By Mr. HERNDON: Resolutions of the Legislature of Texas, urging upon Congress the early and favorable consideration of the claims of survivors of the war with Mexico, to the Committee on Invalid Pensions.

By Mr. G. F. HOAR: The petition of Patrick Rigney, of Worcester, Massachusetts, for a pension, to the Committee on Invalid Pensions.

By Mr. HUNTON: The petition of John I. Shipman, for an appropriation to elevate the walls on the west side of the Chain Bridge, above Georgetown, to the Committee on Appropriations.

By Mr. KELLEY: The petition of citizens of Philadelphia, artisans and workers in iron, for extension of the national credit to complete a great southern railroad line to the Pacific, to the Committee on the Pacific Railroad.

By Mr. LOWE: The petition of citizens of Johnson County, Kansas, in reference to the sale of the Black Bob Indian lands, to the Committee on Indian Affairs.

By Mr. LUTTRELL: The petition of C. Cadwell and others, in relation to public lands in the State of California, to the Committee on the Public Lands.

Also, remonstrances of merchants, bankers, and others of New York City, against annulling contract with the Pacific Mail Steamship Company, to the Committee on the Post-Office and Post-Roads.

Also, the petition of citizens of Shasta County, California, in relation to the improvement of the Sacramento River, to the Committee on Commerce.

By Mr. McDILL, of Iowa: The petition of several hundred citizens of Shelby County, Iowa, praying for the levying of a duty of 20 cents per bushel on foreign flax and $20 per ton on jute butts, and remonstrating against the repeal of duty on pig-lead and flaxseed, to the Committee on Ways and Means.

By Mr. NUNN: The petition of W. W. Wagner, of Tennessee, for relief, to the Committee on War Claims.

By Mr. PLATT, of New York: The petition of the Farmers' Club of Ithaca, New York, for the establishment of a signal station at Cornell University, to the Committee on Appropriations.

By Mr. RICHMOND: Remonstrances of the Board of Trade and of bankers, merchants, and others, of the city of New York, against annulling the contract with the Pacific Mail Steamship Company for semi-monthly mail service to China and Japan, to the Committee on the Post-Office and Post-Roads.

By Mr. W. R. ROBERTS: The petition of citizens of Northeast Maryland, for the repeal of the 10 per cent. reduction of duties made in 1872 and against a duty on tea and coffee and revival of internal taxes, to the Committee on Ways and Means.

By Mr. SHEATS: A paper to establish a post-route from Hartsell, or Falkville, Morgan County, Alabama, to Tuscumbia, to the Committee on the Post-Office and Post-Roads.

By Mr. SMITH, of Virginia: Resolutions of the General Assembly of Virginia, opposing the proposed increase of tax on tobacco, to the Committee on Ways and Means.

By Mr. SOUTHARD: The petition of Calvin James and others, of Symmes Creek, Muskingum County, Ohio, for the repeal of the 10 per cent. reduction of duties made in 1872 and against a duty on tea and coffee and revival of internal taxes, to the Committee on Ways and Means.

By Mr. STANARD: Memorial of merchants, ship-owners, and shippers of Saint Louis, Missouri, in relation to the United States marine-hospital service, and praying that marine-hospital relief be continued to indigent boatmen, to the Committee on Commerce.

Also, the petition of 111 American merchant seamen of the port of Saint Louis, of similar import, to the same committee.

By Mr. STONE: Resolutions of the General Assembly of the State of Missouri, in regard to the improvement of the mouth of the Mississippi River, to the same committee.

IN SENATE.

TUESDAY, *February* 23, 1875.

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

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

EXECUTIVE COMMUNICATION.

The VICE-PRESIDENT laid before the Senate a letter of the Secretary of the Navy, communicating, in compliance with a resolution of the Senate of February 3, 1875, a copy of the contract made with Vinnie Ream for a statue of Admiral Farragut, together with a copy of the award made by the majority of the commission authorized to select a suitable and skillful sculptor for such statue; which was referred to the Committee on Appropriations, and ordered to be printed.

HOUSE BILLS REFERRED.

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

The bill (H. R. No. 4149) for the sale of timber lands in the States of California and Oregon and in the Territories of the United States—to the Committee on Public Lands.

The bill (H. R. No. 4434) giving certain authority to the accounting officers of the Treasury in the case of John L. Smith—to the Committee on Claims.

The bill (H. R. No. 4740) making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes—to the Committee on Commerce.

The bill (H. R. No. 4833) to authorize the Secretary of the Treasury to adjust and remit certain taxes and penalties claimed to be due from mining and other corporations in the sixth collection district of Michigan—to the Committee on Finance.

The joint resolution (H. R. No. 159) referring the claim of Marcus Radich to the Court of Claims—to the Committee on Claims.

The joint resolution (H. R. No. 160) providing for the restoration of the original Declaration of Independence—to the Committee on the Library.

SUSPENSION OF SIXTEENTH AND SEVENTEENTH JOINT RULES.

The VICE-PRESIDENT laid before the Senate the following resolution of the House of Representatives:

Resolved by the House of Representatives, (the Senate concurring,) That the sixteenth and seventeenth joint rules of the two Houses be suspended for the residue of the present session.

The resolution was considered by unanimous consent, and agreed to.

REPORT ON MINING STATISTICS.

The Senate proceeded to consider its amendment to the resolution of the House of Representatives for the printing of the report of R. W. Raymond on mining statistics, with accompanying engravings, disagreed to by the House.

On motion of Mr. ANTHONY, it was

Ordered, That the Senate insist on its amendment disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

Ordered, That the conferees on the part of the Senate be appointed by the Vice-President.

PETITIONS AND MEMORIALS.

Mr. FERRY, of Michigan, presented a petition of citizens of Antrim County, Michigan, praying the establishment of a mail-route from Central Lake post-office to Marcelona, in that State; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a petition of citizens of Croton, Michigan, praying Congress to grant to each Union soldier $200 in legal-tender notes instead of one hundred and sixty acres of land; which was referred to the Committee on Military Affairs.

Mr. SPENCER. I present a memorial of the republican members of the General Assembly of Alabama, first showing the changes made by the Alabama Legislature in the penal code of the State, by which a system of involuntary servitude and peonage for African citizens is sought to be inaugurated; second, the political legislation of the State, by means of which republican voters to the amount of ninety-three thousand are practically disfranchised of representation, and how democrats propose to take away republican representation, by means of which they would alter our republican constitution and substitute an organic act favorable to a practical nullification of the constitutional amendments; and, third, asking Congress to empower the President to suspend the writ of *habeas corpus* in certain contingencies in order to preserve the public peace in the Southern States. I ask that this memorial be printed and referred to the Committee on Privileges and Elections.

Mr. BAYARD. This is a very long paper. I do not know about printing a matter of this kind.

The VICE-PRESIDENT. If there be objection, the question of printing the memorial will go to the Committee on Printing.

Mr. BAYARD. I merely ask is it proper to print a paper of this kind?

Mr. SPENCER. I hope the paper will be printed. It is a memorial signed by the republican members of the Legislature, and showing what our democratic friends are doing. It is not so lengthy.

Mr. BAYARD. If it is not very long, I have no objection.

The VICE-PRESIDENT. The Chair hears no objection, and the order to print will be made.

Mr. BAYARD subsequently said: As a matter of morning business just now, the Senator from Alabama [Mr. SPENCER] presented a memorial and asked that it be printed, which is not customary. I asked if it was a long paper. He said, no, quite a short one; and therefore I withdrew any objection, and instead of its being referred to the Committee on Printing, as it should have been, I had no objection to its being printed as the Senator requested. Upon examination of the paper now I find that it is a very formidable document in size, and therefore suggest that it should be sent to the Committee on Printing. I ask that the leave given to print, without consideration, may be reconsidered, and that the motion to print be referred to the Committee on Printing.

Mr. SPENCER. I wish to state to the Senator from Delaware that I do not care about the accompanying documents being printed with the memorial. If the memorial be printed, which is not long, the accompanying documents I do not care about being printed.

Mr. BAYARD. Will the Senator state the number of pages?

Mr. SPENCER. I cannot state the number of pages, perhaps ten or twelve pages of writing.

Mr. BAYARD. It is a very small matter; let it go to the Committee on Printing, and let that committee report upon it.

The VICE-PRESIDENT. The Senator from Delaware moves——

Mr. SPENCER. I hope that will not be done. It has already been referred to the Committee on Privileges and Elections, and I want the subject to be brought before that committee as soon as possible.

Mr. BAYARD. Then let the memorial alone be printed without the accompanying papers.

Mr. SPENCER. All I ask is that the memorial be printed.

The VICE-PRESIDENT. If there be no objection, the memorial alone will be printed, without the accompanying documents.

Mr. SCOTT. I present a memorial of bankers, merchants, and others of the city of Philadelphia, interested in the trade with China and Japan, and representing that the interests of all engaged in this trade would suffer irreparable injury by the discontinuance of the semi-monthly mail service between San Francisco and China and Japan, and remonstrating against any legislation which would result in the discontinuance of that service. As that subject is now before the Senate, I move that the petition lie on the table.

The motion was agreed to.

Mr. SCHURZ presented a resolution of the Legislature of Missouri, in favor of granting a pension to all soldiers of the Mexican war; which was referred to the Committee on Pensions.

Mr. SHERMAN presented a petition of citizens of Ohio, praying for the passage of the bill now pending before Congress providing for the equalization of bounties; which was referred to the Committee on Military Affairs.

He also presented a memorial of citizens of Muskingum County, Ohio, remonstrating against the restoration of the duties on tea and coffee and praying the repeal of the act of 1872 reducing the duties on certain imports 10 per cent; which was referred to the Committee on Finance.

Mr. CAMERON presented a memorial of bankers, merchants, and others of the city of Philadelphia, remonstrating against the withdrawal of the semi-monthly mail between San Francisco and China and Japan; which was ordered to lie on the table.

Mr. BOGY presented a memorial of citizens of Ozark Iron-Works, county of Phelps, Missouri, remonstrating against the restoration of the duties on tea and coffee and praying the repeal of the act of 1872 reducing the duties on certain imports 10 per cent.; which was referred to the Committee on Finance.

He also presented a concurrent resolution of the Legislature of Missouri, asking an appropriation for the improvement of the mouth of the Mississippi River in accordance with the plan submitted by J. B. Eads; which was referred to the Select Committee on Transportation Routes to the Sea-board.

Mr. GORDON presented two memorials of citizens of Georgia, remonstrating against the restoration of the duties on tea and coffee and praying the repeal of the act of 1872 reducing the duties on certain imports 10 per cent.; which were referred to the Committee on Finance.

Mr. ALCORN presented a memorial of John W. Robinson, of Hinds County, Mississippi, asking compensation for certain goods, wares, and merchandise taken and destroyed by the United States forces at Jackson, Mississippi, during the war of the rebellion, or that his claim be referred to the Court of Claims for adjudication; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. SPENCER, from the Committee on Military Affairs, to whom was referred the bill (H. R. No. 3272) for the relief of John T. Burchell, of Knoxville, Tennessee, for services rendered in a small-pox hospital, 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 memorial of officers of the Masonic Lodge of Georgetown, South Carolina, praying compensation for the destruction of the Masonic hall in that town by United States troops in 1865, 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 Patrick Sullivan, late lieutenant Nineteenth Regiment Wisconsin Volunteers, praying compensation for services rendered in recruiting men for the Army in 1862, submitted an adverse report thereon; which was ordered to be printed, and the committee was discharged from the further consideration of the petition.

Mr. CLAYTON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1078) for the relief of S. K. Thompson, late second lieutenant in the Twenty-fifth United States Infantry, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. McCREERY. The Committee on Foreign Relations have had under consideration the memorial of Christine H. Stevens and Thomas S. Rhett, administrators of the estate of Walter H. Stevens, deceased, asking payment for six thousand tons of coal taken possession of by Mexican troops at Vera Cruz, Mexico, in July, 1867, and have directed me to report that, taking for granted every statement made in this report as true, the committee is unanimously of the opinion that it makes no obligation on the part of the Federal Government. Hence they have directed me to make an adverse report and ask to be discharged from the further consideration of the subject.

The VICE-PRESIDENT. The Chair hears no objection and the committee will be discharged from the further consideration of the memorial.

Mr. WINDOM, from the Committee on Public Lands, to whom was referred the bill (S. No. 1325) authorizing the Wisconsin Central Railroad Company to straighten the line of their road, reported it with amendments.

Mr. SCOTT, from the Committee on Claims, to whom was referred the bill (H. R. No. 3182) for the relief of the heirs of James Barnett, deceased, asked to be discharged from its further consideration and that it be referred to the Committee on Revolutionary Claims; which was agreed to.

Mr. ALLISON. I am directed by the Committee on Appropriations, to whom was referred the bill (H. R. No. 3820) making appropriations for the support of the Army for the fiscal year ending June 30, 1876, and for other purposes, to report it with amendments; and I would like to say to the Senate that the committee have made very few amendments, and we would like to take the bill up immediately after the conclusion of the post-office bill.

Mr. MORTON. There cannot be any consent to that.

Mr. SCOTT, from the Committee on Finance, to whom was referred a petition of citizens of Baltimore, Maryland, praying relief on account of losses sustained by reason of the failure of the Baltimore Branch of the Freedman's Savings and Trust Company Bank, in which they had large deposits of money, reported a bill (S. No. 1349) amending the charter of the Freedman's Savings and Trust Company, and for other purposes; which was read and passed to a second reading.

TERMINATION OF TREATIES.

Mr. CAMERON. I am directed by the Committee on Foreign Relations, to whom was referred the joint resolution (S. R. No. 19) authorizing the President to terminate certain treaties, to report it back without amendment and ask to take it up for consideration at this time. It will occupy but a moment, I presume.

There being no objection, the joint resolution (S. R. No. 19) authorizing the President to terminate certain treaties was considered as in Committee of the Whole. It provides that in all treaties now existing or which may hereafter be concluded between the United States and any foreign power, in which it is provided that any favor, exemption, privilege, or immunity which either of the contracting parties shall have already granted, or may at any time after the conclusion of such treaty grant to any other power, shall immediately become common to, and be enjoyed by, the other contracting party, and which treaty, or any article of which, by its terms may be terminated by a prescribed notice given by either of the contracting parties to the other, the President of the United States is authorized, whenever, in his opinion, the interests of the United States shall require the termination of any of said treaties, or of any article thereof, to give notice for the termination of such treaty, or of such article thereof, to the government of the other contracting party, in accordance with the provisions which may be contained in such treaty relative to the time and manner of giving such notice; and from and after the expiration of the time fixed by such notice the obligations of such treaty, or of such article, shall be held to be terminated and no longer binding on either of the parties thereto.

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

Mr. FRELINGHUYSEN subsequently said: By the approval of the chairman of the Committee on Foreign Relations, I wish to enter a motion to reconsider the vote by which Senate joint resolution No. 19 was passed a few moments ago.

The VICE-PRESIDENT. The Senator from New Jersey enters a motion to reconsider the vote by which the joint resolution was passed.

EQUALIZATION OF BOUNTIES.

Mr. LOGAN. I am directed by the Committee on Military Affairs, to whom was referred the bill (H. R. No. 3341) to equalize the bounties of soldiers who served in the late war for the Union, to report the same back without amendment; and I ask for its present consideration.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. HOWE. I am afraid that will lead to debate; and I am very anxious to have a little time this morning to take up a bill reported from the Library Committee, for which I have waited a good many weeks, not patiently but impatiently.

The VICE-PRESIDENT. The Senator from Wisconsin objects.

Mr. LOGAN. I wish to give notice that I shall in every morning hour ask the Senate to take this bill up. It will not in my judgment cause very much discussion, for the reason that I have facts and figures here to show that the character of the bill is such that it ought to pass.

BILLS INTRODUCED.

Mr. FLANAGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1344) to authorize the construction of a bridge across the Rio Grande at or near Brownsville, Texas; which

was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. WRIGHT asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1345) for the relief of William Hall; which was read twice by its title.

Mr. WRIGHT. I introduce this bill by request. I have had no time to examine it, and of course do not commit myself to its provisions. I move that it be referred to the Committee on Patents and be printed.

The motion was agreed to.

Mr. TIPTON (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1346) for the relief of N. S. Reneau and Adolph Bouchard; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. BOGY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1347) to establish certain post-roads in the State of Missouri; which was read twice by its title, referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. WADLEIGH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1348) to authorize the Commissioner of Patents to sign the certificate of extension of letters-patent No. 28470, granted to Frederick T. Grant May 29, 1860, upon a sliver-machine; which was read twice by its title, referred to the Committee on Patents, and ordered to be printed.

REPORT OF GENERAL CUSTER'S EXPEDITION.

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

Resolved, That the Secretary of War be requested to furnish to the Senate the report of the late expedition to the Black Hills under the command of General Custer, United States Army.

MESSAGE FROM THE HOUSE.

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

A bill (H. R. 4747) supplementary to the acts in relation to immigration;

A bill (H. R. No. 4835) in relation to the Quartermaster's Department, fixing its status, reducing its numbers, and regulating appointments and promotions therein.

The message also announced that the House had passed a resolution authorizing the Committee on Enrolled Bills in the enrollment of the bill (H. R. No. 1938) to extend the provisions of the act approved March 3, 1871, entitled "An act to provide for the collection of debts due from southern railroads, and for other purposes," to change the word "Linnville" to "Louisville" in the ninth line of the Senate substitute thereof, so that the line will read "the Memphis, Clarkesville and Louisville."

ORDER OF BUSINESS.

Mr. LEWIS. Is the morning business through?

Mr. SHERMAN. What committee is entitled to this morning hour?

The VICE-PRESIDENT. The Committee on the Library is entitled to the rest of the morning hour.

Mr. LEWIS. Are we through with the morning business?

The VICE-PRESIDENT. The morning business is through, and now by the order of the Senate the Committee on the Library is entitled to the rest of the morning hour.

Mr. LEWIS. I move that the Senate proceed to the consideration of House bill No. 4727 explanatory of the act passed June 20, 1874. I will just say one word. I do not intend to discuss this bill, and I do not think there will be any debate upon it——

Mr. HOWE. Allow me to say to the Senator from Virginia that the morning business does not end but the morning hour does. The whole morning is appropriated. The bill which I ask to have the Senate consider this morning is one that I have been waiting for weeks to bring forward.

Mr. LEWIS. I thought the Chair had announced that the morning business was through. If the Senator rises for morning business of course I give way to him.

The VICE-PRESIDENT. By an order of the Senate after the regular morning business is through the committees are called in their order and have the rest of the morning hour, and the Committee on the Library is entitled to the rest of this morning hour.

LIBRARY OF CONGRESS.

Mr. HOWE. I move that the Senate proceed to the consideration of Senate bill No. 1250.

The motion was agreed to; and the bill (S. No. 1250) making further provision for the accommodation of the Library of Congress was read the second time, and considered as in Committee of the Whole.

The bill provides that a new fire-proof building be erected for the Library of Congress and copyright records of the United States, to be located in the center of Government reservations Nos. 15 and 16, (known as Judiciary Square,) in the city of Washington, to which shall be removed, on its completion, the books, records, and all other materials of the Library, except such portion, not less than fifty thousand volumes, as shall be designated by the Joint Committee on the Library to remain in the Capitol. The Library building thus provided for is to be designed, and its erection superintended, by a commission consisting of the Supervising Architect of the Treasury, the chairman of the Joint Committee on the Library on the part of the Senate and House respectively, the chairman of the Senate Committee on Public Buildings and Grounds, and the Librarian of Congress.

The sum of $250,000 is appropriated, out of any money in the Treasury not otherwise appropriated, to commence the erection of the Library building herein provided for.

Mr. ANTHONY. Before the bill is proceeded with I wish to state that I believe every committee that has asked for it has had some extension of time. The morning closed yesterday when we were discussing some matters from the Commiteee on Printing, which ought to be decided one way or the other. While I will not interfere with my friend from Wisconsin, partly because I do not want to and partly because I know I cannot, I hope that before we go back to recall the committees, the Committee on Printing may have the same privilege that other committees have had.

Mr. EDMUNDS. This report from the Committee on the Library was not made with the concurrence of all the members of the committee. Some of the members of that committee, of whom I am one, do not think that the Library ought to be removed to Judiciary Square; certainly not at this present time. A building there would involve very heavy expense, and would remove the body of the Library from the Capitol, where I for one think it ought to be. I hope, therefore, with all deference to my friend from Wisconsin, that the Senate will not consent to send this Library out of this building down to Judiciary Square. I offer to amend the bill by striking out all after the enacting clause and inserting what I send to the Chair.

The Secretary read the matter to be inserted, as follows:

That the members of the joint standing committee of the two Houses of Congress on the Library and the Committee of the Senate on Public Buildings and Grounds are hereby authorized to cause the western front of the Capitol, or such part thereof as they may deem expedient, excepting the wings, to be extended so far as they shall deem necessary and expedient, not exceeding thirty-four feet, in order to the proper accommodation of the Library of Congress; and the sum of $500,000 is hereby appropriated, out of any money in the Treasury not otherwise appropriated for the purpose aforesaid, to be paid on vouchers approved by the architect of the Capitol extension, under such regulations as shall be established from time to time by the chairman of the Committee on Public Buildings and Grounds of the Senate and the chairman of the Joint Committee on the Library.

Mr. EDMUNDS. I think perhaps I do not do wrong in stating that if the Senate should be unwilling to move the Library to Judiciary Square and put up a large building there for it at the present time, and should be willing to do something which is absolutely necessary for the present accommodation of the Library, this amendment will not be unsatisfactory to my friend from Wisconsin, although he belongs to a majority of the Library Committee who believe that the true thing to do is to commence the erection of an edifice which will occupy the whole of Judiciary Square. I do not mean by that that the walls would; but the affair would involve taking off the courthouse or city hall or whatever is there, and erecting a fine building in that place. But others of us believe that the Library ought not to be taken away from the Capitol itself or its immediate vicinity, from the Capitol itself I think, so long as it is possible (and that will be a good many years) to keep it here by a moderate extension of the western front where the Library is now situated, which moderate extension in the opinion of a good many persons would not only provide for the Library for several years but would also be an addition to the appearance of the building itself, combining therefore two advantages to be derived from one expenditure. I hope that the amendment which I have offered will be adopted.

Mr. CLAYTON. I should like to ask the Senator from Vermont, before he takes his seat, whether the proposed extension that he provides for in his amendment is represented by the ground-plan now in the Chamber. I see on that the segment of a circle on each side of the central pediment fronting to the westward. Is it intended to include those circular extensions?

Mr. EDMUNDS. It is intended to give authority to the persons named in this amendment, acting under such architectural advice as they can get, leaving the wings as they are, complete and finished, to do whatever is necessary and best to enlarge the library-room. It may include those curves and segments, or it may not. That plan is the suggestion of an architect as one way of doing it.

Mr. CLAYTON. I should be willing for one to vote for the extension of the western central portion of the building; but I doubt very much whether, upon the information simply conveyed by that ground-plan, I should be willing to vote for the circular extensions to the right and left of the central portion, because I doubt very much what the architectural effect would be on the building.

Mr. EDMUNDS. That is a matter which this amendment does not comprise by inclusion, nor does it exclude it. In other words, the commission created is to extend the central portion in such way as will be best adapted to the Library and best for the building combined. This plan is not a new one which we have agreed upon as being precisely the thing to be done, but is one suggestion made by an architect as to the way of doing it; that is all.

Mr. HOWE. If the Senate care enough about this question to listen a little while to it, I think I can make them understand the alternatives presented to us. The Senator from Vermont has correctly said that you must have additional provision for the accommodation of your Library. You already have a collection, or had at the commencement of this year, of some two hundred and seventy-four thousand volumes, to say nothing about fifty or sixty thousand pamphlets, and

you have over fifty thousand volumes lying on the floor, no shelf to put them upon, and your accumulations are increasing from thirty thousand to forty thousand volumes annually through the deposits of the Smithsonian Institute, the operations of the copyright, and your very limited purchases. One of three things, therefore, is inevitable: You must stop buying and sell; or you must have more space; or you must let your books, a part of the present accumulation, go to destruction.

I agree entirely with the Senator from Vermont that it would be desirable to have the Library kept here if possible; but it is the judgment I think of the whole committee that that is impossible except for a brief term. I think it is the judgment of the committee, and it is the judgment of everybody, that you cannot without spoiling this Capitol provide for the accommodation of the Library within it beyond a few years; that if your Library continues to grow, the question of accommodating it outside of the building is only a question of time.

Several plans for extending it have been presented and discussed. If you can extend the western front thirty-four feet, the outside limit suggested by the amendment moved by the Senator from Vermont, and can add those wings to it which you see on the ground-plan, you can accommodate there for ten or fifteen years the ordinary accumulations of the Library. That may be worth your while. If such is the judgment of the Senate, I acquiesce as an individual. But I want the Senate to consider two things in that connection; first, that when you have outgrown that space, the space itself will not be useless, but all you expend in shelving it will be very nearly useless. The space itself will not be useless, because you need it for legislative purposes. I want you to consider this other thing, that you are very likely to need that for legislative purposes even before the wants of your Library will actually require you to go outside of the building. But these are questions which every one can calculate just as well as the committee can or as I can.

I believe it is the opinion of almost everybody—it is very decidedly the opinion of the Committee on Public Buildings and Grounds, it is decidedly the opinion of such architects as we have consulted, that beyond thirty-four feet you cannot go without decided injury to the architectural effect of the building itself; and I do believe that there is no Senator on this floor who would be willing to impair the effect of this building for the sake of furnishing a Library. We cannot afford that; it comes too near being a complete building, a perfect building. It is not quite perfect. A slight extension of the west front and a considerable extension of the east front, to realize the design you have in that elevation, which is now exhibited on the floor, will undoubtedly improve the effect of the building. I am one of those individuals who believe that if you would realize that idea on this east front you would have the most magnificent front, façade, or whatever it is proper to call it, to be found on earth. I do not believe there is a building that will present such a view as that would. That, however, is the east front, the design for which the Senator from Vermont sitting farthest from me [Mr. MORRILL] is more familiar with than I am. The designs for completing the approaches to the west front I think will not only warrant an extension of that front, but demand an extension of that front. The last conclusion of the architects we consulted was that the exact thing would be about twenty-four feet, but they were of opinion that it might go beyond that, even as high as thirty-four feet without injury. I have but very little confidence in my own judgment, but I should think myself, owing to the surface there, that thirty-four feet would not have an injurious effect, and would furnish accommodation for the Library for some considerable time.

So, then, you have these alternatives. I think you had better start with the conclusion that within fifteen years at the outside you must begin to prepare for your Library outside of this building. Whether you will want the additional space that you can get by this extension within fifteen years for legislative purposes is a question for you to consider. Within that time you must begin to make provision outside. When you do begin to make that provision outside, you sacrifice clearly the whole cost of the shelving for this building. I want you to consider this other thing, that whether the Library goes outside of the building next year or fifteen years hence, the whole Library never will go outside. A working library of some sixty or eighty thousand volumes will be kept in the present room for the reference of Congress during their current work. When a thorough investigation of a subject is desirable, no Senator, no lawyer sends for a few books to be brought in; he sends for the books on that subject to be carried to his room, and there he considers the question; and he can just as well order them from a building outside of this Capitol as from one inside. The disadvantage of having the great body of the Library outside, therefore, although something, is not insuperable, and is one that must be encountered some time or other.

Mr. SHERMAN. I had the honor of serving upon the Committee on the Library of the Senate two or three years ago, and it was then the unanimous opinion of the committee that it was impracticable to put all the books that gradually accumulate under the law as it now stands in this Capitol by any probable change that would be authorized by Congress. I think that was the concurrent opinion of my friend from Wisconsin, my friend from Maine, and myself, who then composed the committee; but that for a congressional library, for all the purposes needed by Congress or the Supreme Court, the present space allotted to the Congressional Library was amply sufficient, say for two or three hundred thousand volumes, and that is a greater library than is needed for the actual working of the legislative and judicial branches of the Government. It is not advisable to crowd into this building all the books that are accumulated under the copyright law. Under those circumstances, having come to this conclusion after very careful examination, after the fullest examination possible, after consulting the very capable Librarian of Congress and architects skilled in their science, it was deemed advisable and I think the committee recommended that a separate building, to be the National Library, if you please, of which the Congressional Library would be a part, but subsidiary to that, should be erected, and that in this National Library should be collected all the books that may come here under the copyright law and all the books that are gathered from foreign countries and that may be purchased by Congress for the use of the National Library. For such purpose we thought it was necessary to construct a building especially adapted to that end, a building of the form and shape and architectural proportions necessary to make a complete library, something like the British Museum or the great library in Paris. That was the conclusion of the committee, and I am of that opinion still. I think Congress might as well make up its mind that it is utterly impossible to collect in this building all the materials, documents, and books that will in time, and no very short period of time, be collected under our copyright law.

I am therefore opposed to any proposition which seeks to enlarge or change the form of this building with a view to make it a library building; but I believe the time will shortly come, probably within ten or fifteen years, when some such plan as that proposed by the Senator from Vermont [Mr. EDMUNDS] will be adopted by Congress to enlarge this building for the uses of the courts and for the uses of Congress, and in the next five, ten, or fifteen years no doubt enlargements will be made, probably by the extension of the central building east and west, so as to give the judicial and legislative departments additional room and facilities. To that we must address ourselves, and that very soon; but that we must soon look to the foundation of the National Library I have not a particle of doubt.

If the time was opportune I would be willing to vote for the proposition reported by the Committee on the Library now. I believe that Judiciary Square, being about central in this city, being easy of access to Congress, accessible to all the Departments, accessible to the Executive and all branches of the Government, a National Library or Congressional Library, if you call it so, might be built in that square, and that a portion of it, one-third of it perhaps, might be devoted to this purpose and the other portion of it to the Patent Office and the Interior Department.

I therefore would be willing to vote for the proposition reported by the Committee on the Library if the time was opportune; but, Mr. President, now I will not vote for any proposition to authorize the building or the commencement of a public library, especially one that would involve a large expenditure of the public money. We are not in a condition to do it. I know very well that the present library is crowded. What by? Not by documents that we need; not by documents that we refer to; but by documents that are sent in there under the copyright law, which requires two copies of every book, pamphlet, magazine, or publication of any kind to be sent to the Library, and the accumulation of these publications, although right enough in itself, is not of any proper use to us now for legislative purposes or to the courts for judicial purposes. But they ought to be collected and retained as permanent archives of the National Government.

Mr. HOWE. Will my friend allow me a suggestion? We get the current literature of the day, the whole publications of this country under the operations of that copyright law.

Mr. SHERMAN. Yes; and some of them are useful for the information of Congress, but the great mass of them are not. My friend will admit that the great mass of those publications are not necessarily indispensable for the Library of Congress.

Mr. HOWE. For statesmen they are not, but for a National Library they are.

Mr. SHERMAN. Then I say they ought to be separated, and those documents intended for the use of Congress and the courts ought to be collected in this building and be ready of access, and the highest estimate any one puts on the number of those documents would not be over two hundred thousand. Indeed, I believe the present Librarian thinks sixty or seventy thousand volumes would cover all that are usually called for, and the rest ought to be placed in some less expensive building, in some locality easy of access, where they may be preserved and kept in places where the cost would not be in proportion to the value of the documents two to one.

In my judgment it is premature to introduce this subject now. We ought not to act upon it now. Let it go over to the next Congress, and Congress will direct itself no doubt to the establishment of a National Library, and separate if possible the Congressional from the National Library. At present I shall not vote for either the amendment or the original bill, and I hope the Senator from Wisconsin will let the matter go over to the next Congress when he will be here, and perhaps the time may be more favorable for the erection of a public building. In the present condition of affairs, when we are called upon to levy heavy taxes on the people, when we have hard times upon

us, I will not vote to commence any public building which is likely to cost millions of dollars.

Mr. MORRILL, of Vermont. Mr. President, it is undoubtedly true that the Library will crowd out Congress, as General Meigs said, or Congress will crowd out the Library unless we provide further room for it. It is indispensable that further room should at once be supplied to the Library. But when it is proposed to move the Library down to Judiciary Square, I think there are many objections which will occur to every Senator.

In the first place we do not desire to build up a library here to be merely a circulating library for this city. We desire to have it maintained as a Congressional Library.

Then, again, Judiciary Square will be wanted within a year or two for the accommodation of the General Post-Office. The present Post-Office building that we have is hardly of sufficient magnitude for the city post-office. The business of the Department at the present time is very uncomfortably crowded, and the room there is very much wanted for the Interior Department, for the Pension Bureau, the Commissioner of Education, and various other Bureaus that now have buildings for their accommodation rented outside, and which are very insecure against fire, especially so far as the papers of the Pension Bureau are concerned. This square should therefore be reserved for use at no remote day for a General Post-Office building.

If I could have the ear of the Senate long enough to argue this case in relation to a separate and independent building, I should be much in favor of such a building; and I would place it contiguous to this Capitol on the squares upon the east side of the present Capitol grounds which may be now purchased at a very low rate as compared with the price they will be sure to cost some few years hence, and we shall ere long need all of the first tier of adjacent squares, say half of them, for a public library, and the other half for a national museum of natural history or for the Supreme Court and other courts of the United States. There is no doubt but that the Government of the United States would make at least $100,000 a year by purchasing these squares at the present time. It would be greatly to our advantage to secure them now. I do not offer an amendment to that effect, although I consider that would be far the wisest course for Congress to pursue, and such a course as every Senator would pursue in the conduct of his own affairs.

Then it is obvious that we should have a working library here in the present library-rooms for Congress, and we should have a larger library so near that it would be accessible by members of Congress, and could also be connected by a gallery for passage to and from and by a pneumatic tube so that any books in it could be promptly obtained in a few minutes at any time.

But, Mr. President, the proposition of my colleague is to enlarge the western front of this building. So far as I am concerned, I would not enlarge it to the extent of holding a single volume if it were to mutilate the present plan of this building, and I utterly repudiate the idea that the center of this building can be extended on either side to any great extent without most destructive effects to the architectural appearance of the building. It is now in its façade on either side, east or west, one of the grandest buildings in the world. If you extend out the center so as to put the building in the form of a Greek cross, you make it an ecclesiastical building, more or less in the form of a cathedral, and no longer a Government building, of the present simple, classic grandeur; you would also make it by any such extension so that as you approach it obliquely upon one side or the other you would largely diminish its apparent magnitude. Its dimensions would be apparently lessened by one-half the moment you extend the center, so that you cannot see the whole front façades as you approach the building from the west or east.

Mr. LOGAN. I do not want to interrupt the gentleman, but I believe the morning hour has expired.

The VICE-PRESIDENT. The morning hour has expired.

Mr. LOGAN. I am glad to listen to him, because his remarks are instructive; but I shall persist in calling for the regular order.

Mr. MORRILL, of Vermont. I do not want to take more than three minutes more time.

Mr. LOGAN. You can do that to-morrow. I should have no objection but that I was crowded out this morning because it was supposed debate would occur on my proposition. Inasmuch as no debate occurs on this, I think we had better proceed to the regular business.

Mr. MORRILL, of Vermont. I merely ask for about three minutes more to say what I have to say. I do not wish to occupy more time hereafter. I have only had about five minutes.

The VICE-PRESIDENT. Is there objection to the Senator from Vermont proceeding? The Chair hears none.

Mr. MORRILL, of Vermont. I merely desire to say that the central building is composed of sand-stone and must be replaced at some time with marble to correspond with the wings. The expense of making some addition, and I should be glad if it could be a little less than thirty-four feet, will not be any very great addition to the cost of replacing the center with marble instead of sand-stone. Therefore it is an opportune time at the present moment, if this central portion is ever to be replaced with marble, as I presume no one doubts, that it shall be done now. Every one will recognize that in the central front of this building there is a conspicuous poverty in finish as compared with the wings. There ought to be a pediment in the center to break the sky-line, and it should be supported perhaps by a double row of columns in order to give greater dignity to the west front and main approach to the building. Senators will see on the plan proposed by Mr. Olmstead of a terrace, where the center has been brought out forty feet, that it does really injure the appearance and symmetry of the building somewhat; but it is the conviction of the old architect of the Capitol (Mr. Walter) that it might be brought out to the extent of about thirty-four feet without material injury. Other artists and experts think a less distance would be better. That this extension ought to be made now, and before the improvements contemplated for the front grounds are completed and the terraces and the stairways approaching the Capitol are constructed, is manifestly obvious to every one. Therefore the proposition presented as an amendment to bring out the center, if it is to be ever acted upon, should be acted upon at the present time. I take it we do not intend to leave these grounds plowed up and left unfinished like a common hog-yard for any further term of time. We should at least take as good care of the Capitol of the nation as we do of the post-offices in the principal cities of the country.

Now, if the Senators will notice the terrace that is to be somewhat enlarged here, they will see that there will be room, as it is proposed they shall be constructed, for fifty-six vaults that will be fifty feet in length and ten feet wide, where a large amount of documents and comparatively useless lumber, yet which it is essential to preserve, can be stowed away; for instance the duplicate copies of copyright books could be packed away there and be perfectly safe from damp and fire, and a large amount of documents that are now lumbering up the Treasury Department, filling their corridors there, can be packed away here and be entirely safe. Let me say that these vaults will be constructed at an expense of only $15,000 more than it would cost to build up this terrace solid, and will afford room for the accommodation (so it is asserted by Mr. Olmstead) of four or five hundred thousand volumes, and save an expense for this purpose of perhaps three to four hundred thousand dollars.

I trust, Mr. President, that if we cannot have a building adjacent and very near to the Capitol, where it will not interfere at all with this building, but would be a grand ornament to the exterior grounds, we shall consent that the improvement on the front may now be made, where we shall then have accommodations for the Library at least for ten or a dozen years or perhaps fifteen years. I hope the amendment will prove acceptable to the Senate.

The PRESIDING OFFICER, (Mr. SARGENT in the chair.) The morning hour has expired and the unfinished business of yesterday comes up.

Mr. WEST. I insist on the regular order.

Mr. FLANAGAN. I gave notice yesterday evening that this morning I should move to lay aside the pending order with a view to take up the question of the reconsideration of the bill changing the boundaries of the eastern and western judicial districts of Texas. I appeal to the Senate to aid me upon this occasion; vote it up or down. I ask the disposition of the question. I have been waiting very patiently for weeks, and I desire now final action on this subject.

The PRESIDING OFFICER. The Senate hears the request of the Senator from Texas. Is there objection?

Mr. WEST. I should like to inquire of the Senator whether his proposition is going to provoke discussion at all?

Mr. FLANAGAN. I hope not. I think there is a necessity for it, to say the least.

Mr. LOGAN. Allow me to say to the Senator from Texas that three different times I have tried to get up a bill and have been put aside every time. Now, until I have an opportunity to get that bill considered, I shall object to every minute's delay after the morning hour, and I call for the regular order.

Mr. FLANAGAN. I will do the Senator a kindness if I can. I appeal to him——

Mr. LOGAN. I am perfectly implacable. I call for the regular order.

Mr. FLANAGAN. I withdraw any appeal I make to the Senator. I make it to the Senate.

The PRESIDING OFFICER. The Senator from Illinois objects.

Mr. FLANAGAN. I ask if one objection is sufficient to put me off the floor? I gave notice yesterday, and I appeal to the Senate. If the Senate votes me down, very well.

The PRESIDING OFFICER. It is the opinion of the Chair that the Senator from Texas has not yielded the floor.

Mr. FLANAGAN. I desire to call up——

The PRESIDING OFFICER. In reply to the question of the Senator from Texas, it is the opinion of the Chair that a motion to lay aside all prior orders and proceed to the consideration of the subject mentioned by the Senator from Texas would be in order.

Mr. FLANAGAN. I make that motion to lay aside the pending business and proceed to the consideration of the motion to reconsider the bill (S. No. 736) to change the boundaries of the eastern and western judicial districts of the State of Texas and to fix the times and places of holding courts in the same.

PACIFIC MAIL STEAMSHIP COMPANY.

Mr. EDMUNDS. Pending that I ask leave to make a report from the Judiciary Committee on the topic that we were commanded to report upon about the Pacific Mail, and I ask to make it at this moment, because I am obliged to go into the Supreme Court,

The PRESIDING OFFICER. Is there objection? The Chair hears none.

Mr. EDMUNDS. I shall have to read the report myself, inasmuch as it is in my writing.

The Committee on the Judiciary, which was directed by the resolution of the Senate adopted on the 13th instant to inquire and report whether the United States or any Department of the Government is legally bound to now carry into effect any contract made pursuant to the act of June 1, 1872, respecting additional mail service between San Francisco, China, and Japan, respectfully report:

That under the act of Congress of February 17, 1865, a contract was made between the Postmaster-General and the Pacific Mail Steamship Company for the mail service therein provided for, at the price of $500,000 per annum, which contract is still in operation and unexpired.

On the 1st day of June, 1872, in the act making appropriation for the postal service for the year ending June 30, 1873, there was enacted the following provisions:

"SEC. 3. That the following sums, or so much thereof as may be necessary, be, and the same are hereby, appropriated for the year ending June 30, 1873, out of any money in the Treasury not otherwise appropriated, namely:

"For steamship service between San Francisco, Japan, and China, $500,000. And the Postmaster-General is hereby authorized to contract with the lowest bidder, within three months after the passage of this act, after sixty days' public notice, for a term of ten years from and after the 1st day of October, 1873, for the conveyance of an additional monthly mail on the said route, at a compensation not to exceed the rate per voyage now paid under the existing contracts, and upon the same conditions and limitations as prescribed by existing acts of Congress in reference thereto, and the respective contracts made in pursuance thereof; and the contractors under the provisions of this section shall be required to carry the United States mails during the existence of their contracts, without additional charge, on all the steamers they may run upon said line, or any part of it, or any branch or extension thereof: *Provided*, That all steamships hereafter accepted for said service shall be of not less than four thousand tons register each, and shall be built of iron, and with their engines and machinery shall be wholly of American construction, and shall be so constructed as to be readily adapted to the armed naval service of the United States in case of war, and before acceptance the officers by whom they are inspected shall report to the Secretary of the Navy and the Postmaster-General whether this condition has been complied with: *Provided*, That in all cases the officers of the ships employed in the service herein provided for shall be citizens of the United States, and that persons of foreign birth, who have according to law declared their intention to become citizens of the United States, may be employed as though they were citizens within the meaning of this section, or of any act or acts specified in the act of June 28, 1864. And the Government of the United States shall have the right in case of war to take for the use of the United States any of the steamers of said line, and in such case pay a reasonable compensation therefor: *Provided*, The price paid shall in no case exceed the original cost of the vessel so taken, and this provision shall extend to and be applicable to the steamers of the Brazilian line hereinafter provided for."

Pursuant to this provision, advertisement was made and the Pacific Mail Steamship Company being the lowest bidder, a contract was made with it by the Postmaster-General, according to its requirements.

The advertisement prepared by the steamship company and the contract entered into will be found in the papers accompanying a letter from the Postmaster-General to the chairman of the committee, dated February 17, 1875, and herewith returned; pages 3 advertisement, 5 proposal, and 16 contract.

In order to provide for the performance of this contract on the part of the United States, the act of March 3, 1873, (volume 17, page 559,) appropriated the sum of money necessary to make the agreed payments from the date at which the steamship company was to furnish the stipulated ships and begin the carrying of the mails under the contract, namely, October 1, 1873, to the closing of the fiscal year ending June 30, 1874, being $365,000.

The steamship company did not furnish the ships and did not begin the service required by the act of June 1, 1872, and the contract and their appropriation lapsed.

Since that time no appropriation has been made and no action on the subject has been taken by Congress, although one or two committees of each House reported on the subject against annulling the contract.

It appears, however, that on the 8th of July, 1874, the company notified the Postmaster-General that two ships, the Takao and Peking, were ready for inspection under the contract, (referred to as of August 23, 1873, on account of a clause in the section—see letter of Postmaster-General, page 39,) and on the 8th of August, 1874, the ships having been inspected, &c. at New York, and being then there, and not at San Francisco, the Postmaster-General, under advice of the Solicitor-General and Attorney-General, accepted the vessels.

Leaving out of view all questions respecting the means by which and the influences under which the act of June 1, 1872, and the contract may have been procured, and in respect to which no evidence is before us, and upon which we express no opinion, the question is whether the United States are bound in law to go on with the execution of the contract, notwithstanding the fact that the ships were not tendered for the service until nearly a year after the time required by the act of Congress and by the contract.

We are of opinion that this question must be answered in the negative.

First. We think that in respect of executory contracts for the delivery or using movable things, or for service to be performed, the law is clear that the party claiming the benefit of the contract must tender performance not only in the manner but within the time stipulated; and failing to do this, his right to demand performance ceases altogether.

The result is that the Postmaster-General was, when the ships were tendered on the 8th of August, 1874, under no obligation to receive them or to take any steps upon the subject.

Second. We are of opinion that the Postmaster-General had no lawful power or authority to accept the vessels under the circumstances or to bind the United States in the premises.

The measure of the power of the executive officers of the Government is to be found in the acts of Congress, which declare what they are to do and how and when they are to do it. (Floyd Acceptances, 7 Wallace, 667.)

To hold that an executive officer of the Government, authorized by law to enter into a particular contract, may enter into another and different one or dispense with performance of the one lawfully made, would be not only against the rules of law, but dangerous in the extreme to public interests.

The time at our disposal does not allow us to go into extensive reasoning or citation of authorities upon the subject.

GEO. F. EDMUNDS.
MATT. H. CARPENTER.
GEO. G. WRIGHT.
A. G. THURMAN.
J. W. STEVENSON.

The PRESIDING OFFICER. The report will lie on the table and be printed.

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. 4692) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 4669) to provide for the selection of grand and petit jurors in the District of Columbia;

A bill (H. R. No. 4677) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1876; and

A joint resolution (H. R. No. 51) in relation to civil-service examinations.

ORDER OF BUSINESS.

Mr. HOWE. I am going to move to postpone the further consideration of the pending bill.

The PRESIDING OFFICER. A motion is now pending made by the Senator from Texas to postpone the present and all prior orders and proceed to the consideration of the subject stated by the Chair before the report of the Senator from Vermont was made.

Mr. ANTHONY. I hope certainly at some time, and very soon, the Senator from Texas will have an opportunity, as I think he ought to have an opportunity, to consider the motion to reconsider. It ought not to stand in the way to prevent the passage of the bill. I cannot vote to lay aside the appropriation bill without the consent of the Senator having charge of it, but at the earlest time consistent with the public business I shall cheerfully vote to give the Senator from Texas an opportunity.

Mr. FLANAGAN. The convenient season will never come.

Mr. ANTHONY. We must pass the appropriation bills first.

The PRESIDING OFFICER. The question is on the motion of the Senator from Texas to lay aside the pending and all prior orders and proceed to the consideration of the motion stated by him.

Mr. FLANAGAN. I will withdraw the motion now, but renew it directly after the disposition of the appropriation bill.

POST-OFFICE APPROPRIATION BILL.

The Senate resumed the consideration of the bill (H. R. No. 4529) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1876, and for other purposes.

The PRESIDING OFFICER. The pending question is whether the Senate will concur in the action of the Committee of the Whole striking out that portion of the bill contained between lines 18 and 27 of section 2, which will be reported by the Secretary.

Mr. THURMAN. I did not understand that that was stricken out.

The PRESIDING OFFICER. The motion was made by the Senator from Louisiana [Mr. WEST] to strike out the clause, and by unanimous consent it was agreed that that motion should prevail and the bill be reported to the Senate otherwise completed but with that question being open.

Mr. THURMAN. That was not my understanding. My understanding was that the bill was still in committee with the understanding that all questions were disposed of but one.

The PRESIDING OFFICER. The question was raised by the Senator from South Carolina [Mr. ROBERTSON] that "that would put every Senator in the attitude of having voted to strike it out," and the reply was made by the Senator from New York [Mr. CONKLING] that that would not be the effect because it was a mere formal motion, and on that understanding the action was taken to which the Chair refers. By reference to the RECORD the Senator will see it.

Mr. THURMAN. I do not raise any question with the Chair, but my understanding was not that. I thought we were still in committee.

The PRESIDING OFFICER. No; by understanding, the bill was reported to the Senate. The question in effect is now before the Senate whether they concur with the Committee of the Whole in striking out this clause.

Mr. HOWE. Is a motion to postpone this bill for an hour in order?

The PRESIDING OFFICER. The Chair thinks it is.

Mr. HOWE. I submit that motion.

The PRESIDING OFFICER. The Senator from Wisconsin moves to postpone the consideration of the post-office appropriation bill for one hour, which will be till twenty minutes past one o'clock.

Mr. HOWE. I want to excuse myself for making the motion. I have been waiting here for weeks to ask the attention of the Senate to the consideration of the bill which they have considered for the space of twenty-five minutes this morning. You are making appropriations and have been making them day after day here for all sorts of purposes. You have $100,000 worth of books going to ruin every day because you will not make the appropriation which is required for their preservation. I do not own the books. I can as well see them go to ruin as any member on this floor. Hitherto, committees when they had less than an hour during the morning hour to consider their business, by the courtesy of the Senate by unanimous consent have had the hour made up to them. I have asked no courtesy and no right until this morning. When twenty-five minutes had been expended a peremptory demand was made to proceed to the order of the day. Now the Senate will proceed to the order of the day, I have no sort of doubt. I want to be discharged from the

obligation of moving in this matter hereafter. I want a vote of the Senate acquitting me of all responsibility. By unanimous consent thirty-five minutes might be given to this committee, but that unanimous consent cannot be had. The Senator from Illinois gives notice that it shall not be had now or any time. He thinks he has been harshly used. His committee long since had its hour in the Senate without objection. The Library Committee asks for nothing that committee has not had, for nothing that every committee has not had standing prior to this on your list of committees. I know we ask what we stand no chance of getting. One thing we can get; we can get a vote of the Senate upon this motion to postpone for thirty-five minutes.

Mr. MORRILL, of Vermont. I hope the request of the Senator from Wisconsin will be granted. Other committees have had their hour. The Library Committee certainly presents an exigency that ought to receive the consideration of the Senate, and I hope the hour will be given to them.

The PRESIDING OFFICER. The question is on the motion of the Senator from Wisconsin to lay aside the post-office appropriation bill for one hour.

Mr. HOWE. Thirty-five minutes, I will say.

Mr. MORRILL, of Maine. I hope my honorable friend will not insist upon that. There will be an opportunity for him soon. If the Senate should think it advisable to pass this bill, on which there is now but a single question left, then the Army appropriation bill will not occupy more than half an hour, I think, and that will leave a few days in which the only question will be the order of business. That is to say, there will be no appropriation bills for the next two or three days to trouble the Senate as to the order of business. I hope that we shall not be interrupted in closing this question; and then I hope it will be the good pleasure of the Senate to allow us to pass the Army appropriation bill, and then the members of the Committee on Appropriations can attend to conference committees and give a clear course to the Senate for two or three days, or perhaps longer, for such business as they may think proper to consider. If my honorable friend thinks that will answer his purpose, I certainly will co-operate with him at any time in getting a vote on his bill.

Mr. HOWE. My friend from Maine will see that that does not answer my purpose at all, because that does not give a moment's time to the consideration of this measure. He says that after the pending bill has passed and the Army bill has passed, then the Senate will be at liberty to do something else. I suspected that before.

Mr. MORRILL, of Maine. And my honorable friend suspects they are not at liberty to do anything else as long as there are appropriation bills.

Mr. HOWE. I know that; but I know the other thing, too, that the Senate is at liberty to refuse to do this just at this moment, and all I ask is that the Senate will do one or the other.

Mr. MORRILL, of Maine. My suggestion was that my honorable friend should not invite them to do it under these circumstances.

Mr. HOWE. I cannot withdraw the invitation; it has gone out.

Mr. WEST. In order to ascertain what the Senate is disposed to do and to bring them to an absolute vote, I move to lay the motion of the Senator from Wisconsin on the table.

The PRESIDING OFFICER. The Senator from Louisiana moves to lay on the table the motion of the Senator from Wisconsin.

The motion was agreed to; there being on a division—ayes 22, noes 21.

Mr. THURMAN. I wish to call the attention of the Senate to the fact that they have just overruled a precedent they very foolishly established the other day. I am very glad to know the fact, and I want it entered on the record. This motion to lay on the table was ruled out of order the other day, but now I see the Senate has got sensible again and adopted the correct course of proceeding.

Mr. HAMLIN. It is out of order now.

Mr. MORTON. I call for the regular order, the post-office appropriation bill.

The PRESIDING OFFICER. In response to what was stated by the Senator from Ohio [Mr. THURMAN] the Chair will state that on reference to the RECORD and the Journal he finds this to be the condition of the question on the post-office appropriation bill: All the amendments made in Committee of the Whole were concurred in with one exception, the bill having been reported to the Senate with the understanding that the motion made by the Senator from Louisiana to strike out from the eighteenth to the twenty-seventh line of the second section should be pending in the Senate; and that is the question now before the Senate. The question is on concurring in the amendment striking out the clause.

Mr. MORTON. What is the clause to be stricken out?

The PRESIDING OFFICER. The motion is to strike out from line 18 to line 27 of section 2, which the Clerk will report.

The Secretary read the words proposed to be stricken out, as follows:

That so much of an act entitled "An act making appropriations for the service of the Post-Office Department for the year ending June 30, 1873," approved June 1, 1872, as relates to and authorizes a contract to be made by the Postmaster-General with the Pacific Mail Steamship Company for steamship service between San Francisco, Japan, and China, is hereby repealed, and any such contract made by the Postmaster-General in pursuance of said act is hereby annulled.

Mr. THURMAN. I wish merely to say that I shall vote against striking out that provision in the House bill. I do so, although I am aware that there are certain considerations which may influence Senators in voting to strike it out. After a careful consideration of the legal question, I came to the conclusion that that contract is no longer obligatory upon the Government; that we have a perfect right to treat it as forfeited by the steamship company, and therefore to refuse to execute the contract. Believing that, the question presents itself to my mind in this light, that by waiving that forfeiture we in effect make a new contract for eight years and three-quarters.

When this subsidy was granted I opposed it. I voted against it and spoke against it for reasons satisfactory to me, and I have opposed every such subsidy since I have been a member of the Senate and all railroad subsidies; and in doing so I have conformed to the oft-expressed wishes and opinions of the people of my State and the solemnly expressed opinion of the Legislature of the State. I do not feel at liberty now, when the Government is freed from this contract, to give it vitality, and thereby in effect create a new subsidy. If there is any question upon which the people of Ohio are perfectly unanimous or as near so as any community can be, it is on the question of granting subsidies by Congress in bonds, in lands, or in money; and the resolutions of the conventions of the two parties speak the same sentiment upon this question. and the resolutions of the Legislature were never party resolutions, but passed I believe almost or quite unanimously. Under such circumstances I feel myself instructed to vote against subsidies, and being freed, as I think we are, from the obligations of this contract, I must vote against anything which would commit the Government to its execution, I shall therefore vote against striking out the provision in the House bill.

Mr. HAGER. Mr. President, according to the report made by the Judiciary Committee this morning, I presume that the Government of the United States is under no obligation to perform the conditions of this contract that has been made with the Pacific Mail Steamship Company; and the proposition now before us on this amendment is whether or no we will repeal so much of the act as authorized this contract to be entered into. The legal question we have to a certain extent got rid of by the report of the committee. Yesterday it was a question whether we could impair the obligation of a contract, not by virtue of any power contained in the Constitution, but inasmuch as it was prohibited to the States we might infer that the Government of the United States would not of itself do that which was prohibited in the Constitution to the States. At all events it would be bad faith for the Government to repudiate a legal contract that had already been entered into, whether it could or could not be enforced. If it should do so, there would be of course claims against the Government to compensate the parties who held the contract, who had been deprived of the benefits of it by legislation. But, as I have stated, we have got rid of that question upon the report of the Judiciary Committee, if we receive that as a rule for our action here.

According to that report, the Government is under no binding obligation to pay this additional money to this company. It then leaves the subsidy as it was anterior to the passage of the act of 1872, and that is, if I understand correctly, $500,000 per annum. The act of 1872 was intended to give them $500,000 additional, which would make the subsidy in its entirety $1,000,000. If this last act should be repealed, they will still have their original $500,000 subsidy.

Now, in a commercial point of view it may be a matter of great importance to this country that we should invite the commerce of the Pacific to our coast at the port of San Francisco. It is a question between us and Europe to a certain extent whether we are to control that trade or any portion of it, or whether it is to go by other channels through the Red Sea and through the Suez Canal so-called, from Asia to New York. That is one line, and this from China to San Francisco is another. It does behoove us, in my opinion, to cultivate the most intimate commercial relations with Asia and to encourage trade from that continent to ours on the Pacific Coast rather than to allow it to fall into the other channel by the way of the Red Sea and thence to New York. That is a consideration which addresses itself to us, and in that respect we must all take an interest in the question that is presented here. Other lines have been established between China and San Francisco. An English line of steamers was put upon that route, but I believe they were bought up by the Pacific Mail Steamship Company; at least there is now but one line running and that is the Pacific Mail.

In regard to myself, while I never as a principle of legislation have favored subsidies on the part of Congress either for railroad purposes or steamship purposes, on this question I am specifically instructed by the Legislature of the State of California by a resolution which passed at the last session of the Legislature to vote against any subsidy for the Pacific Mail Steamship Company. I feel bound to obey those instructions, although in so doing I may be acting against the commercial advantages of our coast.

Senators may be at a loss to determine why the Legislature of my State should pass a resolution of that kind instructing her Senators to vote against a subsidy to this company. I will explain it. The vessels of the company, in running down the coast of California between San Francisco and Mexico in recent years, have touched at the way ports, and they come in competition with home lines of steamers. They reduced freights and fares below a living profit; in other words, they made use of the subsidy of the Government to run off all local lines by what our people considered an unhealthy opposition and what

had the appearance of a determination to monopolize the trade of our coast by crowding out all competition with a view to making exorbitant charges. Our people were of the opinion Government aid should not be granted for such purposes.

Again, they have been in the habit of bringing a class of immigrants to our shores in despite of our laws, in violation of the laws of the State of California—lewd women and coolies. When the State of California passed penal laws prohibiting this kind of immigration, the company resisted and contested them through the courts, and in despite of these laws they are yet bringing that class of immigrants to our shores. These things have irritated the people of the State of California, and perhaps under these influences that resolution instructing her Senators was passed, but it is not directed against the enterprise, not against the commercial question, not that we are unwilling to establish commercial relations with China.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TIPTON. Will the Senate permit me to take the floor and yield my time to the Senator from California?

The PRESIDING OFFICER. In the opinion of the Chair a Senator cannot transfer his time under the rule.

Mr. HAGER. I do not desire to infringe the rules, and will not speak more than two minutes.

The PRESIDING OFFICER. The Senator may ask unanimous consent.

Mr. HAGER. I do.

The PRESIDING OFFICER. The Senator from California desires to be heard two minutes longer by the Senate. Is there objection? The Chair hears none.

Mr. HAGER. Mr. President, I do not wish to trespass upon the time of the Senate. I merely wish to state one thing, and I do so because I am a resident of San Francisco, and it is a question that particularly interests us. Under the instructions I should feel bound to vote against anything like a subsidy; but there are other matters connected with this question. The Pacific Mail Steamship Company, as I have information, publicly stated in the press of San Francisco, now have sold out all their property in San Francisco, their wharves, their warehouses and lands, to the extent of about $500,000 recently, and they have been transferred to other parties, to men connected with the Southern Pacific Railroad, and it is stated in the papers of San Francisco that the company, its franchises, and its property, will soon be transferred entirely over to the Southern Pacific and Central Pacific Railroad Companies of that State. That is a matter of grave importance, which also to a certain extent enters into the considerations of the pending proposition. Those railroad companies control all the avenues of transportation in the State of California. It has purchased and controls all the railroads; it controls all the water communication; it owns all the steamers; it has bought every railroad in the State, so that the whole people of that country are dependent entirely upon that corporation. If they do get possession of this steamship line, they will control the carrying trade between San Francisco and China, and by water via Panama to New York also. I state this for the information of the Senate.

I would not object under the circumstauces that an English line should be established, if it was for the purpose of creating competition and benefiting commerce. I would prefer that we should have competition even with England than to have a monopoly which would be so oppressive and so overshadowing as that of the Central Pacific Railroad in that State with its new acquisition of the Pacific Mail Steamship Company. But, as I said before, while I am very reluctant to do anything that would interfere with the commerce of that coast, and particularly with that of San Francisco and California, under the instructions of the same Legislature that elected me I shall vote against everything that looks like a subsidy to that company. This is a matter of duty, at least so I understand it, under the instructions of the Legislature of my State.

Mr. SAULSBURY. I shall vote against striking out that provision of the bill which repeals the subsidy to the Pacific Mail Steamship Company. Originally I was opposed to the granting of that subsidy and voted against it, and I think spoke against it. Nevertheless as it was a law of the land which gave this subsidy to the company, if a contract was made under it which was a valid subsisting contract, I should not feel at liberty to repudiate it. I would not vote now to violate the contract with the company, provided there had been nothing on the part of the company to show an attempt to obtain that contract by fraud. But the Judiciary Committee or a majority of that committee have reported that there is no valid contract existing to-day between the Government and this steamship company. Therefore to vote for striking out that provision would be to re-enact a subsidy in favor of the company.

To all subsidies I am now and ever have been opposed, and I therefore cannot vote for striking out this clause, however meritorious the present owners of the company may be; and I understand it has not the same directors at least that it had when it obtained the subsidy. The same men do not now control the management of the company; but however worthy they may be as gentlemen, however great the advantages to our commerce may be from the lines of the company, I cannot vote and will not vote for any subsidy for any company if I know it; I therefore cannot vote to strike out the clause in the House bill which repeals the subsidy.

There are other considerations which it is unnecessary for me to refer to. With my general principles I could not vote for it under any circumstances, but there are other considerations which it strikes me ought to have some weight on the decision of this question. It is notorious that there was an attempt at least on the part of the then controlling managers of the company to obtain this subsidy by means of the bribery of the national Legislature. I do not say that they were successful in that effort; but there is evidence sufficient to warrant the conclusion that there was an attempt to do that. I think that even if there was a valid existing contract, in view of the fact that there was an attempt to obtain the legislation in favor of this subsidy by means of corrupting the national Legislature, we ought in justice to the character of the two Houses of Congress and in order to teach a lesson to men who approach the national Legislature with bribes in their hands, at least to put our seal of condemnation upon them.

I shall, therefore, for all these considerations, vote against striking out that clause of the bill which repeals the subsidy.

Mr. BOUTWELL. Mr. President, this question gives us an opportunity to consider the general policy of the country in regard to special subsidies. Several years since my attention was called to the matter, and I then reached a conclusion which, as it appears to me, experience has justified; and that is that subsidies to special lines for the purpose of promoting the commerce of the country are open to suspicion as to the manner by which they are obtained, and in the end fail to produce the results we seek. That our commerce, and especially our foreign commerce, needs the supporting hand of the Government is beyond question; but if we enter upon a policy designed to advance and extend the commercial power of the country, it should be by a general policy, under general laws, the advantages of which should be open to all persons in the country upon precisely the same terms. If this single subsidy, including the original grant made in the last decade, had been applied directly to the promotion of the foreign commerce of the country, we should have increased that commerce to the extent of half a million tons over what it now is, and under such circumstances that nobody could have complained of the manner by which the subsidy was obtained, and everybody in the country I think would have been benefited by the results secured.

I, for one, finding that there is, as by the judgment of the Judiciary Committee it appears there is, a legal way for the country to escape from a portion of this subsidy, readily accept it.

Mr. CRAGIN. Mr. President, the law which formed the foundation on which this contract was made was passed in 1872, being an amendment to the Post-Office Appropriation bill offered in the Senate, I think, and first adopted here. In that law the Pacific Mail Company is not named, but the Postmaster-General was authorized to issue proposals for a semi-monthly mail and to accept the lowest bid and award the contract accordingly. The Pacific Mail Company was the lowest bidder, and the contract according to the law was made with that company. The Pacific Mail Company has performed up to this day the service contemplated in that contract, and performed it to the acceptance of the Post-Office Department. I understand there is no controversy upon that point.

Another point is that the Pacific Mail Company has received nothing under this contract for the service performed except the sea postages on the mail matter which it has carried.

Mr. THURMAN. Will the Senator allow me to interrupt him? The Pacific Mail Company has never performed any service under this contract. The Pacific Mail Company has carried the mails in wooden ships and has had the sea postages for them, which is under another authority given to the Postmaster-General. Since we have been sitting here we have a telegram that one of these iron vessels has sailed from San Francisco, which is the first attempt at performing this contract.

Mr. CRAGIN. I was not saying that they had performed the contract in the ships that were required by the contract, but that they have carried the mail semi-monthly is beyond doubt and beyond controversy, and that they have carried it to the acceptance of the Post-Office Department is beyond controversy. That it was not carried in the iron ships provided for was due to the fact that neither this company nor any other company could possibly provide those ships in the time specified in the contract. They carried the mail in other ships and went to work to build and provide themselves with the iron vessels as fast and as soon as possible.

Since the passage of the act of 1872 the Pacific Mail Steamship Company has expended over $7,000,000 in building new vessels, and has now seven iron steamships upon this line equal to those built in any other country in the world. The Senator from Ohio says that we have had a telegram that one of these iron ships has just sailed from San Francisco. That is true notwithstanding a New York paper said that this ship in going around to California had been nearly ruined—shaken to pieces. The truth is that the Peking arrived at San Francisco, went into the dock on Monday, and on the Thursday following sailed on its voyage to China, having received slight repairs, after a voyage of fifteen thousand miles, whereas no new steamship ever built in Europe came to the port of New York, a distance of three thousand miles, without undergoing greater repairs than were necessary in this case.

Mr. President, I only rose to make the point that the service contemplated by this contract has been performed, and the fact that it was not performed in the ships required by the contract was simply

because it was impossible to provide those ships. This company has at an expense of $7,000,000 provided the ships; two of them have been accepted by the Post-Office Department after having been inspected by naval officers, as coming within the provision of the law that they should be such ships as could be serviceable in time of war. Three other iron ships are on the stocks being built by this company, and it is a question now for us, it is a question for me whether by my vote I will strike down the American flag from twenty-eight steamships now carrying that flag in the Pacific Ocean, or whether I will so vote as to keep that flag upon those ships and to add to that line the three ships now being built by John Roach, the benefactor of this country, a man who is trying to revive American ship-building. For one, standing here conscious of my integrity upon this subject, and believing that every other Senator on this floor is in the same position, I shall vote as my judgment and my conscience dictate upon this question.

Mr. STEVENSON. I desire to say a single word in support of the report of the Judiciary Committee. I do not agree with the Senator from New Hampshire that this is a question which presents to us any consideration about the encouragement of ship-building or sympathy with Mr. Roach. It is purely a question of law. We live under a Government of delegated power, and that power is defined by law, constitutional and statutory. The Postmaster-General is only one of the agents of this Government, and acts under his delegated authority as such. The law prescribes the extent of his authority, and whenever he exceeds the authority conferred by law his act is null and void. Every individual who deals with any Department of this Government is bound to take notice of the law, which is a limitation upon the power of this contracting party for the Government of the United States.

When, therefore, the Postmaster-General undertook to enter into a contract for the carrying of this mail for the period of ten years, beginning on the 1st of October, 1873, the law specifically defined the extent of his power to contract. That power was limited by certain requirements and conditions specified therein. One of those conditions was that these mails were to be carried by vessels of certain dimensions and capacities, to be inspected in a certain way, and to commence their service from San Francisco on the 1st of October, 1873. They failed in that condition. The Postmaster-General had no power, in my judgment, to dispense with that condition. If he could dispense with it for nine months and could dispense with a tender of those vessels at the point specified in the law and receive them elsewhere, he could have dispensed with it for the entire term of ten years.

Aside from this view, this is one of the most important questions that the Senate can be called upon to consider. It is the question of limiting every agent of the Government to the law as it is written as the only source of his authority and the conditions and limitations upon his power. Whenever you confer upon a public officer, whether the head of a Department or a subordinate, the discretion to dispense with the requirements of the law, then you have no safeguard.

I have nothing, however, to say as to how this subsidy was obtained. That question was not confided to the committee. I have no question presented to me as to the equities of these parties here; but I say as a simple matter of law Senators should adhere to it, and not allow their sympathies, not allow their faith in what they believe to be the hardship of this particular case, to dispense with the principle of holding officers of this Government responsible to the power conferred and confined by law. That is our only safeguard, and I hope the Senate will adhere to it.

Mr. SCOTT. I have never looked at the record to see, and without looking I do not remember how I voted when this subsidy was before Congress in 1872. I have always favored the policy of encouraging and building up our commerce. It is just as probable that I voted for it as that I voted against it. I voted as I believed to be right at the time. But this proposition brings us to view this subject as it is now presented in three lights:

First. The effect that this repeal is to have upon our commerce;

Second. The power of our executive officers in making contracts under the laws of Congress; and

Third. It cannot be disguised the question of the purity of congressional legislation is dragged into this business.

So far as the question of extending and sustaining commerce is concerned, it is idle for me to think of going into a discussion of that question under the five-minute rule. I should vote for everything that my duty will permit me to sustain for the purpose of building up and extending our commerce. I am under instruction from the Legislature of Pennsylvania, given in May, 1874, "to oppose any cancellation of the contract entered into by the Postmaster-General for the carrying of the mails to China and Japan, if it be shown there has been due diligence used in the construction of the required ships." So far as that question is concerned, it would seem that the Postmaster-General accepted the ships and they have been approved; but the Judiciary Committee this morning report that the Postmaster-General in doing that exceeded his authority; that the law did not permit him to accept those ships; and for several reasons they say that his acceptance of them is void. Under the law, as they state it, no question of due diligence enters into it, and since the instructions referred to were given other and very grave considerations have entered into the case.

The question is presented whether we ought to repeal this contract, either because of its illegality or because of the cloud which has been thrown upon this whole business by the investigation into the passage of the law under which it was made. If under that law the advertisements had brought another bidder to the Postmaster-General and another company had received and made this contract, no clamor of a newspaper press, particularly of that part of the press which is itself shown to have been a large participant in this company's corruption fund, could drive me to do any injustice to a party who had in good faith entered into such contract. But when we find the same company which made an exhibition—I think I do not use too strong terms to say—of business idiocy in squandering $750,000 upon the despicable class of "bummers" that surround all political capitals, the professional lobbyists, newspaper reporters, and proprietors who talk about corruption in the public men of the nation, and then illustrate their own purity and disgrace their profession by running their hands up to their shoulders into every corruption fund they can get hold of—I say when we find this company is yet the contractor, and is now claiming the benefit of the contract, ought we, because the management has been changed, to be deterred from repealing this law? If it be necessary to support our commerce to make a new contract, let us at least take it out of the hands of that company which instrumentally has been the means of spreading odium over Congress, when Congress itself is shown, so far as the investigations have gone, to have been almost without exception among its members guiltless of participating in this corruption fund. Honesty must be inculcated upon commerce as well as upon Congress.

Under the report of the Judiciary Committee that this contract is not authorized by law, that the Government is not bound to carry it out, I shall vote to retain this provision in the bill, even although to my regret other parties may incidentally suffer as a consequence. I know we have the power to repeal it even if there were no cause, but, as I have already said, no clamor would drive me into taking the position of that celebrated politician in New York who because he had the power exercised it, and then asked the innocent sufferers, "What are you going to do about it?" I cannot vote, therefore, to maintain this contract, because it is in the hands of the parties who by their crime and folly have been instrumental in raising this clamor, and because that contract is not authorized by the law, according to the report of the Judiciary Committee. I think it is a fair case for the exercise of our power to repeal it.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FRELINGHUYSEN. I did not sign the report of the Committee on the Judiciary, and perhaps it is proper that I should very briefly give my reasons for not coming to the conclusions that the majority of the committee arrived at. I do so with great deference to their opinion. The act of 1865 authorized the Postmaster-General to make a contract with the lowest bidder to carry the mail from San Francisco to Japan and China in American sea-going vessels of not less than three thousand tons burden. The act of 1872 authorized the Postmaster-General to make a contract for the additional monthly transportation of the mail on the same conditions and limitations and rates as provided in the act of 1865. The primary object of the contract was the additional monthly transportation of the mails. Now, if the Postmaster-General had made his contract strictly according to the law and contracted that the mails should be carried in vessels of three thousand tons burden, the law would have been fulfilled. And if the company had possessed vessels enough to enable them to carry the mails semi-monthly, that was all that would have been required of them, and there would have been no need of other vessels. But the act, looking to the fact that the additional service would require more vessels, provided that any "steamships hereafter accepted" shall be of four thousand tons burden and be adapted to the naval service of the United States. The act fixes no time at which those new steamers are to be furnished. The only time mentioned in the statute is the time that the monthly transportation of the mail is to commence, which is in October, 1873. The Postmaster-General, however, made a contract more exacting than required to do by the statute, and provided in the contract that this new monthly transportation of the mails should be carried in steamers of four thousand tons burden and that the steamers must be ready by the 1st of October, 1873. My opinion is that if the Postmaster-General had the power, as the agent of this Government, to insert a provision in the contract as to the time the steamers should be ready, he had also, as the agent of the Government, the right to extend the time at which they should be ready, or to waive the condition as to the time by which the steamers should be constructed.

But, Mr. President, take another view of this subject, and admit that the contract is as a majority of the committee hold, only as the law itself required that the new monthly service commencing October, 1873, was to be performed in steamers adapted to the naval service and of four thousand tons burden, and I still insist that the Government of the United States is bound by the contract, although the steamers were not furnished at the time specified by the contract. The Government of the United States has waived the condition that the steamers should be furnished by October, 1873. The primary object of the contract was the transportation of the mails from October, 1873, and the Government accepted that service; it received the benefits of the contract after the date that it is now claimed it became void and not binding. The manner in which the mail should be carried

was a secondary and incidental provision of the contract. It is as though one made a contract with another to have oil transported from his wells to the sea-board in iron tanks, to be furnished on the 1st of October, 1873. The contractor carries the oil in wooden cisterns from the time specified, and does so for months, and subsequently the contractor furnishes the iron tanks, and an agent accepts them. I think that would be a waiver of the want of compliance with the specific condition as to the time the iron tanks were to be furnished.

But not only did the United States accept the service; the Government stood by when it was notorious and well known to it that millions were, after the time specified for the steamers to be ready, being expended in building these ships in order to perform the contract, and the United States did not notify the company that it would hold the contract void for the want of a strict compliance with its terms. Not only that, sir; after October, 1873, when this forfeiture had taken place, if it ever took place, the Government directed that those steamships should be inspected according to the provisions of the law by the officers of the Navy, and they were so inspected and approved. If the steamers had not conformed to the requirements of the law the company would undoubtedly have been induced to go on and make them conform to those requirements. The United States could have compelled the company to do so.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FRELINGHUYSEN. I have but a word or two more to say.

The PRESIDING OFFICER. By unanimous consent the Senator may proceed. The Chair hears no objection.

Mr. FRELINGHUYSEN. After those ships had been inspected the Postmaster-General, acting under the advice of the Attorney-General of the United States to the effect that the contract was still binding, accepted the steamers and sent them to the Pacific where they are performing the service. Again the Committee on Post-Offices and Post-Roads reported to Congress that the contract had not been fulfilled in the point of time the steamers were to be ready, but advised that, notwithstanding that fact, the acceptance of the vessels and that the contract should not be annulled. Congress received their report and took no adverse action on it. The Government of the United States acquiesced. We are told that the agent of the United States cannot bind the United States, but I take it that the Government can bind itself. Congress, by not speaking when the committee spoke to it, by not saying "we hold the contract void," accepting their report virtually agreed to it, and thus Congress itself waived the condition that those vessels should be ready at the day named in the contract. In my opinion that contract under the circumstances would not be held void between individuals, and I cannot so hold where the Government is a party, notwithstanding I am opposed to subsidies.

This is a brief and imperfect statement of the reasons which have prevented my signing the report. I state them with great deference to the opinion of the majority of the committee.

Mr. THURMAN. I have but a word to say. It is true that Congress did not pass an act affirmatively annulling that contract and affirmatively disapproving of those reports made by committees, but it did what was equivalent to that; it refused to make any appropriation for it.

Mr. WEST. I merely wish to remind the Senate now of the circumstances under which I yesterday submitted this proposition to them: "With a view of giving this company the opportunity to be heard through the expression of opinion from a more proper committee," and "getting a vote of the Senate whether they will hear from a more appropriate committee than the Committee on Appropriations," I moved "to strike out the clause relating to the Pacific Mail Company." In the mean time the appropriate committee, the Committee on the Judiciary, having been heard from and the report having been read, I think all that I wanted to accomplish in interposing this temporary delay has succeeded. I therefore desire to withdraw the motion.

The PRESIDING OFFICER. The motion of the Senator from Louisiana to strike out the paragraph is withdrawn.

Mr. SPRAGUE. I submit the same motion which has just been withdrawn by the Senator from Louisiana, and I call for the yeas and nays on the question.

The PRESIDING OFFICER. The Senator from Rhode Island moves to strike out from lines 18 to 27 inclusive of section 2, being the amendment just withdrawn by the Senator from Louisiana; and upon that question he asks the yeas and nays.

The yeas and nays were ordered.

Mr. STEVENSON. May I ask exactly the question now before the Senate?

The PRESIDING OFFICER. The Clerk will report the amendment.

The SECRETARY. It is moved to strike out the following clause in the second section of the bill:

That so much of an act entitled "An act making appropriations for the service of the Post-Office Department for the year ending June 30, 1873, approved June 1, 1872, as relates to and authorizes a contract to be made by the Postmaster-General with the Pacific Mail Steamship Company for steamship service between San Francisco, Japan, and China, is hereby repealed, and any such contract made by the Postmaster-General in pursuance of said act is hereby annulled.

Mr. SPRAGUE. I shall take some occasion other than now, as I am not prepared, to give my views in reference to this question. I am not now prepared to do so but will seek an early opportunity.

Mr. HAGER. I merely desire to say what I did not state before, that I would have voted for striking this paragraph out and leaving the subsidy to remain had it not been for the report of the Committee on the Judiciary this morning against the validity of the subsidy contract. On the question now to strike it out I wish to state what is now the condition of this company to the public. My inclinations would favor this line of steamships as an opposition line and in behalf of commerce between San Francisco and New York. It has been for some time past, and perhaps is yet, an opposition line to the overland route by railroad. A few years back an arrangement was made between the Pacific Mail Steamship Company and the railroad company, by which they agreed upon a tariff for freight and also for passengers for their mutual advantage, so that during the existence of that contract it was not in fact a competing line. If this steamship company have now sold out, as it is reported, all their franchises and property to the railroad or some members of that company, it is no longer a competing line, and our people on the Pacific Coast will not take the same interest in it that they would otherwise have taken if it was in fact an opposition line, and to that extent a relief to the people. As a competing line it did afford some relief against the oppressions that exist there against the monopoly of the railroad company; but if this steamship line goes under their control and management, our people will be beyond any relief so far as I am able to penetrate in the future; because there is no power there that can compete against the railroad company if they also own or control this line of steamships, and thus control commerce and passenger travel between San Francisco and Asia and via Panama to the Atlantic States.

Mr. FRELINGHUYSEN. I simply wish to say one word. I am opposed to subsidies; I believe that they cripple private capitalists and do more injury than good to the nation; but I shall vote against repealing this contract, because I deem that the faith of the United States is pledged.

Mr. MORTON. Having voted against this subsidy and having done all in my power to prevent the grant, I dare to do what I think is right about it now that the contract has been made. The law did not require the Postmaster-General to contract for the building of new ships at all. The law authorized him to contract with this or any other company for this new monthly service, using old ships, provided they were three thousand tons burden and American built, but the Postmaster-General in the exercise of this discretion——

Mr. WRIGHT. Will the Senator from Indiana allow me to interrupt him?

Mr. MORTON. Of course, if it is not to be taken out of my time.

The PRESIDING OFFICER. The Senator's time cannot be extended except by unanimous consent.

Mr. WRIGHT. It is in the line of the Senator's argument. In what part of the law does the Senator find that the company was not bound to furnish the class of ships provided for in the act of 1872?

Mr. MORTON. I have the act here, but I will not take the time to read it. I say the law did not require the Postmaster-General to stipulate for the building of new ships, but it provided that new ships hereafter received into the service should not be less than four thousand tons burden, but it did not require a new ship. The Postmaster-General, however, in the exercise of his discretion, did contract for the building of new ships of not less than four thousand tons burden to be put into the service as early as October, 1873. That stipulation was discretionary upon his part. It might have been left out and the law complied with, but he put it in. The ships were not furnished on the 1st of October, 1873. They could not be built in that time, and he ought to have known it, and the company ought to have known it. But they were furnished a year afterward. The Postmaster-General, under the advice of the Attorney-General, waived the time and accepted the ships. They were inspected by the Navy Department as required by law and on that inspection accepted, and after that accepted by two committees of Congress; and now the position of the Judiciary Committee is that because they were not furnished by the 1st of October, 1873, the contract was forfeited. This goes upon the ground that the Postmaster-General could not waive the time. If he exercised a discretionary power in fixing that time in the contract, and was not required to do so by the law, then he had equal discretionary power to waive the time and fix it a year later. Can anybody deny that as a proposition of law? It seems to me not; and that is the whole of this question, as I understand, so far as the forfeiture is concerned. He was not required to make that stipulation; it was discretionary with him; and if he did make it, it was discretionary with him to waive the time for six months, or twelve months, or even for two years. He did waive the time under the advice of the highest law officer of this Government. Two committees of Congress said that he had a right to waive the time. The company went on and constructed their ships at great expense. Now we are required to say that the simple failure to furnish the ships by the 1st of October, 1873, forfeited the contract and the Postmaster-General had no right to condone the forfeiture, had no right to waive the time, as a mere proposition of law. I do not agree with the majority of the Judiciary Committee. Of course I dissent from the opinion of that committee with great respect, but according to the principles of law as I understand them it was but a technical failure. The time was not of the essence of the contract, and as the stipulation was discretionary with the Postmaster-General in the first place, it was equally discretionary with him to waive that time and give them a year

more. Therefore I cannot vote to repeal the contract because it was forfeited for that reason.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Rhode Island to strike out the clause which has been read.

Mr. McCREERY. Mr. President, it is immaterial, I suppose, whether I say anything or not; but with or without the report from the Judiciary Committee I should have had no difficulty whatever in making up my mind as to how I should cast my vote on this subject. I believe that this subsidy was procured by bribery and fraud, and that is a sufficient ground for me to place my vote in favor of its repeal. Other Senators may cast their own votes upon whatever grounds they choose; but as for my single self I make no defense and no apology for bribery and fraud, no matter in what shape or in what form they may show themselves. From the sneak-thief who adroitly purloins your handkerchief, rising through all the grades of grand and petit larceny to the lobby organized on a capital of half a million to plunder the Treasury, I condemn them all. Editors who have shared the spoils may justify and applaud, as Government and people are sweeping with headlong speed to bankruptcy and to ruin; but how long will it be before these pretended guardians of the public morals and the public welfare are called upon to record the overthrow and the utter prostration of our national, State, and municipal credit? If we stop where we are, can the wisest statesmanship avert that catastrophe?

If Congress makes an attempt to investigate one of these nefarious transactions and places one of the ringleaders on the stand, he talks sentimentally about his peculiar situation, the delicacy of his motives, his serious apprehensions that an answer to the question would involve an impropriety and inflict an incurable wound upon his honor; and after all this rigmarole he coolly flaunts his defiance in the face of the committee. For this offense, which should place him for the remainder of his life beyond the pale of civilized society, rumor says he is confined for a few days in elegantly furnished apartments, where curtains of lace soften the sunlight, and where the satiated appetite is tempted by the rarest and costliest dishes.

Labor is the foundation of wealth. For every dollar that is squandered here somebody works, and the representatives of the States and the people should never cease in their efforts until these corrupting influences are expelled in disgrace from the Capitol.

Mr. MORRILL, of Vermont. I shall vote in accordance with the proposition as it comes to us from the House, simply because the company I do not think fulfilled their contract in time, and because some members of the company notoriously were ready to bribe if they could find anybody to bribe; but I do not understand that they succeeded in any instance except with one democratic member of the House.

The question being taken by yeas and nays, resulted—yeas 11, nays 52; as follows:

YEAS—Messrs. Cameron, Conover, Cragin, Flanagan, Frelinghuysen, Mitchell, Morton, Patterson, Pease, Sargent, and Sprague—11.

NAYS—Messrs. Alcorn, Allison, Anthony, Bayard, Bogy, Boreman, Boutwell, Carpenter, Chandler, Clayton, Conkling, Cooper, Davis, Dennis, Eaton, Edmunds, Ferry of Michigan, Goldthwaite, Gordon, Hager, Hamilton of Maryland, Hamilton of Texas, Harvey, Hitchcock, Ingalls, Johnston, Kelly, Logan, McCreery, Merrimon, Morrill of Maine, Morrill of Vermont, Norwood, Oglesby, Pratt, Ramsey, Ransom, Robertson, Saulsbury, Schurz, Scott, Sherman, Spencer, Stevenson, Stewart, Thurman, Tipton, Wadleigh, Washburn, West, Windom, and Wright—52.

ABSENT—Messrs. Brownlow, Dorsey, Fenton, Ferry of Connecticut, Gilbert Hamlin, Howe, Jones, Lewis, and Stockton—10.

So the motion to strike out did not prevail.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. DAVIS. I wish to say a word on the passage of this bill. I shall deal with round figures.

Mr. President, this bill appropriates about thirty-seven and a half millions of public money. Last year the appropriation was about thirty-five and a half millions, making $2,000,000 more the present year than last. Until 1853 I think the Post-Office Department was self-sustaining; in other words, it was not an expense to the public treasury. The deficiencies of this year as I make them are between eight and nine million dollars. This shows that the Post-Office Department each year is growing rapidly, and with its growth the amount of money take from the public Treasury is growing at the rate of from one to two millions per annum; in other words, the deficiencies are increasing about a million and a half per annum.

The remarks I make now will not be followed by the offer of any amendment, because it was last night understood that we should not move further amendments; but I hope to call the attention of those who have the disposition of the money for the next year to the importance of effecting a saving in some way so as to avoid this continual increase of the burden imposed on the Treasury by our postal system. On line 11, page 1, we find—

For pay of clerks in post-offices, $3,500,000.

That is a great deal more than the corresponding item was last year. That compensation does not include any clerks employed in Washington at the main office. They are provided for in another bill. This $3,500,000 is for clerical service outside of Washington. I venture to say that there is hardly a large office in the country that has not got perhaps one-third more clerks than are necessary; and the fact that here is $3,500,000 appropriated to pay clerks outside of this city in the different post-offices shows that conclusively.

As to advertisements, I find on page 5, line 92, that this year we appropriate $100,000. Last year the amount was $80,000, and I believe that was a full average of any previous year. I find in the Postmaster-General's report that three papers of the District of Columbia were paid last year, between October and December, for advertising mail contracts for the States of Maryland and Virginia, about $7,500 each, making an aggregate of $22,500, when if the same advertising had been done in Baltimore or Richmond the amount would have been about $4,000; so that we paid about $19,000 to the papers here more than we should have paid elsewhere for the same service.

It is plain to me, Mr. President, that the Post-Office Department is growing rapidly perhaps in importance, but certainly in cost. I believe the present Postmaster-General is trying to effect reforms, and I hope that by another year he will be able to reduce the expenditures very materially. I am told that in the mail contracts let since he has been in office there are perhaps $2,000,000 saved in a single letting for the Western States.

Mr. WEST. It has been customary ordinarily in proceeding to the consideration of an appropriation bill to make some explanation of its provisions and the scale of its expenditures. Yesterday my attention was distracted at the moment when the Senate commenced the consideration of this question. The Senator from West Virginia takes occasion just at the close of the bill to comment generally upon the increased expenditure of the Post-Office Department. I have no doubt that he deplores it as well as any other Senator or any member of Congress; but there is something more to be done besides deprecating expenditures when criticism is indulged in with regard to them. The Senator should have been prepared to point out an unjustifiable expenditure and to have advocated retrenchment with reference to that expenditure; and I will say—and he will not contradict me—that he, in connection with two other members of the committee, have been engaged all winter probing the expenditure of the Department, and neither in committee nor in the Senate does he propose any restriction or curtailment of them. He had the opportunity to do it, and I hope that in future he will put his professions into something like practice.

Mr. DAVIS. I had no idea that the Senator who has this bill in charge was going to call me to account for what I said. I think I stated that I believed the present Postmaster-General was in the line of economy and probably would by another year cut off some expenses and save a great deal of money to the Treasury. But the Senator says that I have pointed out no evil. I thought I said that a few papers in this city, the Chronicle, the Republican, and the Star, had been paid within the present fiscal year nearly $23,000 for advertising mail contracts in the States of Maryland and Virginia, which advertising if it had been done in those respective States would have cost about $4,000. I thought that was specific enough, and the Senator does not reply to it, and I take it he admits the fact.

Mr. WEST. Just one word in regard to that. The incoming Postmaster-General, as the Senator very well knows, did that in compliance with the law. He was compelled to do it; and this bill repeals the objectionable feature of that law.

The bill was passed.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4747) supplementary to the acts in relation to immigration, was read twice by its title, and referred to the Committee on Foreign Relations.

The bill (H. R. No. 4692) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, was read twice by its title, and referred to the Committee on Claims.

QUARTERMASTER'S DEPARTMENT.

The bill (H. R. No. 4835) in relation to the Quartermaster's Department, fixing its status, reducing its numbers, and regulating appointments and promotions therein, was read twice by its title.

Mr. LOGAN. I ask the Senate to put that bill on its passage. There are not more than five or ten lines in it. It is satisfactory to everybody.

There being no objection, the bill was considered as in Committee of the Whole. It provides that the Quartermaster's Department of the Army shall hereafter consist of the Quartermaster-General, with the rank, pay, and emoluments of a brigadier-general; four assistant quartermasters-general, with the rank, pay, and emoluments of colonels of cavalry; eight deputy quartermasters-general, with the rank, pay, and emoluments of lieutenant-colonels of cavalry; fourteen quartermasters, with the rank, pay, and emoluments of majors of cavalry; and thirteen assistant quartermasters, with the rank, pay, and emoluments of captains of cavalry.

No more appointments are to be made in the grade of military store-keepers in the Quartermaster's Department, and this grade is to cease to exist as soon as the same becomes vacant by death, resignation, or otherwise of the present incumbents.

No officer now in the service is to be reduced in rank or deprived of his commission by reason of any provision herein.

No officer is to be promoted or appointed in the Quartermaster's

Department in excess of the organization prescribed by the act; and that so much of section 6 of the act approved March 3, 1869, entitled "An act making appropriations for the support of the Army for the year ending June 30, 1870, and for other purposes," as applies to the Quartermaster's Department is repealed.

Mr. CONKLING. Making no objection to the bill, which I have no information to warrant me in doing, I ask my honorable friend if he will state to those of us who know as little as I do the changes it makes in the existing law?

Mr. LOGAN. I will. The Quartermaster's Department consists now, taking the numbers on the statute-book, of one brigadier-general, six colonels, ten lieutenant-colonels, fourteen majors, and thirty captains. This reduces it, because there are vacancies, to four colonels and eight lieutenant-colonels, leaving off two in each of these ranks. There are actually five colonels now, and this bill makes the regular number four when a vacancy shall occur. The reduction in the Quartermaster's Department as it exists now on the register is in these two grades. I suggested the provision, and it has been passed through the House of Representatives.

Mr. CONKLING. Will the Senator also state what difference it makes, if any, present or prospective, to those now in the service?

Mr. LOGAN. It makes no difference whatever to those that are in the Quartermaster's Department now.

Mr. MORRILL, of Maine. Does it touch the question of rank?

Mr. LOGAN. Not at all.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. MERRIMON submitted an amendment intended to be proposed by him to the bill (H. R. No. 4729) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1876, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. HARVEY submitted an amendment intended to be proposed by him to the bill (H. R. No. 3820) making appropriations for the support of the Army for the fiscal year ending June 30, 1876, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. BAYARD, Mr. ALCORN, and Mr. JOHNSTON submitted amendments intended to be proposed by them to the bill (H. R. No. 4740) making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes; which was referred to the Committee on Commerce, and ordered to be printed.

Mr. SCOTT and Mr. SHERMAN, from the Committee on Finance, reported amendments intended to be proposed to the bill (H. R. No. 4729) making appropriations for the sundry civil expenses of the Government for the fiscal year ending June 30, 1876, and for other purposes; which were referred to the Committee on Appropriations, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. CLAYTON, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1196) making appropriations for the improvement of the military wagon-road from Scottsburgh, Oregon, to Camp Stewart, Oregon, reported it without amendment.

Mr. MORRILL, of Vermont, from the Committee on Finance, to whom were referred the following bills, asked to be discharged from their further consideration, and that they be indefinitely postponed; which was agreed to:

A bill (S. No. 11) to establish a branch mint of the United States at Chicago, in the State of Illinois;

A bill (S. No. 1132) to establish a branch mint of the United States at Omaha, in the State of Nebraska;

A bill (S. No. 1150) to establish a mint for the coinage of gold and silver at Indianapolis, in the State of Indiana;

A bill (S. No. 1298) to establish a mint for the coinage of gold and silver at Chicago, in the State of Illinois; and

A bill (S. No. 1300) to establish a mint of the United States at Saint Louis, Missouri.

Mr. MORRILL, of Vermont, from the Committee on Finance, to whom were referred the following petitions, memorials, and resolutions, asked to be discharged from their further consideration; which was agreed to:

A petition of H. D. Calvin, T. Lyle Dickey, and others, citizens of Chicago, Illinois, praying for the establishment of a branch mint in that city;

A petition of citizens of Nebraska, praying for the establishment of a branch mint at Omaha, in that State;

A petition of citizens of Nebraska, praying for the establishment of a mint for coinage at Omaha, in that State;

A petition of citizens of Illinois, praying the establishment of a mint at Chicago, Illinois;

A memorial of the Board of Trade of Saint Louis, Missouri, in favor of the establishment of a branch mint in that city;

A memorial of the Union Merchants' Exchange of Saint Louis, Missouri, asking for the establishment of a branch mint in that city;

A resolution of a public meeting of citizens of Chicago, Illinois, held at the Palmer House in that city, recommending the establishment of a mint at Chicago;

A resolution of the Legislature of Nebraska, in favor of the establishment of a branch mint at Omaha, in that State;

A resolution of the Legislature of Missouri, in favor of the establishment of a branch mint at Saint Louis, in that State; and

A resolution of the Board of Trade of Chicago, Illinois, in favor of the passage of a bill for the establishment of a branch mint in that city.

Mr. MORRILL, of Vermont, from the Committee on Finance, submitted a written report on the above bills, petitions, memorials, and resolutions in relation to establishment of branch mints; which was ordered to be printed, accompanied by the following resolution:

Resolved, That as it appears expedient to establish a branch mint for the coinage of silver, the President of the United States be requested to institute inquiries as to the proper place for the establishment of a branch mint at some point in the Western States or in the Mississippi Valley, taking into account all questions of economy and facilities of distribution, and report upon the same at the commencement of the next session of Congress.

TEXAS JUDICIAL DISTRICTS.

Mr. ALLISON. I move now that the Senate proceed to the consideration of the Army appropriation bill.

Mr. FLANAGAN. Mr. President——

Mr. SARGENT. I trust the Senator will accord an opportunity to the Senator from Texas to be heard.

Mr. ALLISON. After the Army bill is taken up, I will consent that it be laid aside informally.

Mr. FLANAGAN. Very well.

The VICE-PRESIDENT. The Senator from Iowa moves that the Senate proceed to the consideration of the Army appropriation bill.

The motion was agreed to.

Mr. FLANAGAN. Now I ask that the Senate take up the motion to reconsider the vote on the passage of the bill (S. No. 736) to change the boundaries of the eastern and western judicial districts of the State of Texas; and to fix the times and places of holding courts in the same. It is a meritorious bill, one that I think the citizens of Texas feel a great interest in, and I hope it may have consideration.

Mr. ALLISON. I understand it will take no time.

Mr. FLANAGAN. I understand——

Mr. DAVIS. I suppose it will be subject to a call for the regular order.

Mr. ALLISON. I cannot give way if it will occupy time.

The VICE-PRESIDENT. It is understood that the bill if taken up is subject to a call for the regular order.

Mr. SARGENT. Subject to a reasonable call.

Mr. FLANAGAN. I hope justice may be done. I do not want technicalities.

The VICE-PRESIDENT. The question is on the motion of the Senator from Texas to take up the motion to reconsider.

The motion was agreed to.

The VICE-PRESIDENT. The question now is on the motion to reconsider the vote passing Senate bill No. 736.

Mr. FLANAGAN. This bill was passed some weeks since and my colleague entered a motion to reconsider. It is a meritorious bill, and I now simply by way of saving time, which seems to be a very grand consideration with the Senate and I appreciate it, move to lay his motion to reconsider on the table.

Mr. HAMILTON, of Texas. Is that debatable?

The VICE-PRESIDENT. The motion to lay on the table is not debatable.

Mr. HAMILTON, of Texas. I submit to the Senate that——

The VICE-PRESIDENT. It is moved that the motion to reconsider be laid on the table.

Mr. FLANAGAN. Five minutes seems to be the rule, and I will allow my colleague five minutes if that will do.

The VICE-PRESIDENT. The Senator withdraws his motion to lay on the table.

Mr. HAMILTON, of Texas. Mr. President, I was not in the Chamber when this bill passed. It was in the hands of the Judiciary Committee and reported, I believe, on the very last day of the last session of Congress, but it escaped my attention altogether and I had forgotten that it was on the Calendar. I happened to be out on the morning the Judiciary Committee had the floor and the bill passed without objection. I entered a motion to reconsider, and it has been hanging for two or three weeks. I did not care so far as I was concerned whether the bill was reconsidered or not provided it slept there. That is the truth of it. It is an iniquitous bill, not asked for by anybody in the State of Texas that I know of, except the officers of the court in one of the judicial districts in the State. The bill was concocted by the marshal of that district, I think, and under his management and auspices, with the co-operation of my colleague, it was passed. When it was pending last spring, nearly a year ago, I was invited to go before the Judiciary Committee in regard to it, and I went to the committee-room one morning and met there my colleague and, I believe, the marshal of the district and one of the Representatives in the other end of the Capitol, who had been making a statement to the committee in regard to it. The chairman said to me—he is not in his seat now; he would recollect it if he were here—"There is a proposition to compromise this matter, a substitute is spoken of; do you know anything about it?" I said, "No, sir; I have not seen it, and I do not know what it is." "Well," he said, "perhaps it may suit you; if it does not, and this bill is to be considered,

I will let you know and you can come before the committee, and your friends in the House who want to come before the committee will have an opportunity when you advise them." I never heard anything more about the bill in that committee. From the remarks made by the chairman of the committee I took it for granted the committee would report adversely. He so hinted to me, in fact, and I did not go before the committee, and my friends in the House complained to me for not giving them notice after they found that this bill was reported.

The judicial districts of the State, as they stand now, divide the territory unequally to be sure. While the eastern district has the smallest portion of territory and the smallest population, it has the largest amount of business. It embraces all the sea-coast towns, all the large commercial towns in the State except one. The courts at Galveston, Texas, both the district court and the circuit court, sit a greater number of days I think (and my colleague admitted it to me the other day) than all the other courts in the State put together. The marshal of that district receives fees much in excess of those of the marshal of the western district. I understand from his friends here that he says he gets the full $6,000 a year. I do not know how that may be, but I am sure the marshal of the other district does not get so much.

The diagonal line across the map which I have in my hands and that Senators can see [exhibiting a map] embraces substantially what is in the eastern district of Texas, and the proposition now is to take into it that portion of the State [indicating] embracing all the well-settled counties in the State except about thirty; and the little strip between the two lines [indicating] is to be annexed to the western district of Texas. They do not comprise a population, all told, of more than two hundred and fifty thousand people, whereas in the eastern district as proposed by this bill a million of people will be embraced with all the large towns in the State and fifteen-sixteenths of the railroads of the State. The western district is left with a little over one hundred miles of railroad, without any means of transportation except by private conveyance over a great portion of the district, with the judge required to go from his residence in the city of Austin overland through the greater portion of the distance a wilderness country, four hundred and fifty miles, to Brownsville to hold court, or else he must go by the city of New Orleans and take water there, which is fifteen hundred miles. He has written here to his friends in the other House, if this bill is passed, to ask an appropriation to pay his mileage from his residence twice a year to the city of Brownsville to hold his court.

Here are thirty or forty counties laid off. They look on the map like a portion of the State of Texas; they are a portion of the State of Texas so far as territory is concerned; but there are no inhabitants in them; the counties are not organized, and a large number of the counties that are organized outside of this line, constituting half the territory of the State, have not a population of five hundred souls in a county on the average; a great many of them have but two hundred, some one hundred and fifty, some one hundred, and so on. They are cattle ranches scattered over an immense extent of country; and the marshal of that district when he goes out to serve process, or to get witnesses, or arrest parties will have to take them by stage or by private conveyance, and it will cost him twelve and a half cents in specie a mile to travel, and he gets out of the Treasury six and one fourth cents a mile.

My colleague, I think, will own that this has not been asked for by a solitary individual in the State except the parties I have named. If there is any petition from anybody I have not been able to see it. I have a number of letters from persons who live in the vicinity of where these new courts are proposed to be holden, and they protest against it. It is proposed to hold a session of the court at Jefferson twice a year, and at Dallas twice a year; and there are about eight or ten counties around Jefferson, and I am told by a good lawyer in the other end of the Capitol, who practices at the Tyler court, that there never has been but one case originated at the town of Jefferson. The argument here is that this is a commercial point on a navigable stream, and that there is a great deal of admiralty business there; but he says there never has been but one case from that town. It is in a sickly locality, right on the lakes surrounding the raft of the Red River. The bayou is dry more than half the year; the town is perishing away; it has not half the inhabitants it had two years ago, and will be deserted, I think, after a while.

The court now sits at Tyler; and it is a central position in eastern Texas, not more than one hundred and fifty miles from any portion of that part of the State. Now, it is proposed to take the people down from almost the town of Tyler to Galveston, a distance of three hundred miles, to do their business, while a very few persons will go to the town of Jefferson, and a very few more to the town of Dallas.

The truth is this bill is intended to accommodate one or two neighborhoods and a few individuals, to the great detriment of nearly all the people of the State. I hope it will be reconsidered and sent to the committee again. I want to go before the committee, and I want the gentlemen of the other House to go before the committee; they are lawyers who practice in those courts; and if they do not satisfy the committee that it is a very improper bill to pass, I shall be greatly mistaken. If we cannot convince the committee of that fact, then I want them to provide for abolishing what remains of the western district. It is not worth keeping together. It will not pay the officers of the court; it will work the judge to death.

But that is not the worst feature of the bill. It was drawn up by some one who evidently did not know anything about or care anything about the interests of the country. Here are two large counties and a vast extent of territory lying up high on the line between Mexico and Texas not embraced in either district. The county of El Paso and the county of Presidio, and all the country that lies between there and the organized portion of the State, are absolutely left out of doors. Smuggling across there from Mexico into the United States can be practiced to an enormous extent, and nobody can be touched. You cannot bring any of them before the court. It has always been considered by the United States and by the State of Texas to be very important to have El Paso and all that section on the Rio Grande under the jurisdiction of the courts of the State and of the United States.

Sixty-five counties, with an aggregate population of 43,761 souls, all told, compose the western district under this bill. Against that they have got solid a portion of the State that was settled the earliest, the oldest and best portion of the State, settled compactly and making a district compact in form embracing a million of population. The mere statement of the condition of the thing appeals, I think, so strongly to the justice of the Senate that I hope the bill will be reconsidered and sent back to the committee.

Mr. THURMAN. Mr. President, I do not know that I was at the meeting of the Judiciary Committee when this bill was finally considered, nor do I think I was in the Senate when it passed; but since the motion to reconsider was made I have devoted some little attention to it. My attention has been called to it, and nothing is clearer to my mind than that the vote ought to be reconsidered and that the bill ought to be defeated. I think it is totally wrong. I think it is unjust to the people of Texas and I think it is unjust to the Government. It will increase the expenses of the people in Texas unfairly for all the business in the Federal courts there, and increase the expense to the Government. I hope, therefore, that the vote by which the bill passed will be reconsidered, and the bill be recommitted to the Committee on the Judiciary or be defeated.

Mr. FLANAGAN. The distinguished Senator from Ohio uses the word "totally" very frequently and very handsomely; but he does not understand this bill. He is lecturing me and my constituents in this way, that, and the other. I am very much obliged to him for his care, but I totally repudiate the idea.

Now a word in answer to my colleague. He says that there are few persons wanting this excepting perhaps A, B, and C. Now within the last two or three days I received that petition, [unfolding a paper of great length with many signatures.] How many hundred names there are there I do not know; but they are gentlemen well known to my colleague. They say unanswerably and unmistakably that they do desire it. That is but two or three days old.

He speaks of the members of the other House. Why, sir, I would leave this matter to them in the thousandth part of a minute and be gratified to get rid of his motion and get the bill into their hands, and then I would have justice and the bill would carry without a doubt. It asks for no appropriation. As to the judge who presides at Austin, he is on the way from Galveston directly to the Rio Grande at Brownsville—three hundred miles, and not four hundred miles, as my colleague said. This equalizes it and saves money. Now when men are indicted or are summoned to go to the various district courts, they have hundreds of miles to travel. Hereafter the judges will travel to them and they are willing to do it, or not unwilling by any means. It is a meritorious bill; it is a money-saving proposition, all things considered. Time is important to the Senate, and I move now again to lay the motion to reconsider on the table, and I ask for the yeas and nays.

Mr. HAMILTON, of Texas. I ask my colleague where that petition comes from?

Mr. THURMAN. Mr. President, I demand the regular order.

The VICE-PRESIDENT. The Senator from Ohio demands the regular order, which is the Army appropriation bill.

Mr. FLANAGAN. The petition is from Jefferson.

Mr. HAMILTON, of Texas. That is what I supposed.

The VICE-PRESIDENT. The Army appropriation bill is before the Senate, and will be read.

Mr. MORTON. Was not the regular order laid aside until this matter could be disposed of? We are ready to vote now. The Army bill is under the control of the Senator from Iowa, is it not?

Mr. ALLISON. If this matter does not take up too much time I will not object to disposing of it.

Mr. FLANAGAN. No time will be taken. I am ready for the vote.

Mr. THURMAN. I demanded the regular order because the Senator from Texas moved to lay the motion to reconsider on the table, thereby cutting off all reply to what he had said. I therefore insist on my call for the regular order.

Mr. FLANAGAN. I move to postpone the regular order so that this matter may be disposed of.

Mr. ALLISON. I hope that will not be done.

Mr. FLANAGAN. I had the permission of the Senator——

Mr. ALLISON. I do not object; but I do not want the regular order postponed.

Mr. FLANAGAN. I have no disposition to postpone it; but I simply want a vote on the reconsideration. I move to lay on the table the motion for reconsideration.

Mr. MORRILL, of Vermont. I understand the Senator asks to postpone the regular order temporarily in order that the vote may be reached on his proposition. I really think it is of sufficient importance to call upon us to vote on it one way or the other.

The VICE-PRESIDENT. The Senator from Texas moves that the Army appropriation bill be postponed for the purpose of taking the vote on the reconsideration of Senate bill No. 736, or upon laying the motions to reconsider on the table.

The motion to postpone was agreed to.

The VICE-PRESIDENT. The Senator from Texas now moves that the motion to reconsider the vote by which Senate bill No. 736 was passed be laid on the table.

Mr. FLANAGAN. I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 19; as follows:

YEAS—Messrs. Anthony, Boreman, Boutwell, Chandler, Clayton, Conkling, Cragin, Ferry of Michigan, Flanagan, Frelinghuysen, Gilbert, Hamlin, Ingalls, Kelly, Morrill of Maine, Morrill of Vermont, Morton, Pease, Ramsey, Sargent, Scott, Stewart, West, and Windom—24.

NAYS—Messrs. Allison, Bayard, Cooper, Davis, Dennis, Eaton, Hamilton of Maryland, Hamilton of Texas, Johnston, McCreery, Merrimon, Norwood, Pratt, Saulsbury, Schurz, Stevenson, Stockton, Thurman, and Tipton—19.

ABSENT—Messrs. Alcorn, Bogy, Brownlow, Cameron, Carpenter, Conover, Dorsey, Edmunds, Fenton, Ferry of Connecticut, Goldthwaite, Gordon, Hager, Harvey, Hitchcock, Howe, Jones, Lewis, Logan, Mitchell, Oglesby, Patterson, Ransom, Robertson, Sherman, Spencer, Sprague, Wadleigh, Washburn, and Wright—30.

So the motion to lay on the table was agreed to.

BILLS INTRODUCED.

Mr. CONOVER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1350) to remove a restriction upon the right of Representatives-elect to receive their pay during the recess of Congress; which was read twice by its title, referred to the Committee on Privileges and Elections, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1351) for the relief of Mrs. Caroline Clark, of Fernandina, Florida, for property destroyed by United States gun-boats in 1862; which was read twice by its title, and referred to the Committee on Claims.

ARMY APPROPRIATION BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3820) making appropriations for the support of the Army for the fiscal year ending June 30, 1876, and for other purposes.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The Secretary will read the bill, and the amendments of the Committee on Appropriations will be acted upon as they are reached in the reading of the bill.

The Secretary proceeded to read the bill.

The first amendment reported from the Committee on Appropriations was in line 41, after the word "engineers," to strike out the word "and;" and after the word "scouts," in line 42, to insert "and Indian prisoners;" and in the same line to strike out "12,000" and insert "84,330;" so that the clause will read:

For subsistence of regular troops, engineers, and Indian scouts, and Indian prisoners, $2,484,330, not exceeding $3,000 of which may be used for subsisting Indians visiting military posts.

The amendment was agreed to.

Mr. BAYARD. The bills which have been laid on our tables do not appear to contain the amendments which the Clerk reads.

The PRESIDING OFFICER. The amendments have not been printed. The bill was reported from the committee this morning.

The next amendment was in line 45, to strike out the word "remaining" before the word "sum;" so as to read:

Provided, That $300,000 of the sum thus appropriated may be applied by the Commissary-General of Subsistence, &c.

The amendment was agreed to.

The reading of the bill was continued. The next amendment was in line 74, to insert before the word "fourth" the word "August;" so as to read:

For incidental expenses, to wit, under the acts of March 2, 1819, and August 4, 1854.

The amendment was agreed to.

The next amendment was in line 94, after the word "shoeing," to insert the words "the horses of;" so as to read:

And for shoeing the horses of the corps named.

The amendment was agreed to.

The next amendment was in line 143, to strike out the words "and next fiscal year" and insert in lieu thereof "fiscal year, nor thereafter;" so as to read:

That the foregoing restriction shall not apply for the current fiscal year, nor thereafter, to roads where the sole condition of transportation is that the company shall not charge the Government higher rates than they do individuals for like transportation, &c.

The amendment was agreed to.

Mr. ALLISON. I move to strike out the last proviso in this paragraph, beginning in line 149, in these words:

And provided further, That hereafter when troops or officers change stations their families shall receive transportation over land-grant and subsidized railroads which receive no payments from the United States.

Mr. LOGAN. I desire to ask the Senator his object in having that paragraph stricken out.

Mr. ALLISON. This last proviso requires the railway companies or the Government to transport the families of troops or officers. I know of no law which authorizes or directs such transportation. These land-grant railroads are obliged to transport troops and munitions of war, but they are not required to transport the families of officers or troops. Under this provision the Government itself would be obliged to pay for the transportation of the families, and it would require an increase of the appropriation for the purpose of transportation.

Mr. LOGAN. I will only say that I have not considered the question at all, but it occurs to me that it is a very proper provision in the bill. Very frequently troops are ordered to be removed without delay to a great distance, having families, as many soldiers and many officers have, and sometimes you find the line officers, especially of low rank, without sufficient means to pay the traveling expenses of their families. I have known that to occur very frequently, and certainly it is so with soldiers having families; and when they are transported, as they are sometimes, from the West to the East or South, it is a great inconvenience. I think the Government ought to provide some means for transporting the families of line officers and troops. Hearing that provision in the bill read, I thought it was very properly inserted; but, however, it seems there is some objection to it.

Mr. ALLISON. It might be a very good proposition as an independent one, but the Senator from Illinois will see that it would be very difficult for us to estimate the cost of the transportation of the families of soldiers without having some data that we have not now and cannot obtain.

Mr. LOGAN. I do not suppose there are any data that could be obtained at present. I do not suppose you can get any from the War Department at this time. It strikes me it is a very proper provision. I agree with the Senator, however, that you could not impose this upon the land-grant railroads any more than any other railroads. I am of opinion that they are only bound for the transportation of munitions of war and troops. I have no objection to it as an independent proposition. It strikes me there is nothing very wrong in it.

Mr. ALLISON. I hope the proviso will be stricken out.

Mr. BAYARD. I regret to delay the Senate for an instant, but the fact that we have this bill before us to be passed upon without the amendments being in print renders it difficult to understand it. Do I understand the amendment of the committee to be to strike out from line 149 to line 152 on page 7 the provision that the families of troops or officers shall receive transportation over land-grant railroads, and to exclude the subsidized railroads from carrying troops or officers and their families? Has the committee made yet any explanation why the subsidized railroad should be exempted from this partial method of making return to the Government of Government dues?

Mr. ALLISON. I will say to the Senator from Delaware that the provision relating to transportation over land-grant railroads applies to troops and munitions of war. It does not occur to the committee that the families of soldiers or officers are either troops or munitions of war. If there was any law requiring these land-grant railroads thus to transport, of course the provision would be a proper one.

Mr. BAYARD. It strikes me that any way by which the Government shall obtain some return from these subsidized roads, not unlawful, should be adopted. The debt of the subsidized roads to the Treasury of the United States is very far in excess of what it should be, we all know. Therefore, if this proposed amendment is to diminish the small return from these roads to the Government of the United States for its outlay, I should be opposed to it and I think it should not be adopted.

Mr. WEST. There is truth in what the Senator from Delaware says, if this profit or advantage would inure to the Government; but when troops and munitions of war are moved the Government never moves the families of officers and soldiers. Consequently to adhere to this provision is an equivalent to a gratuity to these families at the expense of the land-grant railroads. It does not benefit the Government at all. It does not benefit anybody but the families, and the companies have to pay the expense. When officers or troops are moved, the officer is not obliged to take his wife with him. He is not allowed to take his wife with him at Government expense. He is allowed to take one or two or three servants, according to his rank. There are certain camp women, known as laundresses, two of which always go with each company, but no family of an officer is ever allowed to travel with him at Government expense. In this instance it would make these land-grant railroads do for these families what the Government does not do under other circumstances.

Mr. SCOTT. The Senator from Louisiana states that if this provision were retained it would give to the families of officers or troops transportation at the expense of the subsidized or land-grant railroads. Now if there be not a provision which makes it the duty of the land-grant and subsidized railroads now to carry these families, then the effect of this provision is a legislative enactment giving this privilege to officers with families at the expense of the Government. It would be, if you permitted it to stand. If the duty is already imposed on the railroads, it does impose as a legislative provision to give transportation to officers and troops and their families at the expense of the Government.

Mr. WEST. Not at all; it says the land-grant railroads shall carry them for nothing.

Mr. SCOTT. It does not provide that they shall receive free transportation; simply that they shall receive transportation over these roads.

Mr. WEST. Then the section is all the worse

Mr. SCOTT. I say it is all the worse.

Mr. ALLISON. The effect of this proviso is to allow these families to pass over these railroads either at the expense of the Government or at the expense of the railroads. Now, if there is no provision by which they shall go at the expense of the railway the Government of course will be required to pay these expenses and we ought to increase the appropriation.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Iowa [Mr. ALLISON] to strike out the proviso.

The amendment was agreed to.

The reading of the bill was continued. The next amendment reported by the Committee on Appropriations was in line 159, to increase the appropriation for hire of quarters for officers on military duty; hire of quarters for troops; of store-houses for the safe-keeping of military stores, offices, and of grounds for camps and summer cantonments, and for temporary frontier stations; for the construction of temporary huts and stables; and for repairing public buildings at established posts, from $1,400,000 to $1,500,000.

Mr. DAVIS. The appropriation for this purpose last year was $1,400,000. The present bill as it passed the House appropriated only $1,400,000, and the committee recommend to increase this appropriation $100,000. I hardly think it ought to be done. It is a very large amount, and I call the attention of the Senate to the fact. I should like to hear an explanation in regard to it.

Mr. ALLISON. The Quartermaster-General reports that the amount appropriated last year is insufficient to comfortably house and care for all the troops on our frontiers, and that an additional $100,000 at least will be required to provide for the comfort of our soldiers at frontier posts. During the last year the Quartermaster-General has kept strictly within the amount appropriated. He says very great complaint has come to him from every quarter of the West. The amount estimated for this year was $1,900,000. The committee thought under the circumstances it would be wise to add $100,000 to the appropriation. It is for the Senate to decide whether that shall be done.

Mr. DAVIS. This is $100,000 increase, and I think probably we ought to get along without it. It is well known that everything that is used for the Army, as well as generally through the country, can be purchased at less amounts now than some years ago. Labor is less, and it occurs to me that $1,400,000 ought to be adhered to, and that we ought not to advance this appropriation $100,000. It is that much more than we have heretofore got along with. The Army is decreasing instead of increasing, and I see no reason for increasing the amount $100,000.

The PRESIDING OFFICER. The question is on the amendment.

The question being put, there were on a division—ayes 17, noes 16; no quorum voting.

Mr. SHERMAN. There is a quorum present.

The PRESIDING OFFICER. Evidently there is a quorum present.

Mr. SHERMAN. Put the question again.

The PRESIDING OFFICER. Upon suggestion the Chair will again put the question.

Mr. BOUTWELL. Let the Clerk report the amendment.

The SECRETARY. It is proposed, in line 159, to strike out "$1,400,000" and insert "$1,500,000;" so as to make the clause read:

For hire of quarters for officers on military duty; hire of quarters for troops; of store-houses for the safe-keeping of military stores, offices, and of grounds for camps and summer cantonments, and for temporary frontier stations; for the construction of temporary huts and stables; and for repairing public buildings at established posts, $1,500,000.

Mr. BAYARD. Mr. President, these appropriations should be always ample and sufficient. That is required by a sound sense of economy. These appropriations are based upon estimates from the Departments sent to the committee of the other House, by whom the bill is framed and the amounts entered for proper expenditures; but when the bill has passed the House it is not, as I am informed, referred to the Committee on Military Affairs, the members of which committee have not seen this bill at all in print until they see it now without the amendments proposed by the Committee on Appropriations.

There has been in my hearing no reason given why the sum of $100,000 should be added for this class of expenditures, all of which are thoroughly well understood by the Department, have been passed upon by the Department, have been passed upon by the committee of the lower House and by the House itself; and why they are now increased and this extra sum of $100,000 added no explanation has yet been given. We all know that at the present session of Congress there is an alleged deficit in the revenues of the country and that increased taxation is proposed to meet that deficit. If the deficit does exist, if the sinking fund and the proper debts of the country cannot be paid, I am willing to vote for an increase of taxation, but I shall not do so until some attempt has been made to diminish the expenditures of the country. In every bill that we have had brought us here thus far, so far from there being a diminution there has been an increase in the appropriations.

It may be that to the minds of some gentlemen this item of $100,000 is a mere bagatelle; but, as was well and forcibly said by the honorable Senator from Kentucky who sits on my right, [Mr. MCCREERY,] every dollar of money that passes to the Treasury is the result of some man's labor. Here is $100,000 proposed to be added to the public expenditure in excess of the estimate by the Department, in excess of the recommendations of the committee of the lower House, in excess of the amount voted by the lower House, and with nothing apparently to recommend it but the purpose of a more liberal expenditure.

One fact I believe is admitted to be a certainty, that however great your appropriations, your expenditures will always keep pace with them; that no excess of appropriation is ever allowed to remain unexpended. Therefore it seems to me it will be an unauthorized and extravagant use of money if we permit $100,000 to be added to the public debt by this appropriation. If there be reasons why it should be added, I think they should be stated specifically. The amendment is in contradiction of the estimate of that Department from which the other House obtained the estimate.

Mr. BOGY. We are called upon here to vote for an appropriation of millions of dollars and not one word of information accompanies the bill presented to us for our votes. I came here but a short time ago and am a very inexperienced man in this body; but I think I am learning a little every day. I think I am learning slowly, but I can begin to understand how the expenditure of this nation has grown within my day and within my recollection from $30,000,000 to $300,000,000. I begin to see through it. I defy any Senator on this floor to vote intelligently on this bill. He cannot do it. He must take the bill as presented to him. There is no information; no report. I understand that this bill has not been submitted even to the Committee on Military Affairs. It comes alone from the Committee on Appropriations, and we are called upon in this case for an augmentation of a hundred thousand dollars in a single item, without one word of explanation why this increased amount should be voted for. I will read as a curiosity the very clause which it is proposed to amend and on which I am now addressing the Senate:

For hire of quarters for officers on military duty; hire of quarters for troops; of store-houses for the safe-keeping of military stores, offices, and of grounds for camps and summer cantonments, and for temporary frontier stations; for the construction of temporary huts and stables; and for repairing public buildings at established posts, $1,400,000.

Supposing it had been $250,000, $3,000,000, or any other sum, could any Senator here vote intelligently? Would he know that he was voting for an amount sufficient reasonably to accomplish the purpose? You can put any amount you choose under this verbiage. I am not finding fault with the committee; I am not finding fault with the party in power; but it does seem to me that this mode of appropriation has no limit. The reason why the expenses of this nation have increased within my recollection, although perhaps I am one of the youngest members on this floor, from $30,000,000 to $300,000,000 is the wild, extravagant way of appropriating the public money.

Here it is proposed to appropriate $1,400,000 in this one item. Suppose the bill had said $400,000 or $200,000, Senators would not know any better. You cannot tell whether the amount asked for is the amount required to accomplish the object or not. It does seem to me that a bill of this kind ought to have been referred to the Committee on Military Affairs in order to have all these items scrutinized.

Mr. MORRILL, of Maine. Does my honorable friend suppose that the Committee on Appropriations have only appropriated this money with the information that pertains to him alone?

Mr. BOGY. No, sir; I have no information on the subject, and yet I am called upon to give a vote.

Mr. MORRILL, of Maine. If my honorable friend will allow me, I will tell him that there is no mystery about this; that there is nothing in the dark about it.

Mr. BOGY. I do not charge anything of that kind.

Mr. MORRILL, of Maine. I will refer my honorable friend to the sources where he can inform himself accurately whether this is a just appropriation or not, whether it will meet the public expenditures, leave a surplus or be extravagant, or whether it is exactly within what is found by experience to be the necessities of the service. The Army since my honorable friend can recollect, and a great while longer, has been an establishment in this country. It works within certain principles and certain rules. When we have thirty thousand men, we know about how much it will take to support them in times of peace. Of course how much it will cost for transportation and the like will depend upon circumstances, whether it is peace or war; but all the estimates are made based upon actual experience of what it costs from year to year. That is the basis of each estimate. How do we test that to find whether we want more or less? We take every item of expenditure, every item of appropriation in this bill and compare the actual expenditure with that estimate. Take this particular item. The estimate now for this year is so much. We find by examination of the actual expenditure that there is a deficiency of about $150,000 to be made up this year on this item because we did not appropriate enough last year by that much. That leads us, therefore, to believe that unless the system is wrong, or working wrong in some way, we had better increase this item $100,000 than to put it in a deficiency bill next year.

If my honorable friend will excuse me for interrupting him so much, I will direct his attention to the methods by which, if the Committee do their duty, they can state to the Senate wi'h as much accuracy

and certainty as the public service will allow anybody to do, about what we can afford to appropriate.

Mr. BOGY. This proves the system to be very vicious. The argument of my friend from Maine amounts to this: That because last year the sum of $1,400,000 was appropriated and was not sufficient by from one hundred to one hundred and fifty thousand dollars, hence this year we must increase it by the amount of the deficit of last year. That may be correct in one way, but it amounts simply to this: Here are twenty-five or thirty million dollars, appropriated for the Army, and a bill can be drawn in five lines, "Gentlemen of the Army, expend this money in the best way that you think proper for the public good, within the line of your duty," and there is really nothing else in this bill. I do not say so with a view of finding fault with the Army or in criticism of the Army, or even of finding fault with the Committee on Appropriations. It may be that there is no remedy, and if there be no remedy then these expenses will go on increasing until they will overwhelm this nation.

Mr. MORRILL, of Maine. Does my honorable friend mean to say to the Senate that the expenses of the Army have been increasing comparatively?

Mr. BOGY. They have got up to twenty-five or twenty-eight million dollars, I think.

Mr. MORRILL, of Maine. When were they less?

Mr. BOGY. They were less when our Army was less. I will not be precise on that point.

Mr. MORRILL, of Maine. When was the Army less?

Mr. BOGY. Before the war.

Mr. MORRILL, of Maine. At what period before the war?

Mr. BOGY. For a long time. The Army has been increased from six thousand up to twenty-five thousand.

Mr. MORRILL, of Maine. Take 1860. That was before the war. Was the expense more or less?

Mr. BOGY. Before the war commenced, perhaps in proportion the expense might be as great. I am not prepared to say.

Mr. MORRILL, of Maine. My honorable friend was never a more mistaken man in the world than he is on this point. The expenses of this Army to-day are less than they were in 1860.

Mr. BOGY. I think my friend is mistaken. The expenses were not from twenty-five to thirty millions then.

Mr. MORRILL, of Maine. My honorable friend is greatly mistaken in supposing that the expenses of the Army or Navy of the United States, comparatively, are greater now than they have been in the last twenty years.

Mr. BOGY. My friend uses a word which qualifies all his argument, "comparatively."

Mr. MORRILL, of Maine. Of course you can only speak of it comparatively.

Mr. BOGY. I am not finding fault, but I do say that there is no limit. As an illustration, here I am called upon to vote on this amendment. My responsibility on this subject is no less than that of any other Senator on this floor. Why should I vote for this increase? Because the committee thinks it is right? The committee may be right. I have great regard for the committee, great regard for the Senator from Maine, great respect for his judgment. No doubt they are disposed to economize, but there is something wanting somewhere when we are called upon to vote for an increase or a decrease without knowing that we should do one or the other. Upon that subject I am unable to vote, and I repeat I know as much about it as any other Senator on this floor because I take it for granted no one understands the subject at all. My friend from Maine said "comparatively." Of course that qualifies the whole thing. I have no fault to find, but there is some information that we need which is lacking somewhere, and it is a farce to require us to vote on a subject that we are not informed about at all.

Mr. ALLISON. I move to limit debate to five minutes on amendments to this bill.

The PRESIDING OFFICER. The Senator from Iowa moves to apply the five-minute rule to amendments on the pending bill.

The motion was agreed to.

Mr. ALLISON. Mr. President, the Senator from Missouri seems to think that the Committee on Appropriations ought to visit personally all these barracks and cantonments and summer resorts and winter resorts for the troops of the United States, and because we have not done so he informs us that we have no information upon this subject. If he will turn to the Book of Estimates, he will see that the Quartermaster-General of the Army has estimated for this purpose $1,900,000 for the present year, whereas the appropriation as proposed by the committee is $1,500,000 only. The Quartermaster-General of the Army stated to the Committee on Appropriations that the amount appropriated last year was insufficient for the comfortable care of the troops on the frontier posts.

Mr. BOGY. That is the whole argument.

Mr. ALLISON. Some things must be taken on faith. The whole of this expenditure is under the control and direction of the Quartermaster-General of the Army. Unless Senators make statements to the contrary, we are bound to presume that this money will be faithfully expended in the direction indicated by the appropriation. I have never heard anything against the integrity or the ability of the Quartermaster-General of the Army with reference to these expenses. He says to the committee that this additional sum is required. Of course the committee did not enter into all the details of this expenditure. It was impossible for them to do so. The committee, as the Senate, must take this additional demand upon the faith of the officers of the Army. If they cannot be believed, if they make these expenditures in an extravagant way, then I see no reason why we should appropriate $1,000,000, or $500,000, any more than a million and a half.

They say this sum is necessary for the purpose of taking care of the troops comfortably in the field. That is all the explanation that can be given.

Mr. LOGAN. I should like to submit an inquiry to the Senator, and I do not do it for the purpose of trying to arrive at any of the facts which have not been communicated to the committee. What I would like to know illustrates, I think, the difficulty we all labor under in reference to this proposition. As I understand, there was $1,400,000 appropriated at the last session of Congress for quarters for officers and for the purpose of fixing quarters for the soldiers. Am I correct?

Mr. ALLISON. Yes, sir.

Mr. LOGAN. Now the proposition is to make the appropriation $1,500,000. The quarters that were prepared last winter under that appropriation of $1,400,000 for the troops will certainly not have to be re-established. I want to know if this item is for making new quarters for troops or is it for repairing the old quarters?

Mr. ALLISON. I will answer the Senator as well as I can. It is for the hire of quarters where no quarters are furnished by the Government. It is for the repair of quarters where the quarters now existing need repair. It is for the establishment of new quarters where new quarters are needed.

Mr. LOGAN. The point is this: If the quarters are established one year and it cost $1,400,000 to erect them, it certainly will not take $1,500,000 the next year to repair them.

Mr. ALLISON. I will say to the chairman of the Committee on Military Affairs that if he opposes this provision and states to the Senate that it is not necessary, I for one will not urge it further.

Mr. LOGAN. No, sir, I will not state any such thing, and I will tell the Senator the reason. There has never been referred to the Military Committee for two years a single appropriation bill connected with the Army for that committee to examine it or make inquires about it. For that reason I will not say whether this item is right or not. If the Committee on Appropriations would allow the Military Committee to examine these questions we would find out something about them; but we are not permitted to do it.

I am not going to oppose the appropriation, but I think I understand its meaning. An appropriation bill that provides for quarters for officers and quarters for soldiers at the same time, without an estimate, is certainly a mistake. The estimates should estimate so much for officers' quarters and so much for soldiers' quarters, because if the officers remain the same number the same amount of money will have to be expended in providing quarters every year; but the soldiers' quarters are very different. When the quarters have been established and made, you then only require money for the reparation of those quarters. That is the difference. If these quarters were sufficient last year for the soldiers, unless these soldiers have all been removed to new quarters, it will not require any such expenditure now. That is the difficulty to be got over.

Mr. WEST. It is not the first occasion that I have heard my friend from Illinois complain that a military appropriation bill does not come under the cognizance of the Military Committee except by consent. I think the Senator is familiar with the practice of acting upon appropriation bills. It is always competent for the Committee on Military Affairs having the bill printed and laid before them, either individually or as a committee, to scrutinize any contemplated appropriation; but as an evidence that the committee did not do it, and as an evidence that the Senator himself has not done it, he has entirely misconstrued the appropriation that is now before the Senate. There is nothing in this clause that provides for permanent quarters at all. On the contrary we have by previous legislation restricted the Quartermaster's Department to the expenditure of money for permanent posts so that not over $10,000 can be spent in any one quarter. This is for temporary quarters, for quarters of troops moving and fluctuating through the field, "for summer cantonments, and for temporary frontier stations; for the construction of temporary huts and stables," and the Senator knows very well that if he takes an entire corps and goes into camp, or if he takes a subdivision of that army and goes into camp he is obliged to incur some expense; and this is for that purpose. It is not for the purpose of creating permanent posts and scarcely for using money for the repair of permanent improvements. It is solely for the fluctuating movements of the Army in the field. If the Senator will look at the appropriation bill, he will so discover.

Mr. BOGY. As to the Senator's statement about my not having read this appropriation bill, I admit it, and I do not think any other Senator has read it. It was only reported to the Senate this morning. I have had no time to read it; I never saw it before, and I could not be expected to read it, and I should like to know how it is possible for a committee to examine a bill that they never have had presented to them and know nothing about. I do not think the Senator need make a statement of that kind for the purpose of saying that I do not understand the bill. I do not say that I understand

the bill, but I do say that I understand the expense of quarters either for officers or soldiers. I have made quarters; I have expended money for quarters; I acted as quartermaster in the Army many years ago, and I know something about this thing. I do state it here as a fact that when you put the whole amount of money in a bill for the repairing of quarters and the establishing of quarters and at the same time put in the words "establishment or rental of officers' quarters," there are no data upon which you can form any opinion. I say that and the committee know it. I know if you separate the amount of money for the rental of officers' and the amount of money for the repair of soldiers' quarters, it is easy then to make a calculation as to the amount it would take; but when you put them together no man can do it.

I did not get up for the purpose of opposing this appropriation, but I got up merely to ask the question if $1,400,000 established the quarters last year, will it take $1,500,000 to repair them this year? If you have changed your troops to different localities where you have to establish new quarters, that is a different proposition, and if you have it would be well enough for the Quartermaster's Department to notify the committee as to how many new quarters it is necessary to build, and how much it will take.

Tho PRESIDING OFFICER. The Senator's time on the pending amendment has expired.

Mr. LOGAN. I am very glad of it. [Laughter.]

Mr. ALLISON. I ask for a vote on the amendment.

Mr. SARGENT. By the thirty-fourth rule of the Senate there are various committees which are required to be appointed, and those committees are appointed, and among them is a Committee on Appropriations. I understand the practice of the Senate to be that appropriation bills coming from the House of Representatives are referred directly to the Appropriation Committee, and are ordered to be printed, and it is the duty of that committee to pass upon the appropriation bills and report them to the Senate. I find nowhere in the rules a requirement that this committee shall refer these bills to any other committee, or that they can evade the duty of considering the bills and making their report upon them.

These bills, especially at the short session, come over to us at the very close of the session. The examination which the Committee on Appropriations gives is as thorough as is possible in the time, and we always welcome light from any source, and I know that we should treat with respect any recommendation that might be made by the Military Committee. The Army appropriation bill came over a few days ago and we took it up for the first time this morning and passed upon it, and had no suggestions from the Military Committee. I am not aware that under the rules we could refer it to them, and if there is any other practice than that which I have stated, I should be glad to know it as a member of the Committee on Appropriations.

Mr. LOGAN. I did not say it was necessary to refer your bills to the Military Committee. I only said if they were submitted to us we could give some information about them; but we cannot without. I will say, however, for the benefit of the Senator that at one session of Congress a member of the Military Committee was a member of the Committee on Appropriations, and in that way the Military Committee did give consideration to appropriation bills for the Army. That was changed, however, and since that I have never seen an appropriation bill until it was laid upon my table; but I am not complaining. I made no complaint; I only made that remark to show that we cannot possibly know anything about these bills.

Mr. SARGENT. I did not understand the Senator as complaining; and I simply stated what I thought to be the rule and duty of the Committee on Appropriations under the circumstances. I think myself it would be a useful addition to the Committee on Appropriations hereafter to have upon it a member of the Military Committee; and if I am to serve in this capacity again, I certainly will welcome such a member with great pleasure. We have one member of the Naval Committee and one from most of the other committees.

Mr. LOGAN. But none from the Military Committee.

Mr. SAULSBURY. Of course I know nothing about these estimates personally; and having listened to this debate I am not satisfied that any increase is necessary in this item. It is stated that the Department says the appropriation of last year was not sufficient. That may be true; but that may have arisen from the fact that there was not an economical expenditure of the money. Still, even if that were true and if there had been an economical expenditure of the money, yet as far as I am concerned I have no information that the same exigency will exist this year.

In the present condition of our finances we ought to use all proper economy. We are threatened with additional taxation. There is an apprehension of a deficit in the revenues of the country, and unless there be clear evidence that this amount is absolutely necessary we ought not to vote it. I apprehend that these Departments act very much as individuals do with their own money. Sometimes when we have plenty of money, we are more lavish in our expenditures than is prudent. I apprehend if the Departments are cut down to the line of economy, they will bring themselves within that line. I shall vote against this increase because I do not know that it is necessary.

The VICE-PRESIDENT. The question is on the amendment.

The question being put, there were on a division—ayes 19, noes 20.

Mr. PATTERSON. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 24; as follows.

YEAS—Messrs. Allison, Boreman, Boutwell, Cameron, Clayton, Cragin, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Harvey, Hitchcock, Ingalls, Mitchell, Morrill of Maine, Morrill of Vermont, Morton, Patterson, Pease, Pratt, Ramsey, Robertson, Sargent, Scott, Sherman, and Wright—26.

NAYS—Messrs. Bayard, Bogy, Cooper, Davis, Eaton, Goldthwaite, Gordon, Hager, Hamilton of Maryland, Hamilton of Texas, Howe, Johnston, Kelly, Logan, McCreery, Merrimon, Norwood, Ransom, Saulsbury, Schurz, Stockton, Thurman, Tipton, and Washburn—24.

ABSENT—Messrs. Alcorn, Anthony, Brownlow, Carpenter, Chandler, Conkling, Conover, Dennis, Dorsey, Fenton, Ferry of Connecticut, Gilbert, Hamlin, Jones, Lewis, Oglesby, Spencer, Sprague, Stevenson, Stewart, Wadleigh, West, and Windom—23.

So the amendment was agreed to.

The Secretary resumed the reading of the bill. The next amendment of the Committee on Appropriations was to strike out from lines 167 to 169 the following proviso to the appropriation for "purchase and manufacture of clothing and camp and garrison equipage, and for preserving and repacking stock of clothing and camp and garrison equipage and materials on hand at the Philadelphia, Jeffersonville, and other depots of the Quartermaster's Department:"

Provided, That no part of this sum shall be paid for the use of any patent process for the preservation of cloth from moth or mildew.

Mr. CAMERON. I think we ought not to strike out that proviso. I have an impression, without any proof, that great wrong has been done to the Government by its use of patent-rights for preventing the destruction of clothing by moths. It would be better for us to wait awhile and get along without the use of this patent for another year at all events. There is plenty of clothing at the arsenals now for use, as much as will be needed probably for a year or two years, and the more you have there the more of this patent-right article for preventing destruction by moths will be called for.

To my mind it is wrong to appropriate money to be used by any officer of the Government, either civil or military or naval, without some responsibility. As I understand, large sums are drawn to be put into the hands of a patentee who sometimes controls the judgment of the officers without reflection on the part of those officers. I think we had better let the proviso stand. It was put into the bill by the House of Representatives at the suggestion of a member of Congress from a certain district in Philadelphia who understands this subject very well. I trust we shall leave the bill just as it came from the House in this respect. I do not like these patent-right monopolies in any way. There is very often some rat under the flour.

Mr. ALLISON. I have no doubt that what the Senator from Pennsylvania says in reference to the supply of clothing on hand is substantially true; but if it were not, and there was any necessity for clothing, I have no doubt our Pennsylvania friends would be ready to manufacture all the clothing and supplies needed for the Army in that direction. It seems hardly worth while for Congress to legislate against the use of any good invention. Therefore the committee thought it was hardly necessary to restrict the Quartermaster-General from the use of any proper invention if he could find such a one.

Mr. CAMERON. I agree with the Senator from Iowa in his premises, but the conclusions he would bring us to are not right. We ought to retain anything that is good, but we have no evidence that this thing is good.

Mr. ALLISON. I do not know what particular thing the Senator refers to, but this proviso prohibits the use of any patent-right.

Mr. CAMERON. I mean a patent-right to be used especially in the different arsenals of the country to protect clothing from destruction by moths. I am against all patent-rights which are not perfectly understood by this country.

Mr. ALLISON. I would suggest to my friend that if there is any particular worthless patent process we might prohibit its use; but I do not know what particular process he refers to.

Mr. CAMERON. The one now in use.

The VICE-PRESIDENT. The question is on the amendment of the Committee on Appropriations striking out the proviso.

Mr. WEST. It is not understood, and I ask for a division.

Mr. HAMILTON, of Maryland. If this matter is not understood I trust the Senator from Pennsylvania will make us understand it. I hope he will occupy at least five minutes in giving us some idea in respect to this amendment. The proposition put in by the House of Representatives must mean something. There must have been some appropriation of money before this period of time to those persons who have these patent processes for whatever purpose they may be intended; and the House have determined to stop it. There must be some object in view in that. If not, the proviso would not be here. Some motive prompted it, and I trust that before the honorable Senator undertakes to say that this body shall vote upon it without any knowledge on the subject at all, he will explain the reason why we should concur with the members of the committee upon this proposition.

Mr. WEST. Whom did the Senator ask an explanation from?

Mr. HAMILTON, of Maryland. Anybody.

Mr. WEST. The facts are these: There has been a large amount appropriated in previous years, a special appropriation, to apply to a particular patent preparation. I do not remember what it was; but there was always a specific appropriation for it. This year it is omitted entirely, and there is no appropriation for that purpose or for

that concern; but the House of Representatives in the expectation of checking that preparation has absolutely prevented the Quartermaster-General of the Army from resorting to any means to protect cloth, &c., from mildew. That is all there is of it. It is not intended to appropriate any money for anybody; but if the Quartermaster-General chooses to use some patent process to a limited extent he has the opportunity here, but there is no special appropriation; and in excluding this thing that was objectionable the House has excluded everything. That is the explanation of our motion to strike out the proviso.

Mr. CAMERON. I think the Senator from Louisiana is a little in error. The Quartermaster-General has always had a right to protect the clothes and all other property under his control. Very recently some people have invented what they call a moth-destroyer, something which will prevent moths from interfering with cloth. Everybody who knows anything about wool at all knows that every year it decreases in its strength and in its tenacity. Sometimes the officers of the Government buy too much cloth for the year, and of course it becomes weakened and injured. Then comes in some speculator who says, "I will stop all that injury; give me a sum of money which is a trifle," but it turns out in the aggregate to be a very large amount, and then he says he has prevented the cloth from being destroyed. But, sir, the moths were created when the world was instituted, and the moth is to be found everywhere. Everything earthly is perishable, and every day and every year it becomes less substantial than it was when it started. So it is with cloth, not only woolen cloth, but cotton cloth; and so of man and of animals and of everything else. A man might just as well get a patent-right to save you, Mr. President, from dying. He might make you believe, in your anxiety to live for a while, that it would preserve you; but a little while would prove that it could not help you at all. You will live as long as God intended you should, and then you will die and so will all the rest of us. These patent-rights to preserve things from decay are like many other "weak inventions" of mankind. I do not want the Government to be fleeced by any of these needy people who go about and live by their wits.

Only this morning some of us were afraid to vote in a certain way because the world might make some charge against us. I will not say we were afraid to vote, but I will say that I was myself afraid to vote because the world would charge me with doing that which was wrong, that I was voting to sustain something that had been tainted; but after a while I got over that, and I voted, as of course everybody else here did, according to my judgment; but I am willing to confess I was a little weak-kneed in the morning. So it is with the people who come here with the recommendations of the Army or Navy. They are called skilled people and bring their recommendations, and we are afraid to go against those recommendations. I do not know what this patent costs, but I will venture to say that what the Government has paid for the last two or three years for this patent-right in Philadelphia has been more than all the cloth which was there would have cost; and that is the way it is all over the country. We ought to investigate this case and we ought to stop that which we believe is wrong. The proviso was inserted in the other House on motion of a gentleman perfectly conversant with the subject. I have great faith in what he recommends, and besides I have considerable information myself on the subject.

Mr. THURMAN. If I understand the question before the Senate, it is whether the proviso on page 8 shall be stricken out. If I understood the Senator from Louisiana, he said that if that were stricken out it would be impossible for the Department to use any money to protect the clothing. He thought it was in virtue of this proviso that money could be paid for this purpose. If that was his idea, I submit to him that he was mistaken.

Mr. WEST. I contended that if that proviso remained in the bill, the Army could not use any kind of process whatever, however meritorious it might be, to preserve clothing. While I am up, if the Senator will allow me, I will refer to two bills of previous years in which we appropriated some $250,000 for a certain patent process, all of which is thrown out now.

Mr. THURMAN. I understand the committee propose to strike out this proviso, but I do not think that if it remained in it would prevent the Department from using the process; it would only prevent them from paying any royalty for the use of that process; that is, they might employ the person who used that process, but they could not pay a royalty. That I suppose to be the idea. If the committee want it stricken out, I have no objection to striking it out. I do not know that it will make much difference. I remember reading a very humorous speech on this subject, delivered by a member of the House of Representatives at the last session, in which it was said that some $200,000 had been wasted by the use of some process that was absolutely injurious to the cloth and did more harm than good. I do not know how that matter is.

Mr. LOGAN. I regard this as having a little more importance perhaps than some Senators seem to do. I think the House of Representatives in the proviso inserted here is right, and I think the amendment of the committee is certainly wrong, and I will give my reasons for this opinion.

Two years ago, I believe, or perhaps three years ago, the Senate and House of Representatives appropriated $200,000 in the Army appropriation bill to be used for the purpose of purchasing a patent process or paying the royalty on a patent process for some bug-destructive medicine. It passed here over the heads of some of us. Last year you appropriated in the Army appropriation bill I think $37,000 for the same purpose. I never could see the reason for it myself. Now the House provides that no part of this appropriation shall be paid for the use of any patent process for the preservation of cloth from moth or mildew. The meaning of that evidently is that no money shall be used for the purpose of paying a high price for that medicine by way of royalty on account of its being patented than would otherwise be charged; and that I think is clearly right, because if you will read the preceding part of this clause, it appropriates money—

For the purchase and manufacture of clothing and camp and garrison equipage, and for preserving and repacking the same.

There the House uses language that gives the Quartermaster-General authority to preserve the cloth by the use of any kind of preparation that is necessary, and the House only excludes the idea that he shall pay a royalty for a patent process that we have been paying nearly $300,000, for which I look upon as being—I will not say without any reason whatever—but I do say as being a very strange thing. I wish the clause to stand as it is in the House bill, because the language "for preserving and repacking" clothing gives the Quartermaster-General the right to use whatever material is necessary for the preservation of the cloth, subject to the restriction that no part of the money shall be paid for patent processes; that is, for royalty on any medicine. I think the House is clearly right. For that reason I am opposed to the amendment of the committee.

Mr. MORRILL, of Maine. The opinion of the committee was based upon this state of facts: that the appropriation, if it was made without the proviso, would leave the Quartermaster-General to exercise his discretion about the methods of preservation. It is not liable to the objection which my honorable friend from Illinois supposes that it is, an appropriation for the use of a certain patent. He might or might not use that; but if this proviso is stricken out, then it is left to the Quartermaster-General to exercise his discretion as to the best methods of preservation.

Mr. LOGAN. The Senator will remember that I have always persistently in the Senate opposed the Government paying for patent-rights. The Senator knows that.

Mr. MORRILL, of Maine. Yes, sir.

Mr. LOGAN. I act upon a principle in that respect, so far as I am concerned. I am opposed to it because there is no reason or right or law in making the Government pay for the use of patents.

Mr. MORRILL, of Maine. Supposing my honorable friend should find that the employment of a patented article, including the royalty upon it, was cheaper than any other article in the market and much more efficacious, would he wish to exclude the Government from the purchase of that?

Mr. LOGAN. The Government is not excluded from doing that by the House bill, in my judgment. It is only excluded from paying for a patent process. That is, as I understand the construction of the law, it would be excluded from paying for the royalty that is required from men who have a patent process, which I think is certainly correct.

There is another reason. I have known for many years of the preservation of clothing in the Army, but until this proposition was placed in the appropriation bills to pay for a patent process I never knew of any trouble whatever in preserving clothing in the Army any more than preserving it anywhere else. There never has been any trouble about the preservation of clothing in the Army any more than about the preservation of it in a store. My judgment about it is, and I did not want to say it before, that the proposition was gotten into the appropriation bills on recommendations probably from the Army without due consideration—that is as mild a term as I can use—that is, without due consideration from those recommending it belonging to the Army. I do not know that such was the case, but I am apprehensive that it was.

Mr. ALLISON. I desire to occupy only one moment. I think the Senator from Illinois is mistaken when he construes the language in line 163 to authorize the use of any patent process. The language in that paragraph is precisely the language used last year in the appropriation bill.

Mr. LOGAN. For "preserving" clothing.

Mr. ALLISON. Then there was added to it an item of $30,000 for the preservation of clothing and equipage from moth and mildew. So that the language quoted by him does not authorize preservation, as I understand. Now, I think I understand the objection made by the Senator from Pennsylvania as well as the Senator from Illinois. They object, as I understand, to the use of a particular patent.

Mr. LOGAN. No, sir; I do not object to the use of a particular patent. I do not know what patent they use, but I object to the Government paying for any patent, I do not care what it is, whether medicine or anything else.

Mr. ALLISON. This proviso is that no part of this money shall be paid for the use of any patent process for the preservation of cloth from moth or mildew. That is to say, no patent process, however useful, shall be used by the officers of the Government unless it is used without compensation to the owner. Is not that the effect of this proviso? It seemed to the committee unjust to say that no invention, however useful, should be used by the Quartermaster-General

for the purpose of preserving cloth. I care nothing about the proviso. If the Senate think that we ought to prohibit the use of patent processes for this purpose, very well, but I think we ought not to do it.

Mr. LOGAN. I think the Army got along well enough for a long time in preserving clothing without this patent process.

Mr. CAMERON. The Senator from Iowa is certainly not well informed on this subject or he would not take the ground he does. There is no process that ever has been heard of which will preserve anything from destruction; but latterly, some three years ago, somebody had address enough to make some of the officers of the Government believe that he could preserve cloth from being destroyed. We have paid already I think some $300,000.

Mr. LOGAN. About that sum of money.

Mr. ALLISON. There is no such appropriation in this bill.

Mr. CAMERON. No; but we have been appropriating for that purpose every year for three or four years past. It is wrong. It is a trick upon the Government. With it you cannot save anything from moths a bit more than a good housekeeper always knows how to protect her woolens and her furs. A little camphor and a little black pepper or something of that kind will save all the cloth and the furs of any household. These people got something together by which they made the officers of the Government think they could save a large amount of clothing which had purchased in the war beyond the amount required. They have been trying to preserve that thing which was decaying in the natural course. At all events, there can be no harm done by leaving the bill as the House of Representatives passed it in this respect.

Mr. WEST. There has been in use by the Army of the United States for several years past a certain patent process for preserving the clothing and the tents and the wagon-covers from moth and mildew. That has been found objectionable, and the House of Representatives has not on this occasion appropriated any money for that purpose here. It was $200,000 two years ago; $35,000 last year; and now the House of Representatives and the Committee on Appropriations in the House say "you shall not use that patent process any more." But some member in the House comes forward and says "not only you shall not use that process, but you shall not use any other process." So that if there is a patent process better than camphor or better than tobacco and the Army are using it, they are debarred from using it now, and this objectionable process carries down every other process with it.

The Senator from Pennsylvania talks about what a good housewife does. The amount of it is that if the Army are debarred from using any patent process—I do not know to what extent they want to use it; I do not know that they do want to use it—but if they are debarred from that, they are obliged to resort to the old preventive of camphor and tobacco, under the use of which we lost so largely from moth; and then there is nothing to make your tent-covers or your wagon-covers impregnable to water. So in striking at what may be considered an objectionable process, which is effectually struck at by striking out the appropriation for it which has hitherto been made, you propose to strike down every other process, no matter of how much use it might be.

Mr. EDMUNDS. The little experience that I have had in law affairs leads me to believe that nine patents out of ten for chemical combinations or combinations of natural substances that produce a given result, as a pill or a compound, when they are brought to the test of judicial investigation, turn out to be utterly void. A patent is got through, and then somebody else uses something that the patentee says is an infringement, and he tries the case and gets beaten because it does not fall within the law of patents. For any man who discovers that spirits of turpentine and camphor put together will kill moths to say that nobody else shall put spirits of turpentine and camphor together to kill moths—of course I state a very broad case that is perfectly easy of answer—would not be allowable. So I do not think the United States will suffer any great danger or detriment if we say that the Quartermaster-General shall get on without paying royalties. The simple way, the old plan of getting at moths that every housewife in Washington and everywhere else where there are moths knows about, and which no man has a right to patent, whether he has patented it or not, will be sufficient to preserve these cloths.

There are a good many things necessary to make a valid patent to entitle a man to exclude other people from using his process; and if it has been in common use to use a particular set of things or any part of a combination of things to kill moths, the fact that a man goes to the Patent Office and goes through and gets a patent for that does not prevent other people from doing exactly as they did before. Therefore I do not think we run any great risk in saying to the Quartermaster-General of the Army, "You shall pay nothing for inventions for the coming year in taking care of your cloths. I do not think there is any risk about it at all.

The VICE-PRESIDENT. The question is on the amendment of the Committee on Appropriations to strike out the proviso.

The amendment was rejected.

Mr. THURMAN. I wish to make an inquiry of the Senator who has this bill in charge, whether he wishes amendments to be offered as the reading of the bill goes on or wishes them withheld until all the amendments the committee desire to offer shall have been acted upon?

Mr. ALLISON. I suggest to the Senator from Ohio, as we have but two or three more amendments, that we go on with the committee amendments first.

The Secretary continued the reading of the bill. The next amendment reported by the Committee on Appropriations was in line 209, to increase from $75,000 to $100,000 the appropriation "for manufacture of metallic ammunition for small-arms."

The amendment was agreed to.

The Secretary continued the reading of the bill. The next amendment was to insert at the end of line 214 the following clause:

For dismounting guns and removing the armaments from forts being repaired or modified, including carriages returned to arsenals for alterations and repairs, and overhauling and removing obsolete or surplus stores at permanent forts, and for repairing, preserving, overhauling, and painting the armaments in sea-coast forts, and for payment of labor and enlisted men detailed on extra duty, $20,000.

The amendment was agreed to.

The next amendment was in line 230, to strike out "$100,000" and insert "$200,000;" so as to make the clause read:

For manufacture, at national armories, of the new model breech-loading musket and carbine, adopted for the military service on recommendation of the board of officers convened under act of June 6, 1872, $200,000.

Mr. DAVIS. The amount now in the bill is $100,000 as it passed the House, and the same amount was appropriated last year. The committee recommend an increase to $200,000. It appears to me to be a very large amount now, and a very large increase—100 per cent. I think the increase ought not to be made.

Mr. ALLISON. I will say with reference to this amendment that although only $100,000 was appropriated last year, there was in fact used for this purpose in all nearly $500,000. The Department estimated for this year $300,000 and say they cannot get on well without at least an addition of $100,000 to the appropriation in the House bill. Each $100,000 will manufacture about fifty-five hundred stand of arms.

Mr. HAMLIN. Where did they get the additional $400,000 last year?

Mr. ALLISON. They received $100,000 from a standing appropriation, and the remainder was received from overlapping appropriations of sums due to the several States on account of the appropriation of 1808.

Mr. SHERMAN. I thought we had cut off the overlapping of appropriations and got rid of that altogether.

Mr. ALLISON. There is an appropriation under the law of 1808 of $200,000 annually for the purpose of supplying the militia of the States with arms. At the beginning of each year that sum is credited to the several States.

Mr. SHERMAN. That is a permanent appropriation.

Mr. ALLISON. That is a permanent appropriation and is already provided for by our law. They took from the several amounts credited to the States on account of this permanent appropriation the sum of about $300,000, which had accumulated from year to year, and that sum is now exhausted. So that if we appropriate the additional $100,000 asked for here we shall only have at the end of the next fiscal year about fifty-five hundred stand of the new arms. It is a question for the Senate to decide whether or not we shall have any accumulation of this new class of arms adopted by the board of officers in 1872. The committee thought it was important that we should have a surplus of at least seven or eight thousand stand of arms of this character; and hence they recommend the increase of $100,000, the Ordnance Department asking an appropriation of $300,000.

Mr. DAVIS. I understood the Senator who has charge of this bill to say that while the bill of last year appropriated $100,000 there was $500,000 spent for the purpose of manufacturing new arms. That is rather a strange proceeding, I should think. It is very singular that while $100,000 was appropriated by Congress, and the appropriation bills limit all appropriations to a specific purpose, there should have been $500,000 spent. I rather think the Senator must be mistaken, though he has information, I take it. We understand that probably $300,000 will do for this purpose this year. I cannot understand how money appropriated by law can be changed in its direction without authority of Congress; for instance, if the States are entitled to $200,000 worth of arms, that much belongs to the States, and ought not to be taken from them and appropriated here.

Mr. ALLISON. Of this $200,000 permanent appropriation the States may take the new arm or they may take an old arm in lieu. If they take the old, of course a sufficient amount of the new arms will be manufactured and placed in the armory to make up the value of the old arms distributed to the States. That is all there is of that. There is no taking of one appropriation for a purpose different from that intended. If any of the States require the new arm, of course the new arm is delivered to the State. I am told that in the case of New Jersey last year about one thousand stand of these new arms were delivered to the State of New Jersey because they required the new arm. There are some of the States which prefer to take the old Springfield musket because the cost is so much less and they can secure a much larger number, and when they do the amount to the credit of that State is used in the manufacture of the new arm and the new arm is placed in the arsenal. That is all there is of that. There is no diversion of any appropriation for the purpose.

Mr. SHERMAN. The statute which authorizes a permanent appro-

priation for the arming of militia of the United States is found in the revised code and it is as follows:

The annual sum of $200,000 is appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the purpose of providing arms and equipments for the whole body of the militia, either by purchase or manufacture, by and on account of the United States.

The provision of law in relation to militia provides for the distribution of the arms, and it seems to me it would be an evasion of this law to expend $200,000 for the manufacture of good arms and then not distribute those arms among the States, the purpose of the law being to provide the militia with new arms and equipments from time to time to the extent of $200,000 a year. This permanent appropriation which is a part of the established policy of the Government it seems to me would be broken up, departed from, if you take the arms made for them under an appropriation for their benefit especially confined to the militia of the States and use them for the Army of the United States and give the militia old arms probably which are not good for anything.

Mr. ALLISON. These arms are distributed on the requisitions of the governors of the several States. The governor of a State might make a requisition for two thousand stand of old Springfield muskets, if you please, the cost of which is five dollars each, and they are delivered to that State, the cost of course being to the credit of the State. The Ordnance Department use that money in the remanufacture of this better class of arms. That is all there is in it.

Mr. SHERMAN. In other words the proper officers of the Department use the money that we appropriate for the militia of the States to make arms for the Army of the United States and use the old arms that belong to the Army of the United States for the benefit of the militia.

Mr. ALLISON. If they prefer it. In the case of New Jersey last year the State of New Jersey received one thousand stand of new arms, the very best arms made by the United States, costing eighteen dollars a piece. Why? Because they wanted the best arms. But the governor of the State of Ohio instead of wanting one thousand of these best arms, might want three thousand of the Springfield musket, a class of arms costing less money. Why should the Government of the United States direct that the governor of Ohio shall not take the class of arms that he desires for the arming of his militia?

Mr. SHERMAN. It seems to me it is very easy to answer that by saying the law does not authorize it.

Mr. ALLISON. I do not understand the law to say that the United States shall distribute to the militia of the States any particular arm.

Mr. SHERMAN. The law provides that $200,000 shall be expended for the making of arms each year.

Mr. MORRILL, of Maine. The law is that we shall provide the militia of the States with arms to the amount of $200,000 a year. We can make them or purchase them.

Mr. SHERMAN. This money can only be expended legally for the purpose of providing arms and equipments for the whole body of the militia.

Mr. MORRILL, of Maine. That is what they do.

Mr. SHERMAN. Now the idea of taking this $200,000 set apart as a fund to maintain the militia organization, to supply arms for the Army of the United States and give to the militia the old arms, does not comply with the law.

Mr. ALLISON. But there is an accumulation of arms always in the armories; and when the governor of a State makes a requisition they go to the armory and fill that requisition whether it be for the old Springfield musket or the improved breech-loading musket or the specially improved arm that is now in use in the Army of the United States. When the governor of Ohio asks for a thousand muskets, they cannot ask the governor to wait until they manufacture those muskets. They are delivered from those on hand when the requisition comes. It seems to me as plain as a pikestaff.

Mr. DAVIS. It occurs to me that if the $200,000 appropriated for the militia of the States were used for that purpose that would make with the $100,000 appropriated last year $300,000; and that ought to be sufficient now and ought not to be increased to $400,000.

The VICE-PRESIDENT. The question is on the amendment of the Committee on Appropriations.

The question being put, there were on a division—ayes 18, noes 20.

Mr. ALLISON. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 33, nays 21; as follows:

YEAS—Messrs. Allison, Anthony, Boreman, Boutwell, Cameron, Chandler, Clayton, Conkling, Conover, Cragin, Edmunds, Ferry of Michigan, Flanagan, Hamlin, Harvey, Howe, Ingalls, Logan, Mitchell, Morrill of Maine, Morrill of Vermont, Morton, Patterson, Pratt, Ramsey, Sargent, Scott, Sherman, Sprague, Wadleigh, Washburn, West, and Windom—33.

NAYS—Messrs. Alcorn, Bayard, Bogy, Cooper, Davis, Dennis, Eaton, Goldthwaite, Gordon, Hager, Hamilton of Maryland, Hamilton of Texas, Johnston, Kelly, McCreery, Merrimon, Norwood, Ransom, Saulsbury, Stevenson, and Thurman—21.

ABSENT—Messrs. Brownlow, Carpenter, Dorsey, Fenton, Ferry of Connecticut, Frelinghuysen, Gilbert, Hitchcock, Jones, Lewis, Oglesby, Pease, Robertson, Schurz, Spencer, Stewart, Stockton, Tipton, and Wright—19.

So the amendment was agreed to.

The reading of the bill was concluded.

Mr. ALLISON. I offer the following amendment from the Committee on Appropriations. On line 34, after the word "marshals," to insert:

District attorneys and clerks of the courts.

So as to read:

Provided, That hereafter only actual traveling expenses shall be allowed to any person holding employment or appointment under the United States, except marshals, district attorneys, and clerks of the courts of the United States, and their deputies, &c.

Mr. SAULSBURY. I am not in favor of that amendment, and I had intended to move to strike out of line 34 the exception now there of "marshals of the United States and their deputies." The proviso limits the allowance for travel to all persons employed in the service of the Government to actual traveling expenses; but there is an exception made in the case of marshals and their deputies, and it is further proposed by the amendment to extend the exception to clerks of the courts and district attorneys. I can see no good reason for making this exception in favor of marshals and their deputies. You limit the Supervising Architect by the provisions of this bill and all public officers of the country to the actual traveling expenses incurred; and yet in the case of marshals you make an exception and grant them a greater allowance. I can see no reason for it. If there is any necessity for it I shall not oppose it, but I see none.

Mr. THURMAN. This subject was before the Judiciary Committee of the Senate on a bill that came from the House, and was there fully considered. The bill, as amended by the Judiciary Committee of the Senate, was reported to the Senate and passed. The House disagreed to the amendment made by the Senate and asked for a committee of conference, and a committee of conference was appointed, and that committee agreed upon a report which was made, and I suppose has been accepted.

Mr. EDMUNDS. It has passed both Houses.

Mr. THURMAN. And is now the law. We endeavored to fix these fees at what seemed to be reasonable. There was considerable difference between the Senate and the House, but the House conferees in the end yielded substantially to what was done by the Senate. Now if this proviso be passed just as it is, it in effect repeals the bill which we have lately passed. There were such representations made to us of hardship that would result to some of the officers if the law stood as it is contained in this proviso, and also as to difficulties in settling accounts at the Treasury, that we thought it necessary to legislate upon the subject. This proviso is precisely the same proviso that was in the Army appropriation bill last year and which necessitated the legislation which has already passed the Senate. Now the amendment offered by the Senator from Iowa is to make this proviso conform to the law which has already passed at this session. Under these circumstances I think my friend from Delaware will see that it is best not to oppose the amendment.

Mr. MORTON. It strikes me that this whole proviso is very sweeping. It applies to civil as well as military officers. It is a very sweeping and general provision to go into a military appropriation bill, and very much of it has no business in this bill clearly. We cannot tell what we are voting upon when we vote for this proviso, even with this exception that it is proposed to make. It occurs to me that the whole proviso is very dangerous.

Mr. THURMAN. I will say to the Senator from Indiana that, as I understand, the law before we passed the bill this year was precisely the same with this proviso; and although that was contained in a proviso to an appropriation bill, yet it was in its nature permanent legislation. It was a permanent law, and there really was no necessity whatever for repeating it this year in this appropriation bill. I think I am right in that. But whether that is so or not, this proviso as it now stands is in direct conflict with a bill that has passed both Houses at the present session, and the amendment offered by the Senator from Iowa is simply to make it conform to the bill which we have passed.

Mr. ALLISON. I will say to the Senator from Ohio that this proviso was put upon the Army bill last year just as it has been upon this bill, except that it only applied to the appropriation of last year. Now this proviso has inserted in the thirty-second line the word "hereafter," so that it becomes now under this bill a permanent law with reference to the question of traveling expenses and applies of course to all the Departments of the Government, civil and military.

Mr. MORRILL, of Maine. I ask the Senator from Ohio how he understands that the law will stand on this subject? I understand him to say that this proviso repeals this act which has just become a law.

Mr. THURMAN. It would repeal it if it were not amended.

Mr. MORRILL, of Maine. Then that being repealed the provision of the act of last year having no force except for that year, what would be the state of the law on the subject of marshals, clerks of courts, and district attorneys?

Mr. THURMAN. The proviso in the appropriation bill of last year in my judgment was a permanent law. I do not think it requires any word "hereafter" to make it a permanent law. But assuming that it was not, if this proviso should pass just as it is, it would repeal by implication the law which we have already passed at this session and this proviso *in hæc verba* would be the law.

Mr. MORRILL, of Maine. That was my understanding of it; and the effect would be to restore this class of officers to the law of 1853 fixing their fees. This class of officers would then be remitted to the act of 1853.

Mr. EDMUNDS. As modified by the legislation of this session.

Mr. MORRILL, of Maine. As modified by the legislation of this session; by this proviso, does the Senator mean?

Mr. EDMUNDS. No; by the independent act that we have passed touching this subject.

Mr. MORRILL, of Maine. But the Senator from Ohio is of opinion that this will supersede that.

Mr. EDMUNDS. So it will if we pass it into the law, but with this amendment it remits the marshals, district attorneys, and clerks to the act of 1853, the fee-bill for judicial officers, as modified and construed by the act we have already passed at this session.

Mr. MORRILL, of Maine. But that act being repealed by this proviso, provided it goes into effect, then it is not modified in any sense.

Mr. EDMUNDS. No, it is repealed.

Mr. MORRILL, of Maine. The motion simply is not to strike out this proviso but to amend it; to extend its operation to other classes of officers. I want to know what the effect of it will be if this proviso passes, whether we shall remit these classes of officers to the operation of the law of 1853 which allows constructive travel.

Mr. EDMUNDS. If this proviso passes as it stands in the printed bill as it came from the House of Representatives, then we shall not remit these classes of officers, marshals, &c., to the act of 1853, but we shall take them out of it, as the military bill of last year did also, and we shall provide that the fee-bill of 1853, providing for judicial officers, will not act upon them at all, and yet a large part of their fees intentionally was to be obtained by travel and expenses that they did and incurred in the execution of writs and processes and in going to and from courts. It was thought that the act of last year was not intended to touch the judicial officers of the United States, because they were not paid a salary. Marshals are not paid a salary; clerks are not; district attorneys are not, except in a mere nominal sense of $200; but military officers have their pay under the Army laws. They are employed in the service of the United States all the time, and for nothing else. In respect of them the House of Representatives last year, and the Senate agreed to it, provided that when they traveled under necessary and proper lawful orders they should only be paid for their travel their actual and necessary expenses. That was right, because their compensation the law had provided for amply before. When you come to marshals, district attorneys, and clerks of the courts, a part of their compensation by the scheme of the law from the foundation of the Government to this time has been the fees and allowances that they were to get for doing particular duties. Among those are the duties of the marshals to travel to serve process. They are allowed certain sums per mile. If a district attorney has to go fifty miles to attend before a commissioner of the United States at the hearing of a man brought up for a crime, he is allowed a certain number of cents per mile for doing that service. So with clerks when they have to travel from the place of their abode to the place of holding court, and so on.

The accounting officers of the Treasury hold that this language in the military bill of last year was so broad that it covered these judicial personages whom I have named. The effect of it was to destroy in substance the largest part of the compensation which these persons received for performing public duties. In view of that circumstance both Houses have passed at this session an act which declares that last year's law in these same words as they stand in the print here should not be construed to apply to this class of officers, as it ought not to have been considered to apply to them, and declares that they shall stand upon the act of 1853—that was the substance of it—with an addition which the Committee of this body on the Judiciary recommended and which was agreed to by both Houses, that no allowance for constructive travel shall be made, but that we shall only pay for the travel they actually perform under the provisions of the act of 1853. Now, then, in order to leave the law as we have adjusted it at this session, it is necessary, if this proviso is to stand at all, that this exception should be made in respect to marshals, district attorneys, and clerks.

Mr. MORRILL, of Maine. But then if this act goes into effect it will not leave it as the bill which has passed as an independent law provides.

Mr. EDMUNDS. Yes, it will, if you put in this exception.

Mr. MORRILL, of Maine. If the Senator will excuse me, I think not.

Mr. EDMUNDS. Why?

Mr. MORRILL, of Maine. Because this bill repeals your act.

Mr. EDMUNDS. This is a proviso in this present bill which as it stands in the print, excepting the words "except marshals of the United States and their deputies," stands exactly as the law did last year, which was found to operate unjustly and beyond the scope that was supposed to have been intended. The House, having that idea in view, in this proviso in respect of actual traveling expenses as distinguished from mileage have excepted from the operation of the proviso, marshals. So far as marshals go, that is all right. That would leave the law in perfect harmony with the way it now stands by the act of this session, because this proviso which limits travel, &c., to actual expenses, excepts marshals from its operation. We only propose now to add to marshals the other judicial officers, district attorneys, and clerks. The proviso then will read: "That hereafter only actual traveling expenses shall be allowed," &c., to people traveling under the authority of the United States, "except marshals, district attorneys, and clerks of the courts of the United States;" so that the proviso does not operate upon that class of persons, and, so far as I now understand it, it would leave them just where the act of 1853 and the act of this year leave them.

Mr. MORRILL, of Maine. Being the same class of officers that are excepted in the act which has passed as an independent bill?

Mr. EDMUNDS. Being the same class of people provided for, not excepted, because that is an independent bill; and leaving them out of the operation of this proviso of course leaves them to stand on the law as it is now. The law as it is now gives them the payment that the act of 1853 allows to them, limited to actual travel instead of constructive travel.

Mr. MORRILL, of Maine. I will ask the Senator whether if this proviso is stricken out entirely he understands that the whole question of travel is then provided for?

Mr. EDMUNDS. It is not provided for as it respects military officers or anybody else excepting the judicial officers of the United States; that is to say, marshals, district attorneys, and clerks.

Mr. MORRILL, of Maine. That is to say, it will not be provided for if the proviso of 1874 was simply operative upon that bill?

Mr. EDMUNDS. No; if it was only operative on that bill, the thing is at sea again. If that is a continuous provision in the act of last year, it would still operate on military officers.

Mr. CONKLING. The Senator from Vermont has stated, I think with sufficient fullness, the facts about this matter; but as I have been somewhat taken to task by the courts and officers of the courts for a supposed oversight of mine in this regard, I wish to say a word on the history of it.

When the act of last year to which reference is made was pending in the Senate, the Senator from Wisconsin not now in his seat [Mr. CARPENTER] and I made earnest but futile endeavor to attract the attention of the Senate and of the committee having charge of the bill to the fact that the words, as then proposed and enacted, would have exactly the effect which since they have had; and I do not understand why the Senator from Vermont says they ought not to have been construed to include these officers. Certainly it would not lie in my mouth to say that, as I insisted at the time that they did include these officers as the Senator from Wisconsin, much higher authority than I am, also declared at the time that they did include these officers, and we came to that conclusion after an examination with some care.

Mr. EDMUNDS. If the Senator will pardon me, I will state to him why I said that. I was not in the Senate when this event occurred, and I only looked to the statute, having no knowledge of what took place in the Senate, and reading the statute I had the impression that it ought not to have been construed to include any other than the people provided for by the bill.

Mr. CONKLING. The Senator may have read it more advisedly than we did, but it was the opinion of the Senator from Wisconsin, and it was mine also although that did not add weight to his, that the words would include marshals and district attorneys. The effect was to leave these men substantially without compensation; and so true was that, that deputies refused and I think were justified in refusing to go for nothing to serve process running wherever anybody might choose to send process. That was the attitude in which we found ourselves at the beginning of this session. To cure that, the bill referred to by the Senator from Vermont was enacted into law in both Houses, and it excepted from the operation of this proviso these three classes of officers. Now, the amendment pending proposes to harmonize this provision with that independent act so that the proviso will still operate as it was intended to operate and will reach all persons except these three classes now provided for by the exemption; and when that exemption is incorporated in the bill, then this bill having become a law will be harmonized with the other bill which has already become a law.

It seems to me that it is too manifest upon its merits, too plain in its effects, to permit Senators to doubt either what it means or the propriety of the amendment proposed.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Iowa, [Mr. ALLISON.]

The amendment was agreed to.

Mr. WEST. I offer an amendment to insert at the end of the one hundred and sixty-sixth line the following:

Provided further, That the expenditures on account of regular supplies, incidental expenses, barracks and quarters, cavalry and artillery horses, Army transportation, and clothing and equipage may be made under one general head: *And provided further*, That should the expenditure be made in this manner the gross amount appropriated for the Quartermaster's Department shall be reduced in gross amount $500,000.

There is a proposition to reduce the expenditures under this bill a half million dollars, and in making it I will state that it has come into my hands from the Quartermaster's Department since this bill was considered in the committee, and I offer it with a view of saving that much money. I hope it will prevail.

Mr. THURMAN. I should like some explanation of what is meant by "under one head."

Mr. WEST. I will explain. There are six heads in the bill, six heads in the amendment; regular supplies, $6,734,000; incidental expenses, $1,200,000; horses, &c., $300,000; quarters, &c., $1,500,000; transportation, $4,000,000; clothing, $450,000; amounting to $12,700,000. Here is a proposition that if these accounts can be kept under one head, 4 per cent. less money will run them. I can only understand it thus. I do not want to take exception to a proposition that is made

from a Department that proposes to save half a million. I think the reasoning is this: that by keeping the accounts under these separate heads certain balances are required to lie in the hands of quartermasters; that is to say, they must have so much money on account of horses, and so much money on account of quarters, and so on; and by keeping them all under one head, if it becomes necessary—it is only a provision that they may do it—they can reduce the surplus balances lying in the hands of the quartermasters. At all events all that thing can be understood as between the two Houses in time. There being here a proposition to save $500,000, I thought it judicious to offer it, and I think the Senate will find it judicious to accept it.

Mr. THURMAN. That is strange arithmetic to me. I can see one effect of the amendment at once, and that is to make all the appropriations contained in this bill for the Quartermaster's Department, amounting to somewhere about $12,000,000, one gross sum; and instead of going around about the bush, the Senator had better move to strike out all the items and simply say "for the Quartermaster's Department, $12,000,000," and then leave it to the Quartermaster-General to expend it as he sees fit; for that is precisely what will be the effect of this amendment if it should be adopted.

But, Mr. President, if half a million can be saved in that way, then it is our business to cut down the appropriation and save that half million. I do not think half a million can be saved by book-keeping. Because a sum is appropriated here for one purpose or another purpose, it does not follow that the Quartermaster-General is bound to expend the whole of that sum. On the contrary, he is bound to expend no more of it than is necessary. He is bound to leave the rest of it in the Treasury of the United States, or, if it should be drawn out to have it covered back into the Treasury at the end of the fiscal year as an unexpended balance. But how it can be that by putting the whole $12,000,000 at the discretion of the Quartermaster-General to expend it for any purpose to which he sees fit to apply it, half a million can be saved, is a little past my comprehension.

I have had occasion before to object to this wholesale mode of making appropriations. I believe it is contrary to the spirit, if not to the very letter of the Constitution which provides that no money shall be drawn from the Treasury except in accordance with appropriations made by law. I have seen $18,000,000 appropriated in a naval appropriation bill for purposes covering four or five pages of that bill without one word to show how much was to be applied to one purpose and how much to another. I remember one naval appropriation bill in which the specific appropriations were less than three-quarters of a million and $18,000,000 were then appropriated in such wise that it would have been precisely the same as if the bill had read in these few words, "for the Navy Department $18,000,000," and that is precisely what is proposed here, "for the Quartermaster's Department, $12,000,000."

I hope that this amendment will not prevail. It puts the whole appropriation in the discretion of that officer to use as much of it for one purpose as he shall see fit, as much for another purpose as he shall see fit, and none at all for the other purposes that are named in the bill.

Mr. WEST. That is very much so. It is very much as the Senator says, but if at the same time by lumping your appropriations you can save money, does the Senator insist on specifying them?

Mr. THURMAN. Why does not the Senator say "for the War Department and the support of the Army $27,000,000"—that is his bill—and leave it to the Secretary of War? Is that the way we are to appropriate money? I take it not.

Mr. WEST. I am for appropriating money so that we can get along with the least amount, and I believe to-day that the best way to make an appropriation for the support either of the Army or the Navy would be to make it in lump and then hold them to a strict criticism of the manner in which they spend it. Having had it suggested to me that this manner of appropriation would save that much money and the suggestion coming from the Department, I have offered the proposition. I do not ask the Senator to vote for it. Here is a proposition to save half a million. If it is not desirable, do not vote for it.

Mr. LOGAN. I do not want to criticise the Department's judgment, but I do say that to appropriate money in that way and talk about saving—no, I will not use the language I was going to use, but "that won't do at all." You never would know how the money was expended; you would never know anything about it, and there would be no possibility of ascertaining how it was expended, and there never would be any unexpended balance of the $12,000,000, or if there was any it would be very small. [Laughter.] I think the proposition that this will reduce expenses looks very well on its face to enable a man to say he votes for a reduction, but it is no reduction. It means putting books in such a shape that we cannot tell anything about them.

Mr. WEST. Does not every voucher of the Army of the United States have to pass the Auditor and Comptroller?

Mr. LOGAN. Yes, every one does; and did you ever hear of one that did not pass?

Mr. WEST. Plenty.

Mr. LOGAN. Very few. I recollect one that did not. I remember once in one of the Auditors' offices a quartermaster had his account suspended for seven months because he could not account for three balls of candle-wick, and that is the only instance I know of. [Laughter.]

I move to lay the amendment of the Senator from Louisiana on the table.

The motion was agreed to.

Mr. SHERMAN. I desire to offer an amendment which has already passed the House and been favorably acted on by the Military Committee and is recommended by the Department. It involves no money. It is to add as a separate section to the bill:

SEC. —. That all issues of arms and other ordnance stores which were made by the War Department to the States and Territories between the 1st day of January, 1861, and the 9th day of April, 1865, under the act of April 23, 1808, and charged to the States and Territories, having been made for the maintenance and preservation of the Union, and properly chargeable to the United States, the Secretary of War is hereby authorized, upon a proper showing by such States of the faithful disposition of said arms and ordnance stores, to credit the several States and Territories with the sum charged to them respectively for arms and other ordnance stores which were issued to them between the aforementioned dates, and charged against their quotas under the law for arming and equipping the militia: *Provided*, That it shall be the duty of the Secretary of War, before making a credit to any of said States and Territories, to investigate and ascertain so nearly as he can the disposition made by each of said States and Territories of said arms and ordnance stores; and, if he shall find that any of said arms or ordnance stores have been sold or otherwise misapplied, to refuse a credit to such State or Territory for so much of said arms and ordnance stores as have been sold or misapplied; and the amount thereof shall remain a charge against said State or Territory, the same as if this act had not been passed.

I think a few words will explain this amendment, and if I do not give the exact facts my friend from Illinois [Mr. LOGAN] will correct me. During the recent war large quantities of arms and ordnance stores were issued mainly to the Western States, and in the hurry and first confusion of the alarm of the war they were charged to what is called the militia fund, the fund of $200,000 appropriated annually under a permanent law. The result was that many of the States had charged to them several times the amount of their share of arms and ordnance stores. All these arms were really used in the service of the United States and were the arms with which the first volunteers especially entered the service of the United States, and were not properly chargeable to what is called the militia fund. The Chief of Ordnance has called attention to the settlement of these accounts for several years, and I will read a short extract from a report of General Dyer in which he refers to this matter:

Large sums of money were charged against some of the States for arms, &c., furnished by this Department during the war, and other States, equally populous, had no charges made against them during the same period; and it seems to me highly probable that errors occurred in keeping the account with the States which do great injustice to some of them, but which this Bureau has no authority to correct. The principal, if not all, of the issues which were made to the States during the war, were made to them for the maintenance of the Government and the preservation of the Union, and should have been charged, as arms and other stores issued to volunteers, to the United States, and not to the States. If the errors can be corrected they should be. In my opinion it would be fairer and juster to the States to credit them with all issues made to them during the war, and charged on their quotas for arming and equipping the militia, than to let the accounts stand as they now are on the books of this office. Some of the States are now charged with a greater sum than their annual quotas will amount to in half a century, and under a proper decision of the War Department no issues can be made to States which are charged with arms and other stores in excess of their quotas. I respectfully suggest that it may be proper to invite legislation on this subject.

My attention is called to this matter by a letter from the executive authority of the State of Ohio, by which it appears that Ohio in this way is erroneously charged with arms and ordnance stores which it will take her over ten years to exhaust, and every one of these guns and all the ordnance stores were consumed in the service of the United States. The State of Nebraska is charged with arms and ordnance that it would take her fifty years to exhaust. The States of Indiana and Illinois, and other States which responded quickly and hurriedly to the call made for troops in the earlier periods of war, were armed with these guns, which were furnished to them from the militia fund. This has been overlooked. This measure stands before us as a bill passed by the House of Representatives, recommended by the Committee on Military Affairs of the Senate, and recommended by the Department. There can be no doubt that these accounts ought to be restated.

Mr. MORTON. This is a very plain question. The arms were issued at the beginning of the war and a number of States were charged on the books of the Government as if they were sent to the State for the militia, when in truth they were sent and placed in the hands of volunteers who went into the service of the United States and not into the hands of the militia. Of course, it is unjust to those States and we want the account restated. That is all.

Mr. WEST. I ask the opinion of the Senator from Ohio whether it increases the appropriation?

Mr. SHERMAN. Not a dollar. It is only a question of accounts with the several States.

The amendment was agreed to.

Mr. HARVEY. I offer an amendment to the bill on page 4, line 67; after the word "dollars" I propose to insert:

Provided, That of this amount a sum not to exceed $50,000 may be expended before the beginning of the year for the purchase of such supplies as it may be found to the advantage of the Government to purchase immediately.

This is the clause to which I offer the proviso:

For regular supplies of the Quartermaster's Department, to wit: For the regular supplies of the Quartermaster's Department, consisting of stoves for heating and cooking; of fuel for officers, enlisted men, guards, hospitals, store-houses, and offices; of forage in kind for the horses, mules, and oxen of the Quartermaster's Department, at the several posts and stations and with the armies in the field; for the horses of the several regiments of cavalry, the batteries of artillery, and such companies of infantry and scouts as may be mounted, and for the authorized number of officers' horses, including bedding for the animals; of straw for soldiers'

bedding; and of stationery, including blank books for the Quartermaster's Department, certificates for discharged soldiers, blank forms for the Pay and Quartermaster's Departments, and for printing of division and department orders and reports, $4,250,000.

Mr. ALLISON. I do not know that there is any special objection to that amendment. Perhaps the phraseology might be changed. A similar amendment is to be found on page 3 as applied to the Subsistence Department. But I do not know that the Quartermaster-General or any officer of the Quartermaster-General's Department has suggested this amendment. It seems to me if they wanted it they would have made their wish known to the committee.

Mr. HARVEY. I will state that I consulted the acting quartermaster and the Secretary of War and they both approve this amendment.

Mr. COOPER. Let the amendment be reported.

The Secretary again read the amendment.

Mr. BAYARD. Has the Senator from Kansas who offered this amendment explained its object?

The VICE-PRESIDENT. The Senator from Kansas has made a statement of the case.

Mr. HARVEY. I will state that this amendment comes in at the conclusion of the paragraph which provides for the purchase of regular supplies for the Quartermaster's Department. It is as the Senator from Iowa states similar to the one at the conclusion of the paragraph making appropriations to be applied by the Commissary-General of Subsistence, except that this amendment provides for a much less sum. The object of my amendment I will state.

In large portions of the western country, in different States and Territories, supplies such as fuel, wood, &c., can be purchased at much more favorable rates now than they can be next summer or at any time in the future, and this would furnish employment to people who are now without work and who want to furnish the fuel from their farms. I hope there will be no objection to the amendment. I have consulted the Secretary of War and the Quartermaster-General, and they are in favor of it.

The amendment was agreed to.

Mr. RAMSEY. In line 141, before the words "provided further," I move to insert:

And when the right shall be so determined in the case of any company, no suit or proceedings shall be necessary afterward to entitle any company in like cases to receive such compensation.

This has reference to land-grant roads; and the principle having been settled, it is to prevent other companies being involved in the expense of litigation. I presume there will be no objection to it.

Mr. THURMAN. Let the Clerk report the amendment.

The Secretary read the amendment.

Mr. EDMUNDS. What does that mean?

Mr. RAMSEY. It means, if the principle has once been determined, that other companies situated as that company which has been in litigation, there is no occasion to drive it into litigation at great expense. That is all.

Mr. THURMAN. I ask the attention of the Senate to these provisos in this bill, for they look to me very much like encouraging suits against the United States and no small amount of litigation. The first proviso to the section begins on page 6, and is in these words:

Provided, That no money shall hereafter be paid to any railroad company for the transportation of any property or troops of the United States over any railroad which in whole or in part was constructed by the aid of a grant of public land on the condition that such railroad should be—

Now comes the quotation—

"a public highway for the use of the Government of the United States free from toll or other charge"—

There the quotation ends—

or upon any other conditions for the use of such road for such transportation; nor shall any allowance be made for the transportation of officers of the Army over any such road when on duty and under orders as military officers of the United States.

So far this provision was contained substantially in the Army bill of last year but restricted to the appropriations made by that bill. This was also in the Army bill last year:

But nothing herein contained shall be construed as preventing any such railroad from bringing a suit in the Court of Claims for the charges for such transportation, and recovering for the same if found entitled thereto by virtue of the laws in force prior to the passage of this act.

So far this was substantially, as I have said, in the Army bill last year, but restricted to the appropriations in that bill and not as now proposed as a part of the permanent law of the land. Then follows what was not in the Army bill last year:

Provided further, That the foregoing restriction shall not apply, for the current and next fiscal years, to roads where the sole condition of transportation is that the company shall not charge the Government higher rates than they do individuals for like transportation, and when the Quartermaster-General shall be satisfied that this condition has been faithfully complied with: *And provided further*, That hereafter, when troops or officers change stations, their families shall receive transportation over land-grant and subsidized railroads which receive no payments from the United States.

Mr. SCOTT. That last proviso has been stricken out.

Mr. THURMAN. Very well. I did not notice that; but it is immaterial. Now let us see what these provisos are: First, that there shall be no payment hereafter for transportation of property or troops of the United States, or any military officer of the United States, when on duty and under military orders, over any railroad to which a grant of public land has been made on condition that the railroad shall be "'a public highway for the use of the Government of the United States, free from toll or other charge,' or upon any other conditions for the use of such road, for such transportation." Let us apply that to the existing legislation on the subject. By the act of 1862 incorporating the Pacific Railroads, the Union Pacific, Central Pacific, and the branches, it is provided—

That the grants aforesaid are made upon condition that said company shall pay said bonds at maturity, and shall keep said railroad and telegraph line in repair and use, and shall at all times transmit dispatches over said telegraph line, and transport mails, troops, and munitions of war, supplies, and public stores upon said railroad for the Government, whenever required to do so by any Department thereof, and that the Government shall at all times have the preference in the use of the same for all the purposes aforesaid, (at fair and reasonable rates of compensation, not to exceed the amounts paid by private parties for the same kind of service;) and all compensation for services rendered for the Government shall be applied to the payment of said bonds and interest until the whole amount is fully paid.

I suppose the object of this second proviso is to except those railroads from the operation of what is previously contained in the section. As the law stood in last year's bill, it plainly embraced the Pacific railroads, the Union, the Central, the Kansas Pacific, the Sioux City branch, and all of them. This second proviso says:

That the foregoing restriction shall not apply for the current fiscal year nor thereafter—

Why should you say "for the current fiscal year nor thereafter," instead of saying "shall not apply at all"—

to roads where the sole condition of transportation is that the company shall not charge the Government higher rates than they do individuals for like transportation, and when the Quartermaster-General shall be satisfied that this condition has been faithfully complied with.

I can conceive of no other reason for this second proviso than to take the Pacific railroads out of the operation of this first proviso. Very well. Then I would like to know from the Senator who has this bill in charge what railroads are left for the first proviso to operate upon. After he has thus taken out the Union Pacific, the Central Pacific, the Kansas branch, the Sioux City, and all the branches of Pacific railroads, I want to know what roads are left for this first proviso to operate upon. If there are none left, then there is no necessity for the first proviso. If there are others left, then I ask the Senator to explain why it is that there should be a discrimination between one set of railroads and another, such as is made.

But that is not all. Here is a provision that no transportation shall be paid where the condition is that such railroad shall be "a public highway for the use of the Government of the United States free from toll or other charge." When the amendment of the Northern Pacific Railroad charter was under consideration in 1870, when that company asked a large additional grant to be made to them and additional faculties to be conferred upon them, I moved in the Senate, as one of the conditions upon which additional privileges and additional grants should be made, that the company should forever carry the troops and munitions of war of the United States free of charge. It was answered that there was already a provision in the charter that the road should be "a public highway for the use of the Government of the United States free from toll or other charge." But there is such a provision in regard to other railroads, and what construction has been put upon it? Not the construction that the company is bound at its expense to carry the troops and munitions of war, but simply that the Government in a case of necessity may take the road and use its own cars; that is, the Government may procure cars and run them over the road and pay nothing for the use of the road.

Mr. BAYARD. As a highway.

Mr. THURMAN. Use it as a highway. That is then a provision that really is worth scarcely anything at all. If that is the true interpretation, which I do not say it is by any manner of means, then this provision is of no use whatsoever or this provision is wrong, one or the other. It must be so. If the real, the true interpretation of the provision is that the company is not bound, in its own cars and at its own expense, to transport troops and munitions of war, but that our right is simply to put our own cars on the road and transport over it without any charge to the road our troops and munitions of war, then we have no right to impose upon such a company the burden of carrying our troops and munitions of war without charge.

I see my five minutes are out.

The PRESIDING OFFICER, (Mr. FERRY, of Michigan, in the chair.) The question is on the amendment of the Senator from Minnesota, [Mr. RAMSEY.]

Mr. CONKLING. I would like to hear the amendment reported.

The PRESIDING OFFICER. The amendment will be reported.

The SECRETARY. It is proposed to insert before the words "provided further," in line 141 of the bill as printed with the amendments, the following:

And when the right shall be so determined in case of any company no suit or proceeding shall be necessary thereafterward to entitle any company in like cases to receive such compensation.

Mr. CONKLING. I suggest to the Senator that the word "there" does not belong; "shall be necessary afterward."

Mr. President, this amendment, as I think, does express a purpose, except that the word "there" preceding "afterward" is a mistake no doubt. With that word stricken out it seems to me that the purpose of

the amendment is clearly declared; and if I understand that purpose aright, I shall vote for it; and I would be glad to know from any Senator who disapproves the amendment whether I am right in the understanding which I will state. The provision as it now stands commits to the Court of Claims the persons upon whom it operates to get from that court a judgment which shall amount to a certificate that they are entitled to the measure of compensation that they are to receive. It will first of all occur to everybody that that is a very good provision for lawyers. That it is going to breed a large crop of legal proceedings is pretty clear; but it would be very aggravating if when a party in interest has gone to the Court of Claims and obtained an adjudication, he must keep going every six months or every year to the Court of Claims to have this adjudicated and adjudicated again. It would be almost equally hard, there being two parties similarly situated, or three, one of which goes to the Court of Claims and gets every principle and every ingredient in the case adjudicated, if the others also were compelled to duplicate that proceeding and go one after another into the court and get the same adjudication.

Mr. THURMAN. My friend will allow me a question?

Mr. CONKLING. Certainly.

Mr. THURMAN. The proposition is, if a decision is made in favor of the company that shall bind the Government in respect to all other companies in like condition, I understand. But now suppose the decision, instead of being against the Government is in favor of the Government; is the Senator willing that all other companies shall be bound by that decision too?

Mr. CONKLING. I shall have no objection to that. I see no objection to that; but this amendment has no relation to that, I suggest to the Senator. The adjudication in that regard, with or without this amendment, would be the same. The effect of this amendment is merely to say that if one corporation, with or without agreement, shall contribute to the expenses and that their load of expenses shall abide the result of suit, if one company goes forward and incurs the expense and trouble of getting the Court of Claims to adjudicate in a given case, that adjudication shall apply as well in other like cases as in the case in which technically it was rendered. Without such a provision a judgment binds no one except parties and privies. Here stand in a line three or four other persons having precisely the same right ordinarily of proceeding in court. One would stipulate that the other cases should abide the event and one pioneer case would be tried to settle the right of all. I understand the purpose of this amendment to be substantially that, that one party in interest obtaining an adjudication that in a like case shall be the rule of law and the rule of action between the Government and the parties. If the amendment means that, I see no objection to it. If it means anything more than that, it can be modified.

Mr. MORTON. I ask the Senator whether it would not be the duty of the Government, where a case was settled, to apply the rule adopted in the Court of Claims to the other companies independent of this provision, if it was shown to the Department that it was precisely similar; and if it was not precisely similar, if the Department would not be convinced of it, then the adoption of this amendment would not make any difference anyhow.

Mr. CONKLING. I am inclined to think the question of the Senator from Indiana is well founded, and yet the Senator will see it would be loading upon an administrative officer rather an unfair responsibility without anything burdening him to work by a line laid down by the court in a particular case, to expect him to do it. He might very well say, "Why, technically this means that all those who are to receive anything must come here with a certificate from the Court of Claims; I shall not move; I am not called upon to investigate this thing. When they come with a certified record from the Court of Claims, I will act upon that. The law summoned me to obey no other behest, and I await for that." The adoption of this amendment would have precisely the effect, as I understand it, which the Senator from Indiana ascribes, in moral effect and intendment, to the section without it, namely, to advise the administrative or executive officer that when he finds a case in which A has obtained a judgment in the Court of Claims and B has just such a case, without putting B to the expense of going to the Court of Claims he is to govern himself accordingly.

Mr. EDMUNDS. That leaves it to the discretion of the Department.

Mr. CONKLING. Not at all.

Mr. SCOTT. I have looked at this amendment, and I think it requires a further modification before it can be adopted. The present provision authorizes companies to go into the Court of Claims for the purpose of having their right to compensation determined. The amendment proposes to add the following:

And when the right shall be so determined in the case of any company, no suit or proceeding shall be necessary afterward to entitle any company in like cases to receive such compensation.

Mr. CONKLING. "In like case."

Mr. SCOTT. "In like case." Now, under that provision an adjudication in the Court of Claims will be conclusive upon the executive officers. If either party should be dissatisfied and take the case to the Supreme Court, as they may, they would be going on making settlements upon the basis of the adjudication in the Court of Claims when that ruling may be reversed. This amendment should be so far modified as not to require this to be applied until there shall be a final determination in the court of last resort.

Mr. CONKLING. That is the word I would suggest, "finally" before "determined."

Mr. SCOTT. Very well.

The PRESIDING OFFICER. The Senator will state his modification.

Mr. SCOTT. Before the word "determined" insert "finally," and after "determined" the words "in the court of last resort;" so as to read:

Shall be so finally determined in the court of last resort in the case of any company, &c.

Mr. STEWART. I do not believe anybody knows what this proviso means. I do not believe anybody ever can tell what it means. I do not know what it means.

Mr. RAMSEY. The Senator is not speaking of my amendment.

Mr. STEWART. I am speaking of the whole section. I do not know what any of these provisos mean with regard to the Central Pacific, the Union Pacific, and the branches of the Pacific road. The Judiciary Committee prepared an amendment which was adopted by the Senate in regard to this matter last year. If there is further legislation necessary on that subject, the Committee on the Judiciary ought to examine it. We ought not to jump in the dark and interfere with vested rights or do anything not examined by that committee in regard to the construction of law. But this language, I think, is so thoroughly ambiguous that it will simply be a trap for somebody.

The first proviso reads:

That no money shall hereafter be paid to any railroad company for the transportation of any property or troops of the United States over any railroad which, in whole or in part, was constructed by the aid of a grant of public land on the condition that such railroad should be "a public highway for the use of the Government of the United States free from toll or other charge."

If that clause in the charter makes it obligatory upon the companies to carry the Government troops free, if that be the construction of it, then this provision ought to go to the Judiciary Committee in order to be inquired into. If it goes to that extent, that part of it would be all very well; but the charters ought to be examined to see if that be the case, and the thing ought to be prohibited. Then the next clause here is certainly a most ambiguous thing to put into a law:

Constructed by the aid of a grant of public land, on the condition that such railroad should be "a public highway for the use of the Government of the United States free from toll or other charge" or upon any other conditions for the use of such road for such transportation.

Suppose the other condition should be that they should pay so much or should not pay higher than a certain rate. This proviso says they shall not pay at all. The very condition in the charter may be a certain rate of payment. Then this will be clearly a violation of good faith. Suppose there should be a land grant (I do not know of any) upon the condition that the Government shall have the use of the road for one-fourth what the public pays. Now this amendment would say, "You cannot pay that one-fourth." It is loosely drawn, and you do not know what it does mean. I say this kind of legislation, without being examined by the Judiciary Committee, is dangerous. I do not know what roads it applies to. I do not know what it is meant for. That is the reason I am opposed to it. I think at all events this ought to be stricken out or go to the committee to have somebody examine it and see what it does mean. There are some lawyers on that committee no doubt who will know what it does mean.

Mr. ALLISON. I will say to the Senator it is the law now, as he will see if he examines the statutes.

Mr. STEWART. So much the worse. Why repeat it?

Mr. THURMAN. It is in last year's appropriation bill.

Mr. ALLISON. The exact language is in last year's appropriation bill. It is operating now.

Mr. STEWART. Is the clause of the first proviso, "or upon any other conditions for the use of such road for such transportation," in the act of last year?

Mr. ALLISON. Yes, sir.

Mr. STEWART. That shows that it ought to have gone to the Judiciary Committee. I do not believe the Committee on the Judiciary would have recommended it.

Mr. ALLISON. I thought the Senator said the Judiciary Committee recommended it?

Mr. STEWART. Not this.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. STEWART. I had not got to the most absurd part of this thing.

Mr. ALCORN. If I have an opportunity, I will vote to strike out this proviso for the reason that there is no condition, as I understand the recitation here, in the acts granting land which requires the railroads to transport the troops of the Government of the United States. If there be in any of the grants of land a condition that the railroad company shall transport the troops of the United States over the road when built free of charge, I will observe that condition and am ready to enforce it. But here is a provision—

That no money shall hereafter be paid to any railroad company for the transportation of any property or troops of the United States over any railroad which, in whole or in part, was constructed by the aid of a grant of public land on the condition that such railroad should be—

What?

should be "a public highway for the use of the Government of the United States free from toll or other charge.

I am willing to assert the right of the Government in such cases to the use of a road, to assert that it is a public highway, that it is subject to the use of the Government as a public highway, and that over it it can transport its troops and its property free from charge; but I am not willing here to say that the railroad shall do what it has not undertaken to do, what its charter does not bind it to do; and no court under heaven will ever decide that railroads are required to comply with a condition that they have not undertaken to perform in their charter without compensation. There is a railroad. It is a public highway. The Government of the United States can take it and use its own rolling-stock if it sees proper to put it upon it, and can transport its troops and property over that road; but what you say here the road shall do is something the railroad has not undertaken to do or perform. Congress cannot require that that railroad shall do and perform that which they have not undertaken to do and have not by implication bound themselves to do.

I take the bill as I see it on its face. I know very little about railroads; but I know the law of the case, if I know anything, is not sufficient to bind the roads to the contract and to the conditions that you here undertake to require them to perform. I state that as a legal proposition.

Mr. WRIGHT. The question is on the amendment offered by the Senator from Minnesota?

The PRESIDING OFFICER. It is.

Mr. RAMSEY. As modified.

The PRESIDING OFFICER. The modification is accepted.

Mr. WRIGHT. Which is to add the language proposed by the Senator from Minnesota between the word "act" and "provided" in line 141. The language immediately preceding is—

But nothing herein contained shall be construed as preventing any such railroad from bringing a suit in the Court of Claims for the charges for such transportation, and recovering for the same if found entitled thereto by virtue of the laws in force prior to the passage of this act.

Then comes the proviso, in substance that where an action has been brought in the Court of Claims and an adjudication had thereon, as it is now modified, a final adjudication in the court of last resort, it shall not be necessary for another railroad in like cases to bring actions, but they can recover in virtue of or by force of the adjudication in the other cases. In other words, I understand the principle contained in this amendment is that the adjudication in the one case shall be conclusive as against the Government in all other like cases. It seems to me that that is certainly the most extraordinary doctrine in a statute. Whatever may be the circumstances under which the first suit is brought and adjudicated, whether the Government be fully prepared for such adjudication or not, whether it was well attended to or not, whatever may be the circumstances under which the judgment was rendered, whether the testimony was prepared well or not, or whether it was well presented or not, then the Government is to be concluded in all like cases as to other companies in their situations.

Mr. EDMUNDS. And leave it to an executive officer to determine.

Mr. WRIGHT. And to leave it to an executive officer, as the Senator from Vermont suggests, to determine whether they are like cases or not. This officer determines that it is a like case and makes the allowance; and where is the security of the Government as to that determination? I think you have never found any such rule as this applied in the courts of the country. Why do you incorporate into an appropriation bill a doctrine which it seems to me is most extraordinary? No man can tell where he can have this determined so far as these allowances are concerned. Where there may be but $500 or $1,000 involved without reparation on the part of the Government, an executive officer determines that it is a like case, and there comes up, not $1,000, but $10,000 or $1,000,000 or more; and if he says it is a like case, that decides the whole question and the Government is bound. I should be surprised if the Senate would put this amendment in this bill.

Mr. BOGY. It seems to me that the proviso from line 126 down to line 149 ought not to be adopted. We cannot in this way modify the rights of these railroads, whatever those rights may be. If indeed any of these railroads have no right to charge, that matter is fixed by law. If they are allowed to make a charge by charter, that is also a right. I therefore believe that the entire proviso should be stricken out; the first part particularly, because it does say in so many words that no railroad which has received a subsidy in land shall charge for transportation, although it may be in so many words in the charter that it may charge. It says no railroad having received a subsidy shall charge for such transportation, no matter whether the right was given in the charter to charge or not.

Again, by a law passed a short time ago some of the railroads have a right to charge one-half and get the amount of money for it and the other half goes to their credit. Now, without going into this thing in five minutes, which cannot be done, it does seem to me the whole clause should be stricken out and let these railroads stand on their rights as now fixed by law and fixed by charter. You cannot modify these rights by legislation. The view taken by the Senator from Mississippi [Mr. ALCORN] is entirely correct. These conditions do not obligate these railroads to transport the troops and munitions of war. The condition was that the road itself should be at the use of the Government, not the means of transportation over the road. No court in the world would construe it differently. The Senator from Mississippi is perfectly right about that. That has been the received construction. Therefore it seems to me we are attempting to legislate on a subject not exactly germane to this bill and which will be a nullity if it conflicts with the present law. You cannot change the rights of these parties, whatever those rights may be. They are fixed by charter and fixed by law, and nothing in this bill can change any of those rights. Therefore, if in order, I move to strike out from line 126 down to line 149.

Mr. MORTON. I do not agree in the construction of the language quoted in this clause with the Senator from Mississippi or the Senator from Missouri. That was not the intention when the clause was put into various railroad grants. The idea of these Senators is that the Government of the United States has a right to use the track free, but must furnish its own machinery, must furnish its own transportation upon the railroad track. That was not the idea when that clause was originally inserted in the railroad acts. The framers of those various acts understood just as we understand now that railroad companies furnish their own transportation, have their own locomotives and cars, and that the United States do not keep locomotives and cars to run upon different railroads that they may have occasion to use. Therefore the idea that that language means that the Government may use the tracks but must furnish its own transportation or rolling-stock, it seems to me cannot bear examination for a moment. When these land grants were first made containing these conditions that the Government should have a right to transport arms and munitions free of charge, giving lands that in some cases were sufficient to build the entire road, the idea was that the company were to take their own locomotives and rolling-stock and transport troops free of charge. I know the other construction has been claimed, but I never gave it a moment's consideration.

I do not understand this whole proviso, and I would like to know what it means. I thought when I first read it that it was plain enough. The first branch says—

That no money—

No money at any price—

shall hereafter be paid to any railroad company for the transportation of any property, &c., over any railroad which, in whole or in part, was constructed by the aid of a grant of public land on the condition that such railroad should be "a public highway for the use of the Government of the United States free from toll or other charge"—

Upon such a road no money is to be paid; and no money is to be paid further—

or upon any other conditions for the use of such road for such transportation.

What does that mean? What are the "other conditions" which are referred to? They are not conditions for cheap transportation, for half fare, low rates, or uniform charges, because it begins by saying "that no money shall hereafter be paid." Therefore the other conditions must be that the road shall be absolutely free to the United States. Now when you come to apply that to the concluding part of the proviso it becomes absurd:

That the foregoing restriction shall not apply, for the current fiscal year, nor thereafter, to roads where the sole condition of transportation is that the company shall not charge the Government higher rates than they do individuals for like transportation, and when the Quartermaster-General shall be satisfied that this condition has been faithfully complied with.

After the next fiscal year this restriction shall apply to a road, that the Government is to be charged no more than individuals, but the restriction is that no money is to be paid. That is the beginning of it, that the Government is to pay no money; but this restriction is not to apply to a road where the Government is to pay no more than individuals until the year after next, and then after next year it is to pay no money according to the original restriction, so that it makes it absurd. It strikes me the whole thing is rather clumsy.

Mr. ALLISON. I think very likely the Senator from Indiana is right in reference to the operation of this clause. The clause down to "Provided further," in line 139, is precisely the language of the law of last year, except that that provision only applied to the appropriations of that year, and this provision is now made permanent. The language "or upon any other conditions for the use of such road for such transportation," was inserted in the bill last year, I take it, to cover the point made by the Senator from Ohio; that is, that no money should be paid to any of the Pacific Railroads for transportation, because there was a condition placed upon those railroads with reference to the transportation, but not the particular condition contained in the land-grant roads. That was a sort of *omnium gatherum* provision, which was to take in every railway that had received subsidies from the United States. When the Senate came to consider the proviso beginning on line 139, they found that the law provided that certain railway companies were permitted to charge the Government of the United States the same rates for Government transportation that they charged other transporters. Now, manifestly it would be unjust to say that that class of railways should transport Government troops and supplies for nothing, because that was not the agreement. Therefore this latter proviso was inserted with a view to exempt that class of railways from the provision contained in the first proviso. That is all there is of it.

Mr. MORTON. What I call my friend's attention to is this: that the restriction which is to be found on lines 126, 127, and 128, "that no money shall hereafter be paid," is in terms applied to a railroad com-

pany: after you pass to line 144, at the end of two years from this time, where the only restriction was that it should not charge more to the Government than it charged to individuals; and the Government is prohibited by the first restriction from paying it at all.

Mr. ALLISON. I would say that perhaps in line 140, where the words "foregoing restriction" occur, the latter should be "restrictions;" and I think it ought to be strictly "that the foregoing restrictions shall not apply to the current fiscal year nor thereafter to such railways," &c.

Mr. MORTON. But is applicable thereafter, and the "foregoing restriction" is that "no money shall be paid." It seems to me it makes it absurd as applicable to that second class.

Mr. ALLISON. That is to say, the foregoing restrictions shall not apply to the current fiscal year nor thereafter to this class of railways; that is, there shall be no restriction upon this class of railways. I think that is the meaning of it.

Mr. INGALLS. Strike out of the sentence the words "for the current and next fiscal years."

Mr. ALLISON. That is stricken out already by an amendment. The language now is—

That the foregoing restriction shall not apply for the current fiscal year nor thereafter to roads where the sole condition of transportation is that the company shall not charge the Government higher rates than they do individuals for like transportation.

It seems to me that is plain enough. Now, with reference to the policy of this provision, I think it is perfectly clear. The United States up to last year paid these land-grant railways for the transportation of troops and material of war. They did so during the whole period of the war. They refused at first to do so, but the railways refused to transport Government material. I remember perfectly well, and so do many other Senators, the long contest with the Illinois Central Railway Company. The Illinois Central Railway Company said to the Government, "You may take our road, but we cannot afford to transport the troops and supplies necessary to be transported by us during the war." Finally a compromise was made, by which the Government paid the Illinois Central Railway Company 66⅔ per cent. of the amount paid to it by others for transportation.

Mr. EDMUNDS. Contrary to the charter.

Mr. ALLISON. I do not say whether it was contrary to or in accordance with the charter. The Government did so pay that company a large sum of money. Congress last year inserted the provision that this money should no longer be paid, and that these companies should go to the Court of Claims and settle their rights, whatever they might be.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. THURMAN. I move to strike out the last word of the amendment.

The PRESIDING OFFICER. The Senator is entitled to five minutes on the new amendment.

Mr. THURMAN. Now I ask the attention of the Senator from Indiana. The Senator from Indiana assumes that there are railroad charters or acts granting subsidies to railroads in which there are provisions that the railroad company shall carry the troops and munitions of war of the United States free of charge. I have to say to him that if there is any such railroad grant or railroad charter, I have never seen or heard of it. The grant made by the Government to aid Ohio and Indiana in the construction of their canals contained exactly that provision; but in any railroad grant or railroad charter or railroad subsidy bill I have never seen such a provision.

Mr. MORTON. The grant to the Illinois Central is an instance.

Mr. THURMAN. No, sir. Now I will show the Senator he is mistaken. On the 20th of April, 1870, when the resolution respecting the Northern Pacific Railroad was under consideration, I moved this amendment:

Mr. THURMAN. I move this amendment to come in at the end of the resolution: "And the rights and privileges hereby conferred upon said company, and the grants of land hereby made to it, are conferred and made upon this condition: that said company, its successors and assigns, shall forever transport over said road and its branches, free from any toll or charge, all the troops, produce, stores, and munitions of war that may belong to the United States."

There was a distinct proposition. In opposition to that Mr. Howard, of Michigan, the chairman of the Pacific Railroad Committee, said as follows:

Mr. HOWARD. In reply to the honorable Senator I beg only to read the eleventh section of the charter, which says:

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

Showing that charges were to be made for Government transportation, but enabling Congress to regulate the tariff. Then he said:

Is not that reasonable and sufficient?

Mr. THURMAN. Is that enough? I say that was not enough in the original bill. The very passage read by the Senator shows that the company is to have the right to charge. I say that it ought never to be allowed to charge anything for this Government service.

Mr. HOWARD—

Now I call the attention of my friend from Indiana—

Mr. HOWARD. So has the Illinois Central, and we paid that company five or eight million dollars during the war for the transportation of troops. So has the Union Pacific and the California Pacific road. We are paying them annually liberal charges for the transportation of all sorts of military supplies and troops. So with the Eastern Division through Kansas, and the same clause is in all our railroad charters, I believe without exception, the Government standing in no better relation in respect to transportation than an individual stands, with this exception, that Congress may regulate the rate of charges on all these roads.

That was the statement made by that very well-informed Senator, the chairman of the Pacific Railroad Committee. After a long debate, in which I insisted and others insisted that as we were conferring new privileges and making large additional grants to the Northern Pacific Railroad, we ought to impose this additional condition, the question at last came to a vote; and let us see how the vote was. I am very glad to say that the Senator from Indiana was with me on that vote. Those who voted for my amendment were twelve, and twelve only:

Messrs. Ames, Bayard, Boreman, Cameron, Casserly, Harlan, McCreery, Morton, Pratt, Saulsbury, Willey, and Yates—12.

Those who voted in the negative were:

Messrs. Anthony, Brownlow, Chandler, Cole, Corbett, Cragin, Fenton, Flanagan, Fowler, Hamlin, Harris, Howard, Howe, Kellogg, McDonald, Morrill of Maine, Morrill of Vermont, Norton, Nye, Osborn, Patterson, Pomeroy, Ramsey, Revels, Rice, Robertson, Sawyer, Scott, Spencer, Stewart, Sumner, Thayer, Trumbull, Williams, and Wilson—35.—*Congressional Globe*, part 4, 2d session 41st Congress, 1869–70, pages 2346, 2347, 2368.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. THURMAN. Now I move to strike out the last word in the last amendment in order that I may finish what I have to say, and then I shall not trouble the Senate any more.

I read that to show that, according to that statement—and I believe it to be true—we have never required what should have been required; we never have required one of these railroad companies, to whom we have made these immense grants, to carry the munitions of war and troops of the United States.

Mr. EDMUNDS. May I ask the Senator a question?

Mr. THURMAN. Certainly.

Mr. EDMUNDS. Has his attention been called to the fourth section of the act of the 20th of September, 1850, granting lands to the State of Illinois and several other States in aid of railroads, among them the Illinois Central, which declares—

That the said lands hereby granted to the said State shall be subject to the disposal of the Legislature thereof, for the purposes aforesaid and no other; and the said railroad and branches shall be and remain a public highway for the use of the Government of the United States free from toll or other charge upon the transportation of any property or troops of the United States?

Mr. MORTON. I thought I was not mistaken about that.

Mr. THURMAN. That comes to the exact question here. That provision was that the road should be a public highway free from toll for what? The interpretation put upon it was not that the company was bound to perform the service, not that the company was bound to furnish the cars, and servants of the company to manage them, and carry the troops, but on the contrary it was that it simply authorized the Government to take possession of the road so far as was necessary for its own transportation, and run its own cars upon it.

Mr. EDMUNDS. Who put that construction upon it?

Mr. THURMAN. The Government put it on it, and, as Mr. Howard truly said, paid the Illinois Central $8,000,000 for transporting troops and munitions of war during "the late unpleasantness."

Mr. STEWART. The question came up here and was discussed by Judge Trumbull at great length, and the Senate decided it.

Mr. THURMAN. Certainly. The second proviso in this bill effectually nullifies the first one and makes the whole thing nugatory. There being the second proviso saying wherever the provision in the law is that the company shall carry the property or troops of the United States at the same rate charged individuals, then this provision shall not apply, and every company being precisely in that category described in the second proviso, the second proviso kills the first one stone dead, except that it opens the doors of the Court of Claims to the Lord only knows how many suits and the Government to ever so much litigation.

I withdraw my motion to strike out that word; I do not know what the word was.

Mr. INGALLS. I understood the Senator from Ohio to say that no grant of land had been made to a railroad company upon the condition that the company should transport the troops and munitions of war free of charge.

Mr. THURMAN. I said I had never seen such a one, and the chairman of the Committee on Pacific Railroads, (Mr. Howard,) who was an exceedingly well informed man, said, as I read in the hearing of the Senate, that there was no such case.

Mr. INGALLS. I beg to call the attention of the Senator to chapter 270 of the laws of 1866, and I read from section 3, which says:

That the grant of lands hereby made is upon condition that said company, after the construction of its road, shall keep it in repair and use, and shall at all times transport troops, munitions of war, supplies, and public stores upon its road for the Government of the United States free from all cost or charge therefor to the Government when required to do so by any Department thereof.

Mr. THURMAN. What road is that? I am very glad to find one such law.

Mr. INGALLS. This is "an act granting lands to the State of Kansas to aid in the construction of a southern branch of the Union Pacific Railway and Telegraph, from Fort Riley, Kansas, to Fort Smith, Arkansas." That road is now in operation.

Mr. THURMAN. That is the only one the Senator will find.

Mr. MORTON. That statute declares that the company shall transport free of charge, which means of course with her own rolling machinery.

Mr. THURMAN. That is only one little bit of a road.

Mr. BOGY. I wish to make an inquiry. Is my motion in order that I made awhile ago as an amendment to the motion of the Senator from Minnesota to strike out from line 126 down to line 149?

The PRESIDING OFFICER. The motion is in order, but the question must first be put on the amendment proposed by the Senator from Minnesota to perfect the proviso proposed to be stricken out. The Chair will entertain the motion of the Senator from Missouri, but the motion of the Senator from Minnesota has priority.

Mr. HOWE. I want to make a suggestion, not to take any part in this debate. The Senator from Kansas has called our attention to the conditions named in a charter granted in 1866. That was after there had been several protracted discussions in the Senate as to what was the true interpretation of the conditions employed in the earlier grants, which conditions were that the roads should be a public highway for the use of the Government, conditions which made a charge upon the roadway and not upon the company.

Mr. EDMUNDS. As was claimed.

Mr. HOWE. As was claimed, and as was decided by repeated votes in both Houses. To avoid that construction it seems that in subsequent grants, I do not know in how many, different language was employed with a view of making the charge upon the company instead of the roadway. Undoubtedly, I think that the language employed in the charter just read by the Senator from Kansas does make a charge upon the company.

Now the question I want to put is whether roads or companies having such grants as the Senator from Kansas has referred to will be concluded by the language employed in this section? This language says that no money shall be paid for transportation over roads where the Government has a charge upon the track; but there are other roads, it seems, where the companies are bound to convey property free. It seems to me those are excluded.

Mr. ALLISON. No: "or upon any other conditions."

Mr. HOWE. Then if they are included at all it is by the force of that last clause.

Mr. ALLISON. Yes, sir.

Mr. HOWE. And that would include all railways. Then if you had made a grant of land to a company or to a State coupled with no condition in the world except that the road should be completed in ten years—nothing said about carrying troops——

Mr. ALLISON. The language is, "conditions for the use of such road."

Mr. BOUTWELL. The condition on which the grant was made.

Mr. HOWE. There is a condition, but if you mean to make these the operative words to hold the company which is expressly charged with the duty of carrying, it seems to me it will include all others.

Mr. RAMSEY. Does the Senator recognize the distinction between these simple land-grant roads and that Southern Kansas road which had not only land grant but the bonds of the Government?

Mr. EDMUNDS. My impression is that the amendment proposed by the Senator from Missouri, [Mr. BOGY,] when it comes to be in order, is the true one to adopt until this subject can be looked into, and that is to strike out the whole of this proviso from line 126 to line 149. The Senator from Wisconsin has very aptly put the case on the words in lines 132 and 133, that if there were any conditions upon which a road was to be built no money is to be paid; and then he says that if the condition is that it shall be limited to a certain time, that is a condition, and of course it would not be just to say you would not pay money to such a corporation. On the other hand, there are some of these roads in whose charters or grants there are provisions that the aid we have given to them is a part of a general contract, one of the terms of which is that the interest shall be kept up—that is my construction of it; people differ about that, but I suppose I am right in that construction; another of the terms of which nobody disputes is that 5 per cent. of the net earnings shall be actually paid into the Treasury in order to secure a sinking fund for meeting the obligations of the United States in the way of bonds.

If the Senate cares enough about protecting the interest of the United States to examine this question, I think the motion of the Senator from Missouri, when it comes to be in order, ought to prevail, to strike out this whole proviso in order to have time to examine the question and to make such a provision as will secure the interests of the United States. Now, I maintain for one that if we have advanced money in aid of any particular railroad in paying interest upon its bonds or our bonds given in its aid, that company has no right, although it may be entitled to transportation pay like any other road with whom we have no relations at all, to ask us to pay it for transportation a certain sum of money so long as it owes a certain other sum of money which we have paid for interest upon its bonds. That is what I think. Other Senators may think otherwise.

Mr. SCOTT. That is already provided for in the act of 1873.

Mr. EDMUNDS. That is provided for in the act of 1873, but this act of 1875 is a later act than the act of 1873; and if we in this act of 1875, this Army appropriation bill, provide for payment of moneys for transportation affirmatively, without any reference to the former acts, then the Executive Departments and the paying officers will be pressed by these railway companies to pay them, by force of this act, as the latest expression of congressional will instead of the act of 1873, and a pretty plausible argument might be made perhaps in support of that idea. It might be argued that we had receded from the position that we took in 1873, had by this act authorized the payment of money to railroad companies that were owing us all the time. Now for one I do not wish to do that.

If it be true that any railway company owes the United States for interest paid or owes the United States on the 5 per cent. which ought to have been paid into the Treasury on net earnings, then I think we are bound to the tax-payers by the highest possible obligations not to pay money to such a company until their engagements are made good. It is a case of set-off. So I think we ought to strike out this whole proviso in order that a clause may be framed which will put us on our just rights, whatever they may be thought to be.

When you come to the amendment proposed by the Senator from Minnesota to add to the clause as it now stands, that to my mind is very objectionable indeed. It leaves to the executive officer, who may not be a lawyer, who may not be instructed by the Attorney-General, and to him through his clerks, he being unable to attend to everything, to decide that money shall be paid because it is in conformity to some previous decision in another case, when if it were left to a court no such decision would be made. In other words, you invest the executive officers of the Government with a judicial discretion in paying money out of the Treasury which in the end ought not to be paid. I think, therefore, that the amendment of the Senator from Minnesota ought not to be agreed to, and that the proposal of the Senator from Missouri ought to be, to strike out all this proviso in order that a proper section may be framed.

Mr. RAMSEY. I ask the Senator from Vermont whether at this time it is not the practice of the Departments to receive the adjudications of the courts and act upon them?

Mr. EDMUNDS. I will answer the Senator from Minnesota. Undoubtedly it ought to be the practice of the Executive Departments to obey the law; but when, as has been shown in regard to every one of these railroads, there is some variation of circumstances, some variation of statute and all that sort of thing, it is very unsafe indeed to say that because one case is decided you will allow an Executive Department to determine that that is an authority for doing something else under a different charter——

Mr. RAMSEY. But the cases must be identical.

Mr. EDMUNDS. That is not what the amendment says.

Mr. ALLISON. I think there is some force in the statement made by the Senator from Vermont. The committee followed the language of the existing statute until we reached the last proviso, and it having passed through the scrutiny of the Senator from Vermont and every gentleman on the Judiciary Committee, or at least through the Senate last year, we did not scrutinize the language again.

Mr. EDMUNDS. Not our scrutiny.

Mr. ALLISON. I think there is, as I said, force in his suggestion, and therefore I shall move to lay the amendment of the Senator from Minnesota on the table; and that being done I shall consent to strike out the entire proviso from line 126 to line 149, so that the matter may be perfected in the conference committee.

The PRESIDING OFFICER. The Senator from Iowa moves to lay on the table the amendment of the Senator from Minnesota.

Mr. RAMSEY. I suggest that this matter can be perfected by a committee of conference.

The PRESIDING OFFICER. Debate is not in order.

Mr. RAMSEY. I was only going to ask the Senator from Iowa to withdraw his motion and allow this amendment to be accepted and have the whole matter go to a committee of conference.

Mr. ALLISON. I would not like to do that. I insist on my motion.

The PRESIDING OFFICER, (Mr. FERRY, of Michigan.) The Senator from Iowa moves to lay on the table the amendment of the Senator from Minnesota.

The motion was agreed to.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Missouri [Mr. BOGY] to strike out the proviso.

Mr. HAGER. I find that there are two copies of this bill, and some Senators are uncertain what the motion is. If I understand it, it is to strike out after the word "provided," on line 126 in the last printed bill, down to the end of that paragraph. I am not disposed to strike out, and I see no reason for striking out this portion of it—

> That no money shall hereafter be paid to any railroad company for the transportation of any property or troops of the United States over any railroad which, in whole or in part, was constructed by the aid of a grant of public land on the condition that such railroad should be "a public highway for the use of the Government of the United States free from toll or other charge."

I see no reason for striking that out; on the contrary, I see great reason why it should remain. Why should we pay for that transportation if there is an existing law that it shall be exempt?

Mr. EDMUNDS. The Senator from California I am sure misunderstands me, so far as his remarks apply to what I have said. I do not propose to strike it out in the view of not having a provision in.

Mr. ALLISON. Nor do I.

Mr. EDMUNDS. But in order to cover the whole subject and have a suitable provision, which we cannot do at this moment.

Mr. HAGER. I have read this long provision over several times, and I agree with the Senator from Nevada that it is incompre-

hensible. The subsequent paragraphs are incomprehensible to me. Neither can I understand what is the meaning of the committee in the bill as reported from line 126 on page 6 down to the end of that paragraph. There are reservations and exceptions to the provision which throw so much obscurity and doubt over it that I am inclined to think that the whole provision would be destroyed by the clauses that follow:

Provided further, That the foregoing restriction shall not apply for the current fiscal year, nor thereafter—

It shall not apply to this year nor thereafter—

to roads where the sole condition of transportation is that the company shall not charge the Government higher rates, &c.

Then there is another provision:

And provided further, That hereafter when troops or officers change stations their families shall receive transportation over land-grant and subsidized railroads which receive no payments from the United States.

I do not understand that.

Mr. ALLISON. That is out now.

Mr. HAGER. It ought to be out. I will move, in order to get at this thing specifically, to strike out all after the words "United States," in line 136, to the end of the section. That will leave in the only substantial part there is. That will leave it to read from the word "provided" down to "United States" without any "ifs" and "ands" or reservations or exceptions, and then it will be a matter for the courts to determine what the rights of the respective parties are. I think it is not proper for us to invite litigation and invite prosecutions against the Government of the United States in a matter where we have the right to declare the terms on which a railroad shall carry freight, &c.; and yet that is the purport of this bill. We absolutely invite companies to go before the Court of Claims to prosecute for the very things that we except and reserve and say are reserved by the law. If a road is by the terms of the law "a public highway for the use of the Government of the United States free from toll or other charge," why should we say "provided nothing herein contained shall prevent" them from bringing a suit to recover that which we say is declared by law to be exempt from charge? That is incomprehensible to me. Therefore I make this motion to strike out beginning with the word "but" in line 136, to the end of the paragraph. That will leave the exception without the provisions, which look to me as if they were intended rather for the benefit of the companies than of the Government of the United States.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MORRILL, of Maine. Did the Senator make a motion?

The PRESIDING OFFICER. The Senator from California has moved to strike out a part of the paragraph.

Mr. MORRILL, of Maine. Which part?

Mr. HAGER. I move to strike out from line 136 after the words "United States" to the end of the paragraph.

Mr. MORRILL, of Maine. I have not been in the Senate while this discussion was going on, but I did pay some attention to these provisions in the committee. My understanding of them is that they run with the historic facts of legislation by Congress. First, it is provided that as to that class of roads which agreed to do free the business of the Government that they shall have no compensation and forbids the Government paying compensation. As regards the next class of roads, it provides that they shall charge the Government no more than they charge individuals. I think that is eminently fit. As to the third class it is undoubtedly in excess of any provision of any statute in regard to transportation or any obligation the roads have to do transportation for the Government. That relates to the imposition of carrying the families of officers or troops.

Mr. MORTON. That is stricken out.

Mr. MORRILL, of Maine. As to the rest of it, I think it is in strict conformity with the history of legislation on this subject, and I see no reason why it should not be adopted.

Now, can we not have a vote?

The PRESIDING OFFICER. The question is on the amendment of the Senator from California to the amendment of the Senator from Missouri, proposing to strike out a portion of the paragraph.

The amendment to the amendment was rejected; there being on a division—ayes 4, noes 36.

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Missouri [Mr. BOGY] to strike out the proviso from "provided" in line 126.

The amendment was agreed to.

Mr. EDMUNDS. I rise to a parliamentary inquiry. I wish to ask the Chair what was stricken out by the last vote? The Chair stated that it was the proviso.

The PRESIDING OFFICER. There were two provisos stricken out.

Mr. EDMUNDS. I merely wished to understand it so that there may be no mistake.

Mr. ALLISON. All is stricken out from line 126 to line 149.

Mr. EDMUNDS. That is right.

The bill was reported to the Senate as amended.

Mr. HAGER. I understood the Senator from Vermont that when the clause was stricken out, it was to be in part restored—that part which I tried to preserve. As it now stands, it is legislation in favor of these railroads and it is putting ourselves in a position not to call on them to observe the condition of their subsidy that they should be a public highway for the Government of the United States free from toll or other charge. Inasmuch as that is stricken out, it will amount to legislation to a certain extent that we do not favor that proposition, but on the contrary we are disposed to waive that condition and still pay to these railroads for transportation that ought to be exempt. I wish to call the attention of the Senate to that view of the case.

The PRESIDING OFFICER. The question is on concurring in the amendments made as in Committee of the Whole.

The amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

ADMISSION OF COLORADO.

Mr. HITCHCOCK. I move to proceed to the consideration of House bill No. 435, being a bill to enable the people of Colorado to form a constitution and State government, and for the admission of the said State into the Union on an equal footing with the original States.

Mr. EDMUNDS. I wish to say that the gentlemen who have charge of the leading business of the Senate by bringing forward this bill put it out of my power to move to take up the civil-rights bill, as I had wished to do. I only rise to say that it is overpowering force, not my wishes, that prevents me making a motion to take up the civil-rights bill now.

Mr. SARGENT. I do not think with so thin a Senate we ought to fix on the order of business for to-morrow, and for that reason I move that the Senate do now adjourn.

Mr. HITCHCOCK. On that motion I demand the yeas and nays.

Mr. CAMERON. Mr. President, I want to appeal to the Senator from California. Two days ago the Senator from California prevented me by an objection from carrying a bill which——

Mr. EDMUNDS. You cannot pass that now.

Mr. CAMERON. Yes, I can. Just give me a moment. I want to take up that bill for the purpose of providing head-stones for the dead soldiers in the cemetery at York.

Mr. ALLISON. I think that ought to be done.

Mr. CAMERON. I think it ought to be done, as the Senator from Iowa says. I am sure the Senator from California will give way.

Mr. SARGENT. If I had any idea that my friend could pass the bill I would most certainly do so.

Mr. CAMERON. Of course the bill will pass if I have time.

Mr. SARGENT. I insist on the motion to adjourn.

The PRESIDING OFFICER. The Senator from California insists on the motion to adjourn.

Mr. CAMERON. I think not.

Mr. HITCHCOCK. I ask for the yeas and nays.

Mr. CAMERON. I think there is a mistake about it.

The PRESIDING OFFICER. The question is not debatable.

Mr. CAMERON. I am not going to debate it, but only to state a single fact.

The PRESIDING OFFICER. The Senator from California insists on the motion, and it is not debatable.

Mr. CAMERON. Well, Mr. President, I am not debating it. [Laughter.] Debate means an argument. I have only asked the Senator from California——

["Question."]

The PRESIDING OFFICER. The question is called for, and the Chair must put the question on the motion to adjourn. The yeas and nays are demanded.

Mr. EDMUNDS. I suggest that we divide; perhaps nobody wishes to adjourn.

Mr. HITCHCOCK. No. I desire for a particular reason the yeas and nays on this question.

The yeas and nays were ordered and taken.

Mr. BAYARD. I desire to say that the Senator from Missouri [Mr. SCHURZ] and the Senator in the chair [Mr. FERRY, of Michigan] are paired. If he were present the Senator from Missouri would vote "yea," and the Senator from Michigan "nay."

Mr. OGLESBY. The Senator from New Hampshire [Mr. WADLEIGH] said to me before going out that he was paired with some Senator—I have forgotten who it was, [laughter;] and asked me if I would explain it when the thing came up.

The PRESIDING OFFICER. The Chair accepts the explanation. [Laughter.]

The result was announced—yeas 23, nays 27; as follows:

YEAS—Messrs. Bayard, Bogy, Cooper, Davis, Dennis, Eaton, Flanagan, Goldthwaite, Hager, Hamilton of Maryland, Johnston, McCreery, Merrimon, Norwood, Ransom, Sargent, Saulsbury, Scott, Sprague, Stevenson, Stockton, Thurman, and Tipton—23.

NAYS—Messrs. Alcorn, Allison, Anthony, Boreman, Boutwell, Cameron, Clayton, Conkling, Cragin, Edmunds, Frelinghuysen, Hitchcock, Howe, Ingalls, Kelly, Lewis, Logan, Mitchell, Morrill of Maine, Morrill of Vermont, Morton, Oglesby, Ramsey, Spencer, Stewart, Windom, and Wright—27.

ABSENT—Messrs. Brownlow, Carpenter, Chandler, Conover, Dorsey, Fenton, Ferry of Connecticut, Ferry of Michigan, Gilbert, Gordon, Hamilton of Texas, Hamlin, Harvey, Jones, Patterson, Pease, Pratt, Robertson, Schurz, Sherman, Wadleigh, Washburn, and West—23.

So the motion to adjourn was not agreed to.

The PRESIDING OFFICER. The question recurs on the motion

of the Senator from Nebraska that the Senate proceed to the consideration of the bill for the admission of Colorado.

The motion was agreed to.

Mr. BOGY. Now I move that the Senate adjourn.

The question being put, there were on a division—ayes 21, noes 25.

Mr. HAMILTON, of Maryland. I call for the yeas and nays.

The yeas and nays were ordered and taken.

Mr. HITCHCOCK, (when the roll-call was concluded.) I see that there is little more than a bare quorum now present. If it be in order now, by unanimous consent, I will move that the Senate adjourn.

Mr. EDMUNDS. Nothing is in order until the vote is announced.

Mr. HITCHCOCK. By unanimous consent, I suppose——["No!" "No!"]

The result was announced—yeas 21, nays 25; as follows:

YEAS—Messrs Bayard, Bogy, Cooper, Davis, Dennis, Eaton, Goldthwaite, Gordon, Hamilton of Maryland, Johnston, Kelly, McCreery, Merrimon, Norwood, Ransom, Saulsbury, Sprague, Stevenson, Stockton, Thurman, and Tipton—21.

NAYS—Messrs. Alcorn, Allison, Anthony, Boreman, Boutwell, Cameron, Clayton, Conkling, Conover, Cragin, Edmunds, Flanagan, Frelinghuysen, Howe, Ingalls, Logan, Mitchell, Morrill of Maine, Morrill of Vermont, Morton, Oglesby, Ramsey, Stewart, Windom, and Wright—25.

ABSENT—Messrs. Brownlow, Carpenter, Chandler, Dorsey, Fenton, Ferry of Connecticut, Ferry of Michigan, Gilbert, Hager, Hamilton of Texas, Hamlin, Harvey, Hitchcock, Jones, Lewis, Patterson, Pease, Pratt, Robertson, Sargent, Schurz, Scott, Sherman, Spencer, Wadleigh, Washburn, and West—27.

So the Senate refused to adjourn.

The PRESIDING OFFICER. The Secretary will read the bill at length.

Mr. MORTON. Has the bill been taken up?

The PRESIDING OFFICER. The bill has been taken up, and will be read.

Mr. INGALLS. I move that the Senate do now adjourn.

The motion was agreed to; and (at six o'clock and forty-three minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 23, 1875.

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

The Journal of yesterday was read and approved.

EXHIBITION OF WORKS OF ART IN THE CAPITOL.

Mr. MONROE. I ask unanimous consent to submit a resolution. I have talked with all the gentlemen interested in the matter, and I believe it gives general satisfaction.

The resolution was read, as follows:

Resolved. That it shall be in order when the sundry civil appropriation bill is under consideration in the Committee of the Whole to offer an amendment to said bill providing that no work of art, the property of a private individual, shall be exhibited in the Capitol without permission from the Joint Committee on the Library, given in writing, and making it the duty of the architect of the Capitol to carry this provision into effect.

Mr. KASSON. That is right; and I want to call attention to the fact that the present law on this subject is constantly violated.

There being no objection, the resolution was considered and adopted.

PUBLIC BUILDING AT JERSEY CITY.

Mr. SCUDDER, of New Jersey. I ask unanimous consent to have put on its passage now a bill which simply authorizes the condemnation of land for a site for a public building; it contains no appropriation whatever.

The bill (H. R. No. 4458) relating to a site for a public building at Jersey City, in the State of New Jersey, was read.

Mr. WILLARD, of Vermont. Has that bill been considered by any committee?

Mr. LOUGHRIDGE. I object to the consideration of the bill now.

ORDER OF BUSINESS.

Mr. LAWRENCE. I ask consent to report from the Committee on War Claims a bill making appropriations to pay claims allowed in the Departments. There is no legislation in it.

AFFAIRS IN LOUISIANA.

Mr. G. F. HOAR. I rise to make a privileged report, to be printed and recommitted.

Mr. RANDALL. I rise to call the regular order, unless the gentleman from Massachusetts [Mr. G. F. HOAR] says that this report is not to come back.

The SPEAKER. The committee is authorized to report at any time.

Mr. RANDALL. But I desire to reserve the point which I reserved in regard to the report of the Alabama committee.

Mr. G. F. HOAR. This report is merely presented for printing and recommitment.

Mr. RANDALL. That is all right if it is not to be brought back on a motion to reconsider.

Mr. G. F. HOAR. I hope I may be permitted to make a statement which will occupy but a moment. I am authorized by the committee to report two resolutions for printing and recommital. I am also authorized, when they come back from the printer, to call them up and have them put upon their passage.

Mr. RANDALL. I deny the right of the gentleman to do that under the conditions of the case.

Mr. G. F. HOAR. I am also authorized by the committee to submit to the House the views of various members of the committee—the views of the particular individuals who sign them. I desire that the two resolutions may be read, and that all the statements of views may be printed, and the whole matter recommited.

Mr. RANDALL. Not to come back?

Mr. G. F. HOAR. Not to come back of course on a motion to reconsider. I also ask that they may all be printed in the RECORD. The committee have a right to report at any time.

Mr. RANDALL. I propose to contest the right of the gentleman to bring this matter up again under the right to report at any time.

Mr. DONNAN. I object to the printing of these matters in the RECORD.

Mr. RANDALL. If the committe still have the right to report at any time after the presentation of this report and its recommitment, of course we must submit; but I deny that right; and I do not want to give the committee any additional right.

Mr. FOSTER. In connection with this subject, I submit the views of the majority of the committee. I ask that they be printed and recommitted.

Mr. G. F. HOAR. I will inquire of the Chair whether the majority of the House have not the right to order these papers printed in the RECORD? I have at any rate the right to call for their reading, which would necessitate their printing in that way.

The SPEAKER. They can be printed in the RECORD if the gentlman insists on their being read, as he has the right to do.

Mr. DONNAN. I object to their being printed in the RECORD. They will no doubt come to us in documentary form.

The SPEAKER. The Clerk will read the resolutions.

Mr. RANDALL. I think we have got "the cart before the horse." Is the report submitted by the gentleman from Massachusetts [Mr. G. F. HOAR] the majority report or the minority report?

Mr. G. F. HOAR. It is the report of the committee.

The SPEAKER. The gentleman from Massachusetts is authorized by the committee to make this report.

Mr. RANDALL. The question is whether it is a majority or a minority report as made by the gentleman from Massachusetts.

Mr. G. F. HOAR. If the gentleman from Pennsylvania had done me the honor to listen to me when I addressed the House——

Mr. RANDALL. You are mistaken; I listened to everything you said.

Mr. G. F. HOAR. It seems to me the gentleman from Pennsylvania is transgressing the rules of the House.

Mr. RANDALL. In what respect?

Mr. G. F. HOAR. In interrupting my statement.

The SPEAKER. The gentleman from Pennsylvania will hear the gentleman from Massachusetts.

Mr. G. F. HOAR. The two resolutions I reported I am directed to report by the committee and to ask they be printed and recommitted. The views I report are the views of various members of the committee who signed their views. The committee authorized them to be communicated to the House, but they do not bind as an expression of opinion anybody but the particular gentlemen who signed them. This particular paper is signed by the gentleman from New York, [Mr. WHEELER,] the gentleman from Maine, [Mr. FRYE,] and myself. The gentleman from Ohio [Mr. FOSTER] also proposes to submit another paper signed by others.

Mr. RANDALL. How many others?

Mr. G. F. HOAR. A paper containing their views.

Mr. HALE, of Maine. Is there any resolution submitted by any other members of the committee?

The SPEAKER. The Chair understands the question. All that is submitted for the action of the House comes as the recommendation of the committee. The different views in the report contain that which the House is not asked to act on at all. That on which action is asked will now be read by the Clerk.

Mr. RANDALL. Mr. Speaker, the House has to act on the resolutions, and to do so intelligently it ought to know what are the views of the majority of the committee.

The SPEAKER. They unite in recommending this report. The majority of the committee unite in recommending the reporting of these resolutions.

Mr. RANDALL. I wish to say that I did not mean to interrupt the gentleman from Massachusetts and I do not think he has a right to reflect upon me. I do not think there is any one in this House more uniform in courtesy toward other members than myself.

Mr. G. F. HOAR. There is no gentleman in this House who has a more thoroughly courteous nature than the gentleman from Pennsylvania.

Mr. RANDALL. I do not want to rest under any imputation like that made by the gentleman a moment ago.

Mr. G. F. HOAR. The gentleman interrupted a statement I was making to the Chair by an audible personal address to me out of order, and I answered a little impatiently, which I am sorry for.

Mr. RANDALL. My only object was to have the gentleman point out which is the majority report of the committee.

The SPEAKER. The Clerk will read that on which action is asked by the committee.

The Clerk read as follows:

FEBRUARY 23, 1875.

The special committee to which was referred so much of the President's message as relates to the condition of the South report the following resolutions.

They further submit the views of the various members of the committee.

For the committee.

GEO. F. HOAR, *Chairman.*

Whereas both branches of the Legislature of Louisiana have requested the special committee of this House to investigate the circumstances attending the election and returns thereof, in that State, for the year 1874; and whereas said committee have unanimously reported that the returning board of that State in canvassing and compiling said returns and promulgating the result wrongfully applied an erroneous rule of law, by reason whereof persons were awarded seats in the house of representatives to which they were not entitled and persons entitled to seats were deprived of them.

Resolved, That it is recommended to the House of Representatives to take immediate steps to remedy such injustice and place all persons rightfully entitled to them in their seats.

Resolved, That William Pitt Kellogg be recognized as the governor of the State of Louisiana until the end of the term of office fixed by the constitution of that State.

Mr. POTTER. I wish to add one word. The fact is as stated by the chairman of the committee that the committee authorized its chairman to report to the House two resolutions. The first of those resolutions I believe all the members of the committee concurred in. The second resolution the three gentlemen alluded to by the chairman of the committee, together with the gentleman from Ohio, [Mr. FOSTER,] concurred in.

The report made by the chairman of the committee is a report to the committee by three gentleman—himself, the gentleman from New York, [Mr. WHEELER,] and the gentleman from Maine, [Mr. FRYE;] and the report presented by the gentleman from Ohio [Mr. FOSTER] presents the views of the other four members of the committee. That is, of the majority of the committee, the committee consisting of seven members.

Mr. MARSHALL. Mr. Speaker, as a member of the committee I wish merely to say now before this passes from the attention of the House this morning that while I have united in the presentation of the views which have just been submitted by the gentleman from Ohio, I desire also for myself to present some additional views to be printed and recommitted. But I do not have them here this morning, and I wish to state as the reason for not being able to present them now that the evidence, that taken by the sub-committee which first visited New Orleans and that taken by the other members of the committee more recently, has not been printed. Some of it has not been written out. A portion was taken by a short-hand reporter residing in Saint Louis; the other reporter being unwell and not able to perform the duty assigned him. That portion of the evidence I believe was taken to Saint Louis and I understand has not yet reached the city of Washington. I have been unable therefore as yet to get at the language I desired to use in presenting my individual views, and I shall in a day or two ask of the House the privilege of presenting my own individual views in addition to those presented by the gentleman from Ohio [Mr. FOSTER] in which I join with him. I shall do so I think within a day or two. I suppose it might be understood this morning that I would have the right.

Mr. G. F. HOAR. I hope that right will be accorded to the gentleman.

The SPEAKER. The Chair hears no objection.

Mr. G. F. HOAR. I now ask for the reading of the entire report. But I desire to say that in order to save the time of the House, if the gentleman from Iowa [Mr. DONNAN] withdraws his objection to its being printed in the RECORD, I will not ask for the reading of it in the House.

Mr. DONNAN. I desire to say one word to explain why I object to this being printed in the RECORD. We seem to be reaching a time when almost everybody seeks to have almost everything printed in the daily RECORD. We print this report as a document and some ten thousand extra copies of it. The only excuse for having it printed in the RECORD that I can conceive is that it may meet the eyes of every member to-morrow morning. Now, it can be printed and be before us just as well in a documentary form to-morrow morning. And we will thus save encumbering the RECORD unnecessarily.

One of the most important matters, it seems to me, which this Congress or the next Congress can consider is how we can decrease the bulk of the CONGRESSIONAL RECORD. In the last session of this Congress it reached a bulk of no fewer than seven volumes; and now you are so encumbering it that it comes to us each morning with forty, sixty, or eighty pages, and it has even been in excess of that one morning last week.

As a document the usual number of copies of this report can be printed and laid on each member's desk to-morrow morning. There is therefore no necessity for publishing it in the daily RECORD, and no necessity for the gentleman from Massachusetts delaying the action of the House by insisting on the reading of the whole report that he may have it go into the RECORD.

Mr. G. F. HOAR. I appreciate the force of the gentleman's argument. But I have stated on my responsibility as a member of this House that I think all the views which have been submitted by the different gentlemen on the committee on both sides are so important, and I believe they are so regarded by the House, that this report ought to go into the record of the proceedings of the House.

Mr. HAWLEY, of Connecticut. Right.

Mr. G. F. HOAR. And I desire to inquire of the Chair whether it is not my right to ask for the reading of the report?

The SPEAKER. Undoubtedly.

Mr. G. F. HOAR. Then I have to ask the gentleman from Iowa if he will require the House to sit here for an hour to listen to that report?

Mr. DAWES. I concur with my colleague [Mr. G. F. HOAR] as to the importance of having the report printed in a permanent form in the CONGRESSIONAL RECORD, where it can be readily consulted. But I suggest that this is not a report which my colleague desires to have read. It is the views of minorities, except the report submitted by the gentleman from Ohio, [Mr. FOSTER.] It is therefore admitted *ex gratia*, and can be admitted on any terms the House may choose to fix. No member I think can insist on having the views of any minority printed in the RECORD.

Mr. G. F. HOAR. In answer to my colleague, I desire to say that the committee authorized these various reports to be made as approved of by particular members of the committee.

Mr. DAWES. That may give it a different status.

Mr. DONNAN. I desire to say a word. Inasmuch as the gentleman from Massachusetts has declared that upon his responsibility as a member of this House he will delay the action of the House a sufficient time to have this entire report read, and inasmuch as I think I have shown the House that we may just as well have this report on our desks to-morrow morning for the consideration of every member in the form of a document, saving its going into the RECORD and being multiplied in bound volumes, I propose not to have the responsibility resting upon my shoulders of delaying the action of the House when it is so near the close of the session and public business is pressing us so much.

But, inasmuch as the gentleman assumes that responsibility and insists here upon the floor that he will delay the progress of business of the House this entire day, if it shall require it, in order to have the report read and thereby go into the RECORD, I will withdraw my objection.

The SPEAKER. No further objections being made, the reports will be severally printed for the use of the House; also printed in the RECORD, and recommitted to the committee.

The following is the report submitted by Mr. FOSTER:

The undersigned, a majority of the Committee on the state of the South, respectfully report:

That they cannot agree to the report made to the committee by Messrs. HOAR, WHEELER, and FRYE.

The laws inimical to the colored people of Louisiana referred to in their report have been repealed for years. Except during the schism of Governor Warmoth, in 1872, the republican party has long had control of the machinery of the State.

The late registration shows an excess of the colored over the white voters, giving 90,781 colored to 76,823. In the absence of any direct evidence that the late election was not free and fair, the assumption by the minority that enough colored voters must therefore have been prevented from voting at the late election by the recollection of the Colfax and Coushatta killings and by other riots, which occurred years before, to have changed the result of the election throughout the State, is an assumption so violent—when it is recollected that both those parishes elected a full Kellogg ticket by republican majorities—as not to be received, if any other cause for the vote of the State can be found.

Such causes exist and are obvious. Among them are:

First. The registration was incorrect, and exceeded the true colored vote.

The registration was wholly in the hands of the Kellogg officials, with whom a republican committee, with United States Marshal Packard at their head, co-operated. In only three parishes did the republican supervisors of registration make any complaint of unfair or insufficient registration. On the other hand, very great complaint was made by the conservatives, who specified, with proof, fifty-two hundred cases of conceded false registration in New Orleans alone; and those conservatives who had been co-operating in joint party committee to secure a fair registration gave up the effort in despair.

The census of 1870 (the correctness of which is not impeached) showed 87,076 whites and 86,913 colored males over twenty-one years of age. All the statistics and evidence before us indicated no change in this proportion in favor of the colored voters. Yet the registration of colored voters *exceeded by* 4,000 the total number of colored adult males returned by the census, while the registration of white voters was 10,000 *less*.

Second. The whole number of voters registered was 167,604. Of these 146,523 voted. This is a larger proportion of registered voters than usually vote in any of the Northern States. In an agricultural State, sparsely settled, where long journeys had often to be made to reach the polls, it is unreasonable to suppose that a greater proportion of the registered blacks would have voluntarily turned out to sustain a government under which the prosperity of the State and their wages and the value of their shares of production had steadily declined than usually vote at elections.

Third. Eighteen hundred and seventy-four was a year of political change, in which the vote throughout all the States was seriously affected against the republican party—a change resulting largely from the financial distress of the people, and which should, therefore, naturally have been even greater in Louisiana than elsewhere.

Fourth. It became the interest of the conservatives, at least at the late election, not to intimidate, but to acquire by every fair means the colored vote.

Parties who were alleged to have threatened blacks even with refusal of employment, were subject to prompt arrest. It was known that pretexts would be sought to deprive the conservatives of the result if they prevailed in the election. It was therefore their interest to avoid giving any such pretexts. Accordingly they determined everywhere to co-operate with and conciliate the blacks. They voted down the propositions or suggestions which were made in the early part of the campaign for refusal to employ those colored voters who would not co-operate with them, and generally sought, by combining with colored voters, to carry the election.

Local combinations against the Kellogg candidates were made in many parishes by men of all parties and colors. In several parishes a Union ticket of colored conservative votes was voted for and elected. An intelligent colored witness testified that he "desired better government," and to that end "was willing to swallow the white men if the white men would swallow the colored." These causes and feelings naturally united to swell the conservative vote in such localities exactly as indicated by the returns.

Fifth. The entire want of any direct evidence to show any general intimidation of the colored voters.

Of course in so large a State it would be impossible there should be no instances of refusal to employ nor of intimidation. Such occur in every State. But the evidence certainly indicates no general intimidation of colored voters, and that such intimidation as did exist in the State was rather in the interest of the republicans than of the conservatives. The United States marshals, whose chief was chairman of the republican State committee, armed in some cases by blank warrants, and aided by Federal troops, made constant arrests before election, but not afterward. The oversight of the elections and of the returns was in the hands of Governor Kellogg's officials. Their count and return did show 29 majority of members of the lower house elected by the conservatives without any protest whatever, except in three parishes, although it was their province and duty to protest in any case where violence or intimidation or fraud existed.

Indeed, the direct evidence as to the election of 1874, as well as the circumstances, clearly indicate a peaceable and fair election. In fact, after the visit of the first committee and the revisit of the special committee, the Kellogg party, with all their machinery for collecting evidence, were unable to produce in the entire State more than half a dozen persons to testify to anything impeaching the freedom and fairness of the late elections who were not office-holders or connected with office-holders.

Against such facts it seems to us idle to assume that the disturbances so vividly pictured by the minority could have kept up throughout this State such a feeling of intimidation as would justify the assumption that but for that feeling the State would have gone republican. All experience shows that the result of the election of 1874 in Louisiana, as returned to the returning board, was natural and to be only accounted by the reasons we have given.

We hold, therefore, that in November, 1874, the people of the State of Louisiana did fairly have a free, peaceable, and full registration and election, in which a clear conservative majority was elected to the lower house of the Legislature, of which majority the conservatives were deprived by the unjust, illegal, and arbitrary action of the returning board.

To the resolutions reported to the House from the committee, as to the action of the returning board, we are all agreed.

We understand the committee to be unanimous in finding the fact that the action of the returning board has defeated the will of the people as expressed by them at the polls on the 3d of November, 1874. The people then elected to the lower house of their Legislature a majority of conservative members; a portion of the conservative members thus elected were refused their certificates. This is an act of great injustice to the individuals, of gravest danger to the State and free government, and ought to be immediately corrected by any power competent to correct it.

The resolution recommending the recognition of Governor Kellogg is based upon general information and not upon evidence. On this point no testimony was taken, either by the committee or any part of it. Kellogg may or may not have been elected in 1872, but there is no evidence to show the fact, or if there be, it has been neither sought nor found by this committee. Messrs. FOSTER and PHELPS think that the popular belief, taking both conservative and radical circles, inclines on the whole to justify Kellogg and Penn's claims; and that as Kellogg is and has been the acting governor of Louisiana for the past two years, to deny his right and install another in his place, after this lapse of time, might involve much mischief to the legal and political interests of the State.

To avoid the mischief and confusion of change, a majority of the citizens of Louisiana seem willing to accept as a compromise Kellogg's recognition and the restoration to the conservatives of the control of the lower house.

For these reasons Messrs. FOSTER and PHELPS do not wish to oppose the recommendation that the administration of Governor Kellogg be recognized; neither, in view of the fact that they know nothing of the merits of the case as judged by competent evidence, do they wish to be understood as urging it. They only wish to record their agreement with those of their associates who believe that such a compromise might, by making a termination of the uncertainty in Louisiana, be on the whole less intolerable than the present distress.

But to any resolution recognizing Kellogg Messrs. POTTER and MARSHALL are utterly opposed. They find nothing to justify the belief that Kellogg was elected. That he seized the government by the aid of Federal troops, through a void and fraudulent order which prevented the counting and return of the votes, should be a standing presumption against him. When the people, outraged by the abuses of his government, had successfully regained the office he had usurped, he was again reseated by Federal power. By the forms of legislation with which he had intrenched himself, he once more sought to nullify the choice of the people at the late election, and to that end called on the Federal troops to break up the meeting of a legislature.

For Congress to recognize usurpation so gross and so oppressive is, they think, to establish a precedent by which, under pretexts that can readily be found, any State government may be overthrown, the will of the people nullified, fraud and violence made permanent, and republican forms perverted to destroy liberty.

In their judgment all that is needed in Louisiana is to withdraw the Federal troops and leave the people of that State to govern themselves.

CHARLES FOSTER.
WILLIAM WALTER PHELPS.
CLARKSON N. POTTER.
SAMUEL MARSHALL.

The following was submitted by Mr. G. F. HOAR:

The special committee to whom was referred so much of the President's message as relates to the condition of the South report the following resolutions. They further submit the views of the various members of the committee.

For the committee:

GEO. F. HOAR,
Chairman.

Whereas both branches of the Legislature of Louisiana have requested the special committee of this House to investigate the circumstances attending the election and returns thereof in that State for the year 1874; and whereas said committee have unanimously reported that the returning board of that State, in canvassing and compiling said returns and promulgating the result, wrongfully applied an erroneous rule of law, by reason whereof persons were awarded seats in the house of representatives of Louisiana to which they were not entitled and persons entitled to seats were deprived of them:

Resolved, That it is recommended to the house of representatives of Louisiana to take immediate steps to remedy said injustice and to place the persons rightfully entitled in their seats.

Resolved, That William Pitt Kellogg be recognized as the governor of the State of Louisiana until the end of the term of office fixed by the constitution of that State.

The undersigned, a portion of the special committee to whom was referred so much of the President's message as relates to the condition of the South, respectfully report:

The matters embraced in the reference to the committee are of the most serious and important character. In several of the Southern States a condition of affairs is said to exist which not only impairs the welfare of those States, but greatly endangers the peace and safety of the whole country. It seemed specially important to investigate and report to the House the state of things in Louisiana, as all parties there are agreed, for different reasons, in demanding the immediate interposition of Congress to redress grievances of which they bitterly complain.

One party in Louisiana assert that there is a conspiracy in that State, large in numbers and strength, though a minority of the legal voters, to take possession by force and fraud of the State government; to drive out of the State all white men who will not join in their schemes or refrain from any active resistance; to deprive the negro of the political and legal rights conferred on him by the fourteenth and fifteenth amendments, and in some mode hereafter to be more fully made manifest to reduce him to such a condition of political and personal dependence upon the whites that the will of the latter shall be the law which determines his personal rights and fixes the price and condition of his labor. It is further charged that in the execution of this purpose vast numbers of murders have been committed; that the enforcement of the law has ceased over large districts; and that by terror, violence, and fraud the holding of fair and peaceable elections and fairly ascertaining the result has been rendered impossible.

The other party, denying these charges, claim that the State of Louisiana has fallen into the control of the negro population, under the lead of a few white persons, mostly adventurers from other States, who have possessed themselves of the State and local offices, which they have administered corruptly and wastefully for their personal gain, wasting the public revenues until taxes have become an intolerable burden and the commerce of the State almost destroyed; that the people of the State have twice fairly elected other officers; but that the popular will has been frustrated by fraud, which would have been ineffective but for the forcible interference of the National Government. They claim that whatever violence has been used on their side is but the natural action of freemen endeavoring to assert their political rights, or at least is to be pardoned to men smarting under a sense of wrong and tyranny.

Both sides agree that the party who do not now hold the State government of Louisiana are physically the strongest. It is only the National Government that keeps in place for an hour the governor, the Legislature, a large portion of the local officers (and perhaps the judiciary) of Louisiana. Their opponents are prepared and able to take possession of the State government at once, whenever the National Government will not interfere. It is further claimed that a condition not unlike that of Louisiana exists in several other Southern States.

In our judgment this condition of things is fraught with the gravest peril to the whole country. That the people of any State should be unwilling or unable to determine by peaceful and legal means the result of their elections, and that the President should be compelled to interpose the military force of the Government to prevent civil war, is itself a terrible misfortune. But the evil goes much further. Upon the elections in Louisiana, as in other States, depends the right to their seat of Senators and Representatives who are to aid in making laws for the whole country, and the choice of presidential electors, upon whose vote may depend the title to office of the President of the United States himself.

No party in the United States will like to submit to a result decided by the votes of electors chosen by such means. Each party will be likely to credit charges of fraud and violence made against its opponent, and to discredit like charges made against its own side. There is, in our judgment, the greatest danger that these elements may enter into the next national election to so great an extent that it may leave the real expression of the will of the people in doubt. In such case an appeal to force, like that which has been made in Louisiana, must result in civil war, spreading throughout the entire country.

That this result is desired and expected by some persons who are largely responsible for the troubles in Louisiana, we have great reason to believe. We append an article published in the New Orleans Bulletin of February 6, 1875, which exhibits the purposes of the contributors of that journal, and, we fear, faithfully reflects the views of many men who are active and influential in the State of Louisiana.

The committee have had access to the reports made and evidence taken by various committees of one or the other of the two Houses of Congress since the close of the war, and have taken into consideration well known and uncontested facts in the recent history of the country. A sub-committee visited the State of Louisiana, where they took oral and documentary evidence, reporting their conclusions in writing. Afterward the whole committee determined to proceed to Louisiana to make fuller investigation, which purpose they have executed, a quorum being in attendance during their entire stay. In discharging their delicate and responsible duties they have been deeply impressed with the importance of the questions which they had to consider to the people of Louisiana and to the whole country, and have endeavored to approach them without partisan bias.

The question with which the American people have to deal will be best understood not by fixing the attention upon the details of particular acts of outrage on the one side, or of special and extraordinary exertions of national power to prevent them on the other, both calculated to stir deeply the feelings of large masses of the people, but by a dispassionate consideration of the indisputable facts of history.

The people of the States which engaged in the rebellion were composed in large part of two classes—a dominant race of slave-holders and those who approved and sustained slavery, and a subject race of slaves.

Each of these classes possessed the virtues and the faults which might be expected from its condition. The dominant class were unsurpassed among the nations of the earth in courage, spirit, hospitality, and generosity to their equals. They were apt to command and apt to succeed. Constantly on the look-out for the dangers which attended the presence in their community of a large servile class, they acquired the habit of acting in concert in all matters which concerned their class interests. They were able politicians. With the love and habit of truth which becomes brave men in all common concerns, they were subtle and skillful diplomatists when diplomacy was needed to accomplish any political end. Their whole society could unite as one man in attempting to create an impression which it was their interest to give, and to stifle all expressions of dissent. On the other hand, they were domineering, impetuous, impatient of restraint, unwilling to submit to any government which they did not themselves control, easily roused to fierce anger, and when so roused, both as individuals and as masses, cruel and without scruple. They never had learned to respect human rights, as such, or to tolerate the free expression of opinions which differed from their own, or to see dignity in manhood beyond their own class. It was such a people that engaged in the rebellion, and such a people who were required to live under a new order of things to which they had been led not by change of character or opinion, but by mere force of arms.

They had submitted to the national authority, not because they would, but because they must. They had abandoned the doctrine of State sovereignty which they had claimed made their duty to their States paramount to that due to the nation in case of conflict, not because they would, but because they must. They had submitted to the constitutional amendments which rendered their former slaves their equals in all political rights, not because they would, but because they must. The passions which led to the war, the passions which the war excited, were left untamed and unchecked, except so far as their exhibition was restrained by the arm of power.

On the other hand, the negro was, in his ordinary condition, gentle, patient, docile, affectionate, and grateful. His confidence was easily won. The fear of the whites and habit of submission had been implanted in him by ages of slavery. The virtues of frugality, of honesty, of respect for justice either in private or public concerns, had never been exhibited toward him by his superiors, and he was not likely to be an example of them in himself, or to be very exacting in demanding them in those whom he regarded as his friends.

It was to these two classes, varying in numbers, in the various Southern States, just about equal in the State of Louisiana, that the experiment of republican government was intrusted on their readmission to the Union at the close of the war.

To these were added a small number of persons who had, in the exercise of their undoubted privilege as American citizens, moved into the South from other States. The whole spirit and policy of American institutions has been to encourage immigration in the fullest and freest manner. In all our States the native of foreign countries is not only welcomed and attracted by all possible inducements to take up his residence, but he is in a brief time clothed with citizenship and awarded quite his full share of political influence and consideration. But the citizen from the North who moved into the South was quite commonly opposed in opinion to the old residents on public questions. This opposition made him the natural ally, and his superior education made him the leader of the colored population. It was only to be expected, unless the nature of man were in this case to be thoroughly changed, that he should be regarded by the native white citizen of the South with distrust and dislike, especially is he came into their State for the purpose of engaging in politics, or held high State or national office without the consent of the white inhabitants.

A still greater difficulty attended the problem. In every northern State the people had founded their institutions upon the theory that universal suffrage and universal education are inseparable. In some form of statement this axiom is declared in the constitution or laws of all of them. It has become a maxim too trite and familiar for repetition. No considerable number of American citizens of northern birth could be found who would not agree that their own institutions would have proved a disgraceful and disastrous failure but for the common school. Yet the representatives of these same States, while imposing by national authority universal suffrage upon communities to all whose previous opinions and habits it was totally alien, made no provision for securing to the freedmen the defense of education. Of the number of males over twenty-one in the State of Louisiana in 1870, there were by the census, white 87,066, colored 87,121; total, 174,187. Of the whole colored population over twenty-one there were 157,049 who could not read and write. If half these were females, we have of colored voters who are reported as illiterate 78,524 out of 87,121.

These masses of illiterate voters must of necessity to a very large extent be instruments in the hands of others, who can influence their passions or excite their fears.

This condition has not improved since 1870. There is reason to believe that the illiteracy of the colored people is diminishing and that of the whites increasing; but the whole condition is not much, if any, improved. The total number of children in Louisiana between six and twenty-one years in 1874 is estimated by the State superintendent of schools at 280,387. The number of children enrolled in the public schools in 1874 is 74,309. The report of the State superintendent at the beginning of the last year shows an improvement in the educational condition of the State over the two or three previous years, but yet exhibits a sad array of facts. In some parishes there are no public schools; in others there are scarcely any. The enrollment above reported is a mere shell in many parishes, indicating an attendance of only a few weeks at school.

With these elements a great part of the political history of Louisiana for the past ten years might have been predicted by the most ordinary intelligence. Some of the occurrences which we are constrained to report are of a nature so cruel and barbarous as to excite astonishment in any people making the least pretense to civilization. But bloodshed, lawlessness, attempts by minorities to gain political power by force, delusions inflaming great bodies of people, unrelenting hatred of opponents, and the use of these as instruments by designing and unprincipled leaders—all these things were almost inevitable. We find them existing to an extent which has almost overthrown republican government in one State, and if not checked are a dangerous menace to the peace of the whole country.

On the other hand, the interference of national authority, even where that was imperatively required by the Constitution and laws of the United States, and the expression of public sentiment at the North, did not tend toward a cure of the trouble. Our institutions and all the habits of our people are founded upon the principle of local self-government. The institutions of this country imply, for their successful and harmonious working, that in every vicinage throughout the whole country any twelve men placed upon a jury by lot will decide all causes, civil and criminal, according to the law and the fact; and that every small local organization, ward, township, or parish, will elect local officers who will honestly and truly declare the result of all popular elections so far as their jurisdiction extends, and the whole body of members returned to any Legislative Assembly will honestly and fairly determine the right of every person claiming membership therein, as the question arises in each individual case. Whenever this presumption fails to be true, so far local self-government fails. In such cases the Constitution furnishes machinery by which the National Government may interfere for the protection of the rights of the people. But this machinery has been seldom used; it is clumsy and difficult of management, and always tends to excite and alarm the whole people.

Whenever there is interposition of the National Government, either to guarantee republican government menaced in any State, to repress civil disorder on application of the State authority, to secure freedom of election, or the rights declared by the constitutional amendments, the political party in power in the National Government is, of course, properly held responsible. The party in opposition makes these exertions of power the especial points of its attack, and are disposed to deny or distort the occurrences that give rise to them.

The party in opposition is tempted to make the cause of those who are encountering the administration its own. Whether arrayed under the same party name or not, it looks for their votes in aiding it to displace its political opponents. It is thus naturally led to excuse or to deny all the facts on which the administration rests its justification for its extraordinary exercise of power. The supporters of the administration, on the other hand, are tempted to extenuate or overlook whatever may be wrong in the conduct of the State governments administered by their own political friends. So that the public sentiment of the rest of the country stimulates and aggravates the evil which it has so deep an interest to cure.

The committee have taken much evidence as to the opinion and purposes of the people of Louisiana, the history and conduct of her State administration, the acts of the local and State officials whose duty it was to conduct the late election and ascertain and declare the result, and upon the crimes and outrages which are said to have interfered with the freedom and fairness of the election. A great deal of this testimony is conflicting. We are aided in determining the probability of the story on each side by a recurrence to the previous history of the State.

After the war closed the whites of Louisiana were permitted to elect a Legislature, which sat during the years 1865, 1866, and 1867. They enacted a series of laws which must have been designed to restore the negro to a State of practical servitude. Statute of 1865, chapter 10, provides that under penalty of fine or imprisonment no person shall carry fire-arms on to the premises or plantation of any citizen without the consent of the owner, thus depriving the great mass of the colored laborers of the State of the right to keep and bear arms, always zealously prized and guarded by his white employers.

Statute 1865, chapter 11, punishes by fine and imprisonment the entering upon any plantation without the permission of the owner, thus preventing any person from seeking any intercourse with the negro for the purpose of giving political or other information except such as his master should approve.

Statute 1865, chapter 12, authorizes any justice of the peace, on complaint that any person is a vagrant, on summary process to require such person to give bond for his good behavior and future industry for the period of one year. On failing to give such bond, the justice shall issue his warrant to the sheriff to hire out such person for the term of twelve months, under such regulations as may be made by the municipal authorities: *Provided, That if the accused be a person who has abandoned his employer before his contract expired, the preference shall be given to such employer of hiring the accused.* Thus putting it into the power of any local magistrate, on summary process, to remand the laborer to a condition of practical slavery.

Statute of 1865, chapter 16, enacts that any person who shall persuade or entice away, *feed, harbor, or secrete* any person who leaves his employer without permission, shall be subject to a fine of not more than $500 or imprisonment of not more than twelve months, or both. Thus no laborer can leave his employer without leave without becoming an outcast, to whom food and shelter must be denied by all mankind.

Statute of 1865, chapter 20, imposes fine and imprisonment on any person who employs any laborer already under contract to another.

Statutes of 1867 authorized the imposition of a poll-tax for highway purposes to the amount of fifteen dollars. Under this law it would be possible to raise the sum of $2,612,000 in the State in a single year, which should be divided *per capita* among the males over twenty-one, rich and poor paying the same sum. These laws perished with the overthrow of the government which enacted them, in 1867.

In 1864 a convention was held which framed the constitution of the State. It adjourned subject to the call of its president. In 1866 it was summoned to meet again in New Orleans, to consider some proposed amendments to the constitution, which had gone into effect. It was claimed that by the adoption of the constitution its functions were exhausted, and that its future assembling could have no official character. If this were true it would seem to have been harmless.

Its members were unarmed and unprepared for resistance. This body was set upon in the hall where it assembled by a mob consisting of citizens and policemen of New Orleans. In the language of the report of the congressional committee of the House of 1866, who fully investigated the whole transaction, "There has been no occasion in our national history when a riot has occurred so destitute of justifiable cause, resulting in a massacre so inhuman and fiendlike. The massacre was begun and finished at midday. An intention to disperse and slaughter the members of the convention and those persons, white and black, who were present and friendly to its purposes, was mercilessly carried into full effect." The police were active on the side of the rioters. Two hundred and sixty persons were killed. The report proceeds:

"The committee examined seventy-four persons as to the facts of violence and bloodshed upon that day. It is in evidence that men who were in the hall, terrified by the merciless attacks of the armed police, sought safety by jumping from the windows, a distance of twenty feet, to the ground, and as they jumped were shot by police or citizens. Some, disfigured by wounds, fought their way down stairs to the street, to be shot or beaten to death on the pavement. Colored persons at distant points in the city, peaceably pursuing their lawful business, were attacked by the police, shot, and cruelly beaten. Men of character and position, some of whom were members and some spectators of the convention, escaped from the hall covered with wounds and blood, and were preserved almost by miracle from death. Scores of colored citizens bear frightful scars more numerous than many soldiers of a dozen well-fought fields can show, proofs of fearful danger and strange escape. Men were shot while waving handkerchiefs in token of surrender and submission. White men and black, with arms uplifted praying for life, were answered by shot and blow from knife and club; the bodies of some were 'pounded to a jelly;' a colored man was dragged from under a street-crossing and killed at a blow; men concealed in outhouses and among piles of lumber were eagerly sought for and slaughtered or maimed without remorse; the dead bodies upon the street were violated by shot, kick, and stab; the face of a man 'just breathing his last' was gashed by a knife or razor in the hands of a woman; an old, gray-haired man, peaceably walking the street at a distance from the institute, was shot through the head; negroes were taken out of their houses and shot; a policeman riding in a buggy deliberately fired his revolver from the carriage into a crowd of colored men; a colored man two miles away from the convention hall was taken from his shop by the police, at about four o'clock on the afternoon of the riot, and shot and wounded in side, hip, and back. One man was wounded by fourteen blows, shots, and stabs; the body of another received seven pistol balls. After the slaughter had measurably ceased, carts, wagons, and drays, driven through the streets, gathered the dead, the dying, and the wounded in 'promiscuous loads,' a policeman, in some cases, riding in the wagon, seated upon the living men beneath him. The wounded men, taken at first to the station-house or lock-up, were all afterward carried to the hospital. While at the station-houses, until friends found them with medical aid, they were left to suffer; when at the hospital they were attended to with care and skill. But this was done at no cost to the city or to the State."

Without asking permission, so far as the committee learned, those wounded men were carried to the hospital under the care of the Freedmen's Bureau, and shelter, surgical treatment, and food were furnished at the cost of the United States.

In the year 1868, the year of the presidential election, occurred six bloody and terrible massacres: the Bossier Parish massacre, the Saint Landry massacre, the Orleans, the Caddo, the Jefferson, and the Saint Bernard. The following summary of testimony will be found in Mr. Poland's report, Forty-second Congress, second session, report No. 22, pages 21, 22.

The testimony shows that over two thousand persons were killed, wounded, and otherwise injured in that State within a few weeks prior to the presidential election; that half the State was overrun by violence; midnight raids, secret murders, and open riot kept the people in constant terror until the republicans surrendered all claims, and then the election was carried by the democracy. The parish of Orleans contained 29,910 voters, 15,020 black. In the spring of 1868 that parish gave 13,973 republican votes; in the fall of 1868 it gave Grant 1,178, a falling off of 12,795 votes. Riots prevailed for weeks, sweeping the city of New Orleans and filling it with scenes of blood, and Ku-Klux notices were scattered through the city warning the colored men not to vote. In Caddo there were 2,987 republicans. In the spring of 1868 they carried the parish. In the fall they gave Grant 1 vote. Here also were bloody riots. But the most remarkable case is that of Saint Landry, a planting parish on the river Teche. Here the republicans had a registered majority of 1,071 votes. In the spring of 1868 they carried the parish by 678. In the fall they gave Grant no vote—not one—while the democrats cast 4,787, the full vote of the parish, for Seymour and Blair.

Here occurred one of the bloodiest riots on record, in which the Ku-Klux killed and wounded over two hundred republicans, hunting and chasing them for two days and nights through fields and swamps. Thirteen captives were taken from the jail and shot. A pile of twenty-five dead bodies were found half buried in the woods. Having conquered the republicans, killed and driven off the white leaders, the Ku-Klux captured the masses, marked them with badges of red flannel, enrolled them in clubs, led them to the polls, made them vote the democratic ticket, and then gave them certificates of the fact.

In the year 1873 occurred the transaction known as the Colfax massacre, to which the committee directed special attention. They had before them all the evidence on the trial of Cruikshank and others in the circuit court of the United States for conspiracy and murder, and the charge of the judge. They also called the district attorney and Mr. Marr, the counsel who defended the prisoners, who made full statements of the case as they claimed it to be. It seems to us there is no doubt as to the truth of the following narrative: In March, 1873, Nash and Cagaburt claimed to be judge and sheriff of Grant Parish under commissions from Governor Warmoth. After Governor Kellogg succeeded Warmoth their friends applied to him to renew their commissions. He refused, and commissioned Shaw as sheriff, and Register as judge. They went to the court-house, which they found locked, and Shaw and the other parish officers entered it through the window. Six days after, hearing rumors of an armed invasion of the town to retake the court-house, Shaw deputized, in writing, from fifteen to eighteen men, mostly negroes, to assist as his posse in holding the court-house and keeping the peace. The next day,

April 1, a company of from nine to fifteen mounted men, headed by one Hudnot, came into Colfax, some of them armed with guns; and on the same day one or two other small armed squads also came into town. This day no collision occurred.

April 2, a small body of armed white men rode into the town, and were met by a body of armed men, mostly colored, and exchanged shots, but no one was hurt.

These proceedings alarmed the colored people, and many of them, with their women and children, came to Colfax for refuge, perhaps a majority of the men being armed

April 5, a band of armed whites went to the house of Jesse M. Kinney, a colored man, three miles from Colfax, and found him quietly engaged in making a fence. They shot him through the head and killed him. This seems to have been an unprovoked, wanton, and deliberate murder. This aroused the terror of the colored people. Rumors were also spread of threats made by them against the whites.

April 7, the court was opened and adjourned. The alarm somewhat subsided, and many colored people returned to their homes, the others maintaining their possession of the court-house, the whites maintaining an armed organization outside the town.

April 12 the colored men threw up a small earth-work near the court-house.

Easter Sunday, April 13, a large body of whites rode into the town and demanded of the colored men that they should give up their arms and yield possession of the court-house. This demand not being yielded to, thirty minutes were given them to remove their women and children. The negroes took refuge behind their earth-work, from which they were driven by an *enfilading* fire from a cannon which the whites had. Part of them fled for refuge to the court-house, which was a one-story brick building, which had formerly been a stable. The rest, leaving their arms, fled down the river to a strip of woods, where they were pursued, and many of them overtaken and shot to death.

About sixty or seventy got into the court-house. After some ineffectual firing on each side the roof of the building was set fire to. When the roof was burning over their heads the negroes held out the sleeve of a shirt and the leaf of a book as flags of truce. They were ordered to drop their arms. A number of them rushed out unarmed from the blazing building, were met by a volley, and a number killed and wounded, others were captured. Fifteen of the blacks crept under the floor of the burning building, but were all captured. The number taken prisoners was about thirty-seven. They were kept till dark, when they were led out two by two, each two with a rank of mounted whites behind them, being told that they were to be taken a short distance and set at liberty. When all the ranks had been formed the word was given, and the negroes were all shot. A few who were wounded, but not mortally, escaped by feigning death.

The bodies remained unburied till the next Tuesday, when they were buried by a deputy marshal from New Orleans. Fifty-nine dead bodies were found. They showed pistol-shot wounds—the great majority of them in the head, and most of them in the back of the head.

Two white men only were killed in this whole transaction, Hodnet, the leader, and one Harris. It is pretended, and this pretense is used to give some palliation for the crime, that these men were bearing a flag of truce from the besiegers, and were shot from within the court-house. But among all the witnesses examined there was but one who pretended to have seen any flag of truce in their hands; he was twelve to fifteen hundred feet off across the river. His evidence hardly bears that construction as will be seen by referring to it. On the other hand, Hodnet was killed by a bullet which entered the back of his neck, and Harris by one that entered at the side. To believe this claim would require us to find that the negroes who, so far in the fight had been unable to harm a single one of their adversaries pent up in the building to which they had fled for refuge, with the roof blazing over their heads, compelled to choose between death by fire and the tender mercies of the *foemen*, fired on the men who were bringing them offers of quarter, and that they were carrying the flag backward. No; this deed was *without palliation or justification;* it was deliberate, barbarous, cold-blooded murder. It must stand, like the *massacre* of Glencoe or of Saint Bartholomew, a foul blot on the page of history.

Spread over all these years are a large number of murders and other acts of violence done for political ends. In reply to an inquiry of the committee, General Sheridan, who is gathering careful statistics of the number of persons killed and wounded in Louisiana up to February 8, 1875, since 1866, on account of their political opinions, reports the number so far ascertained to be as follows:

Killed	2,141
Wounded	2,115
Total	4,256

Much evidence was taken by the committee from persons of both political parties in regard to this matter. Lists of homicides in different parishes were produced before the committee by persons familiar with the localities. On one side it was denied that these grew to any great extent out of politics. On the other, statements were made which would tend to show that the murders reported to General Sheridan fell far short of the truth.

But the statements on both sides left it beyond dispute that murders were events of the most ordinary occurrence, so as hardly to make an impression on the memory of intelligent men in whose neighborhood they occurred; and this not only in cities, but in rural communities; that there existed throughout a great part of the State an intense degree of political heat and hatred; that as a rule homicide, murder, and assault with intent to kill went without legal punishment; that the white men generally went armed. Under all the circumstances we do not doubt the substantial truth of General Sheridan's statement.

We have recapitulated these events which took place before the campaign of 1874, not because we desire to keep alive their painful and odious memory, but because it is absolutely necessary to do so to interpret the events of that campaign. In determining whether the negro voter was intimidated in 1874 to an extent which seriously affected the result of the election, we cannot agree with those who think no evidence should be weighed but that of matters since September of that year, and who deem it of no consequence that two thousand political murders had been committed and the murderers were at large. In determining whether the Coushatta and other like deeds were the outbreaks of freemen smarting under a sense of oppression or were enacted for the purpose of establishing a minority in power by the strong hand, it is of some consequence to know whether the same men did the same thing before the matters of which they complain as invasions of their own rights took place. In deciding whether their assertions are true, that they desire that the negro shall enjoy all his constitutional rights to freedom, to the suffrage, to equality before the law, it is important to know whether they tried to wrest them from him on the last occasion when they had undisputed legislative sway.

We now come to the events of 1874. The campaign was inaugurated by the formation of a party designed to divide the people of Louisiana on the line of race. Its convention at Baton Rouge begins its address, "We, the white men of Louisiana." This party assumed various names in various localities, almost always indicating a purpose to make the race issue distinct.

Agreements were entered into in various parishes, signed by hundreds of planters, to employ no laborer who did not vote their ticket. Handbills like the following were circulated in French and English:

"*Louisianois: Pour sauver votre patrie, il faut renvoyer les nègres. (Par la faim, animal le plus féroce est dompté.*")

"Louisianians: To save your country, do not employ the negro. Wild beasts can only be tamed by hunger."

After the White League rising of September 14, 1874, an account of which is given hereafter, risings took place in many parishes. The Kellogg officers were driven from power and compelled to fly for their lives. After the re-establishment of the Kellogg government, in some cases the officers were not permitted to resume their functions.

The speeches at public meetings and leading articles in the press urged the people to deeds of violence. We submit a collection of extracts taken from many leading and influential journals published in various parts of the State. We have not space to make extracts from them in this report. They are enough of themselves to establish its conclusions as to the purposes and conduct of the leaders of the white men's party in the campaign of 1874.

It is impossible to state in the space which this report can properly cover the details of the deeds of lawless violence which were proved before the committee. In many parishes the legal officers were driven out by force. Republicans were murdered or compelled to fly for their lives. Whatever the pretext, the real offense was their political opinions.

Ruford Blunt, State senator, an eminent and influential colored preacher in the Baptist Church, whose efforts to establish schools in the parish are highly spoken of in the report of the State superintendent of education, was compelled to promise to give up all politics, and afterward to fly for his life.

Allen Greene, a State senator, a native of Georgia, who had lived in the State for many years, had established in the parish of Lincoln a tannery and shoe manufactory. Hides and bark were produced in abundance in the neighborhood. Mr. Greene had furnished machinery which required the employment of skilled labor, and had introduced about eighty workmen from New England, to whom he paid an average of thirty dollars per month, making a pay-roll of $2,500 per month to be expended in the town. In May, 1874, Mr. Greene was required to resign his office, with threats against his life. His workmen were so disturbed by the *condition* of things that they refused to remain, and a new body who had been engaged in Massachusetts, hearing of the rising of September 14, refused to keep their engagements. Thus the people of the parish of Lincoln prefer to send their hides half way across the continent, have them tanned and manufactured into boots and shoes in Massachusetts by workmen to whom the flour, sugar, rice, and cotton are in like manner conveyed, and then brought back to Louisiana in the form of boots and shoes, and to pay tribute to the manufacturer in Massachusetts, to the carrier and commission merchant, rather than to allow manufactures to be carried on in their own State by men who may be allowed the free expression of their political opinions

The story of Judge Myers.

H. C. Myers resides in the parish of Natchitoches, about five hundred miles above the city of New Orleans, on Red River; has lived there eighteen years. His wife and their six children were born there. For several years he was register of the United States land office for the northwestern district of Louisiana; was elected parish judge in 1870 and 1872, which position he held until February, 1874, when he was appointed judge of the seventeenth judicial district of that State, comprising the parishes of Natchitoches, Sabine, De Soto, and Red River. He appears to be a man of good education, of culture, of refined speech and manners; and your committee fail to see that any charges of mal or misfeasance in office was at all sustained. Early in the spring of 1874 there were nursed and assiduously cultivated in that parish fierce and clamorous political antagonisms. The White League was organized; the removal of all republican office-holders determined upon; and, as has been well said of another locality, "the air was full of assassination." In May notices were posted in conspicuous places, as follows:

"K. K. K.

"Boullet, Myers, and all other radicals in this parish. Your fate is sealed. Nothing but your blood will appease us. The people of Natchitoches, Sabine, Winn, De Soto, Rapides, Red River, Bienville, Claiborne, Jackson, and Caddo are ready at a moment's notice, and will exterminate all radicals."

About this time Judge Myers was warned that his life would be forfeited if he remained another day at his home. His wife, two of his children, and his aged father were sick, one of the children and the father hopelessly, so says the judge, "Quite sick, my little child dying, my aged father, at the other end of the town, also dying, I kissed my little baby, placed it in the care of its weary mother and the Almighty; I left my home, not daring even to visit my father."

The judge and Judge Boucet fled in the night-time by circuitous paths, without even a change of clothing, lest it might lead to suspicion, and finally arrived at New Orleans. From that day to now he has never ventured to his home and dares not do so. In less than a week after he left the babe died, and the father too; "And," says the wife in her testimony, "I was left alone with my sick and dying children. None of my neighbors came to my assistance. My child died. I sent to the tomb-builder to make its little tomb, and he being a democrat refused to do it." From the testimony of the judge and his wife, and incidentally of others, your committee are compelled to believe this a true story.

We were anxious to obtain the facts in the terrible tragedy of Coushatta, and were able to do so from several witnesses, but principally from Mr. Twitchell, a brother of one of the victims, and from Mr. Abney, a merchant of that town, whose reluctant admissions, under a rigid cross-examination, satisfied us was the chief conspirator. This is the fearful story, proven to our satisfaction:

The Twitchell brothers, from New Hampshire, both young and active men of business, one a man some time married, the other but a short time before his death, with five or six other men from the North with their families, settled in this little town, bringing with them earnestness of purpose, integrity, economy, and habits of industry. The reasonably expected results followed; the hamlet grew into a prosperous and flourishing New England village, with its saw and grist mills, its factory, its stores and store-houses, its pleasant white-painted houses with their lawns and gardens, its churches and school-houses. Business flourished. About twelve hundred colored men were gathered into the village. Their labor was in demand, their wages good, and promptly paid. Their children eagerly availed themselves of the school privileges abundantly afforded. The colored voters finding that these men never betrayed their confidence, but in all things were aiding them, elected them to the several parish offices; and they, thus elected, from a sense of duty, honestly and faithfully administered the same. Everything in the village was prosperous, peaceable, and happy. But there was there a small party of white conservatives, headed by Mr. Abney, who determined to rule; who acknowledged no right to the black man but that of service; who had no feeling toward their white neighbors recognizing in the black a citizen other than intense jealousy and hatred. The usual result followed.

August 25, 1874, these officers were waited upon and ordered to resign; they declined; then they were informed that death alone was the alternative. Knowing that the inexorable decree had gone forth, that nothing, neither service to the town, to the State, to their neighbors, nor the faithful performance of duty, nor virtue, nor integrity, nor prayers of themselves, of wives, of little children could save, they besought their cruel neighbors to send them in safety out of the State, promising never to return. An escort was raised by this man Abney of twenty mounted men, the prisoners taking all their ready money, about $2,000, placed themselves in the hands of the guards. Abney issued military orders to what he called political clubs, but we believe white-leaguers, along the route, to furnish aid, supplies, &c. The march was commenced, and within thirty miles of their homes these prisoners were all murdered, terribly mutilated, buried, and no father, widow, brother, or son was permitted even to visit their graves until the bodies were decomposed. None of the white men's party have ever sought the murderers; no pursuit has ever been made, no inquiries ever set on foot by them. A man riding one of the horses of one of the dead men has been seen in the parish, but no one arrested his course or asked him about the bloody deed. No republican, white or black, has dared to commence proceedings. Abney was arrested and admitted to

bail in a small sum, and with impunity insults the majesty of outraged law by boldly appearing as a witness before this committee. More, he was introduced by the conservatives to the witness-stand with a flourish of trumpets as a leading merchant of that section of the State. A brief extract from his cross-examination will indicate his connection with the crime.

Mr. FRYE. Was there not one other officer at that time requested to resign?
Mr. ABNEY. Yes.
Mr. FRYE. What was his name?
Mr. ABNEY. Scott.
Mr. FRYE. Was he killed?
Mr. ABNEY. No.
Mr. FRYE. Did he go with your guard?
Mr. ABNEY. No.
Mr. FRYE. Why not?
Mr. ABNEY. I wouldn't let him; I compelled him to remain behind.
Mr. FRYE. Was he a master mason?
Mr. ABNEY. Yes.
Mr. FRYE. Were you a master mason?
Mr. ABNEY. Yes.
Mr. FRYE. Were any others of the persons masons?
Mr. ABNEY. I did not know that they were.

Now, against those murdered men no crime was charged, no dishonesty alleged, no malfeasance of office proved. Abney alone said they had cheated in certain contracts, but your committee gave no credit whatever to his testimony.

Thus by the murderous hands of neighbors, of men who pride themselves upon their position in society, of those who had never received from the victims other than kindness, were these men deliberately slain; and there is practically no law in Louisiana to bring them to punishment.

WHITE LEAGUE.

The White League is an organization which exists in New Orleans, and contains at least from twenty-five hundred to three thousand members, armed, drilled, and officered as a military organization. Organizations bearing the same name extend throughout many parts of the State. It was pretended that this organization in the city was simply as a volunteer police force, the regular police being inefficient; that it has no connection with associations of the same name in other parts of the State, and that these latter are large political clubs without military organization or arms. A brief examination and a brief cross-examination effectually dispelled this pretension. Several of its members and officers were examined before the committee. So far as was shown this organization in no single instance performed police functions. Its organization, equipment, drill, and discipline were wholly military. Its name was not appropriate to a volunteer police, but was appropriate to an association designed to put the whites of the State into power by force. It had cannon. On the 14th of September, 1874, it rose upon and attacked the police of the city, the pretext of the attack being the seizure of arms which it had imported from the North, and having defeated them with considerable slaughter, it took possession of the State-house, overthrew the State government, and installed a new governor in office, and kept him in power until the United States interfered. This rising was planned beforehand. Its commanding officer, Ogden, published an elaborate and pompous report of his military movements, in which he expresses his thanks to his aids and other officers for their important and valuable services before and during the day of action. In other parts of the State organizations under the same name existed, and we have no doubt their purposes and methods were also identical. In one parish their meetings were called by notices, headed "Attention, White League," and signed by an officer in his military capacity. Abney, the leader of the band at Coushatta, when he sent off the republican prisoners under a guard, gave a military order for supplies and guard to the highest officer of a club in another town, on obedience to which, if his story were true, the safety of the lives of the prisoners depended. Yet he professed to have no other power than that of president of an ordinary democratic club addressing the president of a subordinate or branch club of the same organization.

The White League of New Orleans itself was and is a constant menace to the republicans of the whole State. Its commander can in a few hours place bodies of men, armed and drilled, in any of the near parishes, or those on the coast, or into Mississippi, Alabama, or Texas. It doubtless contains many persons of property and influence. It also contains many persons of very different character. It would be desirous and able to overthrow the State government at any time, if not prevented by the power of the United States. They still retain more than one thousand stand of arms, taken from the State on September 14, and never returned.

We cannot doubt that the effect of all these things was to prevent a full, free, and fair election, and to intimidate the colored voters and the white republicans. The very formation of a white man's party was a menace of terrible import to those who remembered Colfax and Bossier and the convention. The press was filled with threats of violence. The agreement to discharge laborers, the suggestion that wild beasts are tamed by hunger, was evidence of the same spirit. The overthrow of the State government by the White League on the 14th of September, the turning out large numbers of parish officials in the country, compelling them to flee for their lives; the fearful lesson of Coushatta, the formation, arming, and drilling of the White League, the natural successors of the Knights of the White Camelia—these things in a community where there is no legal punishment for political murder must, in the nature of things, have filled with terror a people timid and gentle like the colored population of Louisiana, even if we had not taken abundant evidence as to special acts of violence and crime and their effects on particular neighborhoods.

Mr. Moncure, the conservative candidate for State treasurer, claims a majority in the whole State of about 5,000. A far greater number of republicans than enough to overcome this majority must have been prevented from registration or driven by terror from the polls.

In view of these facts, we do not hesitate to find that the election of 1874 was neither full, free, nor fair; that in large portions of the State the usual means of instructing and persuading the people, of organizing and conducting a campaign, could not be carried on by republicans without danger to their lives; and that many more voters than were needed to give the republican party a complete victory were prevented from voting at all or coerced into voting the white man's ticket.

It was to declare the result of such an election that the returning board met at New Orleans in 1874. In expressing our dissent from the view they took of their own powers and duties, and our emphatic disapprobation of their proceedings, we desire to state as emphatically our unwillingness to do them any injustice, and our full appreciation of all the considerations which may tend to palliate their conduct. Several of them have held high position. Governor Wells, the president, had been a large and wealthy planter before the war, had remained loyal through the rebellion, had been true to the flag of his country when driven to the swamps and hunted with dogs. Such a record entitles him to our warmest sympathy and respect.

But we must declare the law and the fact as we find it.

The Louisiana election laws provide the following machinery for elections:

First. A registration of the voters, to be completed ten days before the election, by a supervisor to be appointed in each parish by the governor.

Second. The fixing in each parish suitable polling places by a police jury chosen by the people of the parish.

Third. Three commissioners of elections, appointed by the police juries, to preside at each poll.

Fourth. A returning board of five persons appointed by the governor, to whom the returns from the whole State are made by the local officers, and who are to canvass and compile them and promulgate the result.

Section 44, statute 1872, provides for the organization of the Legislature, as follows:

[Extract.]]

"SEC. 44. *Be it further enacted, &c.*, That it shall be the duty of the secretary of state to transmit to the clerk of the house of representatives and the secretary of the senate of the last General Assembly a list of the names of such persons as, according to the returns, shall have been elected to either branch of the General Assembly; and it shall be the duty of the said clerk and secretary to place the names of the representatives and senators-elect so furnished upon the roll of the house and of the senate, respectively; and those representatives and senators whose names are so placed by the clerk and secretary, respectively, in accordance with the foregoing provisions, and none other, shall be competent to organize the house of representatives or senate. Nothing in this act shall be construed to conflict with article 34 of the constitution of the State."

The authority given to this board is only to canvass and compile the returns, making two copies, and "of one copy of which they are to make public proclamation, declaring the names of all persons voted for, the number of votes for each, and the names of the persons who have been duly and lawfully elected."

Sections 3 and 26 are as follows:

"SEC. 3. *Be it further enacted, &c.*, That in such canvass and compilation the returning officers shall observe the following order: They shall compile first the statements from all polls or voting places at which there shall have been a fair, free, and peaceable registration and election. Whenever, from any poll or voting place, there shall be received the statement of any supervisor of registration or commissioner of election, in form as required by section 26 of this act, on affidavit of three or more citizens, of any riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences, which prevented or tended to prevent a fair, free, and peaceable vote of all qualified electors entitled to vote at such poll or voting place, such returning officers shall not canvass, count, or compile the statement of votes from such poll or voting place until the statements from all other polls or voting places shall have been canvassed and compiled. The returning officers shall then proceed to investigate the statements of riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences at any such poll or voting place; and if from the evidence of such statement they shall be convinced that such riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did not materially interfere with the purity and freedom of the election at such poll or voting place, or did not prevent a sufficient number of qualified voters thereat from registering or voting to materially change the result of the election, then, and not otherwise, said returning officers shall canvass and compile the vote of such poll or voting place with those previously canvassed and compiled; but if said returning officers shall not be fully satisfied thereof, it shall be their duty to examine further testimony in regard thereto, and to this end they shall have power to send for persons and papers. If, after such examination, the said returning officers shall be convinced that said riot, tumult, acts of violence, intimidation, armed disturbance, bribery, or corrupt influences did materially interfere with the purity and freedom of the election at such poll or voting place, or did prevent a sufficient number of the qualified electors thereat from registering and voting to materially change the result of the election, then the said returning officers shall not canvass or compile the statement of the votes of such poll or voting place, but shall exclude it from their returns: *Provided*, That any person interested in said election by reason of being a candidate for office shall be allowed a hearing before said returning officers upon making application within the time allowed for the forwarding of the returns of said election.

"SEC. 26. *Be it further enacted, &c.*, That in any parish, precinct, ward, city, or town in which during the time of registration or revision of registration, or on any day of election, there shall be any riot, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences, at any place within said parish, or at or near any poll or voting place, or place of registration or revision of registration, which riot, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences shall prevent, or tend to prevent, a fair, free, peaceable, and full vote of all the qualified electors of said parish, precinct, ward, city, or town, it shall be the duty of the commissioners of election, if such riot, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences occur on the day of election, or of the supervision of registration of the parish, if they occur during the time of registration or revision of registration, to make in duplicate and under oath a clear and full statement of all the facts relating thereto and of the effect produced by such riot, tumult, acts of violence, intimidation, and disturbances, bribery, or corrupt influences in preventing a fair, free, peaceable, and full registration or election, and of the number of qualified voters deterred by such riots, tumult, acts of violence, intimidation, and disturbance, bribery, or corrupt influences from registering or voting, which statement shall also be corroborated under oath by three respectable citizens, qualified electors of the parish. When such statement is made by a commissioner of election or a supervisor of registration, he shall forward it in duplicate to the supervisor of registration of the parish, if in the city of New Orleans to the secretary of state, one copy of which, if made to the supervisor of registration, shall be forwarded by him to the returning officers provided for in section 2 of this act, when he makes the returns of election in his parish. His copy of said statement shall be so annexed to his returns of elections, by paste, wax, or some adhesive substance, that the same can be kept together, and the other copy the supervisor of registration shall deliver to the clerk of the court of his parish for the use of the district attorney."

Upon this statute we are all clearly of opinion that the returning board had no right to do anything except to canvass and compile the returns which were lawfully made to them by the local officers, except in cases where they were accompanied by the certificates of the supervisor or commissioner provided in the third section. In such cases the last sentence of that section shows that it was expected that they would ordinarily exercise the grave and delicate duty of investigating charges of riot, tumult, bribery, or corruption on a hearing of the parties interested in the office. It never could have been meant that this board, of its own notion, sitting in New Orleans, at a distance from the place of voting, and without notice, could decide the right of persons claiming to be elected.

The board took a different view of its powers, and proceeded to throw out the votes from many polls where they found intimidation and violence to have existed. The result was to defeat persons whom, on the returns, they should have declared elected, and to elect persons who should not have been declared elected. In regard to four parishes they declared no result whatever, but referred the matter to the Legislature.

The result of this action was to change the political majority of the persons who, by the constitution and laws of Louisiana are entitled to organize the house of representatives.

The returning board claims that in this proceeding they acted under an honest belief that they were right in their construction of the law, and that they were giving effect to the true will of a majority of the people of Louisiana, and that in their construction they followed the precedent set by the democratic or fusion returning board of 1872. We believe they did follow such a precedent. We have no doubt that they believed they were defending the people of Louisiana against a fraud on their constitutional rights. But there is no more dangerous form of self-delusion than that which induces men in high places of public trust to violate law to redress or prevent what they deem public wrongs.

We are not prepared to declare without further examination how many persons obtained a *prima facie* title to seats in the Legislature through this wrongful action. In some of the cases there were defects either of form or substance in the returns themselves which the board claimed required their rejection without regard to the evidence of intimidation.

But the method adopted to set right this wrong was totally objectionable. When the Legislature assembled on the 4th of January, 1875, the minority of the persons entitled to organize the house repaired to the State-house, prepared to possess themselves of the organization by force. Numbers of persons prominent in the White League were on hand to assist. Even long ladders were provided, in readiness for the entry of accomplices from without, who would, in all probability, after the seizure of the house, have displaced the existing senate, and put in its place the other body claiming to be the rightful senate. When the clerk of the last house began to call the roll, one of the minority moved that Mr. Wiltz be declared speaker, and the motion was declared carried by the person who made it—it was not in fact carried, but was opposed by a majority. Thereupon Mr. Wiltz took the gavel. A motion was made to seat five members from the four vacant parishes, which he declared carried, though it was not carried, but was opposed by a majority. He then declared a Mr. Flood elected sergeant-at-arms, who appointed a number of deputies, who at once appeared with badges on which were printed "assistant sergeant-at-arms." Simultaneously a large number of persons in the crowd in the street outside the State-house exhibited the same badges. There being symptoms of violence and disorder, a committee requested General De Trobriand, a military officer of the United States, to aid in preserving order. He came into the hall, spoke to the persons in the lobby at the desire of Wiltz, and order was restored. Subsequently, at the request of the majority of the persons entitled to organize the body and of the governor of the State, General De Trobriand caused his soldiers to remove the five persons who had been forced into seats as above. Wiltz and his friends then, after protest, withdrew, and the majority remained and organized the house by the choice of Mr. Hahn as speaker, and remains now in session as the house of representatives of Louisiana.

We do not here express a judgment of the lawfulness of the act of the military officer. We believe his interference alone prevented a scene of bloodshed like that which attended the convention of 1866, and the scenes of September 14, 1874. His act was not an interference with an organized legislative body. It was a body which had been declared organized by one man contrary to the truth, and contrary to the protest of a majority of its members. It was in no sense a legislative body, but was an illegal assembly, attempting to thrust out the legal house from its place and to usurp its functions. The fact that it was composed in part of a minority of those entitled to seats did not alter its character, nor did the fact, if it be true, that the five members ought to have been declared entitled to seats by the returning board, alter the character of the proceeding. A contestant is not entitled to seat himself in a legislative body by force, however just may be his claim to his seat. Nor is a minority of such a body entitled to seat him by force against the will of the majority.

The law of Louisiana provides various processes and safeguards for conducting elections and determining who are chosen to the Legislature: First, supervisors to make the registration; second, commissioners to preside and conduct elections, and receive only registered votes, and report it through the supervisors; third, returning board to canvass and compile statements of local officers, with judicial powers in certain cases, where local officers certify there was illegality affecting the result; fourth, those persons who are declared elected by the returning board, and those only who may organize the houses; fifth, the house so organized, who are to take up each contested seat, case by case, and determine as final judges who is entitled to it.

Persons who are not declared elected by the returning board have no more right to force themselves in to take part in organizing that house, a minority of those holding such certificates have no more right to organize it over the majority, or to force others in, merely because they claim that they ought to have been declared elected, than persons who claim that the house did wrong in judging of their cases have a right to force themselves in, or than persons who claim that supervisors defeated their election by wrong-doing in registration, or commissioners did wrong in conducting or certifying the election. The act of each set of officers in the successive steps, right or wrong, is binding until the next tribunal has reversed or corrected its action. When, therefore, the minority of those borne on the secretary's roll undertook to overcome the majority in organizing the house, they were wrong-doers. When the five members were brought in they were brought in not by the house but by wrong-doers overthrowing the will of the house and prepared and able to support their wrong by force. When the military officer removed them he removed at the request of the true majority of the assembly persons who were interfering with their right and duty to organize the same under the constitution and laws of Louisiana. Whether the officer had warrant for his action or not, he was interfering not against but in aid of a legislative body at its own request, and at the request of the governor of the State; and his interference prevented a scene of blood which the previous and recent history of that State warrants us in believing would have been of the most fearful character.

We should be extremely glad if any method we could devise or suggest would correct the wrong that we think has been done in organizing the house of representatives. But this must be accomplished, if at all, by the concerted action of those persons in Louisiana of both parties who sincerely desire peace and order and do not wish their State to suffer, to advance the schemes of designing politicians.

We do not overlook the causes which tend to excite deep feelings of discontent in the white native population of Louisiana. There has been great maladministration; public funds have been wasted, public credit impaired, and taxation is heavy. These facts combine with the general prostration of business through the country and with the diversion of business from New Orleans by reason of the construction of railroads northerly from Texas to create gloom and discontent.

But the ballot, not violence or assassination, is the peaceful remedy for so much of these evils as is due to the State administration. Every national administration, nearly every State and city administration, has been charged by its opponents with like faults. We have not been able to investigate all the charges which have been made against the State administration, although we have received both documentary and oral evidence on the subject. So far as has appeared to us, Governor Kellogg is chargeable with no dishonesty, and has set himself as faithfully as he could to remedy the great evil bequeathed to him by his predecessor.

Charges of corruption are made by the conservatives against republican officials without the slightest discrimination. They assume that the acceptance of office is a badge of fraud. No matter how high the position hitherto occupied socially, how spotless the reputation, the moment of acceptance of office witnesses an entire reverse. The gentleman suddenly becomes a blackguard, the honest man a thief. Four or five cases of alleged defalcation were clearly shown to be a mistake during our session. That there was great wrong and corruption, that much bad legislation was enacted, that grievous monopolies were created during Governor Warmoth's term of office is undeniable. That the democrats purchased him at the earliest possible moment for the purpose of converting to their own use his powers of corruption, his skill and cunning in manipulating the machinery of election, was asserted by some of their own witnesses. That there has been decided improvement under Governor Kellogg all admit.

It is said that large numbers of the white people of Louisiana believe that Governor Kellogg is a usurper, and, acting on that belief, are prepared and able to drive him from power if not prevented by the National Government. This may be true. But it is equally true that as large numbers of the voters of Louisiana believe Kellogg and his associates to have been lawfully elected, and that if McEnery were established in power he would be a usurper. The difference between the two parties being that the latter do not propose to settle questions of law by bloodshed. It is further said that this is a question which concerns the people of Louisiana alone, and that they should be left to fight out the question among themselves. But this is an erroneous view, both of the rights and duties of the people of the United States under the Constitution. They have an interest in the question whether Senators and Representatives for Louisiana, thrust into their seats by illegal means, shall sit in Congress to make laws for them, and whether electors, gaining their office in like manner, shall turn the scale in the choice of a President of the United States. The President and Congress are bound to recognize, and if need be to support the true government of Louisiana against all usurpers; and the American people will abandon their rights and flinch from the performance of their duties when they leave these questions to be settled either by the mob or the assassin.

We are of opinion that the union of nearly all the blacks in one political party, and of nearly all the whites in another, is a fact deeply to be deplored. Party spirit bears evil fruit in abundance when animosities of race and class do not mingle with it. But we cannot doubt that whether the white republican leaders have sought to foster this discussion on the color line or not, it would long since have disappeared if the leaders of the white people of Louisiana had not hammered and welded together the masses of the colored population by a system of conduct calculated to excite in the highest degree their fears for their freedom or their political and social rights.

The people who would persuade us and to some degree persuade themselves that they are willing to give the negro all his rights under the Constitution seem to lose all their understanding of what justice and equality really mean when the negro is concerned. They think, and very justly, that it is a great evil to mass all the colored votes on one side. It never occurs to them that it is an equal evil to mass all the white votes on the other. On the contrary, their animosity is specially directed against those whites who act with negroes. They have little reprobation for those leaders who advise the whites to band together in an agreement not to employ negro laborers who vote the radical ticket, or for the planters who followed the advice. The life of no man would be safe, as one of their witnesses very frankly admitted, who, when it was time to gather the cotton crop, should advise negroes to refuse to work for planters who are not republicans. The white who kills a negro goes unpunished. A fearful vengeance overtakes the negro who snaps a cap at a white man. In parish after parish the whites turn out public officers whom they dislike by force, and no punishment follows. The assembling of a body of negroes at the command of the sheriff to maintain his lawful authority is followed by the Colfax massacre.

In addition to the testimony taken in public hearings, your committee enjoyed much opportunity of conversing in private with the people of New Orleans and with persons from other parts of Louisiana. The conservatives, as they called themselves, gentlemen of culture and refinement, courteously extended to the committee offers of the elegant hospitality for which their city is famed. They were all deeply excited by the political condition, and made it the constant topic of their discourse. They were unanimous in declaring that the people of their State desired nothing but peace and good government; that they were willing to leave the colored man undisturbed in his new constitutional rights; and that it was their desire and their interests that the laborer and the employer should live together in confidence and amity. They declared that no honest republican would be affected in his social or personal relation by his political opinions. On the other hand, men in great numbers sought private interviews with the republican members of the committee to declare that a reign of terror existed worse than existed during the war; that they did not dare to express openly republican sentiments; that destruction to their business and risk to their lives would result. These men were, some of them, known to members of the committee. They were not politicians, held and desired no office, and were in many cases business men of high standing and character. They urged the committee not to require them to testify, saying they did not dare to risk the consequences.

The American people are now brought face to face with this condition of things. In the State of Louisiana there is a governor in office who owes his seat to the interference of the the national power, which has recognized his title to his office, not by reason of any ascertainment of the facts by legal process, but has based its action solely on the illegal order of a judge. In the same State there is a Legislature, one branch of which derives its authority partly from the same order, the other being organized by a majority who have been established in power by another interference of the National Government, and which majority derives its title, not from any legal ascertainment of the facts, but from the certificates of a returning board which has misconceived and exceeded its legal authority. It is not strange that the republicans of Louisiana should delude themselves by any plausible views of laws which will enable them to occupy the places which they believe the will of a majority of the legal voters of the State, if free from violence and intimidation, would award to them. It is not strange that the democrats of Louisiana should believe the whole State government a usurpation, should give it no credit for its best acts, should seek to embarrass and thwart and resist it to the extent of their power, and should be unwilling to wait for the slow but sure operation of lawful remedies to cure whatever evil really belongs to it.

ELECTION OF 1872.

We were unable to make any direct and thorough investigation of the election of 1872. It is apparent from the facts stated in the report of the Senate committee (Senate Report, third session Forty-second Congress, No. 457) that the action of the officials was so tainted with fraud and illegality that the action of neither of the pretended returning boards or the certificates of the local election officers can be relied on in the least as a basis for making up an opinion as to the true result. Indeed, this is conceded by several of the most intelligent of the conservative witnesses. It would be impossible at this distance of time, and probably at any time, to go behind the returns and ascertain the true expression of the people's will. But our best judgment is that Governor Kellogg was elected. We find that many of the more moderate of his opponents concede his election. There is no argument to show the election of McEnery which is not met by one equally strong in proof of the election of Kellogg. The registration shows a considerable majority of colored voters, and it is not denied that Kellogg received substantially all the colored votes, besides some thousand whites. Taking the democratic returns in 1872 for all the parishes, except four, for which the returns are conceded to be forgeries, and six others from which they threw out the returns for fraud and violence, and get at the true vote in those parishes in any way you can, by comparing the vote with the registration of white and colored voters, or by taking the republican and democratic votes at the election of this year, and it gives Kellogg a majority of several thousand. Besides, Kellogg is now in office. The frauds, which make it impossible to ascertain in any better or more satisfactory mode the true will of the people, were perpetrated by the appointees of Warmoth in the interest of McEnery.

On the other hand, the order of Judge Durell and the so-called canvass made by the returning board in the interest of Kellogg seem to us to have no validity and to be entitled to no respect whatever. We concede and declare, as emphatically as any person can desire, the unsatisfactory character of the methods above adopted for arriving at this conclusion. There is, in our judgment, whatever may be the opinion one may form from the statement of men familiar with the campaign of 1872, or from the registration of white and colored voters, no legal evidence whatever which will warrant the declaration that either Kellogg or McEnery was lawfully elected.

We have devoted much anxious reflection to the question of remedy for these

evils. It is a question in deciding which no person in Louisiana, on either side, has offered us any valuable suggestion. The remedy, in great degree, lies out of the range of our powers. This great movement of the public mind in great States is not to be dealt with as if it were a street riot. You cannot change great currents of public sentiment or the habits of thought and feeling of great bodies of men by act of Congress. In a republic you cannot long or permanently check their manifestation by the exercise of national power. Until the great body of the white people of Louisiana shall learn to obey the law, to submit to the Constitution, to respect labor, to base their institutions on liberty, equality, and justice, they can enjoy neither prosperity nor peace. The history of their State must be made up of exhibitions of tumult, violence, and crime, alternating with extraordinary exertions of national authority to repress them. Between the two everything that makes a people prosperous, happy, or honorable must go to decay. If the whites of Louisiana, with all their superiority of intelligence, spirit, and energy, choose this course, their right to do so is "safe from all enactments human."

The public sentiment of the rest of the country, more potent than any legislation, might stop the whole trouble in a month. If, instead of seeking to gain partisan advantage from evils which are ruining this fair State, the two parties of the North would each resolutely set its face against the evil done by its own side, little would remain for Congress or President. The difficulty of the southern problem would have disappeared long ago if the democratic party of the North had given it to be clearly understood that they would have no political association with men who would commit, tolerate, extenuate, or overlook murder, and the republican party of the North had been unanimous in making it understood with equal emphasis that they would have no affiliation with men who would plunder the public for personal gain.

But to apply such immediate remedies as are in our power is not a matter of expediency but of constitutional duty.

The United States must guarantee a republican form of government to every State. The National Government must determine whom it will recognize and support as the lawful government in any State. Congress must, by appropriate legislation, if necessary, enforce the last three articles of amendment to the Constitution. Every power lodged in Congress or the President must be exerted, if necessary, to secure national elections against violence. Whether these powers should be used when the exigency calls for them is a question which was settled when the people of the United States conferred them.

The first need of Louisiana is to know who should be treated as the lawful governor until the end of the term which will expire in 1876. It has been suggested that there should be a new election under the authority of Congress. This is not desired, so far as we learn, by any considerable number of persons in Louisiana. Its legality is doubtful. The authority of the person chosen would be denied quite as strenuously as that of Governor Kellogg. Without the presence of United States troops we do not believe a fair election could be had. In the presence of troops we believe the democrats would refuse to take part. It would be a great calamity to Louisiana to excite at this time the violence and bitterness which an election contest would kindle. A government so elected would be in substance only a provisional government. The only alternative seems to be to recognize one or the other of the claimants to the office of governor.

Kellogg is now in fact in office. The President has recognized him, and states to Congress that from the best information he can obtain he believes him to have been elected. The Kellogg government is a fact; its legality is sustained by the judicial tribunals of the State; it is in active operation in all its departments. Under it the late State election has been held, and on its certificates must depend, *prima facie*, the right to their seats of the Representatives chosen from Louisiana for the next Congress. The McEnery government exists only on paper. Its recognition would create the most perplexing questions as to the legality of all public proceedings had in Louisiana for two years past. The recognition of Kellogg by the House will give peace and quiet to Louisiana until the next election.

Some of us are inclined further to recommend additional legislation to protect the peaceable citizens of Louisiana in the freedom of elections, and in the rights declared by the constitutional amendment. The law passed at the short session of 1871, designed to suppress the acts known as the Ku-Klux outrages, was adopted with great hesitation, and was denounced in some quarters as dangerous to the liberties of the people. Yet it proved an effective remedy, powerful for good, but harmless for ill, and commanded the general approval of the country.

We feel as deeply as anybody the objection to suspending the writ of *habeas corpus*, even for a limited time, or for special emergencies, or for a limited extent of territory. But when every other legal safeguard is overthrown; when to peaceable, honest, law-abiding men is neither freedom of election, of speech, of the press, of action, or of opinion; when there is no legal redress for injuries or legal punishment for murder, it is but a mockery to leave this writ to be used only as an instrument to enable wrong-doers to escape punishment for their crimes. So much of the statute of 1871 as authorized the suspension of the writ of *habeas corpus* in certain cases has expired by its own limitation. Some of us believe that it will be necessary to re-enact those sections with some modifications, and with careful restriction of time and occasion. We do not include any recommendation on that subject in this report.

On the whole case we are of opinion—

First. That there has been and is on the part of the party calling themselves the white men's party in Louisiana a purpose to take possession by force and fraud of the State government, without regard to the question of who may have the numerical majority at a fair election.

Second. That in the execution of this purpose they have refrained, and will refrain, from the use of no instruments which they think designed to accomplish it, whether those instruments be murder, fraud, civil war, or coercion of laborers by employers.

Third. While there are many men in their party of more moderate views, who do not themselves use or approve these unlawful means, such men desire the accomplishment of the same end, and are powerless to restrain their more violent associates.

Fourth. Three causes have made it easier to unite so large a number of the whites of Louisiana in these purposes, and have rendered more difficult to unite the best men among them in opposition:

The fact that the administration party of Louisiana is made up by massing together almost the whole negro vote with a few whites, largely from other States;

The fact that there has been great maladministration by republican officials;

The belief, honestly entertained by large numbers of the white people of Louisiana, that they have been twice defrauded of the results of elections in which they had been successful.

Fifth. While all these things are great evils, much to be deplored and likely to exasperate any people, the course of the whites themselves has tended to bring them about and to inflame them. The simple and peaceful remedies of obedience to law, argument, decent treatment of their opponents, would, if they had pursued them, have proved effectual long ago.

Sixth. While we believe Governor Kellogg to have received a majority of the votes in 1872, and while we believe there were violence and fraud which frustrated the will of the people in many parishes in 1874, the illegal order of Judge Durell, and the illegal conduct of the returning board in attempting to cure one wrong by another, naturally inflamed the popular discontent and lent plausibility to the complaints.

Seventh. There has been much dishonesty, much corruption, in State and local administration in Louisiana. For this the republicans, especially under Warmoth's rule, are largely responsible, although in numerous instances their opponents have been equally to blame.

Eighth. The effect of all this has been to put an end to the authority of law, and in a large portion of Louisiana to deprive the negro of his freedom of suffrage, and wholly to destroy the value of the methods provided by law for securing fairness in elections or ascertaining their result. This state of things overthrows republican government in Louisiana and seriously menaces it in the whole country.

Ninth. A new election held at this time under national authority is not desirable. It is not wished for by either side, and would inflame and aggravate the evils now existing.

Tenth. It is the duty of Congress to use such powers as are vested in it by the Constitution. It should recognize the lawful governor of Louisiana by express resolution. We think William Pitt Kellogg the choice of a majority of the voters of Louisiana, and that he should be recognized accordingly. It should provide further safeguards for holding elections and ascertaining the result, if any can be devised.

Eleventh. But these remedies are at best temporary and superficial, curing the symptoms, not the disease. Efficient aid to the State to establish public education would have gone far to prevent the evil, and may yet do much to effect a cure. The public sentiment of the rest of the country, without distinction of party, may do much to remove, as it has already unfortunately done much to aggravate, the evil in Louisiana. That people should be made to understand that all the authority lodged in the National Government to preserve republican government and to protect the rights of all its citizens will be kindly but fearlessly and steadily exerted, and that no party in this country will accept the alliance of men who are seeking power by such methods as we have been compelled to describe. Unless this can be done the free institutions of the whole United States will not long survive the destruction of those in the South.

GEORGE F. HOAR.
W. A. WHEELER.
WM. P. FRYE.

ORDER OF BUSINESS.

Mr. DAWES. I now move that the rules be suspended and the House resolve itself into Committee of the Whole on the tax and tariff bill.

Mr. COBURN. I rise to make a privileged report.

Mr. RANDALL. I insist upon the regular order.

Mr. COBURN. I desire to make a privileged report from the Committee on Alabama Affairs.

Mr. DAWES. Pending the motion to go into Committee of the Whole I move that all debate upon the pending section of the bill be terminated in fifteen minutes.

Mr. SMITH, of New York. I ask the Chair what is the regular order?

The SPEAKER. If the House shall not go into Committee of the Whole on the tariff bill the regular order will be the consideration of the joint resolution from the Committee on Elections relating to a constitutional amendment.

Mr. COBURN. I desire to make a parliamentary inquiry. It is whether or not that is a subject on which the Committee on Elections are privileged to report at any time, or whether that committee is not confined to reporting upon contested-election cases, and not upon general measures in relation to election laws?

The SPEAKER. The gentleman from New York [Mr. SMITH] states, and the Chair thinks he is correct in that statement, that a resolution was adopted in December last upon motion of the gentleman from Alabama [Mr. WHITE] giving the committee the right to report at any time upon this subject.

Mr. SMITH, of New York. I have just brought from the Clerk's office and laid before the Speaker the resolution of the House authorizing us to report at any time upon this subject. I desire to say a single word further. I think I am authorized to say that the Committee on Elections will not consume over an hour and a half and probably not over an hour and a quarter in the discussion of this measure. While these other measures for the purpose of running the Government are measures of importance, it is of equal or higher importance that we should examine whether we are going to have any government to run.

Mr. RANDALL. We had better get the money for the running of the Government any way.

Mr. SMITH, of New York. There is no measure before the House of equal importance to, and demanding immediate action so much as, the measure we have reported.

The SPEAKER. The Chair will state the exact attitude of the business of the House, so that each gentleman will comprehend his right in the premises. The gentleman from New York [Mr. SMITH] has made his report, but it has not yet been considered, and it is competent to raise upon it the question of consideration. The gentleman from Indiana, [Mr. COBURN,] who rises to report from a committee authorized to report at any time, of course will have to raise that question of consideration before he can submit his report. And pending his attempt to obtain the floor, the gentleman from Massachusetts [Mr. DAWES] moves to suspend the rules that the House may go into Committee of the Whole on the revenue bill. That motion to suspend the rules necessarily takes precedence.

Mr. DAWES. I want the question first put upon the motion to terminate debate.

The SPEAKER. The Chair will submit that question. Gentlemen will observe that the majority of the House can control the business of the House.

Mr. LOUGHRIDGE. If this motion to limit debate upon the sixth section shall be agreed to, will that limitation apply to new sections that may be offered?

The SPEAKER. It will apply to the whole bill.

Mr. LOUGHRIDGE. I desire to offer a new section in relation to the income tax, and I wish the House to understand that that is an important matter and should be debated at some length.

The SPEAKER. The first question is upon the motion to limit debate upon the sixth section of the bill to fifteen minutes.

Mr. SENER. I move to amend that motion so as to allow one hour's debate.

Many MEMBERS. O, no.

Mr. DAWES. I will compromise with the gentleman from Virginia [Mr. SENER] on thirty minutes.

Several MEMBERS. O, no; one hour.

Mr. DAWES. Well, if one hour is the general understanding, I will agree to that.

The question was taken upon limiting debate to one hour; and it was agreed to upon a division—ayes 104, noes 46.

The question was upon the motion to go into Committee of the Whole upon the tax and tariff bill.

AFFAIRS IN ALABAMA.

Mr. COBURN. Before that question is submitted, I ask unanimous consent to make another privileged report from the Committee on Alabama Affairs, a general report, which I ask to have printed and recommitted.

Mr. RANDALL. Not to come back on a motion to reconsider.

Mr. CALDWELL. And to be accompanied by no bill.

Mr. BUCKNER. I ask consent to submit on behalf of the minority their views, and that they be printed with the views of the majority.

No objection was made, and the majority and minority reports were ordered to be printed and recommitted.

Mr. COBURN. In addition to that, I ask that the testimony taken by the committee be also printed.

No objection was made, and it was so ordered.

COMMISSIONER OF CUSTOMS.

Mr. PLATT, of New York, by unanimous consent, introduced a bill (H. R. No. 4836) defining the duties of the Commissioner of Customs; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ORDER OF BUSINESS.

Mr. DONNAN. I desire to submit a privileged report from the Committee on Printing.

The SPEAKER. That requires unanimous consent pending the motion to go into Committee of the Whole on the tax and tariff bill.

Mr. RANDALL. I reserve my right to object until the report is read.

The SPEAKER. The Chair thinks the business of the House gets inextricably tangled by stopping a motion to suspend the rules by every form of report. The Chair will submit the question upon going into Committee of the Whole upon the tax and tariff bill.

The question was taken; and on a division there were—ayes 108, noes 49.

So the motion was agreed to.

BUREAUS OF THE WAR DEPARTMENT.

Pending the House going into Committee of the Whole,

The SPEAKER laid before the House a letter from the Secretary of War, transmitting the names of clerks and others employed in the respective Bureaus of the War Department in the year 1874; which was referred to the Committee on Appropriations, and ordered to be printed.

AU SABLE RIVER, MICHIGAN.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting, in compliance with the act of June 30, 1874, a report upon the survey of the Au Sable River, Michigan; which was referred to the Committee on Commerce, and ordered to be printed.

WILLOW SPRINGS DISTILLERY.

The SPEAKER also laid before the House a letter from the Secretary of War, in relation to Willow Springs distillery; which was referred to the Committee on Ways and Means, and ordered to be printed.

ISSUE OF PATENTS.

The SPEAKER also laid before the House a letter from the Commissioner of Patents, in relation to the issue of patents under the law for medicines, and other chemical compounds, &c.; which was referred to the Committee on Patents, and ordered to be printed.

CLAIMS FOR INDIAN DEPREDATIONS.

The SPEAKER also laid before the House sundry communications from the Secretary of the Interior, transmitting claims of various parties for Indian depredations; which were severally referred to the Committee on Indian Affairs, and ordered to be printed.

SALE OF ORDNANCE STORES.

The SPEAKER also laid before the House a letter from the Secretary of War, in relation to the proceeds of the sales of ordnance stores; which was referred to the Committee on Appropriations, and ordered to be printed.

STEAMER PHILO PARSONS.

The SPEAKER also laid before the House a letter from the Secretary of War, in relation to the outrage on the steamer Philo Parsons; which was referred to the Committee on War Claims, and ordered to be printed.

LANDS AND BUILDINGS ADJOINING JACKSON BARRACKS.

The SPEAKER also laid before the House a letter from the Secretary of War, in relation to the lands and buildings adjoining Jackson barracks now occupied by United States troops; which was referred to the Committee on Military Affairs, and ordered to be printed.

PURCHASE OF A BUILDING.

The SPEAKER also laid before the House a letter from the Secretary of War, in relation to an appropriation for the purchase of a building on or near McLellan Creek; which was referred to the Committee on Appropriations, and ordered to be printed.

HEIRS OF BENJAMIN MOORE.

The SPEAKER also laid before the House a letter from the Secretary of War, in relation to House bill No. 3150, for the relief of the heirs of Benjamin Moore for the manufacture of small-arms used by the United States; which was referred to the Committee on Claims, and ordered to be printed.

EXPENDITURES OF THE WAR DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a statement of expenditures in the Bureaus of the War Department; which was referred to the Committee on Appropriations, and ordered to be printed.

JOHN M'CAULEY.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting the claim of John McCauley; which was referred to the Committee on Claims, and ordered to be printed.

CONSTRUCTION OF A TELEGRAPH LINE.

The SPEAKER also laid before the House a letter from the Secretary of War, in relation to the construction of a telegraphic line from Yankton, Dakota, to Fort Sully; which was referred to the Committee on Appropriations, and ordered to be printed.

IMPROVEMENTS IN MISSISSIPPI RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, in relation to improvements in Mississippi River near Fort Madison and Burlington, Iowa; which was referred to the Committee on Appropriations, and ordered to be printed.

RED RIVER OF THE NORTH.

The SPEAKER also laid before the House a letter from the Secretary of War, in relation to a survey of the Red River of the North; which was referred to the Committee on Commerce, and ordered to be printed.

SURVEY OF THE COLUMBIA RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, in relation to a survey of the Cascades and Dalles of the Columbia River; which was referred to the Committee on Commerce, and ordered to be printed.

PROPERTY IN POSSESSION OF WAR DEPARTMENT.

The SPEAKER also laid before the House a communication from the Secretary of War, transmitting inventories of public property in possession of the several Bureaus of the War Department; which was referred to the Committee on Appropriations.

SURVEYS FOR INTERNAL IMPROVEMENTS IN VIRGINIA.

The SPEAKER also laid before the House a communication from the Secretary of War, in relation to the survey of Urbana Creek and Little Wicomico River, Virginia; which was referred to the Commitee on Commerce.

Mr. CONGER. Ought not these reports of surveys to be ordered to be printed?

The SPEAKER. If they be ordered to be printed they will not reach the committees this session. The printing office is very much overtaxed; and therefore the Chair has omitted the usual order for printing, presuming that the committees desired to use the documents.

Mr. CONGER. The committee have acted on most of these cases upon special information from the Department.

The SPEAKER. Then there would seem to be still less reason for the printing. The Chair took the hint from the gentleman himself last week.

Mr. CONGER. At that time we were using these documents.

AGRICULTURAL COLLEGES.

The SPEAKER also laid before the House a communication from the Attorney-General, in answer to a resolution of the House of Representatives of January 22, 1875, requesting him to report what measures, if any, should be taken in relation to the fund for the support of the colleges of agriculture and the mechanic arts; which was referred to the Committee on Agriculture.

REFORM SCHOOL, DISTRICT OF COLUMBIA.

The SPEAKER also laid before the House a communication from the Attorney-General, transmitting additional papers in relation to the action of the Department of Justice to recover certain moneys belonging to the Reform School involved in the bankruptcy of Jay Cooke & Co.; which was referred to the Committee on the District of Columbia, and ordered to be printed.

COTTON CLAIMS.

The SPEAKER also laid before the House a communication from the Attorney-General, in relation to claims for cotton seized during the late war of the rebellion; which was referred to the Committee on War Claims, and ordered to be printed.

WESTERN JUDICIAL DISTRICT OF ARKANSAS.

The SPEAKER also laid before the House a communication from the Attorney-General, in relation to claims arising from expenditures of the marshal's office of the western judicial district of Arkansas; which was referred to the Committee on Expenditures in the Department of Justice, and ordered to be printed.

MIAMI INDIANS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, submitting a draught of a bill carrying into effect the provisions of an act entitled "An act to abolish the tribal relations of Miami Indians, and for other purposes," approved March 3, 1873; which was referred to the Committee on Indian Affairs.

SPEED STAGNER.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting the claim of Speed Stagner for Indian depredations; which was referred to the Committee on Indian Affairs.

MARCOS ULIBARRI.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting, in compliance with the act of May 29, 1872, the claim of Marcos Ulibarri for Indian depredations; which was referred to the Committee on Indian Affairs.

JULIAN ARAGON.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting, in compliance with the act of May 29, 1872, the claim of Julian Aragon for Indian depredations; which was referred to the Committee on Indian Affairs.

COAD & BROTHER.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting, in compliance with the act of May 29, 1872, the claim of Coad & Brother for Indian depredations; which was referred to the Committee on Indian Affairs.

H. B. MACOMBER.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting, in compliance with the act of May 29, 1872, the claim of H. B. Macomber for Indian depredations; which was referred to the Committee on Indian Affairs.

NECESSITIES OF CHEROKEE NATION.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a communication from D. W. Bushyhead, treasurer of the Cherokee Nation, setting forth the necessities of those Indians arising from the destruction of their crops; which was referred to the Committee on Appropriations.

M. A. MOSSEAU.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting the claim of M. A. Mosseau, for Indian depredations; which was referred to the Committee on Indian Affairs.

NAVY PENSIONS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting an estimate of a deficiency appropriation for paying Navy pensions during the fiscal year ending June 30, 1875; which was referred to the Committee on Appropriations, and ordered to be printed.

THOMAS J. WOOD.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting the claim of Thomas J. Wood, for Indian depredations; which was referred to the Committee on Indian Affairs.

JOHN RICHARD, JR.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting, in compliance with the act of May 29, 1872, the claim of John Richard, jr., for Indian depredations; which was referred to the Committee on Indian Affairs.

CHARLES H. M'CARTHY.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting the claim of Charles H. McCarthy for Indian depredations; which was referred to the Committee on Indian Affairs.

B. W. WARREN.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting the claim of B. W. Warren for Indian depredations; which was referred to the Committee on Indian Affairs.

SIMON BACA.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting the claim of Simon Baca for Indian depredations; which was referred to the Committee on Indian Affairs.

W. K. MORRIS.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, transmitting the claim of W. K. Morris for Indian depredations; which was referred to the Committee on Indian Affairs.

RECEIPTS AND EXPENDITURES OF THE UNITED STATES.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting, in compliance with the act of August 26, 1842, an account of the receipts and expenditures of the United States for the fiscal year ending June 30, 1872; which was referred to the Committee on Appropriations, and ordered to be printed.

PROPOSAL FOR MAIL CONTRACTS.

The SPEAKER also laid before the House a letter from the Postmaster-General, transmitting, in compliance with the act of June 8, 1872, information relating to proposals for mail contracts, &c.; which was referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

REPORT ON MINES AND MINING.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting the report of Rossiter W. Raymond, commissioner of mining statistics for the year ending December 31, 1874; which was referred to the Committee on Mines and Mining, and ordered to be printed.

IMPROVEMENT OF HARLEM RIVER.

The SPEAKER also laid before the House a letter from General Humphreys, Chief of Engineers, to the Secretary of War, in compliance with the act of June 23, 1874, submitting a copy of the report of Lieutenant-Colonel John Newton upon a survey for the improvement of Harlem River; which was referred to the Committee on Commerce, and ordered to be printed.

WITHDRAWAL OF PAPERS.

By unanimous consent, papers were withdrawn in the following cases upon the statement that no adverse report had been made:

By Mr. WILSON, of Iowa: In the case of D. W. Wallingford, from the Committee on War Claims.

By Mr. AVERILL: In the case of G. M. Dodge and J. McDonald, from the Committee on Indian Affairs.

By Mr. RAINEY: In the case of Thomas P. Madden, from the files of the House.

By Mr. GUNTER: The certificate of discharge of James Box, filed with the papers of Mrs. Martha Box, No. 12580.

By Mr. DONNAN: The commission, muster-in roll, and discharge papers in the case of Charles Young, from the files of the House.

CLAIMS.

Mr. LAWRENCE. I ask unanimous consent to print in the RECORD a statement in connection with the bill passed yesterday from the Committee on War Claims.

There was no objection, and it was ordered accordingly.

The statement is as follows:

Mr. LAWRENCE. I present the following statement in relation to the bill (H. R. No. 4692) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of March 3, 1871, which passed the House on the 22d February:

The number of cases in last report of commissioners of claims is twenty-four hundred and seven. Of this number twelve hundred and forty-four are wholly disallowed, and eleven hundred and sixty-three are allowed in whole or in part. The amount allowed by the commissioners is $740,409.72, and the amount disallowed is $4,471,995.09.

These allowances are divided among the eleven States of which the commissioners have jurisdiction, as follows:

Alabama	$71,671 82
Arkansas	96,501 00
Florida	13,475 00
Georgia	42,535 86
Louisiana	95,737 00
Mississippi	143,128 00
North Carolina	35,889 57
South Carolina	5,930 25
Tennessee	87,400 80
Texas	1,300 00
Virginia	138,145 42
West Virginia	8,695 00
Total	$750,409 72

The Committee on War Claims reviewed and examined all the cases reported where the allowance exceeded $2,000, and have made changes in two cases only; in one, being the claim of John and Parmilla R. Rhodes, reducing the allowance $2,000; and in the other, increasing it $386.67.

Four cases were added by the committee; one of $5,165 reported favorably in the first report of the commissioners but suspended for further examination; one reported favorably in second report for $150, and omitted from bill by error; and two reported disallowed, loyalty of claimants not proven before commissioners, namely, case

of Hon. JAMES C. FREEMAN, a member of this House from Georgia, and case of Joseph Garland, of Alabama. Additional evidence submitted to the committee satisfied it on that point, and these cases, FREEMAN'S for $2,985 and Garland's for $1,200, are included in the bill.

The amount appropriated by the bill as reported by the committee is $748,296.39, and is divided among eleven hundred and sixty-seven claimants, the allowance to each being an average of $641.21, and is distributed as follows among the eleven States:

States.	Number of cases.	Amount.
Alabama	142	$72,871 82
Arkansas	153	96,501 00
Florida	6	13,475 00
Georgia	107	45,520 86
Louisiana	14	93,737 00
Mississippi	75	143,138 00
North Carolina	117	35,889 57
South Carolina	.....	5,930 25
Tennessee	.....	87,787 47
Texas	.....	1,300 00
Virginia	.....	143,460 42
West Virginia	.....	8,695 00
Total	.....	748,296 39

There is one claim in favor of Horace B. and John C. Tebbetts, of Louisiana, for $34,760, which I did not think fully supported by evidence in all respects, but the committee, after examination, were satisfied with it, and so it is recommended for payment.

TAX AND TARIFF BILL.

The House accordingly resolved itself into Committee of the Whole, (Mr. HALE, of Maine, in the chair,) and resumed the consideration of the bill (H. R. No. 4680) to protect the sinking fund and provide for the exigencies of the Government.

The CHAIRMAN. The Clerk will read the pending section.

The Clerk read as follows:

SEC. 6. That the increase of duties provided by this act shall not apply to any goods, wares, or merchandise actually on shipboard and bound to the United States on the 10th day of February, 1875, nor on any such goods, wares, or merchandise on deposit in warehouses or public stores at the date of the passage of this act.

The CHAIRMAN. The pending question is on the amendment moved by the gentleman from Virginia [Mr. HARRIS] to that section; which the Clerk will read.

The Clerk read as follows:

Provided, That it shall be shown, by testimony under oath, to the satisfaction of the Secretary of the Treasury, that such goods, wares, and merchandise were by contract sold to be delivered in future, at a fixed price, which contract was in writing prior to the 10th day of February, 1875.

Mr. EAMES. Mr. Chairman, I hope the amendment of the gentleman from Virginia will not be adopted. The provision contained in section 6 as reported by the Committee on Ways and Means is in my judgment eminently just so far as all these interests are concerned. It will be remembered by the House that this bill was reported on the 10th day of February last, and this was the first information to the country of the changes proposed by the bill. This section as reported provides that all merchandise imported from foreign countries affected by the bill actually on shipboard or in the public stores at the time the bill was reported shall not be subjected to the increased duty.

I desire on behalf of one interest with which I happen to be more familiar with than others to state how this will operate if the amendment of the gentleman from Virginia [Mr. HARRIS] is adopted, or in case section 6 should be stricken from the bill. There is in this country a very large interest engaged in the manufacture of woolens. The establishments engaged in this manufacture number 3,454. There is a capital invested in this industry amounting to $132,000,000. The wages that are paid are upward of $40,000,000 annually, and the number of hands employed is over 120,000. These are the figures according to the last census of the United States. This is one of the great interests of the country that are affected by the provisions of this section, and it is of the utmost importance, Mr. Chairman, that the provisions of this section should be preserved in order that these interests may be protected. There is no gentleman upon this floor who has a woolen-mill in his district but knows that this industry is more depressed perhaps than any other great industry in the country. Since the close of the war it has been almost impossible for these mills to run so as to make both ends meet. And especially in the past two years everybody who knows anything about this industry knows it has been depressed to that extent that nearly half the machinery is stopped and half of the laborers heretofore employed thrown out of employment.

Now, in connection with this provision I desire to call the attention of members of this House to this fact. Very many of these mills make contracts in advance for their products. In order to do this it is a matter of necessity on their part that they should estimate at the time these contracts are made what is to be the cost of the material, what is to be the price of the labor, what is to be the cost of everything that enters into the cloth as it comes from the loom. In order to do this if a contract was made by one of these mill operators on the 10th of February, 1875, when this bill was reported and when its provisions were first known to the country, it is necessary that he should ascertain at that time the cost of the raw material that enters into the product and contract for its purchase. There is used in the manufacture of all the finer woolen goods what is known as the Australian wool, and if a contract is made at a fixed date for the product of a mill for three months in advance, the operator of the mill is obliged on that day to make provision for the purchase of his wool abroad in order to be able to meet the contract.

I hope the provision contained in this section will not be altered at all. It is no more than just, no more than right that he who has made his contracts at the time this bill was reported should be able to avail himself of its provisions so that he may be able to meet his contracts made for the future product of his mill at the stipulated price.

The gentleman from Connecticut [Mr. HAWLEY] reminds me that in reference to this matter I am not speaking merely for an industry simply in my own district, but for this great woolen industry throughout this whole country. It is not an interest limited to the New England States, but these woolen-mills are to be found also in New York, in Pennsylvania, in Ohio, in Indiana, and in all the great Western States which make the great middle belt of our country, and this industry includes, as I have said, a capital of something like $132,000,000, and gives employment to over 120,000 laborers.

I hope this amendment will not be adopted, and that the section as reported by the committee will stand as part of the bill.

Mr. BANNING. Mr. Chairman, that old saying, "politics makes strange bedfellows," was never better proven than it has been in the debate upon this bill.

First we have the honorable gentleman from Pennsylvania, [Mr. CLYMER,] a democrat, advocating the passage of this bill because it increases the tariff upon iron, steel, and glass, and is therefore a benefit to his immediate constituents; while another leading democrat from Pennsylvania tells us "the ruin that now prevails in Pennsylvania is owing to the high tariff, by which you have overstimulated production until pig-iron and railroad-iron are piled up mountain high, and for which there is no market."

The honest and able republican from Pennsylvania, [Mr. KELLEY,] who has always been in favor of protection to American industry, opposes this bill because it enacts so much unjust and unequal taxations and because it is oppressive upon the whole people; while another distinguished Pennsylvania republican advocates the passage of the bill, and tells us "a revenue bill is necessarily a compromise bill." I think that a good definition of this bill. It is a compromise, and I think about the meanest compromise that was ever presented to Congress to be enacted into a law.

It is a compromise between the Pennsylvania iron interests, the New England cotton and woolen manufacturers, and the importers of foreign goods. The two former get the 10 per cent. additional protection; while the importer pockets the 10 per cent. increased value of all the goods he has on hand and all he has purchased coming over. Add to these the whisky ring that has bought (to be delivered hereafter) the whisky now in bond, and we have the four high contracting parties to this compromise. There are millions in it for these four classes. And this is the protection which has its advocates upon this floor on this afternoon of the nineteenth century; a protection that does not protect, but a protection which enriches the few at the expense of the many—a protection which makes the rich richer and the poor poorer.

The honorable chairman of the Committee on Ways and Means in advocating the right of the importer to have his stock on hand and on shipboard coming over exempt from the increased duties provided for in this bill, said:

Here is a man who buys in a foreign market and puts the ocean between him and the man he bought of so he cannot take it back.

Sir, if this is a good excuse for not increasing the tax upon the goods of the importer on hand, then surely we ought not to increase the tax upon manufactured whisky which has already paid one tax, and especially upon whisky in bond which is held in bond upon a written agreement that it shall pay a tax of 70 cents and taken out of bond within one year. If the Government expects dealers to obey the law and pay the tax, then the Government should keep faith with the dealers and distillers. The contract fixing the amount of tax and manner of payment should be as binding upon the Government as it is upon the manufacturers, and as faithfully performed by the one as by the other.

[Here the hammer fell.]

Mr. TOWNSEND. Mr. Chairman, when this bill was before the House the other day, my bucolic friend from the agricultural regions of Wall street and parts adjacent, where they raise bulls and bears and various other kinds of agricultural cattle, and which agricultural region he so well represents, took occasion to congratulate himself that he had been enabled to buy his suit of garments from one of Queen Victoria's subjects for twenty-one dollars. My friend from Michigan [Mr. FIELD] congratulated himself also that the raw materials of all his garments had been raised by American farmers and the garments bought of American manufacturers—price not stated.

I want to show, in the few moments allotted to me, the difference between the principles of these two gentlemen. My friend from New York [Mr. COX] in making his purchase threw his money into the laps of the subjects of Queen Victoria, never, perchance, to

return again to us. My agricultural friend from Michigan [Mr. FIELD] gave his money to the citizens of the United States, and instead of handing it to the wool-growers and manufacturers of the British nation, gave it to the wool-growers of Michigan; to the woolen manufacturers of Pennsylvania; to the cotton manufacturers of Massachusetts; to the button-makers of Connecticut, and to the silk manufacturers of New Jersey. When the free-trader has used up his garments, he has nothing to leave to the Republic but a few rags for the paper manufacturer. But when the gentleman from Michigan, a protectionist, has used up his clothes he has an equal amount of fragments and rags to leave to the paper-maker, but in addition to that he has left to the American people the amount of the cost of his garments to go into the circulating medium of the country.

The one gives away the life-blood of American commerce to be used by the subjects of Her Majesty Queen Victoria and leaves his country poorer therefor; the other keeps that life-blood in the country to be used at home by its citizens to assist in the domestic exchanges and to encourage and vivify American industry. The one encourages the pauper labor of foreigners in Her Majesty's dominions; the other gives effectual aid in their labors to the citizens of the Union, the subjects of our good old Uncle Samuel. The actions of my two friends form a practical exhibition of the difference in value to the country between the principles of free trade and protection.

[Here the hammer fell.]

Mr. COX. I hope the gentleman from Pennsylvania will be allowed to go on. I could not get the drift of his argument, and I never could answer that speech in the world

Mr. SYPHER. The object of the pending bill, as I understand it, is to create an amount of revenue sufficient to meet the deficiency in the revenue receipts. There is no additional amount of money required by the Treasury, according to the statement of the chairman of the Ways and Means Committee, but the falling off of the receipts, caused no doubt by the general depression of the business interest of the country, demands this legislation. There does not seem to be any protective feature in the bill; it is purely and simply a measure for revenue. In view of this character of the measure, I have listened with some surprise and regret at the course of the discussion in this House for several days.

The whisky and tobacco interests have been defended with great vigor, and the champions of these interests have at the same time made fierce attacks upon other interests in other sections of the country. Other gentlemen have availed themselves of this occasion to express their views on the general principles of tariff and free trade, and have exhibited a spirit of sectionalism always to be deprecated in matters of this kind, which is of national concern and importance. New England has been berated and severely criticised on account of the defense of her manufacturing interests by her Representatives on this floor.

It occurs to me that the West and the South may find profit in studying the history of New England and following her example. Forty years ago, when her people were engaged in commerce and ship-building, her Representatives were not required to defend the principles of protective tariff; but when these pursuits became unprofitable her people directed their energies into other channels; and against a rigorous climate and a sterile country, against heavy bills of freight and insurance for raw material, and against a distant market for her manufactured goods, she has built up a magnificent system of manufactures, making her independent of protective legislation and "tariff tinkering."

Let the West and South profit by this example. In the South we have great manufacturing resources. Besides an abundance of raw material, our deposits of coal and iron, emery ore, sulphur, and salt are unsurpassed, and our water-power is equal to that of any other section of the country. Again, a mild and salubrious climate, congenial to the inhabitants of the world, invites capital and skilled labor from every quarter of the globe.

Diversified industry is the solution to the southern question which now vexes the brain of so many of the statesmen of the present day. Let the furnace fires be lighted from Virginia to Missouri; let the clatter of the cotton-mill make music for the people of the cotton States, while Louisiana makes sugar to sweeten your free tea and coffee, or, if your tastes prefer it, the whisky of the gentlemen from Kentucky and Ohio.

The former policy of the South of feeding slaves on cheap western provisions to make more cotton was abolished when the emancipation proclamation was issued. She now desires the development of her great resources, the inauguration of a system of diversified industry, the construction of her levees, the protection of her sugar interests, and the opening of the mouth of the Mississippi River.

Before taking my seat I must notice some remarks made by the gentleman from New York, [Mr. COX,] the Cuban patriot, who represents a free-trade constituency. He has upon other occasions made smart speeches in favor of Cuban liberty and of recognizing the belligerent rights of the Cuban patriots. But in this discussion he advocates and supports the policy of paying that effete Spanish slave-power for sugar $90,000,000 of American gold annually to crush out all opposition to that insolent despotism. Cuban patriots of the character of the distinguished gentleman from New York ought to be in better business, and lend some of his energy and brilliant wit in supporting the interests of the poor sugar planters of Louisiana, and at the same time the true interests of the whole country.

Now, a word to the gentleman from Indiana [Mr. NIBLACK] who represents the Vincennes district. I regretted to hear him speak unkindly of the sugar interests. He is an amiable man, of "mild temper;" and as our people purchase from his constituents much of their corn, pork, hay, stock, and many other articles, it seems as if the gentleman was endeavoring to destroy the market for the products of his own district. Is not the gentleman trying to "kill the goose that lays the golden egg?"

[Here the hammer fell.]

The CHAIRMAN. Debate on the pending amendment is exhausted.

The amendment was withdrawn.

Mr. DURHAM. I renew the amendment for the purpose of saying a few words, although it is utterly impossible for a man to make himself understood upon a question of this sort within five minutes. But I desire to present one view in regard to this matter that has not been presented by any gentleman on this floor.

This bill is based upon the idea that it is necessary for us to raise this thirty-odd million dollars for the purpose of creating what is known as the sinking fund. If the argument of my colleague [Mr. BECK] and of some other gentlemen on this floor be true, that more than 1 per cent. of our national debt has already been paid to these bondholders, then I suggest that it is unfair to the present population of the United States with its present wealth to impose this additional burden upon them before the debt is due and before it is demanded.

I may illustrate my argument in this way: I think that every man ought to provide for the payment of his debts. But no man is legally bound to pay his debts until they become due. Consequently, if I am worth to-day only $500, and by the increase of my capital may be worth $10,000 a year from this time, I would be in a far better condition to pay my debts one year from now than I am now.

In 1860 the wealth of the United States was estimated at $16,000,000,000, with a population of about twenty-eight millions. After a decade, coming down to 1870, what was the change so far as the population and wealth of the United States were concerned? Our wealth had run up to the enormous sum of $30,000,000,000, and the population to about forty or forty-two millions. Now, I put the question to this House, that unless it be necessary that this debt should be paid or, in other words, suppose that we were placed back to 1860, how much harder would it have been for a population of twenty-eight millions to pay this debt upon a wealth of $16,000,000,000 than it is for forty-two millions to pay it upon a wealth of $30,000,000,000?

Unless there is a pressing demand that this money shall be paid, or, in other words, if we have already paid 1 per cent. to the sinking fund, and are unquestionably not behind in meeting the obligations of the Government to these bondholders, then I believe that at the end of this decade, and before these bonds become due, the population of the United States may be 50,000,000 with a wealth of $50,000,000,000. Then how much easier it would be to raise this money upon that population and wealth than it is now with the population and wealth which we have at this time.

[Here the hammer fell.]

Mr. LOUGHRIDGE. I desire to say——

Mr. DAWES. I rise to oppose the amendment. I understand the gentleman from Iowa [Mr. LOUGHRIDGE] wishes to offer an amendment.

Mr. LOUGHRIDGE. I desire to oppose the pending amendment. We propose by this bill to raise about $36,000,000.

Mr. BURCHARD. About $41,000,000.

Mr. LOUGHRIDGE. As I understand, about $36,000,000 to be raised from the labor and industry of the country. In the first place, through the tariff section it will come from the tariff upon articles used by the common people of the country. Whisky and tobacco are used by the mass of the people.

Now, I am in favor of striking out this section and compelling the wealthy people of the country to contribute their quota of this additional taxation, by imposing a tax upon incomes. In the years 1868-'69 we raised through the income tax $34,000,000. That money came from the wealth of the rich—from full hands and full treasuries. But we have voted here to require a tax from empty hands and empty treasuries. I say it would be a disgrace to this Congress to impose this additional taxation upon the labor, the industry of the country, and allow the wealth of the nation to escape.

I understand that the income tax was established in England in 1798, during the wars with Napoleon, and was continued until after the close of that struggle. In 1842 it was re-enacted, and has been continued to the present time. If in a country like England the wealth and luxury of the nation are compelled to contribute their share of taxation, most certainly in this democratic country of ours we can afford to impose such a tax. To burden with taxation the labor, the industry of the country, and allow its wealth to go free, would be an outrage upon justice. Our income tax ought never to have been repealed.

Therefore I think we ought to strike out these sections and re-enact the income tax, so that the rich may contribute their share of these increased burdens which we are compelled to put upon th people.

The CHAIRMAN. The debate upon the pending amendment, which is to strike out the last word, has been exhausted.

The question being taken on the amendment, it was not agreed to.

Mr. STORM. I move to amend by inserting the following as an additional proviso:

And provided further, That on and after the 1st day of July next emery ore shall be placed on the free list, and no further import duties shall be collected on the same.

Mr. DAWES. I rise to a point of order. I submit that this amendment is not germane to the section.

The CHAIRMAN. The Chair sustains the point of order.

Mr. STORM. I should like to know on what principle? I suppose it is because the gentleman from Massachusetts [Mr. DAWES] has a mine of emery ore in his district. Will the amendment be in order at any stage of the bill?

Mr. DAWES. It will be in order when we get through this section.

The CHAIRMAN. The Chair will state for the information of members who have amendments to offer in the nature of substitutes for the whole bill or as additional sections, that none of them will be in order till the committee has passed from the consideration of the section now under consideration.

Mr. DAWES. Let us have a vote on section 6.

The CHAIRMAN. The pending question is on the amendment of the gentleman from Virginia [Mr. HARRIS] to add to section 6 the proviso which the Clerk will read.

The Clerk read as follows:

Provided, It shall be shown by testimony under oath to the satisfaction of the Secretary of the Treasury that such goods, wares, and merchandise were by contract sold to be delivered in future at a fixed price, which contract was in writing prior to the 10th day of February, 1875.

The question being taken, the amendment was not agreed to; there were ayes 43, noes not counted.

Mr. KELLOGG. I move to amend by adding to the sixth section the following:

Provided, That nothing in the fifth section of this act shall apply to or affect the duties upon clothing or Australian wools.

Mr. DAWES. I submit that that amendment is out of order.

Mr. KELLOGG. It is not out of order, because this section, as well as the fifth section, applies to woolen goods.

Mr. DAWES. It may be in order; but I hope it will be voted down.

Mr. KELLOGG. I offer this amendment for the benefit of the woolen interest at home as well as the woolen manufacturers. As I stated the other day, the duties are now over 50 per cent.—20 per cent. higher than on any other staple production or class of goods. It actually costs——

Mr. O'NEILL. Why does not the gentleman make the amendment apply to all woolen goods?

Mr. KELLOGG. I cannot permit myself to be interrupted in a five-minutes speech. It actually costs more——

The CHAIRMAN. The Chair has not yet ruled upon the point of order which was raised before the gentleman began to speak. As the amendment relates to section 5, and as the committee is now considering section 6, the Chair rules that the amendment is not in order.

Mr. KELLOGG. The chairman of the Committee on Ways and Means conceded that it was in order, because both sections relate to this duty.

The CHAIRMAN. The Chair is ruling for the Chair, and not for the chairman of the Committee on Ways and Means. The amendment is out of order.

Mr. KELLOGG. I thought that if the chairman of the Committee on Ways and Means conceded the amendment to be in order, the Chair would allow a vote to be taken upon it.

Mr. DAWES. Before gentlemen proceed to offer their separate sections, I desire to submit an amendment to construe a portion of the tariff provisions that passed the other day. In endeavoring to prevent frauds we made the phraseology a little too stringent with reference to bolting-cloths (which heretofore have been free) and also with regard to the pass-books which servant girls may take to savings-banks.

I want to have a section put in that tariff bill so it shall not be construed to apply to them; that is all.

Mr. BECK. I move to amend the section offered by the chairman of the committee.

Mr. DAWES. I offered it for that purpose only, in order to exclude savings-banks pass-books from stamps, and bolting-cloths from the operation of that tariff bill.

The CHAIRMAN. Does the gentleman from Massachusetts offer the amendment as an amendment to section 6, which the committee is now considering?

Mr. DAWES. I supposed that section 6 was passed.

The CHAIRMAN. It is not passed, as no vote has yet been taken on the motion of the gentleman from Illinois [Mr. FORT] to strike it out.

Mr. DAWES. I beg pardon. I thought it had been voted on.

The CHAIRMAN. After that vote has been taken it will be open to an amendment moving a separate section, as the gentleman from Massachusetts has indicated.

The question recurred on Mr. FORT's motion to strike out section 6.

The Committee divided; and there were—ayes 30, noes 77.

So the motion was rejected.

Mr. DAWES. I now offer as an additional section the following.

The Clerk read as follows:

SEC. 7. That nothing contained in the act entitled "An act to amend existing customs and internal-revenue laws, and for other purposes," approved February 8, 1875, shall be construed to impose any duty on bolting-cloths heretofore admitted free of duty, nor to require the use of a stamp upon the receipt in the receipt-book of a savings-bank or institutions of savings having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, when money is paid to a depositor on his pass-book.

Mr. BECK. I move to amend that.

Mr. FORT. We ought to have some explanation first of the proposition moved by the gentleman from Massachusetts.

Mr. DAWES. If it is necessary, I will now make an explanation for the reason of the amendment I have offered.

Mr. BECK. Let me offer mine as an amendment to the gentleman's amendment, and then the gentleman can speak to both, as they are in the same line.

Mr. DAWES. Very well.

Mr. BECK. I offer the following amendment to the amendment.

The Clerk read as follows:

SEC. 7. That the first section of the act approved February 8, 1875, entitled "An act to amend existing customs and internal-revenue laws, and for other purposes," be amended by striking out of the proviso at the end of said section the words "in value," and inserting in lieu thereof the words "in quantity:" *And provided further*, That said section shall not be so construed as to impose a duty on bolting-cloths, which are hereby restored to the free list.

Mr. BECK. I move to strike out the latter part of that amendment, as it is included in the amendment of the gentleman from Massachusetts.

Mr. DAWES. Mr. Chairman, I wish to say a word.

Mr. FORT. I should like to know why bolting-cloths should be placed on the free list?

Mr. BECK. They have always been put upon the free list.

Mr. DAWES. They have always been on the free list, and it is not the intention of the committee nor anybody else that I can hear of, excepting in reference to tea and coffee, to place anything now free upon the dutiable list. What may be done in reference to tea and coffee is another thing.

Bolting-cloths are made of silk, and the phraseology of the little tariff bill includes them in the dutiable list and makes them pay 60 cents. The object of my amendment is to make them free as heretofore.

In order to save pass-books of depositors in savings-banks and like institutions from being compelled to use stamps, it is also necessary to change the phraseology of the law. In the alteration made on the subject of check stamps in the little tariff bill, strange enough the Internal Revenue Bureau has construed it so as to make pass-books of depositors in savings-banks liable to be stamped every time. Such was not the intention of anybody. That, however, is the present construction, and this is to remedy it.

Now, sir, my friend from Kentucky [Mr. BECK] wants to amend that amendment in another vital point; that is to say, a piece of silk that has more in quantity though not in value of something else in it shall be cut down 20 per cent. in duty. Take a piece of silk which you can put, the whole of it, in your hand, and put a little bit of cotton or wool in it that does not cost one-hundredth part as much as silk, but which in quantity is a good deal more than the silk: for instance, put a little shoddy in it which in quantity is as much again as of silk, and he wants, because that shoddy is in it, that it shall come in paying 10 per cent. less duty. Now there must be some line of distinction drawn.

[Here the hammer fell.]

Mr. W. R. ROBERTS. Mr. Chairman, I do not rise so much with the view of influencing the action of the House on this bill, as in order to set myself and the constituency I represent on this floor right before the country. I had no intention of addressing the committee upon it at all until within the last few moments. But I am now satisfied that it is a duty I owe, both to myself and my constituency, that I should express my views and theirs.

I believe, sir, in calling things honestly by their honest names. I believe in calling free trade "free trade;" and I believe that trade when it is free is absolutely free without restrictions of all kinds whatsoever. Sir, I have never been in that sense a free-trader. I am not one to-day, and I do not ever expect to be in this sense, a free-trader so long as I live under the flag of my adopted country. I am not a free-trader as free trade is proclaimed on the stump by demagogues, and there is no man in this House to-day who could go before a constituency, an intelligent constituency of this country, and declare that he is in favor of absolute and entire free trade and be elected to a position on this floor.

Why, sir, what would be the result of such a state of things? How would we provide for the vast outlay, some three hundred millions a year, which the country has to meet? How would it be met if we had absolute free trade? By internal taxation; by raising taxes from the industries and the products of the country. And how would we raise them when there would be no industries in the country, and when all would be swept away by this so-called free trade, and our mechanics and laboring men were left to starve and rot in our streets; while the mechanics and laboring men of a competing nation like Great Britain would be flourishing in affluence, in luxury, and wealth at our expense?

I believe in a tariff for revenue, an honest tariff for revenue, which while it protects the industries of this country will at the same time enable the Government to meet its obligations. And when we are told that Great Britain sets us an example of great prosperity because it is in favor of and practices free trade, why those who say so forget that until the last few years Great Britain was one of the first nations on the earth that protected every single article and every single interest of its own manufacturers. Even the farmers, until a late day, were protected by a tax on foreign corn. And if to-day they have free trade it is because they have robbed the nations of their wealth, and that wealth they have brought into their own homes to lend it to their manufacturers at a low rate of interest, starving the masses of their own people in order to have cheap and abundant labor.

Let any man to-day read the history of the working classes of Great Britain honestly and truly, and what conclusion would he come to but that the moneyed aristocracy of that country was oppressing the vast masses of the poor; and they will do the same for our toiling millions if we give them the opportunity.

[Here the hammer fell.]

Mr. FIELD. The remarks of the gentleman are very interesting, and I hope he will be allowed to proceed.

Mr. W. R. ROBERTS. Just one word more. If I went before my constituents after having boasted on this floor like one of my colleagues [Mr. COX] that I went abroad to buy my clothes from foreign tailors they would spurn me, and I would deserve it.

Mr. BECK and Mr. MAYNARD rose.

The CHAIRMAN. Debate on the pending amendment is exhausted.

Mr. BECK. I desire to speak to my amendment.

Mr. MAYNARD. If a further amendment be in order, I will move to amend the amendment of the gentleman from Kentucky by striking out the word "quantity."

The CHAIRMAN. The amendment of the gentleman from Kentucky is in the second degree, and is not amendable.

Mr. MAYNARD. May I be permitted to ask the gentleman to withdraw his amendment that I may renew it?

Mr. BECK. I do not desire to withdraw it. I presume I have the right to be heard on my own amendment.

The CHAIRMAN. The Chair did not understand the gentleman from Kentucky to seek the floor for that purpose, and recognized other gentlemen. The amendment has been spoken to and opposed in five-minutes speeches, and debate on it is exhausted.

Mr. BECK. When the gentleman from Massachusetts [Mr. DAWES] offered the additional section, I offered my amendment at the same time so that he might speak to both and that I might be heard afterward in support of my amendment.

The CHAIRMAN. The gentleman from Kentucky undoubtedly had the floor when he offered his amendment, but the Chair understood him to yield to the gentleman from Massachusetts. But as the gentleman has not spoken on his amendment, the Chair will hear him.

Mr. BECK. I am obliged to the Chair. I approve of the provision of the section offered by the chairman of the Committee on Ways and Means, which provides that bolting-cloths shall be free. They were on the free list, and the construction put upon the little tariff bill by the Treasury Department was not intended either by the House or by the committee, and therefore they ought to be restored to the position they occupied before that construction was given.

I further agree that in savings-banks without capital, carried on simply for the benefit of depositors, we ought to allow those depositors to draw out money with their pass-books; there ought not to be any check-stamp put upon them. To that I agree.

But I must insist that the chairman of the Committee on Ways and Means does not state my position correctly in regard to the striking out of the words "in value" and inserting in their place the words "in quantity" in the first section of that bill as applied to mixed-silk goods. Prior to the passage of that law mixed-silk goods came in at a duty of 50 per cent., while goods strictly of silk paid a duty of 60 per cent. Complaints were made to the committee that frauds were being perpetrated by putting in threads of cotton and of wool and other material, to make what were really silk goods mixed goods, and so to evade the law. Thereupon the Committee on Ways and Means thought, and the House agreed, that we should prevent that evasion, and require 25 per cent. of the materials to be other than silk, in order that the goods might be recognized as mixed goods. That was the meaning of the bill as it passed the House beyond question. When it got to the Senate the silk manufacturers rallied and put in "25 per cent. in value." What was the effect of that? Cotton is worth say 20 cents a pound; raw silk is worth $5 a pound; and mixed goods containing 75 or 80 per cent. of cotton were raised to 60 per cent. instead of 50 per cent., as heretofore; while goods all cotton are at 35 per cent. *ad valorem*, so that it operated to the exclusion of that class of goods.

[Here the hammer fell.]

Mr. COX. I move to strike out the last word.

The CHAIRMAN. The question is on the amendment of the gentleman from Kentucky, which is an amendment in the second degree.

Mr. COX. I ask the gentleman to withdraw his amendment and I will renew it.

Mr. BECK. I withdraw the amendment.

Mr. CESSNA. I object. We will never get through in that way.

The CHAIRMAN. The question is on the amendment of the gentleman from Kentucky.

Mr. BECK. I ask for a division on it. There is $5,000,000 of revenue involved.

The question being taken, there were—ayes 56, noes 81.

So the amendment was not agreed to.

Mr. HATHORN. I offer the following amendment.

The Clerk read as follows:

Add to the section these words:

That on all imported natural mineral waters there shall be levied, collected, and paid the following rates of duty, namely.

Mr. DAWES. The gentleman's amendment is not in order in connection with my amendment. I ask that my amendment be first decided.

The CHAIRMAN. Does the gentleman from Massachusetts make the point of order on the amendment?

Mr. DAWES. I make the point of order that the amendment is not germane to the pending amendment.

The CHAIRMAN. The point of order is sustained.

Mr. COX. Is it in order to move to strike out the proviso?

The CHAIRMAN. The pending question is on the amendment offered by the gentleman from Massachusetts.

Mr. SENER. I rise to address the Chair upon the pending amendment.

The CHAIRMAN. Debate is exhausted on the pending amendment.

Mr. SENER. Then I move to strike out the last word. I rise at this late period of this discussion, not because I suppose I can enlighten or convince the House by what I shall say. I had no expectation of speaking on this amendment, and would not do so if there was any other way in which I could say what I wish in reference to the feature of this bill increasing the tax on tobacco; but since there will be no such opportunity, I desire to express my opposition to that feature of this bill to which I have alluded. I want to enter here my protest against any increase of the tobacco tax. It may be and is of course a "thrice-told tale;" but it is a fact which is before the House and the country that a larger revenue has been realized from this tax at a low rate than from one at a higher rate, as is proposed by this bill; and especially do I so speak since incomes are not taxed. I feel it my duty as one member of this House, and a Representative in part of the people of Virginia, to express the opposition of the people of that State, expressed individually, expressed collectively, expressed through their boards of trade and by the resolutions of their General Assembly read at your Clerk's desk yesterday against the feature in this tariff bill increasing the tax on tobacco.

It is the duty of the Representatives of the people, I concede, to vote supplies. It is their duty, their bounden duty, whether they come from that section, the South, that I come from, or come from the country north of us, to vote sufficient money to pay the public debt and to carry on this Government; but it is not their duty to put an excessive tax upon one subject of taxation and no tax on another. The theory of our Government is that it rests like the dome of heaven, equally on all and unequally on none. Why put oppressive taxation upon late slaves in the South who raise tobacco, while you leave untaxed those who inhabit the populous cities, who have grown rich in the last fifteen years, and who ought to be willing equally to pay an income tax on their vast interest-bearing subjects, so as to add to the revenues of the Government? Since it is alleged that more revenue is needed, leave tobacco as it is by the present law, though that I believe is too high, and if necessary to raise revenue put back the income tax. I will vote for an amendment to impose an income tax, and I would offer such a proposition myself did I not know that my friend from Iowa [Mr. LOUGHRIDGE] has a carefully drawn amendment looking to that object, which he has given notice of a purpose to offer as soon as he can get the floor.

[Here the hammer fell.]

Mr. DAWES. I oppose the amendment, and ask a vote upon it.

Mr. COX. I desire to oppose the amendment.

Mr. DAWES. I have done it for you.

Mr. COX. I have but one word to say.

Mr. DAWES. Well, I will yield my time to the gentleman.

Mr. COX. I understand, Mr. Chairman, that members on this side of the House when they spoke of free trade have not been understood as meaning absolute free trade. Now, any one who attends the sessions of the House and listens to its proceedings must know that nobody means absolute free trade, regardless of Government restrictions or taxation. The "free-trader" favors restriction so far as revenue is concerned; no more and no less. But, sir, because I gave an illustration in reference to my clothes, I am to be arraigned by somebody or by nobody.

Now, sir, let me say to my friend from Pennsylvania [Mr. TOWNSEND] who spoke so kindly in reply to my remarks on clothing, that all those employed in the United States in the manufacture of textiles—cotton, flax, and linen goods, carpets, woolen, and worsted goods—are 243,731, and the production $380,913,815; and in articles of wear, including the clothing for all persons, boots and shoes, hats and caps, collars, gloves, &c., number 297,141, and the production $398,264,118; while the vast consumers of the country amount to 41,000,000 persons, representing every other branch of industry. The people, sir,

are entitled to cheap clothing. I am no demagogue when I advocate that every man, woman, and child in the country shall have cheap clothing; and when I go to Montreal in Canada and find an Irish Fenian tailor there and have my clothes made there at half-price, I am still endeavoring to illustrate the same privilege and liberty of trade. When this is understood in the proper light, how do I by favoring the largest interchange in the interest of the poor and laborious violate the laws of nature, science, morality, the Constitution, or the divine government of the Almighty?

[Here the hammer fell.]

Mr. HATHORN. I move as a substitute for the amendment of the gentleman from Massachusetts [Mr. DAWES] the additional section which I send to the Clerk's desk.

The Clerk read as follows:

That on all imported natural mineral waters there shall be levied, collected, and paid the following rate of duty, namely: for each bottle or jug containing not more than one quart, 3 cents, and in addition thereto, 25 per cent. *ad valorem;* containing more than one quart, 3 cents for each additional quart or fractional part thereof, and in addition thereto, 25 per cent. *ad valorem;* otherwise than in bottles, 30 per cent. *ad valorem.*

Mr. HATHORN. This additional section which I have offered is worthy of the favorable consideration of this House. In my opinion there is no line of business in this country which is so injuriously and unjustly affected by our present tariff laws as the business of the American mineral springs. The general policy of the framers of our tariff laws has been to foster and encourage American manufactures, to enable American industries to compete successfully with their foreign rivals in the markets of this country. But for the last two years this branch of business has been made an exception to this general rule. In respect to this industry there has been a different policy. It would seem to be the purpose of the present laws to drive the American mineral springs from the markets of this country and to give the whole field over to their foreign rivals, the mineral springs of Germany and France. Since 1872 all foreign natural mineral waters have been admitted entirely free of duty to this country, and not only the waters themselves, but also the boxes, bottles, cork, wires; in short, the whole package has been entirely exempt from duty. This policy has been more favorable to the foreign mineral spring than a policy of complete free trade would have been. Under a free-trade policy the springs of this country could compete in price both at home and abroad. But as the tariff now stands the foreign waters not only have all the benefits of a free-trade policy in being admitted entirely free of duty into this country, but also have the provisions of the present protective tariff apply to the American mineral springs; and as they are prevented thereby from being able to compete in price with their foreign rivals, the foreign mineral waters are given under the present tariff almost freedom from competition with their American rivals within the United States. What more could they desire? But if the American mineral springs are to have equal privileges in this country with the springs of Germany and France, a change must be made in the present law, and the section which I have offered adopted and incorporated in this bill.

This section proposes to restore the same rate of duty upon imported natural mineral waters which existed previous to the passage of the act of June 6, 1872. That act placed foreign mineral waters on the free list for the first time since the year 1846. They have now been on the free list since August, 1872. Not only are the waters themselves permitted to be entered free of duty, but also the bottles, corks, wire, boxes; in short, the whole package is entirely exempt from duty.

Since foreign mineral waters were placed upon the free list, which occurred on the 1st of August, 1872, the importations of these waters has very largely increased. For instance, during the two years 1871 and 1872, when duties were levied upon foreign waters, the importation amounted to about 1,000 gallons; but during the years 1873 and 1874, since these waters have been upon the free list, there have been imported over 600,000 gallons. In this manner the mineral springs of Germany and France have been brought into competition with the mineral springs of the United States, underselling them in every city and State of the Union.

The American mineral springs are now unable to put their bottled waters into the market either at home or abroad at prices to compete with their foreign rivals. Why? Solely on account of the present tariff laws of this country. Certainly not on account of the first cost of the water itself, for that is as free by nature in this country as in France or Germany. The cost of placing the waters in the market is the cost of the materials necessary to contain the water, namely: The bottles, corks, wire, boxes, the cost of the necessary labor, of the capital for the necessary buildings, and for conducting the business. All these materials and articles of cost are very much higher in this country than in Germany or France. Why? On account of the present tariff laws. There is a duty on these materials of from 30 to 40 per cent. in gold, and they cannot be supplied to the American mineral springs from the cheaper markets abroad unless these duties are paid, nor can they be obtained in our home markets except at prices much higher on account of the duties. For this reason the American mineral springs are virtually excluded from sale of their waters in foreign markets, and while foreign waters are admitted entirely free in this country, they will soon be driven from their own home markets under the present law. If the springs of this country were located in Germany, where they could buy in cheaper foreign markets the materials they need, the present tariff laws of the United States would not then prevent them from successfully competing in the markets of this country with the waters of Germany and France; but as they are permanently located here, they cannot compete in price under the present tariff unless the duties upon foreign waters should be restored. The cheap manufacture of German jugs, bottles, &c., and their cheap labor, enable the German waters to be sent here and sold at prices which are ruinous to the business in this country. The cheap prices in foreign countries of all those things which enter into the cost of sending these waters to market enables the foreign waters to undersell the American in this country.

The present law in its operation confers direct benefits and advantages upon foreigners in the sale of their bottle waters in the United States and works corresponding iniquity and injustice to American mineral springs, and offers freedom from competition and protection within the United States not to Americans but to foreigners. The capital invested in this business by our own citizens is considerable. It has at least not escaped taxation.

In Saratoga County there are more than twenty mineral springs owned by various corporations, companies, and individuals, some of which have investments of from $10,000 to $1,000,000, and there are numbers in other States. This business has been crippled and injured in the past two years by the unequal competition of the foreign waters which have been introduced into this country as the result of the unfair advantage given to them in the repeal of the customs duties an advantage which they did not possess before since 1846. Justice to them demands that the duty should be restored. Other interests are protected in this country. This business is as emphatically one for protection as any other. Other products of foreign manufacture are subject to heavy duties. There is no reason why this industry should be singled out from all others for destruction. There is capital invested in it and laborers engaged in the business, and also in the manufacture of the bottles, corks, boxes, and other materials used in the business. It is a business which is beneficial to the country and it deserves protection. If placed upon an equal footing by the restoration of the duty, the character and the reputation of the American mineral waters are such that they will have no reason to fear and never will suffer from competition with foreign waters in this country.

Mr. CONGER. I wish to say one or two words in regard to this bill, not perhaps in technical opposition to this amendment of the gentleman from New York, [Mr. HATHORN.] There are some things which should be amended in our tariff law which are not included in this bill. An amendment will be offered, but there will be no opportunity to speak to it, putting gilling-twine, net-twine, on the free list. I wish to take this opportunity to say in advance in regard to that amendment that the twine used by our fishermen all along the coasts of the lakes and on the rivers of this country, all the twine which is valuable for use in the water is made abroad and imported into this country, paying a duty of 6 per centum *ad valorem.*

By the treaty of Washington and the laws following it Canadian fishermen are permitted to bring their catches of fish into the United States free of duty—all the fish which they catch in the lakes and on our northwestern frontier. The Canadian fisherman can get up his outfit of boats and twine at less than half the expense which the American fisherman has to bear, and yet by the treaty of Washington and the laws that followed it the Canadian fisherman can come right into our markets with his fish free of duty and compete with the American fisherman, who has had to pay an extravagant duty on the very material which he uses to capture the fish. When that amendment is offered I trust the House will agree to it, for there is scarcely a single State in the Union that is not interested in having this gilling-twine, which is made in foreign countries and which is not made of good quality in the United States, placed upon the free list. This twine is not used for any other purpose except as gilling or net twine.

[Here the hammer fell.]

The CHAIRMAN. By order of the House all debate upon this bill is closed.

Mr. HATHORN. I will withdraw my amendment for the present.

The CHAIRMAN. The question, then, is upon the additional section offered by the gentleman from Massachusetts, the chairman of the Committee on Ways and Means, [Mr. DAWES.]

The amendment was agreed to.

Mr. LOUGHRIDGE. I offer as additional sections that which I send to the Clerk's desk.

The clerk read as follows:

SEC. —. That there shall be levied, collected, and paid annually, upon the annual gains, profits, or income of every person residing in the United States, whether derived from any kind of property, rents, interests, dividends, salaries, or from any profession, trade, employment, or vocation carried on in the United States or elsewhere, or from any other source whatever, except as hereinafter mentioned, if such annual gains, profits, or income exceed the sum of $3,000 and do not exceed the sum of $10,000, a duty of 3 per cent. upon the amount thereof exceeding $3,000; and if said income exceeds the sum of $10,000, a duty of 5 per cent. upon the amount thereof exceeding $3,000. And upon the annual gains, profits, or income, rents, and dividends accruing upon any property, securities, and stocks owned in the United States by any citizen of the United States residing abroad, except as hereinafter mentioned, and not in the employ of the Government of the United States, there shall be levied, collected, and paid a duty of 5 per cent.: *Provided*, That incomes derived from interest upon notes, bonds, and other securities of the United

States, and also all premiums on gold and coupons, shall be included in estimating incomes under this act: *And provided further*, That the word person in this section shall be construed to include corporations.

SEC. —. That all the provisions of law in force on the 30th day of June, 1870, relating to deductions from incomes and relating to the assessment and collection of income tax are hereby revived and declared to be in force.

Mr. SPEER. I wish to inquire of the Chair if the order of the House limiting debate to one hour upon the last section of this bill applies to all the new sections that may be offered?

The CHAIRMAN. It applies to the remainder of the bill; that is a question which has been many times ruled upon.

Mr. ELLIS H. ROBERTS. If the income tax is to be revived, it is necessary to have officers to assess it. I therefore move to amend the amendment of the gentleman from Iowa [Mr. LOUGHRIDGE] by adding the provision which I send to the desk.

Mr. HOSKINS. It is well enough for the House to understand that if the amendment of the gentleman from Iowa prevails it will revive fifteen hundred Government officers to act as assessors, and will involve an additional expense of over a million and a half of dollars.

The CHAIRMAN. The amendment of the gentleman from New York [Mr. ELLIS H. ROBERTS] will be read.

The Clerk read as follows:

That for the purpose of assessing and levying the said income tax the President of the United States be, and he is hereby, authorized to nominate and, by and with the advice and consent of the Senate, to appoint an assessor for each collection district in the United States, and each assessor shall divide his district into a convenient number of assessment districts, which may be changed as often as may be deemed necessary, subject to such regulations and limitations as may be imposed by the Commissioner of Internal Revenue, within each of which the Secretary of the Treasury, whenever there shall be a vacancy, shall appoint one or more assistant assessors who shall be a resident of such assessment district; and in case of a vacancy occurring in the office of assessor by reason of death or any other cause, the assistant assessor of the assessment district in which the assessor resided at the time of the vacancy occurring shall act as assessor until an appointment filling the vacancy shall be made. And the pay of these officers shall be as provided for the same officers by the laws of June 30, 1864, and July 13, 1866.

Mr. FORT. Before this amendment is voted on, I wish to offer an amendment to perfect the original section.

The CHAIRMAN. The amendment of the gentleman from New York [Mr ELLIS H. ROBERTS] is in the nature of an amendment perfecting that of the gentleman of Iowa, [Mr. LOUGHRIDGE.]

Mr. RANDALL. Is the amendment germane?

The CHAIRMAN. The Chair holds that the amendment of the gentleman from New York [Mr. ELLIS H. ROBERTS] is germane to that of the gentleman from Iowa. The latter amendment proposes to impose an income tax; and the proposition of the gentleman from New York is to create officers to enforce the collection of that tax. The Chair holds that the amendment is germane.

The question being taken on the amendment of Mr. ELLIS H. ROBERTS, there were—ayes 60, noes 71; no quorum voting.

Tellers were ordered; and Mr. ELLIS H. ROBERTS and Mr. LOUGHRIDGE were appointed.

Mr. FORT. Before the vote is taken, I would like to have my amendment read. It provides that the collectors shall do this assessment.

A MEMBER. They cannot.

Mr. FORT. Yes, they can; they attend now to the business of assessments.

The committee divided; and the tellers reported—ayes 48, noes 99.

So the amendment of Mr. ELLIS H. ROBERTS was not agreed to.

Mr. FORT. I move to amend the amendment of the gentleman from Iowa [Mr. LOUGHRIDGE] by adding thereto the following:

Provided, That all the duties performed by revenue assessors shall hereafter be performed by collectors of internal revenue, subject to such rules and regulations as may be adopted by the Secretary of the Treasury.

The question being taken on the amendment of Mr. FORT; there were—ayes 43, noes 79; no quorum voting.

Tellers were ordered; and Mr. FORT and Mr. LOUGHRIDGE were appointed.

The committee divided; and the tellers reported—ayes 72, noes 77.

So the amendment was not agreed to.

Mr. YOUNG, of Georgia. I move to amend the amendment of the gentleman from Iowa by adding thereto the following:

Provided, That after the passage of this act no person shall be appointed or employed to collect the revenues of any State or Territory who shall not at the time of appointment be a citizen of said State or Territory.

Mr. DAWES. I raise the question whether that amendment is germane.

Mr. YOUNG, of Georgia. Well, then, I will offer it as a separate section.

Mr. FIELD. I offer the following amendment as a substitute for the amendment of the gentleman from Iowa, [Mr. LOUGHRIDGE:]

SEC. 7. That from and after the passage of this act, in lieu of the duties now imposed in Schedule K, section 2504 of the Revised Statutes, on the articles hereinafter enumerated, there shall be levied, collected, and paid the following duties and rates of duty, that is to say:

On sawed boards, plank, deals, and other lumber of hemlock, whitewood, sycamore, and basswood, $2 per thousand feet board measure; all other varieties of sawed lumber, $4 per thousand feet board measure.

Mr. BURCHARD. I make the point of order that this amendment is not germane to that of the gentleman from Iowa, which relates to the income tax and to internal revenue, while this proposes to amend the tariff laws.

Mr. FIELD. This is offered as a substitute. I propose to raise revenue from something else and to get it from foreigners and strangers instead of our own people.

The CHAIRMAN. The Chair sustains the point of order. The Committee of the Whole is now considering the subject of the income tax, and all amendments must be germane to that subject.

Mr. BUTLER, of Massachusetts. I offer the following amendment as a proviso to the amendment of the gentleman from Iowa:

Provided, That the tax hereby imposed upon incomes, so far as derived from all stocks or interest in joint-stock companies, all interest paid on mortgages, bonds, notes, or from any form of invested capital, shall be paid to the several collectors of internal revenue respectively by the person who shall pay or be bound or obliged to pay such dividends or interest; and the amount so paid shall be deducted from the interest and dividends payable on such invested capital.

Mr. DAWES. That is an assault upon contracts, which is new.

Mr. BUTLER, of Massachusetts. No, sir, it is very old; and it is not an assault upon contracts.

Several members objected to debate.

The question being taken on the amendment of Mr. BUTLER, of Massachusetts, it was agreed to; there being—ayes 80, noes 66.

The question then recurred on agreeing to the amendment of Mr. LOUGHRIDGE as amended.

Mr. HOSKINS. If this amendment is adopted, it kills the bill.

Several members objected to debate.

The CHAIRMAN. Upon this question the Chair will direct that the vote be taken by tellers. He appoints the gentleman from Massachusetts [Mr. DAWES] and the gentleman from Iowa, [Mr. LOUGHRIDGE.]

Mr. HOSKINS. I desire——

The CHAIRMAN. The committee is about dividing.

Mr. SPEER. This amendment is utterly absurd.

Mr. HOSKINS. The division has not yet taken place; and I have an amendment——

Mr. LOUGHRIDGE. I object to bankers standing around here interrupting the vote.

The CHAIRMAN. The committee is dividing.

The committee divided; and the tellers reported—ayes 114, noes 86.

So the amendment, as amended, was adopted.

Mr. KELLOGG. I move to strike out the enacting clause of the bill.

Mr. COX. Is it in order to move now to add an additional section to the bill?

The CHAIRMAN. The motion to strike out the enacting clause is neither amendable nor debatable.

Mr. COX. I rise to a point of order.

Mr. DAWES. I hope the enacting clause will not be stricken out.

Mr. KELLOGG. No debate is in order. If the gentleman from Massachusetts is heard I want to be heard in reply.

The CHAIRMAN. Nothing is in order but the vote on the motion to strike out the enacting clause,

Mr. FIELD. I wish to submit an amendment.

The CHAIRMAN. An amendment is not in order.

Mr. DAWES. I appeal to the gentleman from Connecticut not to make that motion.

Mr. KELLOGG. I feel it to be my duty to insist upon it.

Mr. DAWES. Let it come from some other quarter.

Mr. SMITH, of Ohio. If this motion is agreed to, what then will be the condition of the bill?

Mr. DAWES. It will leave it like a hen with its head cut off.

Mr. KELLOGG. When the head is cut off we can put another better head on it; and that is my object.

Mr. CONGER. I rise to a point of order.

Mr. SMITH, of Ohio. If the House should disagree to the motion to strike out the enacting clause, what then becomes of the bill?

The CHAIRMAN. If the motion to strike out the enacting clause is carried in committee and on vote in the House should be rejected, then the committee resumes its session and the bill remains in the same condition it was before the motion to strike out the enacting clause was made.

Mr. CONGER. If this motion is not carried will the bill be open to an amendment?

The CHAIRMAN. Certainly.

The committee divided; and there were—ayes 87, noes 98.

Mr. SAYLER, of Ohio, demanded tellers.

Tellers were ordered; and Mr. SAYLER, of Ohio, and Mr. KELLOGG were appointed.

The committee again divided; and the tellers reported—ayes 102, noes 113.

So the motion was rejected.

Mr. COTTON. I move the following as an additional section:

That from and after the passage of this act there shall be levied, collected, and paid on tea and coffee imported from foreign countries the following duties: on each pound of tea 10 cents; and on each pound of coffee 2 cents.

The committee divided; and there were—ayes 33, noes 113.

So the amendment was rejected.

Mr. COTTON. I should like to print some statements in regard to tea and coffee to show that there is not that supply in the country which has been stated.

Mr. FIELD. I object; debate is not in order.

Mr. COX. I move the following as an additional section:

SEC. 8. That the duty shall be changed from the present assessment, *ad valorem*, to a specific rate of not more than 1 cent per pound on all grades and descriptions of steel.

The committee divided; and there were ayes 16, noes not counted.
So the amendment was rejected.
Mr. COX. I will postpone this matter till the next session.
Mr. YOUNG, of Georgia. I move the following to come in as an additional section.
The Clerk read as follows:

Provided, That after the passage of this act no person shall be appointed or employed to collect the revenues from the people of any section or territory who shall not at the time of appointment be a citizen of said State or Territory.

The committee divided; and there were—ayes 67, noes 77.
Mr. YOUNG, of Georgia, demanded tellers.
Tellers were ordered; and Mr. YOUNG, of Georgia, and Mr. MONROE were appointed.
The committee again divided; and the tellers reported—ayes 77, noes 72.
So the amendment was agreed to.
Mr. HATHORN. I move the following to come in as an additional section.
The Clerk read as follows:

That on all imported natural mineral waters there shall be levied, collected, and paid the following rate of duty, namely: for each bottle or jug containing not more than one quart 3 cents, and in addition thereto 25 per cent. *ad valorem*; containing more than one quart, 3 cents for each additional quart or fractional part thereof, and in addition thereto 25 per cent. *ad valorem*; otherwise than in bottles, 30 per cent. *ad valorem*.

Mr. SPEER. Is that in order?
The CHAIRMAN. It is an additional section.
The committee divided; and there were—ayes 71, noes 64.
Mr. DAWES demanded tellers.
Mr. STORM. If this is carried we might as well tax the atmosphere?
Mr. DAWES. It opens the door for everything.
Tellers were not ordered.
So the amendment was agreed to.
Mr. SPEER. I make the point of order that the gentleman from New York [Mr. HATHORN] is directly interested in the amendment, and therefore is not entitled to vote. I understand the amendment was carried only by a small vote.
Mr. DAWES. He is not interested in foreign waters.
The CHAIRMAN. The amendment has been carried.
Mr. PHILLIPS. I move the following to come in as an additional section.
The Clerk read as follows:

SEC.—. *And be it further enacted*, That there shall be levied and collected, in addition to the tax at present levied and collected on all national-bank notes issued, ½ half of 1 per cent. per annum, which additional tax on such notes shall be levied and collected together with the tax now levied and collected, and there shall further be levied and collected 1-10 of 1 per cent. on all sales of gold or tranefers of gold, gold certificates, or other evidence of such transfer.

Mr. DAWES. This is contraction, and will call in $300,000,000.
Mr. CESSNA. I ask for a division of the question.
Mr. DAWES. It is better to take it as a whole.
Mr. BUCKNER. I offer as a substitute for the amendment of the gentleman from Kansas [Mr. PHILLIPS] the following.
The Clerk read as follows:

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 one-tenth of 1 per cent. on the amount of the sales thereof; and 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 for 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 days of each month; and the collector shall thereupon assess and collect a tax of one-tenth of 1 per cent. on the gross amount of such sales; and said list or return shall be made in such a manner and form as may be prescribed by the Commissioner of Internal Revenue.

The substitute for the amendment was agreed to.
The question recurred on agreeing to the amendment as amended.
Mr. DAWES. I call for a division. I shall be compelled to call for a division on all these amendments, because the tendency, and I am afraid the purpose, of them is to break the bill down.
The question being taken, there were—ayes 80, noes 59.
Mr. DAWES. I call for tellers. The whole effect——
Several MEMBERS. No debate.
Tellers were ordered; and Mr. DAWES and Mr. BUCKNER were appointed.
The committee again divided; and the tellers reported—ayes 105, noes 58.
So the amendment, as amended, was agreed to.
Mr. DAWES. I move that the committee rise and report the bill.

ENROLLED BILLS SIGNED.

Here the committee informally rose; and, the Speaker having resumed the chair, Mr. DARRALL, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

A joint resolution (H. R. No. 51) in relation to civil-service examinations;

An act (H. R. No. 4669) to provide for the selection of grand and petit jurors in the District of Columbia; and

An act (H. R. No. 4677) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1876.

TAX AND TARIFF BILL.

The Committee of the Whole resumed its session.
Mr. DAWES. I insist on my motion.
The CHAIRMAN. What is the gentleman's motion?
Mr. DAWES. That the committee rise and report the bill.
The CHAIRMAN. That motion is not in order while amendments are being offered.
Mr. DAWES. I thought the amendments were all in.
Mr. BASS. I offer the following as an additional section.
The Clerk read as follows:

Gilling-twine, to be used for the manufacture and repair of fishermen's nets, may be withdrawn from bonded warehouses free of duty, under such regulations as the Secretary of the Treasury may prescribe.

Mr. FIELD. There can be no objection to that.
The question being taken, there were ayes 40, noes not counted.
So the amendment was not agreed to.
Mr. PENDLETON. I offer the following as an additional section.
The Clerk read as follows:

SEC. —. That so much of section 15 of the act entitled "An act to amend existing customs and internal-revenue laws, and for other purposes," approved February 8, 1875, as imposes a stamp tax in words following, to wit: "Bank-check, draft, order, or voucher for the payment of any sum of money whatsoever, drawn upon any bank, banker, or trust company, 2 cents," be, and the same is hereby, repealed, to take effect from and after the 1st day of July, 1875.

Mr. FIELD. There can be no objection to that.
Mr. DAWES. Yes; I suppose from bankers there is no objection to it.
The question being taken on agreeing to the amendment, there were ayes 38, noes not counted.
So the amendment was not agreed to.
Mr. BURLEIGH. I offer the following as an additional section to the bill.
The Clerk read as follows:

And on all cloth, rugs, robes, or blankets, of which hair is a component part, there shall be levied and paid the same amount of tax as on apparently similar goods made either of wool or cotton.

The amendment was not agreed to.
Mr. DAWES. I move to strike out the enacting clause of the bill.
Mr. KELLOGG. The gentleman is wise, but his wisdom is half an hour too late.
The question being taken on Mr. DAWES's motion there were—ayes 95, noes 40.
So the motion to strike out the enacting clause was agreed to.
The committee then rose; and, the Speaker having resumed the chair, Mr. HALE, of Maine, reported that the Committee of the Whole on the state of the Union, having had under consideration the bill (H. R. No. 4680) to further protect the sinking fund and to provide for the exigencies of the Government, had struck out the enacting clause of the bill.
Mr. DAWES. I move that the bill be recommitted to the Committee on Ways and Means, with instructions to report the same back in a new form, with whisky hereafter to be made at 90 cents per gallon, with the section on tobacco, as amended, in the bill; with the section on sugar, as amended, in the bill; with the clause restoring the 10 per cent., and with the sixth section of course; and upon that I call the previous question.
Mr. SMITH, of Ohio. Will not the gentleman include in his motion also the income clause?
Mr. BUTLER, of Massachusetts. I rise to a question of order.
Mr. COX. I move to lay the motion of the gentleman from Massachusetts [Mr. DAWES] on the table.
The SPEAKER. The gentleman from Massachusetts [Mr. BUTLER] rises to a point of order. He will state the point of order.
Mr. BUTLER, of Massachusetts. My point of order is this: When the Committee of the Whole struck out the enacting clause of the bill and reported it back to the House, under parliamentary usage, does not the control of the bill pass into the hands of its opponents, instead of going back to the committee that reported it?
The SPEAKER. The control goes into the hands of the member who moved to strike out the enacting clause.
Mr. G. F. HOAR. I rise to make a parliamentary inquiry. I desire to inquire of the Chair whether, if this motion to recommit the bill with instructions be carried, and the bill be thereupon recommitted to the committee, and the instructions obeyed by the committee, and the bill again reported to the House from that committee in obedience to the instructions, the bill must not under the rule go back again to the Committee of the Whole, and all amendments be in order and the bill be in precisely the same parliamentary condition as now?
The SPEAKER. The rule in regard to striking out the enacting clause of the bill is simply as the gentleman has intimated. When the Committee of the Whole strikes out the enacting clause the bill is immediately reported back to the House, and the question then is will the House concur. If the House concurs, of course the bill is dead. If the House non-concurs it is *ipso facto* recommitted. But the rules provide that the bill may be referred either to a select or standing committee; but when reported back from such committee it must of course go to the Committee of the Whole, and will then be open to amendment.
Mr. DAWES. It will be open to amendment; but the instructions

are to report it to the Committee of the Whole in this form and not in the old form.

The SPEAKER. It will be reported in the form ordered by the instructions; but it will be open to amendment in Committee of the Whole.

Mr. COX. Cannot I move to lay the motion of the gentleman from Massachusetts on the table?

The SPEAKER. The rule does not permit that; but the end which the gentleman has in view can be attained without that motion.

Mr. LOUGHRIDGE. The Committee of the Whole put upon this bill a section taxing incomes. If this bill goes back to the committee, will that section be retained?

The SPEAKER. Not under these instructions; but the Committee of the Whole could amend the bill by putting it back again.

Mr. COX. Would it be in order to move to concur in the action of the Committee of the Whole?

The SPEAKER. The motion of the gentleman from Massachusetts must be first submitted. If that motion be voted down and the House concurs in the action of the Committee of the Whole, then the bill is dead; but if the House non-concurs in the action of the Committee of the Whole, then the bill is recommitted to the committee.

Mr. CESSNA. In order that I may vote intelligently, I desire to know from the gentleman from Massachusetts what he proposes to do in regard to the tax on whisky on hand in these instructions? The gentleman proposes to change the tax which was $1 in the bill to 90 cents. I ask him what he proposes to do on that subject?

Mr. DAWES. I propose, instead of the section in the bill, a tax of 90 cents upon whisky hereafter to be made.

Mr. CESSNA. That releases whisky on hand from taxation?

Mr. DAWES. Yes, sir.

Mr. PHILLIPS. The gentleman from Massachusetts has, I think, learned the temper of the House. The Committee of the Whole has voted on four or five propositions, and they were adopted. Does the gentleman propose to omit part of those amendments? Does he intend to reverse the action of the committee in these instructions?

Mr. BURCHARD. I would like to have the gentleman from Massachusetts explain what he expects to gain. When the bill goes back into Committee of the Whole all these several amendments can be renewed, and two or three days more will be consumed in considering the bill, when there are appropriation bills awaiting action.

Mr. DAWES. If this matter is open to debate, I will answer the gentleman's question.

The SPEAKER. It is not open to debate except by unanimous consent.

Mr. HARRIS, of Virginia. I object, and call for the regular order.

The question was on the motion of Mr. DAWES.

Mr. SMITH, of Ohio. Is that motion amendable?

The SPEAKER. It is not.

Mr. DAWES. I have demanded the previous question on the instructions.

Upon seconding the demand for the previous question, tellers were ordered; and Mr. SENER and Mr. MONROE were appointed.

The House divided; and the tellers reported—ayes 104, noes 91.

Mr. GUNCKEL. I call for the yeas and nays.

Mr. GARFIELD. I suggest to the gentleman from Massachusetts [Mr. DAWES] that he withdraw his motion and let the bill be recommitted to the Committee on Ways and Means. He will get out of his trouble sooner in that way than in any other.

Mr. DAWES. I withdraw the call for the previous question, and I also withdraw the motion to recommit with instructions.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, announced that the Senate had agreed to the concurrent resolution of the House that the sixteenth and seventeenth joint rule of the two Houses be suspended for the residue of the present session.

The message further announced that the Senate had passed without amendment the bill (H. R. No. 4835) in relation to the Quartermaster's Department, fixing its status, reducing its numbers, and regulating appointments and promotions therein.

The message further announced that the Senate had passed the bill (H. R. No. 4529) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1876, and for other purposes, with amendments; in which he was directed to ask the concurrence of the House of Representatives.

TAX AND TARIFF BILL.

Mr. COX. I move that the House concur in the action of the Committee of the Whole, and on that I call for the yeas and nays.

The SPEAKER. That is the question which the Chair must now submit to the House.

Mr. DAWES. I leave it to the House to take the responsibility of concurring in that motion, which will be the end of this bill.

The SPEAKER. The Chair will state the effect of the motion. If the House concurs in the motion adopted in Committee of the Whole to strike out the enacting clause of the bill, it kills the bill; if the House votes not to concur, it recommits the bill, leaving it precisely where it was when the committee rose.

Mr. CESSNA. With the amendments already adopted in?

The SPEAKER. With the amendments in.

Mr. DAWES. I leave it to the House to say whether they want such a bill as this providing for the necessities of the Treasury. If not, they will vote in favor of concurring in the action of the committee.

The yeas and nays were ordered.

Mr. SMITH, of Ohio. I desire to make a motion.

The SPEAKER. No motion is possible under the rules except the one now pending.

Mr. SMITH, of Ohio. Is not a motion from some one else, similar to that made and withdrawn by the gentleman from Massachusetts, [Mr. DAWES,] in order at this time?

Mr. COX. The yeas and nays have been ordered on the pending question.

The SPEAKER. The Chair thinks the gentleman from Massachusetts [Mr. DAWES] would have the right to call the previous question upon concurring or non-concurring in the action of the Committee of the Whole in striking out the enacting clause of the bill. If he does not call the previous question, the Chair will recognize some other gentleman.

Mr. SPEER. How could there be a previous question upon a motion which the gentleman has withdrawn?

The SPEAKER. The previous question could be ordered upon striking out the enacting clause of the bill. The Chair begs to call the attention of the House to the fact that if this bill shall be recommitted and reported back, in point of time or parliamentary advantage there would be no possible gain to either side, because you would have to begin *de novo* in Committee of the Whole.

Mr. DAWES. I desire to be heard a few moments in explanation of what I have been doing.

Mr. WOOD. Is discussion in order?

Mr. DAWES. I only want to explain.

Mr. WOOD. I object to debate.

Mr. GARFIELD. I hope the gentleman will not object.

Mr. DAWES. I do not desire to discuss the bill; I want to explain what I have been doing.

Mr. WOOD. We know what you have been doing.

Mr. BUCKNER. I object to debate.

Mr. SMITH, of Ohio. I move that this bill be recommitted to the Committee on Ways and Means, with instructions to report a bill taxing incomes and taxing whisky at 85 cents per gallon, and having nothing else in the bill. On that question I call the previous question.

The SPEAKER. The previous question, if ordered, will extend through to the final question upon striking out the enacting clause, in case the motion to recommit with instructions should be voted down.

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

The question was then taken upon the motion to recommit with instructions; and upon a division—ayes 29, noes 128—it was not agreed to.

The question recurred upon striking out the enacting clause of the bill.

Mr. COX. On that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 107, nays 150, not voting 30; as follows:

YEAS—Messrs. Adams, Archer, Arthur, Ashe, Atkins, Banning, Barber, Beck, Bell, Berry, Blount, Bowen, Bright, Bromberg, Brown, Buckner, Burchard, Caldwell, Chittenden, John B. Clark, jr., Freeman Clarke, Clayton, Clymer, Comingo, Cook, Cotton, Cox, Crittenden, Crossland, Crutchfield, Davis, DeWitt, Durham, Eldredge, Finck, Giddings, Glover, Gunter, Hamilton, Hancock, Henry R. Harris, John T. Harris, Hatcher, Havens, Hereford, Herndon, Holman, Hunton, Kelley Knapp, Lamar, Leach, Loughridge, Luttrell, Magee, Marshall, James W. McDill, McLean, Milliken, Mills, Morrison, Neal, Nesmith, Niblack, O'Brien, Orr, Hosea W. Parker, Perry, Phelps, Pierce, Potter, Randall, Read, William R. Roberts, Henry B. Sayler, Milton Sayler, Schell, Henry J. Scudder, Sener, J. Ambler Smith, William A. Smith, Snyder, Southard, Speer, Standiford, Charles A. Stevens, St. John, Stone, Storm, Stowell, Strait, Swann, Christopher Y. Thomas, Vance, Waddell, Walls, Wells, Whitehead, Whitthorne, Charles W. Willard, George Willard, Willie, Ephraim K. Wilson, Wolfe, Wood, John D. Young, and Pierce M. B. Young—107.

NAYS—Messrs. Albert, Albright, Averill, Barnum, Barrere, Barry, Bass, Begole, Biery, Bradley, Buffinton, Bundy, Burleigh, Burrows, Benjamin F. Butler, Cannon, Carpenter, Cason, Cessna, Amos Clark, jr., Clements, Stephen A. Cobb, Coburn, Conger, Corwin, Crooke, Crounse, Curtis, Danford, Darrall, Dawes, Dobbins, Donnan, Duell, Dunnell, Eames, Farwell, Field, Fort, Foster, Freeman, Frye, Garfield, Gooch, Gunckel, Hagans, Eugene Hale, Harmer, Benjamin W. Harris, Harrison, Hathorn, John B. Hawley, Joseph R. Hawley, Gerry W. Hazelton, John W. Hazelton, E. Rockwood Hoar, George F. Hoar, Hodges, Hoskins, Houghton, Howe, Hubbell, Hunter, Hurlbut, Hyde, Hynes, Kasson, Kellogg, Killinger, Lamport, Lawrence, Lawson, Lewis, Lowe, Lowndes, Lynch, Martin, Maynard, McCrary, Alexander S. McDill, MacDougall, McNulta, Merriam, Monroe, Moore, Morey, Myers, Negley, Niles, Nunn, O'Neill, Orth, Packard, Packer, Isaac C. Parker, Parsons, Pelham, Pendleton, Phillips, Pike, Thomas C. Platt, Poland, Rainey, Rapier, Ray, Richmond, Ellis H. Roberts, James W. Robinson, Ross, Rusk, Sawyer, Scofield, Isaac W. Scudder, Sessions, Shanks, Sheats, Sheldon, Sherwood, Lazarus D. Shoemaker, Sloan, Small, Smart, A. Herr Smith, George L. Smith, H. Boardman Smith, John Q. Smith, Sprague, Stanard, Starkweather, Strawbridge, Sypher, Taylor, Thompson, Thornburgh, Todd, Townsend, Tyner, Waldron, Wallace, Marcus L. Ward, Wheeler, White, Whiteley, Wilber, Charles G. Williams, John M. S. Williams, William B. Williams, James Wilson, Jeremiah M. Wilson, and Woodworth—150.

NOT VOTING—Messrs. Bland, Roderick R. Butler, Cain, Caulfield, Clinton L. Cobb, Creamer, Eden, Robert S. Hale, Hays, Hendee, Kendall, Lamison, Lansing,

Lofland, McKee, Mitchell, Page, James H. Platt, jr., Pratt, Ransier, Robbins, James C. Robinson, John G. Schumaker, Sloss, Alexander H. Stephens, Charles R. Thomas, Tremain, Jasper D. Ward, Whitehouse, and William Williams—30.

So the House refused to strike out the enacting clause of the bill.

During the call of the roll the following announcements were made:

Mr. VANCE. I desire to state that my colleague, Mr. ROBBINS, is confined to his room by sickness. If present he would vote "ay" on this question.

Mr. LAWSON. My colleague, Judge TREMAIN, is detained at home by sickness.

Mr. LANSING. When my name was called I voted in the negative. It was out of my mind at the time that upon this question I had paired with my colleague, Mr. WHITEHOUSE. I withdraw my vote, and will state that if my colleague had been here he would have voted "ay," and I would have voted as I did, "no."

Mr. SOUTHARD. I desire to state that my colleague, Mr. LAMISON, is necessarily absent.

The result of the vote was announced as above stated.

The SPEAKER. The House having refused to strike out the enacting clause of the bill, it stands recommitted to the Committee of the Whole House.

The Committee of the Whole resumed its session, Mr. HALE, of Maine, in the chair.

The CHAIRMAN. The House is in Committee of the Whole upon the bill to further protect the sinking fund and to provide for the exigencies of the Government. There is no amendment pending.

Mr. FIELD. I move to amend by inserting the following as an additional section:

SEC. —. That from and after the passage of this act, in lieu of the duties now imposed in Schedule K, section 2504 of the Revised Statutes, on the articles hereinafter enumerated, there shall be levied, collected, and paid the following duties and rates of duty, that is to say:

On sawed boards, plank, deals, and other lumber of hemlock, whitewood, sycamore, and basswood, $2 per thousand feet board measure; all other varieties of sawed lumber, $4 per thousand feet board measure.

Mr. DAWES. I hope that will not be adopted.

Mr. FIELD. It will yield a million dollars of revenue.

The CHAIRMAN. The gentleman has no right to debate his amendment.

Mr. FIELD. Nor has the gentleman from Massachusetts, [Mr. DAWES.]

The amendment was not agreed to.

Mr. WHITEHEAD. I move to amend by inserting the following as a new section:

SEC. —. That upon all manufactured tobacco the manufacturer thereof shall be entitled to a drawback equal to the amount of duties which shall be shown to have been paid upon imported licorice which has entered into the manufacture of said tobacco, under rules and regulations to be prescribed by the Commissioner of Internal Revenue and approved by the Secretary of the Treasury, said duties to be ascertained and certified by the collector of internal revenue of the district in which said tobacco is manufactured, and when so ascertained and certified the same shall be allowed and paid as in other cases of drawback of duties on manufactured articles.

The question being taken on the amendment, there were—ayes 62, noes 77.

Mr. WHITEHEAD called for tellers.

Tellers were not ordered.

So the amendment was not agreed to.

Mr. MONROE. I move to amend by adding the following as a new section:

SEC. —. That from and after the passage of this act the special tax paid by retail dealers in liquors shall be $50 instead of $25 as now provided by law.

The amendment was not agreed to; there being ayes 20, noes not counted.

Mr. O'BRIEN. I offer the amendment which I send to the desk.

Mr. DAWES. I move that the committee rise and report the bill.

The CHAIRMAN. That motion cannot be entertained so long as any gentleman rises to move an amendment.

The amendment of Mr. O'BRIEN was read, as follows:

SEC. —. That the provisions of this bill shall not be construed to create or to authorize the creation of any new office.

The question being taken on the amendment, there were—ayes 36, noes 68; no quorum voting.

Mr. O'BRIEN. As this is a very important amendment, I must insist on a vote by tellers.

Tellers were ordered; and Mr. O'BRIEN and Mr. MONROE were appointed.

The committee divided; and the tellers reported ayes 27, noes not counted.

So the amendment was not agreed to.

Mr. HOSKINS. I move to amend by inserting the following:

SEC. —. That all the taxes imposed by stamps under and by virtue of Schedule C, of section 170, of the act entitled "An act to provide internal revenue to supply the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and the several acts amendatory thereof; and so much of section 15 of an act entitled "An act to amend existing customs and internal revenue laws, and for other purposes," approved February 8, 1875, as imposes a stamp tax, in the following words, to wit: "Bank-check, draft, order, or voucher for the payment of any sum of money whatsoever, drawn upon any bank, banker, or trust-company, 2 cents," be, and the same is hereby, repealed, to take effect from and after the 1st day of July, 1875.

Mr. DAWES. That will take $6,000,000 out of the Treasury.

The amendment was not agreed to; there being—ayes 41, noes 91.

Mr. LAWRENCE. I submit an amendment to be inserted as a new section. I will state that I do so with the view of having struck out section 4, which increases the duty on sugar and molasses.

The Clerk read the amendment, as follows:

SEC. —. That section 3339 of the Revised Statutes of the United States be and is so amended as to strike out the words "$1" where they occur in said section and insert in lieu thereof "$2."

Mr. LAWRENCE. The effect of this amendment is to double the tax on beer.

The amendment was not agreed to.

Mr. HARRIS, of Virginia. I move to amend by inserting as a new section what I send to the desk.

The Clerk read as follows:

SEC.—. That any manufacturer of tobacco or snuff who shall have given a bond in conformity with the provisions of the internal-revenue law now in force, or which may hereafter be in force, and who shall have otherwise complied with all the provisions of law relating to the manufacture and sale of tobacco and snuff, shall be allowed the privilege, under such rules and regulations and after filing such bonds as the Secretary of the Treasury may prescribe, of transferring to his manufactory licorice and other materials used in the manufacture of tobacco and snuff directly from any vessel in which said articles and materials have been imported from a foreign country or from any bonded warehouse in which the same may be in original and unbroken packages without payment of duties thereon. Every manufacturer of tobacco or snuff, before he shall be entitled to the provisions of this act, shall file with the collector of customs, at the port of entry, or at the port of delivery where the vessel entered, or in which the bonded warehouse is located in which the articles or materials subject to impost duties may be, a bond, with good and sufficient sureties, in double the amount of the duties chargeable thereon and uncollected, truly and faithfully to convey or transfer the same to his factory, giving the State, district, and number of his factory, &c., and that he will remove no portion of such articles or materials from his said factory, but will use and consume the entire amount in the manufacture of articles aforesaid; and on the 1st of January of each and every year, or at the time of concluding business, upon the affidavit of the manufacturer that all the articles and materials transferred to his factory as aforesaid have been, during the year, entirely used and consumed by him in the manufacture of tobacco or snuff as aforesaid, and upon the verification of such affidavit of the manufacturer by the collector of internal revenue of the district where such manufacturer has his place of business from his own personal knowledge and examinations of such manufacturer's stock returns and inventories, the collector of customs as aforesaid is authorized and directed to cancel such bonds.

The question being taken on agreeing to the amendment, there were—ayes 56, noes 61; no quorum voting.

Tellers were ordered; and Mr. HARRIS, of Virginia, and Mr. DAWES were appointed.

The committee divided; and the tellers reported ayes 85, noes not counted.

So the amendment was agreed to.

Mr. POTTER. I offer the following, to come in as an additional section.

The Clerk read as follows:

SEC. —. That section 2504 Revised Stat ites, Schedule L, be, and the same is hereby, amended by adding to the concluding paragraph, after the words "screens, hassocks, and rugs," the words "and on hatters' furs and fur skins undressed."

Mr. POTTER. I wish to say a word.

Mr. DAWES. Debate is not in order.

The CHAIRMAN. No further debate is in order.

The amendment was rejected.

Mr. CONGER. I offer the following as an additional section.

The Clerk read as follows:

Gilling-twine, to be used for the manufacture and repair of fishermen's seines and nets, may be withdrawn from bonded warehouses free of duty under such regulations as the Secretary of the Treasury may prescribe.

The committee divided; and there were—ayes 37, noes 47.

Mr. CONGER demanded tellers.

Tellers were ordered; and Mr. CONGER and Mr. G. F. HOAR were appointed.

The committee again divided; and the tellers disagreed as to the count.

The CHAIRMAN. The tellers are discharged; and the Chair appoints in their place Mr. CROOKE and Mr. BARNUM.

The committee again divided; and the tellers reported—ayes 22, noes 39.

So the amendment was rejected.

Mr. KELLOGG. I move the following to come in as an additional section:

SEC. —. Nothing in the fifth section of this act shall apply to or affect the duties upon clothing wools or Australian wools.

The amendment was rejected.

Mr. CONGER. I rise to a point of order. I make the point that when a member of the House demands a further count it is the duty of the Chair to recognize him.

The CHAIRMAN. The Chair did not hear the gentleman from Michigan call for a further count.

Mr. CONGER. I rose in time to be recognized.

The CHAIRMAN. The Chair took the indication from the tellers that no further count was insisted on, and then recognized the gentleman from Connecticut to offer an amendment.

Mr. MYERS. I move the following to come in as an additional section:

That after the passage of this act, in addition to the *ad valorem* duty now imposed by law, the duty on imported silk rain and sun umbrellas and parasols shall be 50 cents each.

The amendment was rejected.

Mr. FIELD. I offer the following.

The Clerk read as follows:

SEC. —. That so much of section 2503 of the Revised Statutes as provides that only 90 per cent. of the several duties and rates of duty imposed on certain articles therein enumerated by section 2504 shall be levied, collected, and paid be, and the same is hereby, repealed; and the several duties and rates of duty prescribed in said section 2504 shall be and remain as by that section levied, without abatement of 10 per cent. as provided in section 2503.

Mr. FIELD. I want to explain why I offer that.

The CHAIRMAN. Debate is not in order.

Mr. FIELD. I offer this as a substitute for the whole bill.

Mr. SPEER. Cannot the gentleman from Michigan be heard by unanimous consent?

The CHAIRMAN. The committee cannot give unanimous consent to any prolongation of debate.

The amendment was rejected.

Mr. BANNING. I offer the following to come in as an additional section:

SEC. —. That the tax imposed by the first section of this act shall not apply to any spirits belonging to distillers, manufacturers, rectifiers, wholesale dealers, or spirits held in bonded warehouses in stamped packages at the date of the passage of this act, and that the tax on such spirits shall not be increased or changed by this act.

The committee divided; and there were—ayes 46, noes 91.

Mr. BANNING demanded tellers.

Tellers were ordered; and Mr. BANNING and Mr. DAWES were appointed.

The committee again divided; and the tellers reported ayes 41, noes not counted.

So the amendment was rejected.

Mr. CLARK, of Missouri. I offer the following amendment:

SEC. —. That hereafter no license shall be required to enable a farmer or planter to sell leaf-tobacco of his own production to any person.

The amendment was rejected.

Mr. STORM. I offer the following to come in as an additional section:

SEC. —. That on and after the 1st day of July next emery ore shall be placed on the free list, and no further import duties shall be collected on the same.

The committee divided; and there were ayes 17, noes not counted.

So the amendment was rejected.

Mr. CROSSLAND. I offer the following amendment:

That hides and skins be, and the same are hereby, put on the list of dutiable imports, and that hereafter a duty of 25 per cent. shall be collected on all hides and skins imported.

The amendment was rejected.

Mr. COX. I move the following amendment:

SEC. —. That the same drawback on salt now allowed for curing fish shall be applied to salt when used in the packing of pork and other meats.

The amendment was rejected.

Mr. COMINGO. I offer the following as an additional section.

The Clerk read as follows:

That from and after the passage of this act bank-checks shall be stamped as follows, and not otherwise: Each check, draft, order, voucher, or instrument of writing drawn and used, or intended to be used, as evidence of the payment of money by any bank, banker, savings association, or trust company, on account of any deposit therewith or indebtedness thereof, shall be stamped as follows, and not otherwise: To each check, draft, order, voucher, or other instrument, drawn as aforesaid, for the sum of $100, there shall be affixed a revenue-stamp of the value or amount of 2 cents, and 1 cent additional for every additional $100 or fractional part thereof.

Mr. YOUNG, of Georgia. I offer as an amendment to the amendment the following:

A commission of 1-10 of 1 per. cent shall be collected on all bills of exchange drawn on foreign bankers except those to which bills of lading are attached.

The amendment and the amendment to the amendment were rejected.

Mr. VANCE. I offer the following amendment.

The CLERK read as follows:

Amend by adding the following:

SEC. —. From and after the passage of this act place on the free list salt in bulk or by the package.

The question being taken on the amendment, there were—ayes 25, noes 93; no quorum voting.

Mr. VANCE called for tellers.

Tellers were ordered; and Mr. VANCE and Mr. MONROE were appointed.

The committee again divided; and the tellers reported ayes 21, noes not counted.

So the amendment was not agreed to.

Mr. DAWES. I move that the committee rise and report the bill.

The motion was agreed to.

The committee accordingly rose; and, the Speaker having resumed the chair, Mr. HALE, of Maine, reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 4680) further to protect the sinking fund and provide for the exigencies of the Government, and had directed him to report the same to the House with sundry amendments.

Mr. DAWES. I have no disposition to rehearse to the House the reasons which have already been given by other members of the Committee on Ways and Means and by myself why it is necessary to pass some bill that will bring into the Treasury somewhere near the sum of money heretofore found to be necessary to carry on the Government. As I have already said, it is not the desire of any person in the Committee on Ways and Means or elsewhere to bring into the Treasury a larger sum of money than heretofore. The necessities of the Government do not require so large a sum as heretofore, but they do require more than the present revenues of the country give any assurance or promise will be at the command of the Government after Congress shall adjourn. And those on both sides of the House who regard with concern the adjournment of Congress without supplying the just and fair and proper means for carrying on the Government, those who do not desire to throw over the question to an extra session of Congress or to go to the country to face the responsibility and the reproach of having failed to supply the Government of this country with the necessary means for meeting its obligations, those who prefer to keep the faith of the Government as well to its bonded creditors, if I may use the phrase that has been used so frequently in the odious sense, as to other creditors who have demands upon the Government, will I think sympathize with the Committee on Ways and Means in the effort they have been making to present to the House and if possible to carry through a measure that would command a majority in both branches of Congress, and not only become a law but meet the approving judgment of the people, whatever may be their political prejudices; and will say that in this exigency of the Government, brought on by causes over which legislation has no control, the Committee on Ways and Means, not following party lines but with a regard to its obligations to the country without regard to party, has on the whole presented to the country a method of replenishing its Treasury the least objectionable.

As I said when this bill was reported to the House, there was in it that which each member on the Committee on Ways and Means, if called to pass upon it by itself, did not approve; but as a whole the Committee on Ways and Means felt that they were presenting to the country a method of replenishing the Treasury which is the least objectionable and the least injurious to the business of the country. The bill has gone through just such an ordeal in the Committee of the Whole as those who have experience here in the House foresaw awaited it. At no time in the deliberations concerning this bill has it in my mind undergone any peril until after the committee passed the printed text of the bill. If the House would have consented to have taken the bill as the committee left the printed text, amended as it had been, there would have been some expectation, some hope in the minds of those who have made this a study, and have felt the responsibility resting upon them to urge upon the House these measures—some expectation and some chance of the bill becoming a law, although there were in it then features that would not have commanded for themselves the support of a majority of those who reported the bill and would not by itself perhaps have commanded a majority of the House itself.

But I have been too long in my position here not to know, and there is no man in this House but has been long enough in his position here not to know, that all these bills come of concession and concession alone. No tax or tariff bill ever passed Congress which received the sanction of any member of Congress except as a whole. There are features of that law that, taken by themselves, each member of the House would feel called upon to vote against, while as a whole these bills have commanded the support of the House.

The result of the amendments upon this bill, without reflecting on the motive which has actuated any gentleman—and he has a right to have his motives considered to be as upright as those of any other member—nevertheless is such that in its present shape it cannot become a law. I doubt whether there is any member of the House who hears me who believes that in its present shape it can become a law. For one, sir, I am free to say that serious disturbances of business and of peace in this Government would follow an attempt to enforce the provisions of this bill, some of which in theory are not only wise and just, but in theory the most wise and just of all measures of taxation, but yet have been tried in this country and in other countries, and have been found utterly impracticable and impossible to enforce. It is a measure of taxation that abstractly no gentleman can argue against. I allude to the income tax, which I have always believed and to-day believe to be the most just and proper tax that ever was enforced; and yet nothing is more true than that every gentleman who had anything to do with the enforcement of it and almost all gentlemen I have ever heard speak of it are concurrent in the belief that to enforce it fully, to make those best able to pay it pay it and those least able to pay it not to pay more than is their just due has been found in England and in this country an utter impossibility. It has been abandoned there and abandoned here because it is promotive of perjury and demoralization throughout the land. Those who ought to pay pay not, and those who should least pay pay the most.

And now, sir, believing that the necessities of the Government call upon us before we adjourn to pass some revenue measure, I propose to make one more effort in that direction. If I shall fail, as the organ of the Committee on Ways and Means and personally I shall feel that I have discharged my whole duty, and the committee will feel that they have discharged theirs in the premises.

I propose to offer as a substitute for this bill one that shall tax whisky hereafter made 90 cents per gallon; that shall leave the tax on tobacco as it stands in the bill; that shall tax sugar as in the amended bill, and that shall restore the 10 per cent. as in the bill; and I shall also include the last section of the bill as perfected with the