 9?

Mr. MAYNARD. The amendment to section 9 was concurred in. It was a slight amendment inserting the word "and" between the words "barrels" and "grain-bags," and a change in the phraseology of the last sentence. The twenty-ninth section of the bill provides that on and after the 1st day of July next there shall be levied and paid a tax on all sales of stocks, bonds, gold and silver bullion, coin, and other securities, at the rate of $\frac{1}{20}$ of 1 per cent. on the amount of the sale thereof; that every person, firm, or corporation engaged in the business of selling stocks, bonds, gold and silver bullion, coin, and other securities, either for their own account or on the account of others, shall keep a true and accurate record thereof, under oath, that the same is true and correct, to the collector of the district where such business is carried on, on or before the 1st and 15th day of each month, and the collector shall thereupon assess and collect a tax of $\frac{1}{20}$ of 1 per cent. on the gross amount of such sales. The said list or return shall be made in such form or manner as may be prescribed by the Commissioner of Internal Revenue.

The Senate conferees, after much consideration, adhered to their amendment striking out this section, and the conferees on the part of the House receded for the same reason that they had receded from the provision in relation to tobacco, in order to save those portions of the bill upon which both Houses had agreed and which we thought to be very important legislation.

There is one other provision of the bill to which it is necessary to refer. The Senate had provided that the law should go into effect at the commencement of the "present fiscal year." Inasmuch as the "present fiscal year" has partly passed, the Senate receded from their amendment and agreed that the bill should take effect from the day of its passage in the manner in which it had been fixed by the House of Representatives as originally passed. They were the more in favor of this conclusion from the fact that the bill had been pending and known to be pending by the country for something over six months, and the commerce of the country had full notice of its provisions and of the probability that it would become a law, because most of its provisions had been agreed upon by both Houses.

Mr. BURCHARD. I desire to ask the gentleman from Tennessee a question.

Mr. MAYNARD. I will hear the gentleman.

Mr. WOOD. I rise to a question of order. It is impossible in the prevailing confusion to hear what is taking place here. This is an important question, and we want to understand it.

The SPEAKER. Members of the House will be in order.

Mr. BURCHARD. I would like to ask the gentleman from Tennessee if the only material difference between this conference report and the conference report of last session is not an increase in the duty on hops? Allow me to say that the report of the conference committee at the last session was voted down by this House by a vote of 49 yeas to 136 nays. I understand that the only material difference between the report then voted down and this report is that the members of the conference committee on the part of the House have agreed to compromise by reporting in favor of making the duty on hops 8 cents.

Mr. MAYNARD. That is one of the differences. Another, I have already stated, is as to the time when the act shall take effect. Another difference relates to the twenty-third section of the bill, striken out by the Senate altogether, and stricken out by the last conference. That section is now retained with the phraseology slightly modified. It relates to punishment for frauds in the Bureau of Internal Revenue. Parties had been previously allowed to escape punishment for such frauds on the ground that they were not officers of the Government.

The committee agreed to increase the duty on hops for the reason that the House had by a decided vote increased it, and the conferees representing the sense of the House wanted to get from the Senate such concession as their conferees would make looking in the direction of an increase.

Mr. COX. Do I understand the gentleman to say that the House voted for an increase of the duty on hops? When did they vote that?

Mr. MAYNARD. On the first day of June, A. D. 1874.

Mr. COX. Was the question debated here?

Mr. MAYNARD. Yes; and the bill passed the House in that shape.

Mr. COX. Then I understand that the conference committee have raised the duty on hops 3 cents.

Mr. MAYNARD. Yes, sir. My associate from Kentucky [Mr. BECK] desires to be heard for ten minutes, and I yield to him for that time.

Mr. BECK. Mr. Speaker, I was a member of the conference committee that had this bill under consideration and I declined to sign the report because the House conferees have stricken out on the demand of the Senate everything that was of value in the bill, and have accepted, in my judgment, all the things the Senate had put into it that ought not to have been agreed to. I do not know of hardly a single amendment to the law that is beneficial; if there is any such it is of such slight value that this House ought not now to agree to this report or pass a bill in this form.

To begin with, the whole frame-work of the law which we are now seeking to pass is incongruous. Congress has adopted what are known as the Revised Statutes, and this bill, instead of referring to the proper section of those Revised Statutes, refers to sections of statutes which have become obsolete and a reference to which ought not to be put into our legislation. Now, that is one good reason why we should not pass the bill in its present shape.

The Secretary of the Treasury has advised us that the draught of a bill will be sent to the Committee on Ways and Means in a very few days for our consideration in which can be inserted all the provisions of this bill that are of any value, and in a shape that will be creditable to the House and creditable to the Senate, instead of the incongruous measure we are now called upon to pass. That alone if nothing else ought to defeat this report. Besides, as I think I heard very indistinctly in the confusion the gentleman from Illinois [Mr. BURCHARD] say a few moments ago, this is substantially the same report, at least without any beneficial change, that on the 22d of June, 1874, the House rejected by a vote of 136 nays to 49 yeas on the call of the yeas and nays. That is true. There is not in the report presented to-day a single modification of that report which will be of any benefit to the country; there is hardly any change in it of any sort, except the difference between 5 cents and 8 cents per pound on hops; and that increase of tariff will be injury instead of benefit to the country. There is no sense in an increase of 3 cents per pound on hops; it is therefore that much worse than when we voted down the report of a former committee of conference by 136 to 49. Under the law now hops are subject to a duty of 5 cents per pound. The House fixed a duty of 10 cents per pound. The Senate struck out that portion of the bill and the committee of conference have agreed to report 8 cents per pound, rejecting about the only good thing the Senate did.

The House will observe that the few things that are changed are all in the interest of protection and a few men; none of them in the interest of the revenue or of the country. In order to get clear of a difficulty which had sprung up in regard to mixed-silk goods, complaint having been made that a few threads of cotton were sometimes inserted to pass goods really all silk as mixed, the House provided that the act should not apply to goods, wares, and merchandise

having as a component material thereof 25 per cent. or over of cotton, flax, wool, or worsted. That clearly defined the line of mixed goods on a just basis. The Senate inserted the words "25 per cent. in value" instead of the words "25 per cent. of material." Now what is the meaning of this?

The gentleman from Tennessee [Mr. MAYNARD] spoke of that as a very slight matter. I tell you it is one of the gravest matters in this whole report. It is a little bit of a swindle, to speak in the vernacular. Twenty-five per cent. in value means that all the mixed-silk goods that have less than seven-eighths of cotton in material shall be increased in duty from 50 per cent. to 60 per cent., or an additional tariff tax of 20 per cent. In regard to a great many articles that means absolute prohibition of importation, and of course no revenue from them, giving the monopoly to a few men and depleting the Treasury.

Cotton is worth now not over 20 cents per pound. Our statistics show that raw silk is worth over $5 per pound that is now duty free and constitutes about half the value of silk fabrics. Now, if you strike out "25 per cent. in material" and insert "25 per cent. in value," with cotton at 20 cents per pound and silk at $5 per pound, all goods that do not contain more than seven-eighths cotton are by this amendment to the tariff, which nobody is supposed to understand, and is treated by the gentleman from Tennessee [Mr. MAYNARD] as trivial, raised from a duty of 50 per cent. *ad valorem* to 60 per cent. *ad valorem;* and that, as I said, for the benefit of three or four manufacturers, as it will lead to the absolute exclusion of imported mixed-silk goods as well as ribbons, buttons, and gum elastic mixtures of silk, from which we are now deriving a considerable revenue, as may be readily seen from the statistical tables. We are now importing $8,054,000 worth of buttons, ribbons, India rubber, and mixed goods, and receive therefrom a revenue of $4,027,000. If you raise the duty upon those goods from 50 per cent. up to 60 per cent., you will give a monopoly of their manufacture to a few men and exclude the importation of those goods, thus cutting down the revenue largely instead of increasing it as might at first blush be supposed.

The words "in value" are very important words which are put in in the interest of two or three men in the State of New Jersey alone; and all the people of the country who use their mixed goods of silk, or silk goods in the form of ribbon, buttons, gum elastic goods, or any other form are to be taxed that much more, and the revenues are to be cut down to that much less for the benefit of those few men. That item alone, which the gentleman from Tennessee [Mr. MAYNARD] took care not to speak about, will, in my judgment, cause a loss of revenue of at least $2,000,000 by requiring the goods that contain not more than seven-eighths cotton to pay 60 per cent. *ad valorem* duty instead of 50 per cent. Our information is that many articles of that class can hardly bear the tariff they are now made to bear. That is one good reason, I think, why the House voted down the report before.

Then, again—for I have time only to say a few words about two or three of these items—when Congress remodeled the internal revenue law some years ago, both in the last Congress and at the first session of this Congress, the House insisted upon and passed a provision allowing the smaller raisers of tobacco to sell directly to consumers to the amount of $100 a year. That was done by the last Congress. Every member of the Committee on Ways and Means will bear be out in saying that that was done by express agreement with the manufacturers, with the Commissioner of Internal Revenue, and with the officers of the Government. When we changed the tax from 16 and 32 cents per pound to a uniform rate of 20 cents per pound upon all sorts of tobacco, and imposed a license of $500 instead of $25 on retail dealers in leaf tobacco, the agreement was made that as we made it impossible for any man to retail leaf tobacco, the producer should have the right to sell $100 worth a year directly to consumers. That provision we put in this bill when we passed it. Then the manufacturers rushed to the Senate, where they of course made a great clamor, and said that that provision would interfere with the revenue, and they had it stricken out. This House again put it in, because it was the agreement. We said to these gentlemen, "If you will restore the retail license back to $25, as it was, reducing it from $500, where it is now, we will let the provision go." But no; they have things their own way and intend to hold them so. They can now go to every poor man, white or black, who has a little patch of tobacco and who cannot take his product to the market town, where they only buy by the hogshead, and they can and do force him to sell his crop to them and their agents at one-half or one-third of its value. They have acted in bad faith and in violation of their agreement after getting the retail license put up so that leaf tobacco cannot be sold except to them, are now demanding the last dollar from the poor men who are cultivating their small tobacco patches; they will not even allow them to sell $50 or $100 worth of tobacco at home, because they can now force them to sell it to them for little or nothing. This is the provision which the Senate has struck out; and two members of this House are ready to agree to that, I am sorry to say.

We want another chance at this matter. Let this report be voted down; let the subject of tariff and internal revenue come up in regular order before the committee, as it will I suppose in less than a week; let the Committee on Ways and Means discuss it and bring the proof of all these facts before the House, as they will; and then the House will see why this provision was struck out in the interest of a few men who want to enrich themselves at the expense of the poverty-stricken people of the tobacco-raising regions.

Mr. BUTLER, of Massachusetts. I desire to know, for my own information, whether or not this bill will afford any increase of revenue?

Mr. BECK. I think it diminishes the revenue. That is my deliberate opinion. I think it is a measure of protection, which will operate to exclude absolutely many articles. The class of mixed silks is a good illustration of this.

One other point. This House demanded by section 29 of the bill that there should be a tax upon sales of stocks, gold and silver bullion, coin, and other securities of $\frac{1}{10}$ of 1 per cent., under certain limitations; and the Commissioner of Internal Revenue told us that he could collect this tax; that his machinery enabled him to do it.

Mr. MAYNARD. I do not think I can yield further to the gentleman; I desire to yield to other members of the Committee on Ways and Means.

Mr. BECK. Give me one minute more to explain this section. This section was prepared by the Commissioner of Internal Revenue, who gave the positive assurance that he could collect this tax from the stock-gamblers, while exempting the men who in the course of business are required to buy gold for legitimate purposes. He stated that this tax would yield a revenue of $12,000,000 annually. Yet, although the House insisted on that provision, our conferees have agreed with the Senate in striking it out, because it reaches the rich men—the stock-gamblers of the country—and proposes to lay fresh taxes on legitimate industries.

I say there is hardly a meritorious feature in this bill; and any man who voted against it last session and votes for it now ought to rise and tell the House why he does so. The bill is certainly not improved, and a bill will be presented soon which can be fully discussed and put in shape to benefit the country and increase its revenues.

Mr. MAYNARD. I yield to his colleague on the Committee on Ways and Means, the gentleman from Iowa, [Mr. KASSON.]

Mr. KASSON. Mr. Speaker, as one of the members of the committee from which this bill originated, I deem it necessary to express my dissent from the statements of my colleague on the committee [Mr. BECK] touching the effect of the bill. He has expressed the opinion that it will reduce instead of increase the revenue. So far as this from being its effect, all that was said at the time it was introduced by the committee touching the prospective increase of revenue is more than sustained by the present condition of our finances with reference to customs duties. Take for example the duties upon wines. The recent liberal production abroad has so diminished the price that this article will come in in enormous quantities. It is now coming in at the existing low rate, instead of 40 cents per gallon, specific duty, proposed in this bill. We estimated, in the former condition of facts, that we should get $1,000,000 increase of revenue by substituting the specific duty of forty cents for the *ad valorem* duty then and now in force. Owing to the fact I have stated, we shall get more than $1,000,000 additional revenue from this specific duty on wines.

Again, it is said that this bill contains nothing that the country desires beyond what is embraced in the existing law. I dissent from this statement. Take for example that which interested very many of us from the West and the Northwest—the duty on jute butts—a production which, as was stated at the last session, had been practically destroyed by reason of the sudden taking off of the duty as it had existed for many years. Letters and other applications came from the West and the Northwest asking us to fix the duty as it had been maintained for many years. The bill as reported, and as it now comes from the conference committee, puts back that duty as it was, and thus tends to restore that agricultural interest.

Then, again, there was difficulty in the exportation of tobacco by the failure of proper provisions for forwarding it in bond and for taking new bonds at the place of export. This bill provides for that and meets an important want of trade.

There are other provisions of general benefit of which I should be glad to remind the House if there were time, but there is not. I have only to say that all the provisions for the general benefit of trade, and particularly exports contained in the bill formerly, are retained in its present form.

As to the proposed exemption for the benefit of small tobacco-growers, I was anxious that that provision should be secured if possible; but it is positively asserted by the Commissioner of Internal Revenue that the introduction of such a provision as was passed by the House, and which has now been excluded by the conference committee, would largely defeat the revenue we already receive from manufactured tobacco.

It would disorganize the system, which is now perfect in its results in collecting the tax, and for that reason, though reluctantly, I am obliged myself to concur with the Senate instead of insisting on the action of the Committee on Ways and Means which put this exemption of the raw material in the bill as originally reported.

Then, sir, in brief, not to take up too much time, there is, according to my estimate, nearer two millions than one million of additional revenue in the bill. There is encouragement to the tobacco export trade of the country. There is the restoration of what is simply just to the large growers of flax in the Northwest, which was taken off in

a preceding Congress. With these advantages, although it does not contain all I desire, I deem it my duty to support the bill as now reported by the conference committee.

Mr. MAYNARD. I now yield to the gentleman from Illinois, [Mr. BURCHARD,] a member of the Committee on Ways and Means, for five minutes.

Mr. BURCHARD. Mr. Speaker, there was one objection made last session which is not obviated by the report of the conference committee. It is that alluded to by the gentleman from Kentucky, [Mr. BECK,] to insert the words "in value," which in fact raises the duty on a class of silk-mixed goods from 50 to 60 per cent. *ad valorem* on a cheaper grade of goods, which heretofore have been imported at that rate. I am assured by importing merchants familiar with the subject that it will amount to an absolute prohibition of that class of goods. Nearly $8,000,000 in value of that class were imported during the last fiscal year. I do not see why the present rate of 50 per cent. *ad valorem*, being an enormous protection, should at this time be increased. The raw material, which is free, is equal at least to one-half of the value of the product, and giving 50 per cent. *ad valorem* rate of duty on the finished product, you give in all 100 per cent. protection upon the value added by the manufacturer. Why, then, in behalf of reasonable protection, should you increase it to 120 per cent.? For that reason alone I am opposed to concurring in the report of the committee of conference. This was one of the objections taken to the report at the last session of Congress, when it was voted down by 49 yeas to 136 nays.

There is a small protection I know in the compromise on hops. Hops were by the House bill raised from 5 to 10 cents a pound. The committee of conference at the last session agreed to the Senate amendment to strike out the increase from 5 to 10 cents. On that little thing of hops, of which there are not imported more than a few thousand bales at the present time, they got together and now come before the House and ask you to reverse your decision and vote for this conference report which you substantially voted down at the last session.

Mr. MAYNARD. I now yield for five minutes to the gentleman from Pennsylvania, [Mr. KELLEY,] who is also a member of the Committee on Ways and Means.

Mr. KELLEY. Mr. Speaker, in the first place, I wish to dissent from the judgment expressed by the gentleman from Kentucky [Mr. BECK] that this bill would diminish the revenue or that the modification of duty on silk would diminish it. It will, I apprehend, increase the revenue, while it is in itself a proper measure.

He used the word "steal," and said it was to furnish three men in New Jersey an opportunity to rob the people. Sir, it is to prevent an organized system of stealing from the revenues of the United States. Silk manufacture now exists largely in New Jersey, and more largely in Connecticut; largely in New York, quite largely in Pennsylvania, and California; and, strange to say, in Kansas, where it has been established by a community of French silk-makers who settled there three years ago. My friend from that State says the establishment is in his district, and I trust it is prosperous. Now, Mr. Speaker, this relates to silk goods, and I call the attention of the House to the fact, because the most costly silk goods brought into the country are velvet ribbons. The lining, or back, as it is technically called, is made of cotton, flax, or jute, and by making that weigh one-quarter of the weight of the whole ribbon the duty on those kinds is reduced from 60 to 50 per cent., and foreign manufacturers will so adjust the weight of the back and face that those most costly ribbons will come in at the lower rate of duty.

It is, again, to rectify a judicial decision, which has determined ribbons which go under a commercial designation of the name of the maker, the name of the town in which they are made, or the name of the fancy designation given to them, are not in the eye of the law silk ribbons. What is the result? The fine silk goods are shipped not as silk goods but by their commercial designation, and they come in at 50 per cent. Take a silk-lace shawl. It is all silk, but it bears a commercial designation, and it comes in at 50 per cent. When a shawl is shoddied to the extent of 33 per cent., that is of silk unmixed to that extent, it is invoiced as a silk shawl, and the custom-house records are produced to prove to unskillful people these shoddy goods are pure silk because they go through the custom-house, paying 60 per cent. duty. Thus the revenue is robbed on one hand and a certificate of fraud is used to enable importers to rob their customers. So that as to stealing, I say this bill, so far as this section is concerned, might be entitled a bill to prevent stealing from the Treasury of the United States and stealing from unskilled judges of silk goods among the people of the United States, by foreign manufacturers and importers. I hurl back the charge of theft, and I brand those who oppose this provision as maintaining an open door for free drafts upon the Treasury and the purses of the people of our country.

The gentleman referred to the tax upon tobacco. He knows, as every old member of this House knows, that I have steadily opposed the imposition of internal taxes, and that I have steadily sought to relieve them wherever I can. And I do so because any system of internal taxation involves the country in hardships such as this of denying the farmer the power to sell his own tobacco in open market. If he does so in competition with the heavily taxed manufacturer, you make the manufacturer pay you a tax of 20 cents per pound, and then if you permit the farmer to bring his unmanufactured tobacco into competition with him you defraud your own revenues or you ruin your manufacturers.

Mr. MAYNARD. Mr. Speaker, how much time have I left?

The SPEAKER. The gentleman has eighteen minutes of his time remaining.

Mr. ELLIS H. ROBERTS. Will the gentleman from Tennessee allow me to ask him whether the section relating to the duty on silk is at all a matter of difference between the House and the Senate?

Mr. MAYNARD. Not at all; except as regards the insertion in the proviso of the words "in value," which were supposed to make it germane to the previous section of the bill, providing for the duty on all goods made of silk of which silk is the component material of chief value.

Mr. ELLIS H. ROBERTS. Has not this section been substantially adopted by the House after full discussion as well as by the Senate?

Mr. MAYNARD. That is the only change in that regard. I now yield two minutes to the gentleman from New York, [Mr. COX.] As several other gentlemen desire to say a few words, I cannot yield him more of my limited time.

Mr. COX. I opposed this bill before when it was here. It has the name of being a little tariff bill, and I suppose I must be satisfied with having a little time to consider it. This bill, indeed, has nothing in it worth considering. It does not make any revenue. The gentleman from Iowa, [Mr. KASSON,] who undertook to make a calculation of the revenue that would be derived from it, based his computation on the increase in the duties on wines. I believe that by checking importation it will have just the other effect.

There is no revenue in this bill. I offered a resolution in the House some time ago in regard to the anticipated deficit in the Treasury. The Secretary of the Treasury will perhaps in a few days answer that resolution and rectify his estimates. We are not getting in as much money as was expected. There ought to be a new bill. And why not bring into that new bill all these matters which are in this little miserable jobbing bill?

[Here the hammer fell.]

Mr. MAYNARD. I now yield two minutes to the gentleman from Connecticut, [Mr. KELLOGG.]

Mr. KELLOGG. Having only two minutes, I have to make a very short speech. I will say in the outset that I have no earthly interest in this bill for myself or for my constituents; for the only thing I tried to get in was rejected without any good reason. But I do not think the bill should be rejected on the ground merely that it is a little bill and does not cover all the interests it ought to do. I would remind my friend from New York [Mr. COX] that the maxim "*de minimis non curat lex*" is not always regarded by this House, any more than some other more important legal maxims.

As to what my friend from Kentucky [Mr. BECK] has said, that increasing the duty from 50 to 60 per cent. will diminish the revenues, I want to call his attention to the fact that, for nine months after the passage of the law by the last Congress making the 10 per cent. reduction on a large class of manufactured articles, not only was the revenue diminished, but the amount of importation of those very classes of goods on which the duty was so reduced was in fact diminished. I say you cannot always take the view which has been suggested by the gentleman from Kentucky, for sometimes, when you reduce the rate of tariff upon goods we make in this country, you diminish the importation of foreign goods of the same character or class. Such has been the history of the tariff during the last few years. When you cut down the duties on a large class of our manufactures 10 per cent., you not only reduced the amount of our revenue on those goods, but you also had actually a less amount of goods imported of the same character under that reduction than had been imported during the corresponding period in any of the three previous years. And this period of nine months under the operation of that reduction was before the panic of the fall of 1873, so you cannot lay it to that. When our own manufacturing industry is prosperous and people have plenty of work at good wages, they have money to buy foreign goods with and they will buy them; and while you encourage our own labor by a higher rate of duty, you will produce more at home and buy more abroad at the same time.

Mr. MAYNARD. I now yield two minutes to the gentleman from New York, [Mr. CHITTENDEN.]

Mr. CHITTENDEN. As regards the operation of this bill, especially of its first section with such information as I have, I feel obliged to say that it seems to me entirely inadequate as a remedy for existing evils. What does the bill do? It practically prohibits all importations of textile fabrics composed of mixed materials which contain more than 75 per cent. in value of silk. Nobody in the world, when a line is drawn like that, would import a piece of goods of mixed materials subject to the 60 per cent. duty.

What further does the bill do? It hands over the remainder of textile fabrics composed of mixed materials to the uncovenanted mercies of the code which was passed here last year. And what does the code do with these mixed fabrics? I am aware that learned gentlemen in this House affirm that the code has not advanced the duties on imports. But merchants know very well when they have to give checks for 50 per cent. duties instead of 35 per cent. that it makes a difference with their bank account and their profit and loss account. And I desire further to say that the falling off in the revenue in New York to-day is because the merchants have lost money on nearly all

textile fabrics of mixed materials imported under the administration of the code; and nothing in my judgment is more certain than the exclusion of a large proportion of such fabrics, so long as present rates of duty are exacted. It is high time, sir, to stop patching up our old and odious tariff laws.

Mr. MAYNARD. I now yield to the gentleman from Massachusetts, [Mr. DAWES.]

Mr. DAWES. Mr. Speaker, the difficulty which the first section of this bill is intended to correct is in the construction of the law. This first section brings the law back to the construction which existed before the new method of the Treasury Department, some few years ago, construing everything against the Government. It does not alter the law one particle from what it was intended to be originally or from the way it was administered up to the time when the Treasury Department, under a new construction, permitted men to import silks by another name with a little portion of thread or cotton or some other material in them; and when they had got them in at a 50 per cent. duty, by means of this thread as a part of them, instead of at 60 per cent. duty as silks, they turned round and advertised them as warranted all silk. We had before the Committee on Ways and Means, and I had here in the House case after case of such identical advertisements of goods which had been put in through the custom-house at New York as something else than silk goods, marked "mixed," as my friend from New York [Mr. CHITTENDEN] says, and those identical goods were advertised by the same men as "warranted all silk" after they had been got in.

The object of this provision is to define what amount of mixture shall reduce the duty on the goods 10 per cent. or 25 per cent. on the value; and that the duty on them shall not be reduced 10 per cent. because there is a thread of cotton running along the edge, and then they advertise the goods as "warranted all silk." That is the way in which the merchants of New York have succeeded up to the time this bill was reported in getting along and saving themselves losing money!

Now, the gentleman from Kentucky [Mr. BECK] is opposed to this bill, he says, because it will diminish the revenue. My friend from Kentucky has always been willing to go for this bill provided the tobacco feature was out of it.

Mr. BECK. No, sir.

Mr. DAWES. I have always understood his opposition to be to the tobacco clause, but he combines with the gentleman from Illinois [Mr. BURCHARD] in making an attack upon the clause in relation to silks, hoping to use that as a lever to help the tobacco interest. Now, sir, in reference to the clause of the bill in relation to tobacco, I desire to say that the very departmental law which my friend from Kentucky is struggling to maintain would let in an immense amount of tobacco free from duty, and would take more than $1,000,000 on that very item, as the Commissioner of Internal Revenue says, right out of the Treasury; and yet my friend from Kentucky makes that a chief argument why this bill should not pass.

Mr. Speaker, I have only a word more to say, and it is this: I had hoped before this time to be able to present to the House a statement of the condition of the Treasury, and to invoke its action in some manner to increase its revenue. This bill, according to all the computations of the Treasury Department, will increase the revenue $1,000,000 in one way or another, and it will also bring the administration of the law back to what it was designed to be. But, sir, we have got to do something more in due time. It is recommended by high authority that we raise all the duties 10 per cent. It is argued that the reduction of 10 per cent. made two years ago must be repealed. I am not quite certain but that we shall be compelled to do that; at any rate I am quite sure we shall be compelled to put the duty back on tea and coffee, and either repeal the reduction of 10 per cent. or put something more upon whisky. This is a case in which we can get $1,000,000 by bringing the law back to its original construction in this respect, and also by the amendment in relation to the duties on wine, on which all parties stand agreed.

Mr. BECK. I desire to ask the chairman of the Committee on Ways and Means a question.

Mr. DAWES. What is it?

Mr. BECK. It is whether the Committee on Ways and Means, in order to get clear of this difficulty about cotton thread in silk goods, did not agree to place the duty at 25 per cent. on the material, when the Senate made it 25 per cent. on the value?

Mr. DAWES. No, sir. The Committee on Ways and Means agreed to make the duty 25 per cent. without either the word "material" or "value." I believe that this is just the same phraseology as is now in the bill. Twenty-five per cent. could not mean 25 per cent. on the quantity. It must mean 25 per cent. either on the quantity or the value, and 25 per cent. on the quantity is an absurdity. The word "value" is put in so that the ingenuity of the gentlemen who are losing so much money on silk goods may not get around it.

Now, suppose the construction of the gentleman from New York [Mr. CHITTENDEN] and the gentleman from Illinois [Mr. BURCHARD] is correct, that it does raise the duty upon this class of goods 10 per cent.; what is it on? It is on silks. It is not bread; it is silks. It is not coffee; it is not a necessity of life; it is on a luxury of life; and never one yard less of silks will be imported into this country because there is 10 per cent. more of duty upon them. Silks are for the rich, and the gentleman from Kentucky and the gentleman from Illinois are endeavoring to spare these rich men, these millionaires who pay so much and would be obliged under this bill to pay 10 per cent. more on their silks, when if you do spare them you must turn round and put the tax upon the tobacco, the corn, and the whisky of the poor day laborer. It is one or the other. You must put it upon the silks of the rich or the food of the day laborer. For one I prefer to put it upon the silks of the rich.

[Here the hammer fell.]

Mr. KELLOGG. Before the gentleman takes his seat will he answer one question?

Mr. DAWES. The Speaker has rapped me down.

Many MEMBERS. Let us have a vote.

Mr. MAYNARD. The principal objection I have heard to this report is one which relates to the matter of the duty on silk goods. The chairman of the Committee on Ways and Means [Mr. DAWES] has responded to that point so fully that I do not deem it necessary to add anything except to say that if there is anything that can bear to be taxed for the support of this Government it is the article of silk, and the wearers of silk can well afford to pay the taxes. I now call the previous question upon agreeing to the report.

Mr. LOUGHRIDGE. And I move that the House now adjourn.

Mr. KELLEY. O, no; let us dispose of this matter now.

The question was taken on the motion to adjourn; and upon a division there were—ayes 37, noes 81.

Before the result of the vote was announced,

Mr. BANNING called for the yeas and nays.

The yeas and nays were not ordered; there being upon a division ayes 16; not one-fifth of the last vote.

Mr. BANNING. I call for tellers on the motion to adjourn.

The question was taken on ordering tellers, and there were 16 in the affirmative; not one-fifth of a quorum.

So tellers were not ordered.

The motion to adjourn was accordingly not agreed to.

The question recurred upon seconding the previous question upon agreeing to the report of the committee of conference.

Mr. BANNING. I move to lay the report upon the table.

The SPEAKER. The Chair has never entertained a motion to lay on the table a report of a committee of conference. The same object is attained by taking the direct vote on agreeing to the report.

The previous question was seconded and the main question ordered.

Mr. COX. I call for the yeas and nays on agreeing to the report.

The yeas and nays were ordered.

Mr. ELDREDGE. I move that the House now adjourn.

The motion to adjourn was not agreed to; upon a division—ayes 53, noes 37.

The SPEAKER. The question is upon agreeing to the report of the committee of conference, upon which the yeas and nays have been ordered.

The question was taken; and there were—yeas 137, nays 99, not voting 52; as follows:

YEAS—Messrs. Albert, Albright, Averill, Banning, Barber, Barry, Bass, Begole, Biery, Buffinton, Bundy, Burleigh, Burrows, Roderick R. Butler, Cain, Carpenter, Cason, Cessna, Amos Clark, jr., Freeman Clarke, Clayton, Stephen A. Cobb, Coburn, Conger, Crounse, Crutchfield, Danford, Dawes, Dobbins, Donnan, Eames, Farwell, Field, Foster, Freeman, Garfield, Gooch, Hagans, Eugene Hale, Harmer, Benjamin W. Harris, Hathorn, John B. Hawley, Joseph R. Hawley, Gerry W. Hazelton, John W. Hazelton, E. Rockwood Hoar, Hodges, Hoskins, Houghton, Howe, Hubbell, Hunter, Hurlbut, Hynes, Kasson, Kelley, Kellogg, Lamport, Lansing, Lawson, Lewis, Lofland, Lowe, Lowndes, Luttrell, Lynch, Martin, Maynard, McCrary, McNulta, Merriam, Monroe, Myers, Negley, O'Neill, Orr, Orth, Packard, Packer, Page, Parsons, Pendleton, Pierce, Pike, James H. Platt, jr., Thomas C. Platt, Poland, Ransier, Rapier, Ray, Richmond, Ellis H. Roberts, James W. Robinson, Ross, Rusk, Sawyer, Henry B. Sayler, Scofield, Henry J. Scudder, Isaac W. Scudder, Sessions, Shanks, Sheldon, Sherwood, Lazarus D. Shoemaker, Small, A. Herr Smith, H. Boardman Smith, Snyder, Sprague, Starkweather, St. John, Stowell, Strawbridge, Sypher, Taylor, Charles R. Thomas, Christopher Y. Thomas, Thompson, Todd, Townsend, Tremain, Tyner, Wallace, Jasper D. Ward, Marcus L. Ward, Whiteley, Wilber, Charles W. Willard, George Willard, Charles G. Williams, John M. S. Williams, William Williams, William B. Williams, James Wilson, and Woodworth—137.

NAYS—Messrs. Adams, Archer, Arthur, Ashe, Atkins, Barrere, Beck, Bell, Berry, Bland, Blount, Bowen, Bright, Bromberg, Brown, Buckner, Burchard, Caldwell, Cannon, Chittenden, John B. Clark, jr., Clements, Clymer, Comingo, Cook, Cox, Creamer, Crittenden, Crooke, Crossland, Davis, Dunnell, Durham, Eldredge, Finck, Fort, Giddings, Glover, Gunckel, Gunter, Hamilton, Hancock, Henry R. Harris, John T. Harris, Harrison, Hatcher, Havens, Hereford, Herndon, Holman, Hyde, Knapp, Lamar, Lamison, Leach, Loughridge, Magee, James W. McDill, McLean, Milliken, Mills, Morrison, Neal, Niblack, Nunn, O'Brien, Hosea W. Parker, Isaac C. Parker, Perry, Phillips, Potter, Rainey, Randall, Read, Robbins, Milton Sayler, Sener, Sheats, John Q. Smith, Southard, Speer, Stanard, Standiford, Stone, Storm, Strait, Swann, Thornburgh, Vance, Waddell, Wells, Whitehead, Whitehouse, Whitthorne, Willie, Wolfe, Wood, John D. Young, and Pierce M. B. Young—99.

NOT VOTING—Messrs. Barnum, Bradley, Benjamin F. Butler, Clinton L. Cobb, Corwin, Cotton, Curtis, Darrall, DeWitt, Duell, Eden, Frye, Robert S. Hale, Hays, Hendee, Hersey, George F. Hoar, Hooper, Hunton, Kendall, Killinger, Lawrence, Marshall, Alexander S. McDill, MacDougall, McKee, Mitchell, Moore, Morey, Nesmith, Niles, Pelham, Phelps, Pratt, Purman, William R. Roberts, James C. Robinson, Schell, John G. Schumaker, Sloan, Sloss, Smart, George L. Smith, J. Ambler Smith, William A. Smith, Stephens, Waldron, Walls, Wheeler, White, Ephraim K. Wilson, and Jeremiah M. Wilson—52.

So the report was agreed to.

During the call of the roll,

Mr. MOORE said: On this question I am paired with my friend from Virginia, General HUNTON. If present, he would vote "no," and I would vote "ay."

Mr. BANNING. I will change my vote from "no" to "ay," so that I may be able to move a reconsideration.

After the result of the vote was announced,

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

Mr. SMITH, of Ohio. Pending that motion I move that the House now adjourn.

The question was taken on the motion to adjourn; and upon a division there were—ayes 44, noes 64.

Before the result of the vote was announced,

Mr. BANNING said: I believe no quorum has voted. I call for tellers.

The SPEAKER. A motion to adjourn can be determined without a quorum voting; but before any other business can be transacted, it must be developed that a quorum is present.

Mr. MAYNARD. Would not the vote on my motion determine whether there is a quorum here or not?

The SPEAKER. That is true. But any gentleman has the right to have the question of adjournment determined by tellers, if the House shall order tellers; and as no quorum voted upon a division the Chair will designate the gentleman from Tennessee [Mr. MAYNARD] and the gentleman from Ohio [Mr. BANNING] to act as tellers.

The House again divided; and the tellers reported that there were ayes 14, noes not counted.

So the motion to adjourn was not agreed to.

The question recurred upon the motion of Mr. MAYNARD to lay on the table the motion to reconsider the vote by which the report of the committee of conference was agreed to.

Mr. SPEER. Did the last vote show a quorum voting?

The SPEAKER. The motion to adjourn can be decided without a quorum; but of course nothing can be decided in the way of business in the absence of a quorum. Now, the vote which is pending may disclose that. The question cannot be decided except by a quorum. If the House chooses to interpose a call of the House, it may do so.

Mr. SPEER. When the last vote disclosed the want of a quorum, is it not within the province of any member to object to the House proceeding with business?

The SPEAKER. He may do so by interposing a motion, the vote on which will show whether a quorum is present; but he cannot arrest business by simply rising and objecting, and then sitting down. No quorum having voted upon the last vote, it is within the power of any member to move a call of the House.

Mr. SPEER. I do not wish to have a call of the House.

The SPEAKER. The gentleman will see that the difficulty unravels itself, because the pending question cannot be decided without a quorum.

The question being taken on agreeing to the motion to lay on the table the motion to reconsider, there were—ayes 83, noes 19.

Mr. COBB, of Kansas, called for the yeas and nays.

The yeas and nays were ordered.

Mr. BANNING. I move that the House now adjourn; and on that I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 53, nays 129, not voting 106; as follows:

YEAS—Messrs. Archer, Ashe, Banning, Beck, Bell, Berry, Bland, Blount, Bowen, Bright, Bromberg, Brown, Buckner, Burchard, Caldwell, Chittenden, John B. Clark, jr., Cook, Crittenden, Crossland, Davis, Durham, Finck, Giddings, Gunter, Henry R. Harris, Hatcher, Holman, Lamar, Magee, McLean, Milliken, Mills, Morrison, Neal, Niblack, Potter, Read, Robbins, Milton Sayler, John Q. Smith, Southard, Stanard, Standiford, Stone, Storm, Vance, Whitehead, Whitehouse, Whitthorne, Willie, Wood, and John D. Young—53.

NAYS—Messrs. Albert, Albright, Averill, Begole, Biery, Buffinton, Bundy, Burleigh, Burrows, Benjamin F. Butler, Roderick R. Butler, Cain, Cannon, Carpenter, Cason, Cessna, Amos Clark, jr., Clayton, Clymer, Stephen A. Cobb, Conger, Corwin, Crooke, Crounse, Danford, Dobbins, Donnan, Dunnell, Eames, Field, Fort, Foster, Freeman, Garfield, Gooch, Gunckel, Eugene Hale, Harmer, Benjamin W. Harris, Harrison, Hathorn, Joseph R. Hawley, Gerry W. Hazelton, John W. Hazelton, E. Rockwood Hoar, Hodges, Hoskins, Houghton, Hubbell, Hyde, Hynes, Kasson, Kelley, Kellogg, Lamport, Lawrence, Lawson, Lewis, Lofland, Lowe, Lowndes, Luttrell, Lynch, Maynard, McCrary, James W. McDill, McNulta, Merriam, Monroe, Moore, Myers, Negley, O'Brien, O'Neill, Orr, Packard, Packer, Page, Isaac C. Parker, Parsons, Phillips, Pierce, Poland, Rainey, Randall, Ransier, Rapier, Ray, Ellis H. Roberts, James W. Robinson, Ross, Rusk, Sawyer, Henry B. Sayler, Scofield, Henry J. Scudder, Isaac W. Scudder, Sener, Sessions, Shanks, Sheldon, Lazarus D. Shoemaker, Small, A. Herr Smith, H. Boardman Smith, Snyder, Speer, Sprague, Starkweather, St. John, Stowell, Strait, Strawbridge, Taylor, Christopher Y. Thomas, Thompson, Thornburgh, Todd, Townsend, Wallace, Marcus L. Ward, Wilber, Charles W. Willard, George Willard, John M. S. Williams, William Williams, William B. Williams, James Wilson, and Woodworth—129.

NOT VOTING.—Messrs. Adams, Arthur, Atkins, Barber, Barnum, Barrere, Barry, Bass, Bradley, Freeman Clarke, Clements, Clinton L. Cobb, Coburn, Comingo, Cotton, Cox, Creamer, Crutchfield, Curtis, Darrall, Dawes, DeWitt, Duell, Eden, Eldredge, Farwell, Frye, Glover, Hagans, Robert S. Hale, Hamilton, Hancock, John T. Harris, Havens, John B. Hawley, Hays, Hendee, Hereford, Herndon, Hersey, George F. Hoar, Hooper, Howe, Hunter, Hunton, Hurlbut, Kendall, Killinger, Knapp, Lamison, Lansing, Leach, Loughridge, Marshall, Martin, Alexander S. McDill, MacDougall, McKee, Mitchell, Morey, Nesmith, Niles, Nunn, Orth, Hosea W. Parker, Pelham, Pendleton, Perry, Phelps, Pike, James H. Platt, jr., Thomas C. Platt, Pratt, Purman, Richmond, William R. Roberts, James C. Robinson, Schell, John G. Schumaker, Sheats, Sherwood, Sloan, Sloss, Smart, George L. Smith, J. Ambler Smith, William A. Smith, Stephens, Swann, Sypher, Charles R. Thomas, Tremain, Tyner, Waddell, Waldron, Walls, Jasper D. Ward, Wells, Wheeler, White, Whiteley, Charles G. Williams, Ephraim K. Wilson, Jeremiah M. Wilson, Wolfe, and Pierce M. B. Young—106.

So the motion to adjourn was not agreed to.

During the roll-call,

Mr. HEREFORD said: On this question I am paired with the gentleman from New Hampshire, Mr. PIKE, who if present would vote "no," while I should vote "ay."

The result of the vote was announced, as above stated.

The SPEAKER. The question now recurs, will the House lay on the table the motion to reconsider the vote by which the conference report was agreed to?

Mr. SPEER. Were the yeas and nays demanded on this question?

The SPEAKER. They have been ordered.

Mr. SPEER. I hope then the call for the yeas and nays will be withdrawn.

Mr. MAYNARD. The last vote sufficiently tests the sense of the House.

The SPEAKER. If there be no objection, the order for the yeas and nays will be rescinded.

There was no objection.

The question being taken, the motion to reconsider was laid on the table.

Mr. SPEER. I move that the House adjourn.

The motion was agreed to; and accordingly (at five o'clock and twenty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. BUTLER, of Tennessee: A paper for the establishment of a post-route in Tennessee, to the Committee on the Post-Office and Post-Roads.

By Mr. CANNON, of Utah: The petition of citizens of Salt Lake City, Utah, for the passage of the bill defining a gross of matches, to the Committee on Ways and Means.

By Mr. CHIPMAN: The petition of James Ellis, United States Navy, for a pension, to the Committee on Invalid Pensions.

Also, the petition of W. J. Frizzell, William Towers, Margaret Gormley, and others, that the Court of Claims may have jurisdiction of their claims, to the Committee on the Judiciary.

By Mr. CONGER: The petition of Harvey Parish, of Romeo, Michigan, for a pension, to the Committee on Invalid Pensions.

By Mr. HENDEE: Resolutions of the Legislature of Vermont, relating to reciprocity in trade with the Dominion of Canada, to the Committee on Ways and Means.

By Mr. McCRARY: The petition of Hester Coleman, dependent mother of William B. and James E. Coleman, deceased, for a pension, to the Committee on Invalid Pensions.

Also, the petition of Lieutenant John P. Walker, for the appointment of a commission to examine and report upon his new and improved plan of towage upon canals, to the Committee on Railways and Canals.

By Mr. McNULTA: The petition of Elizabeth Lanning, for a pension, to the Committee on Invalid Pensions.

By Mr. O'NEILL: The petition of Alexander Worrall, to be reimbursed money paid under certain judgments and decrees, to the Committee on the Judiciary.

By Mr. SMITH, of Pennsylvania: The petition of 332 employés of the Chesnut Hill Iron Ore Company, of Lancaster County, Pennsylvania, for the restoration of the 10 per cent. reduction of duty made by act of 1872, to the Committee on Ways and Means.

By Mr. STRAWBRIDGE: The petition of James Sturdevant, of Bradford County, Pennsylvania, for a pension, to the Committee on Invalid Pensions.

Also, the petition of 30 Union soldiers, for increase of pension to twenty-four dollars a month for those who have lost a leg below the knee or an arm below the elbow, to the Committee on Invalid Pensions.

By Mr. THORNBURGH: The petition of Hamilton Ryan, for a pension, to the Committee on Invalid Pensions.

IN SENATE.

FRIDAY, *January* 22, 1875.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

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

Hon. JOHN P. JONES, from the State of Nevada, appeared in his seat to-day.

CREDENTIALS.

Mr. SAULSBURY presented the credentials of Hon. THOMAS F. BAYARD, chosen by the Legislature of Delaware as Senator from that State for the term commencing March 4, 1875; which were read and ordered to be filed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 4459) for the relief of the heirs of Alfred Fry: in which it requested the concurrence of the Senate.