By Mr. WADDELL: Resolutions of the Legislature of North Carolina, requesting Congress to make an appropriation for the erection of two light-houses on Albemarle Sound, to the Committee on Commerce.

Also, resolution of the Legislature of North Carolina, urging repeal of the tax on issues of State banks, to the Committee on Ways and Means.

Also, the petition of depositors in the Freedman's Bank at Wilmington, North Carolina, in reference to the distribution of the funds of that institution, to the Committee on Banking and Currency.

By Mr. WALDRON: The petition of citizens of Hillsdale County, Michigan, that $200 in legal-tender notes be given to every Union soldier, to the Committee on Military Affairs.

By Mr. WILBER: The petition of citizens of Otsego County, New York, for an amendment to the Constitution in reference to the manufacture, sale, and importation of intoxicating liquors, to the Committee on the Judiciary.

IN SENATE.

TUESDAY, *March* 2, 1875.

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

The Secretary proceeded to read the Journal of yesterday's proceedings and was interrupted by——

Mr. ANTHONY. I hope there will be no objection to discontinuing the reading of the Journal.

Mr. KELLY. The Senate is very thin and the Journal had better be read.

Mr. ANTHONY. We can present petitions in a thin Senate as well as in a full one.

The VICE-PRESIDENT. Objection is made, and the reading of the Journal will be proceeded with.

The Secretary resumed the reading of the Journal, and having proceeded for a few minutes——

Mr. PRATT. I ask that the reading of the Journal be suspended, that a little time may be given to the Committee on Pensions for the consideration of private bills.

Mr. SHERMAN. Let us do that.

Mr. PRATT. I have marked forty-five pension bills which I would like to have passed this morning.

Mr. HAMILTON, of Maryland. One moment. I desire to ask the unanimous consent of the Senate to pass the bill for the incorporation of the Louise Home. It is a beautiful charity. Something that ought to be done, and I do not think that any gentleman on this floor will object to it.

Mr. SHERMAN. I think we had better accept the proposition of the Senator from Indiana, and pass the pension bills. They ought to be gotten out of the way.

Mr. HAMILTON, of Maryland. After this little bill is passed, which will not take the whole time.

Mr. FERRY, of Michigan. I want to say to my friend from Maryland that I do not wish to raise an objection here, but I want to remind him that only yesterday or the day before I made an effort to take up a bill that lies on the table merely to concur in an amendment of the House, and the Senator from Maryland objected. I think this practice of objecting to bills that are meritorious, to which there is no real objection, is only excluding necessary legislation. Now I am disposed to take up the bill of the Senator and the bills of other Senators which are meritorious and ought to pass; but if we sit down here according to the old expression, "dog-in-the-manger" style, and refuse to pass these meritorious bills because some other bill may be forced on the Senate, I think it is unworthy of this body. Therefore I withdraw all objection to the bill of the Senator from Maryland and to these other bills being taken up; and if I perchance should happen to ask once more, for the eleventh time, to take up a bill from the table to concur in the amendment of the House I hope the Senator from Maryland will not object.

Mr. HAMILTON, of Maryland. I did not object the other day to the Senator's bill at all. We were then discussing the civil-rights bill, and I thought we should adhere to that. It was not out of any captious disposition to object, because there is no gentleman I presume on this floor who objects less to the business in the hands of other Senators than I do. I am disposed to extend all courtesy to the business of Senators, and when I do object I object conscientiously.

The VICE-PRESIDENT. The Senator from Indiana asks that the reading of the journal be dispensed with, the time to be devoted to acting on pension bills.

Mr. ANTHONY. To the exclusion of morning business?

Mr. LOGAN. How long a time does the Senator want?

The VICE-PRESIDENT. Perhaps fifteen or twenty minutes.

Mr. LOGAN. I do not wish to object to bills of that kind, but this morning belongs to the Committee on Military Affairs.

The VICE-PRESIDENT. Does the Senator from Illinois object?

Mr. LOGAN. I have no objection to taking ten minutes for pension bills.

Mr. SHERMAN. Give the time that it would take to read the Journal to the pension bills.

Mr. LOGAN. I have no objection to giving that time.

The VICE-PRESIDENT. If there is no objection the reading of the Journal will be dispensed with and ten minutes will be given to the Senator from Indiana. The Chair hears no objection.

Mr. HAMILTON, of Texas. With the consent of the Senator from Indiana——

The VICE-PRESIDENT. The Senator from Indiana has the floor.

Mr. HAMILTON, of Texas. I have the consent of the Senator from Indiana to——

The VICE-PRESIDENT. The Chair cannot yield to any Senator.

PENELOPE C. BROWN.

Mr. PRATT. I move that the Senate proceed to the consideration of House bill No. 330.

The motion was agreed to; and the Senate, as in Committee of the the Whole, proceeded to consider the bill (H. R. No. 330) granting a pension to Mrs. Penelope C. Brown, of Tennessee, widow of Stephen C. Brown, late a private of Company C, Eighth Tennessee Cavalry Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

GEORGE A. SCHREINER.

Mr. PRATT. I move that the Senate proceed to the consideration of House bill No. 3685.

The motion was agreed to; and the bill (H. R. No. 3685) for the relief of George A. Schreiner, was considered as in Committee of the Whole.

It provides that inasmuch as doubts have been suggested whether George A. Schreiner, of Wyandotte County, Kansas, is entitled to the pension of eighteen dollars a month under acts of Congress relative to pensions, and under the act entitled "An act increasing the rates of pensions to certain persons therein described," which last act was approved June 8, 1872, he having lost his right arm in the military service of the United States as a volunteer, and which pension has heretofore been paid to him under a construction placed on the last-named act, the pension of eighteen dollars a month is hereby confirmed to him.

The bill was reported from the Committee on Pensions, with amendments.

The first amendment was in line 10, to strike out the words "as a volunteer" and insert "having been employed as a steamboat pilot;" so as to read:

He having lost his right arm in the military service of the United States, having been employed as a steamboat pilot, &c.

The amendment was agreed to.

The next amendment was in line 18, after the words "pension laws" to insert "said rate to commence from and after the passage of this act."

The amendment was agreed to.

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

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

The bill was read the third time, and passed.

WILLIAM C. DAVIS.

Mr. PRATT. I move that the Senate proceed to the consideration of House bill No. 3698.

The motion was agreed to; and the bill (H. R. No. 3698) granting a pension to William C. Davis, a private in Company B, Eleventh Tennessee Cavalry Volunteers, was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of William C. Davis, he having served in Company B, Eleventh Regiment of Tennessee Cavalry Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ROSALIE C. P. LISLE.

Mr. PRATT. I move that the Senate proceed to the consideration of House bill No. 580.

The motion was agreed to; and the bill (H. R. No. 580) granting a pension to Rosalie C. P. Lisle was considered as in Committee of the Whole. It directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Rosalie C. P. Lisle, mother of Joseph T. Lisle, late an assistant paymaster in the Navy.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

CATHARINE LEE.

Mr. PRATT. I move that the Senate proceed to the consideration of House bill No. 3703.

The motion was agreed to; and the bill (H. R. No. 3703) granting a pension to Catharine Lee, widow of Jesse M. Lee, private Company B, Second Regiment Ohio Volunteers, was considered as in Committee of the Whole. It is a direction to the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the

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pension laws, the name of Catharine Lee, widow of Jesse M. Lee, private Campany B, Second Regiment Ohio Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARY E. STEWART.

Mr. PRATT. I move that the Senate proceed to the consideration of House bill No. 3704.

The motion was agreed to; and the bill (H. R. No. 3704) granting a pension to Mary E. Stewart was considered as in Committee of the Whole. It provides for placing upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mary E. Stewart, widow of Andrew J. Stewart, late second lieutenant of Captain Bennight's company Dent County (Missouri) Home Guards, as the widow of a second lieutenant, and for a pension to her children under sixteen years of age.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

DAVENPORT DOWNS.

Mr. PRATT. I move that the Senate proceed to the consideration of House bill No. 3276.

The motion was agreed to; and the bill (H. R. No. 3276) granting a pension to Davenport Downs was considered as in Committee of the Whole. It provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Davenport Downs, late a private in Company C, Fifth Regiment Iowa Volunteers.

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

WILLIAM O. MADISON.

Mr. PRATT. I move that the Senate proceed to the consideration of House bill No. 3688.

The motion was agreed to; and the bill (H. R. No. 3688) granting a pension to William O. Madison was considered as in Committee of the Whole. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of W. O. Madision, late a private in Company C, Fourth Iowa Infantry, with the right to a pension at the rate of eight dollars a month.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARTIN D. CHANDLER.

Mr. PRATT. I move that the Senate proceed to the consideration of House bill No. 3711.

The motion was agreed to; and the bill (H. R. No. 3711) granting a pension to Martin D. Chandler was considered as in Committee of the Whole. It authorizes and directs the Secretary of the Interior to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Martin D. Chandler, a private in Company A, First Vermont Artillery, Eleventh Regiment Vermont Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

SALEM P. ROSE.

Mr. PRATT. I move that the Senate proceed to the consideration of House bill No. 78.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 78) granting a pension to Salem P. Rose, of North Adams, Massachusetts. It directs the Secretary of the Interior to place upon the pension-roll the name of Salem P. Rose, of North Adams, Massachusetts, late a private in Company F, Twenty-seventh Regiment Massachusetts Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

HANNAH E. CURRIE.

Mr. PRATT. I move that the Senate proceed to the consideration of House bill No. 1644.

The motion was agreed to; and the bill (H. R. No. 1644) granting a pension to Hannah E. Currie was considered as in Committee of the Whole. It proposes to place on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Hannah E. Currie, mother of Samuel A. Currie, late of the Thirty-third Regiment of Ohio Volunteer Infantry, based on the evidence on file in the office of the Commissioner of Pensions, as case numbered 169,652.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MARGARET H. PITTENGER.

Mr. PRATT. I move that the Senate proceed to the consideration of House bill No. 3706.

The motion was agreed to; and the bill (H. R. No. 3706) granting a pension to Margaret H. Pittenger was considered as in Committee of the Whole. It directs the Secretary of the Interior to place upon the pension-roll, subject to the provisions and limitations of the pension laws, the name of Mrs. Margaret H. Pittenger, mother of James D. Pittenger, late a private in Company I, Sixty-fifth Regiment New York Volunteers.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ORDER OF BUSINESS.

Mr. PRATT. I move that the Senate proceed to the consideration of House bill No. 3713.

The VICE-PRESIDENT. The Chair must notify the Senator from Indiana that his time has expired. The Senator from Illinois is entitled to the floor.

Mr. LOGAN. If the Senate would extend my time I would have no objection to the Senator from Indiana going on; but I have had no time for my committee yet.

Mr. PRATT. I hope they will. I omit the Senate bills entirely. I am going through House bills. These bills have been passed by the House, and the labor of the committee in both Houses will be lost unless we act on them.

Mr. LOGAN. I do not believe the Senate will extend my time from what I understand, and I gave way to the Senator from Indiana. I think it is my duty to try to get something done.

CHOLERA EPIDEMIC IN 1873.

Mr. ANTHONY. Will the Senator from Illinois allow me to have passed a resolution objected to yesterday for publishing the report of the Surgeon-General of the Army and the supervising surgeon of the marine-hospital service upon the cholera epidemic in 1873. Objection was made to its consideration yesterday; but I understand the objection is withdrawn.

The VICE-PRESIDENT. Does the Senator from Illinois yield to the Senator from Rhode Island?

Mr. LOGAN. If it is not taken out of my time I have no objection.

Mr. ANTHONY. It is not long enough to get into anybody's time. The objection made by the Senator from Ohio [Mr. SHERMAN] is withdrawn.

There being no objection, the Senate proceeded to consider the following concurrent resolution from the House of Representatives:

Resolved by the House of Representatives, (the Senate concurring,) That there be printed ten thousand extra copies of the report of the Surgeon-General of the Army and the supervising surgeon of the marine-hospital service upon the cholera epidemic of 1873; five thousand copies of which shall be for the use of the House of Representatives, two thousand copies for the use of the Senate, two thousand copies for the use of the Surgeon-General of the Army, and one thousand copies for the use of the supervising surgeon of the marine-hospital service.

The Committee on Printing reported the resolution with an amendment, so as to make it read:

That there be printed fifty-five hundred extra copies of the report of the Surgeon-General of the Army and the supervising surgeon of the marine-hospital service upon the cholera epidemic of 1873; twenty-five hundred copies of which shall be for the use of the House of Representatives, one thousand copies for the use of the Senate, fifteen hundred copies for the use of the Surgeon-General of the Army, and five hundred copies for the use of the supervising surgeon of the marine-hospital service.

Mr. ANTHONY. I hope the Senate will not concur in the amendment, and will pass the resolution as it stands.

The amendment was rejected.

The resolution was concurred in.

L. R. STRAUSS.

Mr. SCHURZ. The Senator from Illinois yields to me to have a bill passed which was reported from his committee.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 801) for the relief of L. R. Strauss, of Macon City, Missouri. It directs that there be paid to Leopold R. Strauss, out of any money heretofore appropriated or hereafter to be appropriated for the use of the Quartermaster's Department, $201.90, for clothing furnished the Army in the year 1864, by direction of the commanding general of the district of North Missouri.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had passed the bill (H. R. No. 4729) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1876, in which it requested the concurrence of the Senate.

CREDENTIALS.

Mr. HAMILTON, of Texas, presented the credentials of Hon. S. B. Maxey, chosen by the Legislature of Texas a Senator from that State for the term beginning March 4, 1875; which were read and ordered to be filed.

HOUSE BILL REFERRED.

The bill (H. R. No. 4729) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1876, was read twice by its title, and referred to the Committee on Appropriations.

ARTIFICIAL LIMBS TO DISABLED SOLDIERS, ETC.

Mr. LOGAN. I am directed by the Committee on Military Affairs, to whom was referred the bill (H. R. No. 4385) to regulate the issue of artificial limbs to disabled soldiers, seamen, and others, and for other purposes, to report it with amendments, and I ask that the Senate proceed to its consideration now.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The first amendment of the Committee on Military Affairs was in section 1, in lines 9, 10, and 11, to strike out the following words:

And such artificial limbs or appliance shall be furnished in kind, or the value thereof in money, and through the Medical Department of the Army.

The amendment was agreed to.

The next amendment was to add at the end of section two the following:

That necessary transportation to have artificial limbs fitted shall be furnished by the Quartermaster-General of the Army, the cost of which shall be refunded out of any money appropriated for the purchase of artificial limbs.

The amendment was agreed to.

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

SEC. 3. That all laws prohibiting the payment of pensions to the soldiers of the revolutionary war and the war of 1812, and their widows, on account of disloyalty, be, and the same are hereby, repealed.

Mr. LOGAN. I will say to Senators, so that it will not be necessary to have any discussion, that that section was put in the bill, does not apply to anything in the bill, and we move to strike it out because it is not appropriate here. It ought to be in a pension bill. This is not a pension bill.

Mr. ALCORN. I trust the section will not be stricken out. I trust it will be retained in the bill. I do think the course of the Government in regard to the soldiers of the war of 1812 has been—I cannot describe it as otherwise than as having been exceedingly harsh. Many of those old men who live in the southern country did not take up arms; some within my own knowledge were in truth loyal to the Government.

Mr. LOGAN. I will lay the bill aside if it is going to provoke any discussion, for I have no time to waste.

Mr. ALCORN. It will provoke discussion if the Senator undertakes to strike out that section.

Mr. LOGAN. Very well, then, go on; we will have it here, and see how it will go.

Mr. ALCORN. Very well; we shall see. The bill ought not to pass without discussion, for it is an outrage——

Mr. LOGAN. I stated to the Senator that that proposition had no relation to this bill whatever.

Mr. ALCORN. Very well; if it has no relation to it, let it stay; it will do no harm. It is only an indication of a disposition on the part of Congress to do these people justice in recognizing them here as not among a people who are to be forever proscribed because they happen to live in a district of country that was in rebellion against the Government of the United States, proscribed as they were simply because they lived south of a particular line; not on account of their disloyalty, but because they resided in States that were disloyal. It does not at all comport with the dignity of the Congress of the United States, in my humble judgment—I say it without any reflection upon the honorable Senator—I am sure, to be proscribing these men and keeping them continually under the ban, these old men of the war of 1812. We have asked nothing for the confederate soldiers; we do not ask that they shall be recognized at all, for they were in the rebellion, but these old men were not in the rebellion; they were too old to be in the rebellion even if they had been so disposed. They who are now bending their steps speedily toward the grave; they are over eighty years of age and upwards; and we only ask you not to stand up here flaunting in their faces the fact that they are not to be recognized. I will not sit here and quietly see legislation of this character continued.

Mr. LOGAN. The remarks of the Senator from Mississippi are certainly very strange. He says he will not sit here and see legislation of this character continued. This is a bill to provide wooden arms and legs for wounded soldiers.

Mr. ALCORN. I am not opposed to that; I am for it.

Mr. LOGAN. There is tacked on to that bill a provision to repeal a law that prevents certain persons from obtaining pensions, and the Senator proposes to retain that in a bill to which it has no application, to which it ought not to be attached. It belongs to a pension bill, and in the general pension law that provision ought to be inserted, if any where. I have nothing to say as to whether it should be retained or not; but on this bill certainly it ought not to be retained. It ought not to have been placed on a bill of this kind merely for the purpose of passing it through irrespective of the opinions of Senators. But the general pension law that has been laid aside and which will probably soon be taken up, as I understand it, contains this very provision. I do not want a provision of this kind tacked on to a little bill for the purpose of forcing it through to which it ought not to be attached; and that is the objection to this section.

Senators need not talk about flaunting this thing in their faces continually. I am trying to prevent it by striking this section out of a bill where it ought not to be; and it is not necessary for Senators to get up here with such pompous airs and talk about the injustice that is done to their people. I do not see any necessity for that; but inasmuch as it is going to provoke discussion, as the Senator has notified me that it will, I will lay the bill aside, and of course in that way we shall get rid of it.

Mr. ALCORN. Let it lie aside then, but I want to say this——

Mr. FRELINGHUYSEN. Can we not have a vote on this amendment?

Mr. ALCORN. I do not know. I want to say a word, if the Senator will allow me.

Mr. LOGAN. Yes, sir.

Mr. ALCORN. I appealed to the Senator from New Jersey. This bill was passed by a republican House of Representatives. This section was placed upon the bill by a large vote there——

Mr. LOGAN. I cannot yield any further of my time. The bill is laid aside. I have only a few minutes left.

Mr. ALCORN. This section is a part of the bill.

Mr. LOGAN. I call the Senator to order. There is no bill before the Senate.

Mr. ALCORN. State the point of order. Let us see what it is.

Mr. LOGAN. There is nothing before the Senate.

Mr. ALCORN. The honorable Senator has talked about pompous airs here; let us see him make the point of order. What is it?

Mr. LOGAN. There is nothing before the Senate.

Mr. ALCORN. You are before the Senate.

The VICE-PRESIDENT. The Chair would suggest——

Mr. LOGAN. I do not think there is any particular wit in the Senator's remark.

Mr. ALCORN. Some truth, if not wit.

DETROIT ARSENAL GROUNDS.

The VICE-PRESIDENT. The Chair will suggest to the Senator from Illinois to state what bill he proposes to call up.

Mr. LOGAN. I move to take up House bill No. 3435.

There being no objection, the bill (H. R. No. 3435) to provide for the sale of the buildings and grounds known as the Detroit arsenal, in the State of Michigan, was considered as in Committee of the Whole.

The Committee on Military Affairs reported the bill with amendments.

The first amendment was in line 4 after the word "direct" to strike out the words—

To transfer to the custody and control of the Secretary of the Interior, for sale for cash, according to the existing laws of the United States relating to the public lands.

Mr. LOGAN. I will withdraw the amendment inasmuch as I think the probability is it will not pass the House, and it makes very little difference. "The Secretary of War" was inserted instead of "the Secretary of the Interior;" but rather than have the bill go back to the House with an amendment, I will strike out the amendment and ask that the bill be passsd as it came from the House.

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

The amendment was rejected.

The next amendment of the Committee on Military Affairs was in line 7, after the word "appraisement" to insert the words "to sell for cash."

Mr. LOGAN. I hope that the amendments made by the committee will not be agreed to.

The VICE-PRESIDENT. The Chair will put the question on agreeing to all the amendments reported.

The amendments were rejected.

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

JOHN ALDREDGE.

Mr. SPENCER. I am directed by the Committee on Military Affairs to report back the bill (H. R. No. 2685) for the relief of John Aldredge, and ask that it be put on its passage now.

By unanimous consent the bill was considered by the Senate as in Committee of the Whole. It provides for the payment to John Aldredge, of McNairy County, Tennessee, such sum, not exceeding $9,606, as the Secretary may deem reasonable, for money paid into the Treasury of the United States by virtue of an assessment made upon the disloyal citizens of and around Henderson Station, Tennessee, to make repayment for the destruction of cotton, the property of Aldredge; the sum so to be paid to be charged to the account of captured and abandoned property.

Mr. CONKLING. Is there a report in that case?

Mr. SPENCER. There is a report.

Mr. CONKLING. Then I ask to have the report read.

The Secretary read the following report, submitted in the House of Representatives on the 27th of March, 1874, by Mr. LAWRENCE:

The Committee on War Claims, to whom was referred the bill (H. R. No. 1104) for the relief of John Aldredge, having had the same under consideration, ask leave to report:

That they find, from the evidence submitted with the bill, that there was an irregular force of rebel troops made a raid upon Henderson Station, Tennessee, on or about the 25th of November, 1862, and captured the post, with the garrison, and destroyed a large amount of public and private property, and that there was an assessment made by proper military authority of the United States upon certain disloyal citizens living in the vicinity of said military post to reimburse the Government and loyal citizens that had suffered by said rebel raid; and that, upon proper investigation, John Aldredge's loss was alleged to be $9,606.36, and that the money was collected; and that part intended to reimburse the Government went into and was used in the military-railroad department, and the remainder, or that part intended to indemnify the loyal citizens who had suffered loss by said rebel raid, went into the Quartermaster's Department, as shown by evidence obtained from the Third Auditor's and Quartermaster-General's Offices, and was accounted for and turned over to the Treasury of the United States. The evidence shows Mr. Aldredge, the claimant, to have been a loyal citizen of the United States during the late rebellion, and your committee are therefore of the opinion that he is entitled to the amount so collected for him and covered into the United States Treasury, and accordingly report back the said bill H. R. No. 1104 with a substitute, and recommend the adoption of said substitute.

Mr. EDMUNDS. I do not understand from that report that it definitely appears that any $9,000 which belonged exclusively to this man was either got or turned into the Treasury. The report does not state how much money was raised by this levy; it does not state how much Government property was destroyed; it does not state how much property of other loyal citizens besides this claimant was destroyed; so that we have no elements in this report, as it strikes me on hearing it read, which would make the general average, as the underwriters would call it, to ascertain whether the full amount of this gentleman's losses ought to be paid out of the Treasury or not. It appears that there were some loyal citizens whose property was destroyed beside that of this man. Now, if the $9,000 is all that we got in reference to private destructions, it would not do to pay it all to him, for the reason that the other loyal citizens whose property was destroyed would have a right to have their proportion of the sum that was received. This House report, as you will see, is exceedingly vague in respect to these aggregates on either side and how much the proportion of the total sum received this gentleman would be entitled to.

Mr. LOGAN. This man Aldredge was an officer in the United States Army. He lived at this point and on account of his having joined the Union Army there was a great bitterness against him. A raid was made there and the raiders destroyed all his property. He belonged to the Sixth Tennessee Cavalry, a regiment raised there by our officers. I was stationed at Jackson, a short distance from this place, at the time the raid was made. An estimate was made on the destruction of his property to this amount, and the money was collected. It was assessed on the citizens of the community and paid into the Treasury of the United States, and we thought it was proper to pay it back to this man inasmuch as it was collected on his property. It was no debt of the Government, but was collected because of an assessment made on the rebellious people in that community, for the purpose of paying him for the outrage perpetrated upon his property. That is all there is in it.

Mr. EDMUNDS. Was he the only loyal person whose property was destroyed?

Mr. LOGAN. There may be others, but I do not know of any others.

Mr. EDMUNDS. That is what troubles me. The report, as I heard it read, states that the raiders destroyed a large amount of public and private property, and that there was an assessment made by proper military authority of the United States upon certain disloyal citizens to reimburse the Government and loyal citizens who had suffered by the raid. That speaks in the plural, as if there may have been several—

and that upon proper investigation John Aldredge's loss was alleged to be $9,606.36, and that the money was collected; and that part intended to reimburse the Government went into and was used in the military-railroad department, and the remainder, or that part intended to indemnify the loyal citizens who had suffered loss by said rebel raid, went into the Quartermaster's Department, as shown by evidence obtained from the Third Auditor's and Quartermaster-General's Offices, and was accounted for and turned over to the Treasury of the United States. The evidence shows Mr. Aldredge, the claimant, to have been a loyal citizen of the United States during the late rebellion, and your committee are therefore of the opinion that he is entitled to the amount so collected for him and covered into the United States Treasury.

The difficulty that strikes me is the want of knowing how much was assessed and got and turned into the Treasury with reference to the destruction of private property. I understood some one to say just now that there was some other citizen.

Mr. LOGAN. There was one other citizen, who has been paid by a bill that passed Congress.

Mr. EDMUNDS. But the trouble is we have no evidence on this report or any of the papers, so far as I know, that there are any others. If this is all the money there is left, we shall have to pay the others out of the Treasury.

Mr. SPENCER. There was a report made by the Senator from New Hampshire [Mr. WADLEIGH] in another case.

Mr. CLAYTON. The report says that the money to cover all these losses was assessed and collected, the whole amount to cover all losses both of the Government and of private citizens, and that the Government's proportion was paid to the Government and the balance turned into the Treasury. This man's losses were found to be $9,000, and therefore it necessarily follows from the language of the report that, the whole amount having been assessed and collected, the balance, after his $9,000 is paid, must be in the Treasury.

Mr. EDMUNDS. Yes; but whatever money was paid into the Treasury it would seem from the report was only this $9,000. Out of that already some other citizen, who we do not know, has made application and been paid something.

Mr. CLAYTON. This report does not say so.

Mr. EDMUNDS. The trouble is that the report does not say much of anything. What I am complaining of is in reference to the difficulty we are likely to bring ourselves into in passing this bill, which may if we knew the exact facts and figures be perfectly correct, when without knowing the exact facts and figures we only commit ourselves to pay this man the total amount of his claim and leave nothing to pay anybody else if there are other claimants, and when for aught we know we have already paid a portion of this very money to an amount which we are not informed to one person who has already made application.

Mr. CLAYTON. I do not understand the report as leading to that inference that $9,000 was the amount paid into the Treasury. It says $9,000 was the amount ascertained to be due this man, but they ascertained the whole amount due, made the assessment, collected the whole amount, paid the portion ascertained to be due the Government, and turned the balance into the Treasury. They find that at the time this ascertainment was made $9,000 was due this man. It does not seem to me from the language of the report that the Senator can draw the conclusion that $9,000 was the amount turned into the Treasury.

Mr. LOGAN. This is about as specific as reports are generally. The report was not made by me, but I do not suppose I should have made it any more specific. The case was examined by the Senator from New Hampshire, [Mr. WADLEIGH,] and it was ascertained in the Third Auditor's Office that a larger amount of money was collected and turned over to the Treasury and Quartermaster's Department, and that of it this amount was due to this man. So far as the facts are concerned I cannot state them, outside of the report, from my own knowledge. I only know that I was there at the time and heard of the circumstance, and know that a much larger amount of money was collected than is mentioned in this report. What the amount was I do not remember.

Mr. SCOTT. Can the Senator state that the aggregate amount assessed and collected of disloyal persons was the amount that was to be paid to loyal claimants.

Mr. LOGAN. Just the amount.

Mr. SCOTT. The Senator knows that?

Mr. LOGAN. I do not state it, because I do not like to state it on my own knowledge; but my recollection is that there was some twenty-odd thousand dollars collected, and the assessment was made for valuable property of this individual, that was destroyed. This man was an officer in the Union Army, who had lived at that town or close to it, and his property was all destroyed, valued at about this amount of money, and the money was collected for him and paid over to the Government.

Mr. SCOTT. Was it not paid to him?

Mr. LOGAN. It has never been paid to him. I cannot explain why it was not.

Mr. COOPER. I can state to the Senate the exact facts in the case. There was a levy made by the Army in charge of the disloyal element of that neighborhood, to the amount of $30,000. That was the amount for those claiming to be loyal, proven before a commission appointed by the then military commander for the district. That amount was levied and collected. Including all, I think it was $30,000.

Mr. LOGAN. It was twenty-nine or thirty thousand dollars, I know.

Mr. COOPER. You will find all the facts given in a report made by the Senator from New Hampshire [Mr. WADLEIGH] at the present session of Congress, in the case of Willis N. Arnold. There were $30,000 collected. The exact amount which was assessed is given and the amount which was found due to loyal claimants in that neighborhood, this amount being then due to the present claimants.

Mr. LOGAN. I want some action taken on this bill; but if it is to be discussed, of course I would rather lay it aside and take up some other bill.

Mr. CONKLING. It seems to me that this bill, were it to become a law, would read very strangely on the statute-books.

Mr. LOGAN. If the Senator will allow me, I will lay the bill aside.

Mr. CONKLING. I beg the Senator's pardon; I want to make a remark about it. Let me read to the Senate two or three lines:

Not exceeding $9,606, as the Secretary may deem reasonable, for money paid into the Treasury of the United States by virtue of an assessment made upon the disloyal citizens of and around Henderson Station, Tennessee, to make repayment for the destruction of cotton, the property of said Aldredge.

The statute on its face would read that Congress has adjudged that an assessment having been regularly made upon the disloyal people in and around a certain place as compensation for a jayhawking irregular rebel raid, a theft, $9,600 of it is to be paid back to this man. That I submit would be very hard doctrine, and it would be very inconsistent upon the face of the bill.

Mr. SPENCER. This man was a soldier in the Federal Army.

Mr. CONKLING. Yes, I understand that.

Now, Mr. President, the Senator from Tennessee refers us, as precedent to this legislation, to a bill introduced by him and reported and acted upon in behalf of Willis N. Arnold. I have that bill in my hand. There are only nine lines of it, and a part of those I want to read to the Senate to see whether it is true that the Senate passed a bill that an assessment having been made upon rebels we were persuaded to pay back $9,000 to a man named. The bill I have now in hand enacts thus:

That the Secretary of the Treasury be, and he is hereby, directed to pay to Willis N. Arnold, of Henderson County, Tennessee, the sum of $6,000—

Being what?——

out of any moneys in the Treasury not otherwise appropriated, it being the amount collected by the military authorities for his benefit—

That is, for Arnold's benefit—

and paid by them into the United States Treasury.

This is a bill to pay to a Mr. Aldredge $9,000 because an assessment was made upon rebels in and around the point named to indemnify

the Government for destruction caused by a rebel raid, irregular at that.

Mr. SPENCER. They destroyed this man Aldredge's property the same as the others.

Mr. CONKLING. Then the two bills are not true. The bills tell wholly different stories. If they are dealing with the same transaction, the proposal is to put on the statute-book a repugnant and contradictory history of it. That is the first objection that I make to this bill.

Now, Mr. President, here are a handful of papers relating to this subject which I have not of course been able to read yet. I have looked into them far enough to find great difficulty in understanding how under any former bill the Senate, inside of sound doctrines and within the precedents that we have sought to observe, could grant this relief. But without going into that, I submit with great confidence that having already passed a bill which gives one version of this transaction, we ought not to pass another which gives an irreconcilable version of the transaction, and which makes a statement which, should it pass into a precedent to be cited hereafter as legislative authority, would lead us I know not where as to the duty by which we should be bound to pay in cases of this kind.

Mr. SPENCER. One is a House bill and the other a Senate bill.

Mr. CONKLING. And my friend observes that one is a House bill and the other a Senate bill. If that affects the argument at all, I give the fact.

Mr. SPENCER. That is, they are different bills altogether.

Mr. CONKLING. Very well.

Mr. SPENCER. I ask that the Senator from New York allow the report made by the Senator from New Hampshire [Mr. WADLEIGH] in the Arnold case to be read.

Mr. CONKLING. I have no objection. I will read it or have it read as part of my remarks.

The Secretary read the following report submitted by Mr. WADLEIGH on the 29th of April, 1874:

The Committee on Military Affairs, to whom was referred the bill (S. No. 574) for the relief of Willis N. Arnold, having had the same under consideration, report as follows:

It appears from the evidence that upon the 25th of November, 1862, a band of rebel guerrillas made a raid upon Henderson Station, Tennessee, and destroyed property of the United States and of loyal citizens to the amount of $26,751.36. Among said property was a lot of cotton belonging to the claimant, which, on its way to Memphis, was seized by order of the officer in command of the Union troops and used for breastworks and fortifications. A military commission was appointed to estimate the value of such property and assess the amount upon rebel sympathizers in that vicinity. The commission attended to its duty, and reported that the value of the claimant's cotton destroyed was $6,000. The whole amount of $26,751.36 was assessed upon certain rebel sympathizers, and all paid to the proper officers, and accounted for in settlement with the Government. The Government, having received the sum of $6,000 upon account of the claimant's property, ought in justice to pay him the amount of his loss, and we report back the bill with the following amendment, and recommend its passage:

Strike out in line 8 the words "ten thousand" and insert in lieu thereof the words "six thousand."

Mr. CONKLING. I call attention to three things about that report. In the first place, a commission having investigated the case found the value of the cotton to be $6,000, neither more nor less. That was its market value.

Mr. COOPER. That was found by the commission appointed by the commanding general.

Mr. CONKLING. That is precisely what I am saying, and the Senator will see why I say it. A commission regularly appointed ascertained the market value of that cotton to be $6,000 in Arnold's case. Thereupon a bill is introduced claiming $10,000 as the bill shows upon its face. That is the first fact to which I call attention. In the next place, it appears now that this cotton was used as breastworks. The Union soldiers stood behind it to protect their lives. That is the second thing that appears from the report. The third thing which appears is the statement over again that the assessment was made upon those who stood at that time as public enemies. The bill before us proposes, referring to that general fact, to pay nine thousand and odd dollars to this man; and who is to come hereafter or where we are to be led, no Senator knows.

I submit, Mr. President, if this is ever to be done, it should be done at some time after the first morning after the report is made and when Senators can have an opportunity of examining this bulky package of papers.

Mr. LOGAN. Mr. President——

Mr. MORTON. I desire to move the second reading of the bill (H. R. No. 4745) to provide against the invasion of States, to prevent the subversion of their authority, and to maintain the security of elections.

Mr. BAYARD. I ask has notice of intention been given to bring in that bill?

Mr. LOGAN. Had I not the floor?

The VICE-PRESIDENT. The Senator from Illinois had the floor during the morning hour; but the Chair did not announce the expiration of the morning hour for the reason that there was no unfinished business.

Mr. LOGAN. I have a word to say, if I may be permitted to do so. This is the second time that I have tried to get up some bills from the Military Committee. I expected just exactly what has occurred here this morning. I expected sufficient opposition to be made to some bill to take up all my time. That has occurred twice. Now, in order that we may settle this question and that we may have bills hereafter drawn precisely correct, so that there shall be no objection whatever to them, let this bill go to the Judiciary Committee. As I stated, although I do not put any evidence in the case and do not propose to do so, I was in command at Jackson, a short distance from Henderson, where this raid occurred, at the time. This assessment was made by order of the general commanding the army there. The assessment was made and levied, and amounted to some twenty-odd thousand dollars. This man Aldredge was an officer in the Sixth Tennessee Regiment, I think, raised in this vicinity. As a matter of course, when the raid was made the rebels took the property of men who belonged to our Army. They destroyed the property of this officer. The commission assessed the value of his property at $9,000. They assessed the value of the property of the other man at $6,000. I thought awhile ago, according to my recollection, that $29,000 was the sum which was collected, but I see from the other report that it was $26,000. I remembered that it was over $20,000. It was every dollar paid to the Government after having been assessed upon the rebels there and collected from them. We ask the Government to pay this man for his property for which the money was assessed on these people, and there is objection made to the bill on account of its verbiage, or some objection prevents it. If when money is assessed upon rebels surrounding the vicinity to pay a man a certain specific amount for his property destroyed because he was in our Army, and he asks that amount, and the bill passes the House almost unanimously and comes here and we report it, what do we find? That that class of claims cannot be paid! If they cannot, I will ask what kind of claims can be paid?

Mr. MERRIMON. Allow me to ask the Senator from Illinois a question for information. Does it appear anywhere in the papers connected with this case that this claimant has passed through the court of bankruptcy, and that he accounted for this claim in his schedule of assets?

Mr. LOGAN. I do not know. It does not appear in the papers that he went through the court of bankruptcy.

Mr. MERRIMON. I understand that point was raised in the other House and discussed there.

Mr. LOGAN. That would be very severe on the people that he owed, perhaps; but the question here is whether the Government proposes to retain money that it assessed for the purpose of paying a man for the destruction of his property, and to refuse to pay it to anybody. If that is the way the Government proposes to get money, it is a new way to me.

But, as I said, I expected opposition to some bill from my committee. I have had it. Each time assigned to my committee I have had two bills passed. This bill is a simple act of justice; but if this Senate are determined to discuss it until my time is out, I would ask that it be referred to the Judiciary Committee, so that they may draught such a bill as will be satisfactory to them, because it seems nothing can pass the Senate unless they have something to do with it. That I am certain of. They must have a finger in it, either by draughting the bill or making an amendment to it or finding something wrong in it. I guess the next thing we shall have to do will be, we shall have to send for some author of a grammar or some book for each man to have, so that he will see that every word is correct and right. I do not think the Senator from New York would need one of that kind, but the rest of us perhaps would.

Now, Mr. President, I ask for a vote on this bill. There has been no amendment offered to it, and I ask the Senate to decide whether they will pay this man or not.

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

The bill was read the third time.

Mr. CONKLING. I ask for the yeas and nays upon the passage of this bill.

The yeas and nays were ordered; and being taken, resulted—yeas 26, nays 12; as follows:

YEAS—Messrs. Alcorn, Bayard, Boutwell, Clayton, Cooper, Cragin, Dennis, Eaton, Ferry of Connecticut, Ferry of Michigan, Flanagan, Gordon, Harvey, Hitchcock, Kelly, Logan, Mitchell, Morton, Norwood, Oglesby, Pratt, Ransom, Sherman, Spencer, Sprague, and Wadleigh—26.

NAYS—Messrs. Bogy, Conkling, Edmunds, Gilbert, Goldthwaite, Hamilton of Texas, Ingalls, Johnston, McCreery, Merrimon, Scott, and Washburn—12.

ABSENT—Messrs. Allison, Anthony, Boreman, Brownlow, Cameron, Carpenter, Chandler, Conover, Davis, Dorsey, Fenton, Frelinghuysen, Hager, Hamilton of Maryland, Hamlin, Howe, Jones, Lewis, Morrill of Maine, Morrill of Vermont, Patterson, Pease, Ramsey, Robertson, Sargent, Saulsbury, Schurz, Stevenson, Stewart, Stockton, Thurman, Tipton, West, Windom, and Wright—35.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House further insisted upon its disagreement to the amendments of the Senate to the bill of the House (H. R. No. 3818) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending June 30, 1876, and for other purposes; further insisted on its amendments to other amendments of the Senate to the said bill; agreed to the further conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. HORACE MAYNARD of Tennessee, Mr. CHARLES O'NEILL of Pennsylvania, and Mr. JAMES C. ROBINSON of Illinois, managers at the same on its part.

The message also announced that the House had passed a bill (H. R. No. 4853) to change the name of the pleasure yacht Dolly Varden to Clochette; in which it requested the concurrence of the Senate.

BUSINESS OF MILITARY COMMITTEE.

Mr. MORTON. I desire to move the second reading of House bill No. 4745.

Mr. LOGAN. I do not know whether my time is out or not. I should like to know whether I continue on the floor.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The present occupant of the chair was not in the chair at the time the Senator from Illinois took the floor for the Committee on Military Affairs.

Mr. LOGAN. I was to have an hour for the Military Committee, and there is no unfinished business. I am now acting in behalf of the committee for that purpose. There have been but two bills from that committee acted on. The time has been taken up in debate and I have laid several bills aside to avoid discussion. I desire to have the time allowed to my committee.

Mr. MORTON. I have no desire to antagonize the Senator from Illinois.

Mr. LOGAN. I shall certainly give way to the Senator for that purpose, but I desire to have the time I am entitled to.

The PRESIDING OFFICER. The Chief Clerk informs the Chair that the Senator from Illinois took the floor for business from the Committee on Military Affairs at half-past eleven. It is now twenty minutes past twelve. If that is correct the Senator from Illinois has ten minutes remaining of his hour.

Mr. EDMUNDS. I do not object, but the rule is that you have the residue of the morning hour, which under our rule is not an hour from the end of resolutions, but until twelve o'clock.

Mr. LOGAN. I will then appeal to the Senate. Yesterday morning the Senator from Michigan [Mr. CHANDLER] had the same right that I had this morning, and he occupied the time until after two o'clock by consent of the Senate. Now I ask unanimous consent of the Senate to have thirty minutes.

The PRESIDING OFFICER. The Chair is misinformed as to the position of the Senator from Illinois. It was the understanding, as the Chief Clerk now states, that the Senator from Illinois was to have the remainder of the morning hour from thirty minutes past eleven, so that the time of the committee expired at twelve, but that business has been considered from that time since by unanimous consent.

Mr. LOGAN. Very well, sir. I ask unanimous consent of the Senate to occupy thirty minutes longer. Yesterday morning this courtesy was extended to the Senator from Michigan until after two o'clock. There is no special order this morning and nothing else before the Senate. The Committee on Military Affairs has not had during this session a minute of time given to it except this morning and once before, and there are some matters of importance from that committee that I should like to present to the Senate if the Senate will give me the time to do it.

The PRESIDING OFFICER. Is there objection made to the request of the Senator from Illinois?

Mr. MORRILL, of Vermont. I should like to know what business the Senator desires to bring before the Senate.

Mr. LOGAN. Bills reported from the Military Committee.

Mr. MORRILL, of Vermont. All of them?

Mr. LOGAN. Certainly. I have no other bills except those reported from the Committee on Military Affairs.

Mr. MORRILL, of Vermont. Does it include the bounty bill?

Mr. LOGAN. It includes anything that the Military Committee has reported.

The PRESIDING OFFICER. Is there objection to the request made by the Senator from Illinois?

Mr. MORRILL, of Vermont. I object.

The PRESIDING OFFICER. The Senator from Vermont objects.

INVASION OF STATES, ETC.

Mr. MORTON. I move the second reading of the House bill No. 4745.

Mr. BAYARD. What bill is that?

Mr. THURMAN. What motion is it?

The PRESIDING OFFICER. The Clerk will report the bill.

Mr. BAYARD. What is the motion?

Mr. THURMAN. Report the motion.

The PRESIDING OFFICER. The Senator from Indiana moves that House bill No. 4745 be now read the second time.

Mr. BAYARD. What is the bill?

The PRESIDING OFFICER. It is a bill to provide against the invasion of States, to prevent the subversion of their authority, and to maintain the security of elections.

Mr. BAYARD. Is this the bill that was read the first time yesterday?

The PRESIDING OFFICER. The Chair is so informed.

Mr. EDMUNDS and others. Second reading of the bill.

The PRESIDING OFFICER. The bill will be read the second time.

The bill (H. R. No. 4745) to provide against the invasion of States, to prevent the subversion of their authority, and to maintain the security of elections, was read the second time by its title.

Mr. BAYARD. I object to the further reading of the bill.

EQUALIZATION OF BOUNTIES.

Mr. LOGAN. I am not going to act in any captious spirit, but I want to say to the Senate that I think the treatment that the Committee on Military Affairs has received is rather harsh; at least that is as mild an expression as I can use. Time has been extended to every other committee in the Senate whenever it has asked for it except to that committee. Now, the Senator from Vermont objects as soon as I tell him what I propose to take up. The Calendar is here, and I can read off the titles of the bills reported by the committee; but as objection is made, now for the purpose of satisfying the Senator from Vermont, though I did not intend to call up now the bill that seems to be so obnoxious to him, yet for the purpose of settling the question I now move, as there is nothing before the Senate—and I ask for the yeas and nays on the question—to take up the bill to equalize the bounties of soldiers. I ask that those who were cheated out of their pay may have a right to present their claims to be audited by the proper auditor of the Government. I ask for the yeas and nays on this motion.

The PRESIDING OFFICER. The Senator from Illinois moves that the Senate proceed to the consideration of the bill (H. R. No. 3341) to equalize the bounties of soldiers who served in the late war for the Union.

Mr. THURMAN. I shall vote for the motion of the Senator from Illinois, but I wish it distinctly understood that the Senator from Delaware objected to the third reading of the bill, which was read the second time on the motion of the Senator from Indiana.

Mr. LOGAN. That is understood; everybody knows that.

Mr. MORTON. When I ask for the third reading of the bill, it will be time enough to make that objection.

Mr. CHANDLER. I hope the Senator from Illinois will give way until we take up and pass the steamboat bill.

Mr. LOGAN. The Senator will not give way further to any one. I propose to have a vote on this question.

The PRESIDING OFFICER. The question is on the motion of the Senator from Illinois.

Mr. SCOTT. I am not rising for the purpose of antagonizing the motion of the Senator from Illinois; but as it is so difficult at this stage of the session even to get the floor upon any question with regard to the order of business, I avail myself, now having the floor, of the opportunity to state what I deem to be due to another committee of the body in allotting the time that is yet left of the session as a reason why a great deal of time ought not to be allotted to any one committee that has had two hearings, although, as the Senator says, both of them have been rather abbreviated hearings. In that I concur with him. There are on the Calendar thirty-two bills reported from the Committee on Claims which have not been acted upon. On the 23d of February there came over from the House a bill providing for the payment of the awards made by the commissioner of claims, what is known as the southern-claims bill, embracing eleven hundred cases and involving about $700,000. That report was sent to the House upon the first day of Congress, and I wish it now noted that the bill reached the Senate on the 23d of February, and, as every Senator is aware, we have been so constantly occupied in the Senate upon bills which required us to be in our places that it has been impossible to give very much time to committee business. To examine eleven hundred cases has been physically impossible. To examine enough of them to satisfy us whether the bill is generally correct we have been unable yet to do. This morning a bill comes to our tables, made necessary by an act of last session, which provides for the payment of claims adjudicated by the Quartermaster and Commissary Generals, a bill covering some eighteen or nineteen pages, simply containing the names of claimants, and that is referred to the Committee on Claims.

Now, it is perfectly apparent with that statement of business—thirty-two bills unacted upon; the southern-claims bill, which we are endeavoring to report and which we hope to report not later than to-morrow morning, and the bill to which I have just referred—that unless the Senate allot to that committee two or three hours, it is idle for Senators to proceed and waste their time in considering these bills. I shall ask, as soon as the Senator from Illinois has disposed of his motion, an opportunity of testing the sense of the Senate upon having time allotted to that committee.

Mr. LOGAN. Now I ask for the yeas and nays upon my motion to take up the bounty bill.

The yeas and nays were ordered; and being taken, resulted—yeas 31, nays 21; as follows;

YEAS—Messrs. Alcorn, Bogy, Boreman, Carpenter, Clayton, Conkling, Dennis, Dorsey, Ferry of Michigan, Flanagan, Hager, Harvey, Hitchcock, Howe, Ingalls, Logan, McCreery, Mitchell, Morton, Oglesby, Pratt, Ramsey, Ransom, Schurz, Scott, Spencer, Stevenson, Thurman, West, Windom, and Wright—31.

NAYS—Messrs. Allison, Anthony, Bayard, Boutwell, Chandler, Cooper, Davis, Edmunds, Ferry of Connecticut, Frelinghuysen, Goldthwaite, Hamilton of Maryland, Johnston, Merrimon, Morrill of Maine, Morrill of Vermont, Norwood, Sargent, Sherman, Sprague, and Washburn—21.

ABSENT—Messrs. Brownlow, Cameron, Conover, Cragin, Eaton, Fenton, Gilbert, Gordon, Hamilton of Texas, Hamlin, Jones, Kelly, Lewis, Patterson, Pease, Robertson, Saulsbury, Stewart, Stockton, Tipton, and Wadleigh—21.

So the motion was agreed to.

Mr. LOGAN. Now, the bill being up, I will yield for any formal morning business.

The VICE-PRESIDENT. The Chair will receive morning business, if there be no objection.

PETITIONS AND MEMORIALS.

Mr. GORDON presented the petition of George S. Hawkins, of Florida, praying for the removal of his political disabilities; which was referred to the Committee on the Judiciary.

Mr. EDMUNDS. I present the petition of Charles H. Smith, of Virginia, praying for a removal of his disabilities. I ask that it be laid on the table, as I am about to report the bill.

The petition was ordered to lie on the table.

WITHDRAWAL OF PAPERS.

On motion of Mr. McCREERY, it was

Ordered, That John B. Bland have leave to withdraw his petition and papers from the files of the Senate.

ROBERT ERWIN.

Mr. THURMAN. I wish to enter a motion to reconsider the vote by which the bill (H. R. No. 4471) to afford relief to Robert Erwin in the judicial courts was indefinitely postponed yesterday.

The VICE-PRESIDENT. The motion to reconsider will be entered.

REPORTS OF COMMITTEES.

Mr. FERRY, of Michigan, from the Select Committee on the Revision of the Rules, reported a classification of the rules of the Senate; which was ordered to be printed, and recommitted to the committee.

He also, from the Committee on Finance, to whom was referred the bill (H. R. No. 4829) for the relief of the Willow Springs Distilling Company, of Omaha, Nebraska, reported it without amendment.

Mr. OGLESBY, from the Committee on Pensions, to whom was referred the bill (H. R. No. 4775) granting a pension to Margaret Pattison, reported it without amendment.

Mr. SCOTT, from the Committee on Finance, to whom was referred the bill (H. R. No. 4850) authorizing the appointment of gaugers for the customs service at the port of Philadelphia, reported it without amendment.

Mr. CAMERON, from the Committee on Foreign Relations, to whom were referred the following bills and joint resolutions, asked to be discharged from their further consideration; which was agreed to:

A bill (S. No. 1072) making provision for an Oriental college;

A bill (S. No. 730) to provide for ascertaining the amount of damage sustained by citizens of Texas from marauding bands of Indians and Mexicans upon the frontiers of Texas;

A bill (H. R. No. 3158) for the relief of Enoch Jacobs, United States consul at Montevideo;

A bill (S. No. 919) relating to telegraphic communication between the United States and foreign countries;

A bill (S. No. 824) to encourage and promote telegraphic communication between America and Asia;

A joint resolution (H. R. No. 81) requesting the President to intercede with Her Majesty the Queen of Great Britain for the release of Edward O'Meagher Condon, now confined in prison in Manchester, England;

A joint resolution (H. R. No. 159) referring the claim of Marcus Radich to the Court of Claims;

A joint resolution (H. R. No. 111) authorizing the President to negotiate with civilized powers in regard to international arbitration; and

A joint resolution (S. R. No. 8) recognizing the independence of Cuba.

He also, from the same committee, 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 citizens and a resolution of the Legislature of California, praying the modification of the treaty with China so as to prevent further immigration of Chinese mechanics and other laborers;

A resolution by the Legislature of Minnesota, in relation to the mission to Sweden and Norway;

Various resolutions, petitions, &c., relating to the ratification of the treaty with Canada known as the "reciprocity treaty;"

A memorial of the Chamber of Commerce of the city of New Orleans and a resolution of the Legislature of California, in favor of a convention to adopt reciprocal measures of trade and commerce between the United States and Mexico;

A petition of Seth Droggs, of New York, relative to his claim against the late Republic of New Granada for its quota of a claim against the late Colombian confederacy on account of the ship Good Return and cargo, captured on the high seas;

A memorial of Matilda Leipsker, late of the city of New York, asking that the United States Government shall present to and demand of the Peruvian government satisfaction of her claim for the assassination of her husband, Joseph B. Leipsker;

A petition of William de Rohen, praying remuneration for three ships, alleged to have been taken possession of by the Italian government;

A petition of Margaret G. Meade, administratrix of the estate of Richard W. Meade, praying payment of supplies furnished to the government of Spain, which she alleges was assumed by the United States at the time of the cession of Florida under the treaty of 1819;

A resolution submitted by Mr. HAGER, instructing the Committee on Foreign Relations to advise with the President as to the expediency of a modification or enlargement of the treaty with China, so as to check immigration;

Various petitions of citizens of the United States, praying Congress to take steps to co-operate with other governments in the settlement of international difficulties by arbitration, and that a high court of nations may be established;

A resolution of the Legislature of California, in favor of cheapening telegraphic facilities; and

Petitions of various citizens of the United States, praying compensation for spoliations committed by the French prior to the year 1801.

Mr. SPRAGUE subsequently said: The chairman of the Committee on Foreign Relations this morning reported the joint resolution (H. R. No. 159) referring the claim of Marcus Radich to the Court of Claims, and asked to be discharged from its further consideration. I wish an order of the Senate placing it on the Calendar with the adverse report.

The VICE-PRESIDENT. That order will be made, if there be no objection.

Mr. EDMUNDS, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 4478) to relieve Charles H. Smith, M. D., of Richmond, Virginia, of all political disabilities, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 917) for the relief of Robert H. Anderson, of Chatham County, State of Georgia, reported it without amendment.

Mr. CHANDLER. The Committee on Commerce, to whom was referred 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, have directed me to report it back without amendment and without recommendation. The failure last night to pass the bill furnishing funds induces the committee to think that it is not safe to make large appropriations for this object now, without money in the Treasury to meet them.

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

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (S. No. 1271) authorizing the Nebraska City Bridge Company to construct a ponton railway-bridge across the Missouri River at Nebraska City, in Otoe County, Nebraska, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 4528) amendatory of the act approved March 3, 1873, entitled "An act authorizing the construction of a bridge across the Mississippi River at Saint Louis, in the State of Missouri," reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. No. 1102) to promote the efficiency of the light-house service of the United States, submitted an adverse report, which was ordered to be printed; and the bill was postponed indefinitely.

Mr. PRATT, from the Committee on Pensions, to whom was referred the bill (H. R. No. 4793) granting a pension to Mercy E. Scattergood, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Jacob Nix, submitted a report thereon, accompanied by a bill (S. No. 1361) granting a pension to Jacob Nix.

The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. MITCHELL, from the Committee on Claims, to whom was referred the bill (H. R. No. 633) for the relief of Randall Brown, of Nashvillle, Tennessee, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. WRIGHT, from the same committee, to whom was referred the following bills, asked to be discharged from their further consideration, and that they be indefinitely postponed; which was agreed to:

A bill (H. R. No. 3181) for the relief of Mrs. Mary A. Thayer;

A bill (H. R. No. 2997) for the relief of George A. Schreiner; and

A bill (H. R. No. 4842) for the relief of J. C. McBurney.

Mr. ANTHONY, from the Committee on Printing, to whom was referred the memorial of F. & J. Rives, praying the purchase by the Government of their buildings and materials used in the publication of the Congressional Globe, asked to be discharged from its further consideration, and that it be referred to the Committee on Appropriations; which was agreed to.

Mr. CONKLING, from the Committee on Commerce, to whom was referred the bill (H. R. No. 4573) to aid in the improvement of the Fox and Wisconsin Rivers, in the State of Wisconsin, reported it back with an amendment.

RAILROADS IN THE TERRITORIES.

Mr. STEWART submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 378) to provide for the incorporation and regulation of railroad companies in the Territories of the United States and granting to railroads the right of way through the public lands, having met, after full and free conference have agreed to recommend, and do recommend, as follows:

That the Senate recede from their disagreement to the amendment of the House, and agree to the same with amendments, as follows:

Strike out all of section 2 after "defile" on page 2, in line 11, down to and including line 20.

Strike out on page 2, line 23, section 3 of the amendment, "or" and insert in lieu thereof the following:

"And where such provision shall not have been made."

And the House agree to the same.

WM. M. STEWART,
T. O. HOWE,
Managers on the part of the Senate.
W. TOWNSEND,
JACKSON ORR,
W. S. HERNDON,
Managers on the part of the House.

Mr. EDMUNDS. I should like it to lie over a little while until I can look into it.

The VICE-PRESIDENT. The report will lie over.

PRESIDENTIAL APPROVALS.

A message from the President of the United States, by Mr. O. E. BABCOCK, his Secretary, announced that the President had this day approved and signed the following acts:

An act (S. No. 134) for the relief of Daniel S. Mershon, jr.; and

An act (S. No. 320) fixing the number of paymasters in the Army of the United States.

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. 4855) to provide for the protection of witnesses required to attend before either branch of Congress or a committee of the same; in which it requested the concurrence of the Senate.

LARCENY OF GOVERNMENT PROPERTY.

Mr. CARPENTER. I am instructed by the Committee on the Judiciary, to whom was referred the House bill No. 4744, to report the same back with sundry amendments and ask for its present consideration.

There being no objection, the bill (H. R. No. 4744) to punish certain larcenies and the receivers of stolen goods, was considered as in Committee of the Whole.

The first section provides that any person who shall embezzle, steal, or purloin any money, property, record, voucher, or valuable thing whatever, of the moneys, goods, chattels, records, or property of the United States, shall be deemed guilty of felony, and, on conviction thereof before the district or circuit court of the United States in the district wherein the offense may have been committed or into which he shall carry or have in possession the property so embezzled, stolen, or purloined, shall be punished by imprisonment at hard labor in the penitentiary not exceeding five years, or by a fine not exceeding $5,000, or both, at the discretion of the court before which he shall be convicted.

The second section provides that if any person shall receive, conceal, or aid in concealing, or have or retain in his possession, with intent to convert to his own use or gain, any money, property, record, voucher, or valuable thing whatever, of the moneys, goods, chattels, records, or property of the United States, which has theretofore been embezzled, stolen, or purloined from the United States by any other person, knowing the same to have been so embezzled, stolen, or purloined, such person shall, on conviction before the circuit or district court of the United States in the district wherein he may have such property or wherein he resides, be punished by a fine not exceeding $5,000 or imprisonment at hard labor in the penitentiary not exceeding five years, one or both, at the discretion of the court before which he shall be convicted; and such receiver may be tried either before or after the conviction of the principal felon; but if the party has been convicted, then the judgment against him shall be conclusive evidence that the property of the United States therein described has been embezzled, stolen, or purloined.

The first amendment of the Committee on the Judiciary was in line 11, section 2, to strike out after the word "property" the words "or wherein he resides."

The amendment was agreed to.

The next amendment was in line 18, section 2, after the word "evidence" insert "in the prosecution against such receiver."

The amendment was agreed to.

The bill was reported to the Senate as amended, and 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.

CHANGE OF NAME OF A YACHT.

Mr. BOUTWELL. There is a bill on the Secretary's table from the House to change the name of a pleasure yacht, to which there can be no objection. I ask for its consideration.

There being no objection, the bill (H. R. No. 4853) to change the name of the pleasure yacht Dolly Varden to Clochette, was read three times, and passed.

ORDER OF BUSINESS.

Mr. WRIGHT. I wish to ask the Senate to take up a bill which is reported from the Committee on Finance, a House bill that has been recommended by the Secretary of the Treasury and also by the Commissioner of Internal Revenue. I should like very much to have the bill taken up, unless I interfere too much with the Senator from Illinois. There are two amendments, which make it necessary to send it back to the House. It is exceedingly important to the owners of the property sold under the direct-tax law. By the provisions of the bill that we reported there is nothing taken out of the Treasury, but the provisions only are that all the money that is necessary for the Government for the taxes shall be retained in the Treasury.

Mr. LOGAN. I will say to the Senator that I have given away already over half an hour's time. I cannot yield any further. I wish to have the bill disposed of. I am going to make no long speech about it.

Mr. WRIGHT. I do not want to interfere with the Senator's time, but I supposed he would give way for the passage of a bill to which there would be no objection.

Mr. LOGAN. I did for one; but the thing has gone too far, and if I give way any further it will only lead to some other measure coming in and cutting this out.

Mr. WRIGHT. I trust I shall have the attention of the Senate, so as to have the bill brought before the Senate immediately after the bounty bill is disposed of. I think it is a matter of importance, and is especially appreciated by Senators on the other side.

Mr. LOGAN. Let the bill be read.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had agreed to some and disagreed to other amendments of the Senate to 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, had agreed to other amendments of the Senate to the said bill with amendments, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES N. TYNER of Indiana, Mr. J. B. PACKER of Pennsylvania, and Mr. JOHN HANCOCK of Texas, managers at the same on its part.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. No. 4857) extending the privilege of the Library of Congress to the Regents of the Smithsonian Institution; and

A bill (H. R. No. 4856) to change the name of the port of Noblesborough to Damariscotta.

POST-OFFICE APPROPRIATION BILL.

The Senate proceeded to consider its amendments to 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, disagreed to by the House of Representatives, and the amendments of the House to other amendments of the Senate to the said bill.

On motion of Mr. WEST, it was

Resolved, That the Senate insist upon its amendments to the said bill disagreed to by the House of Representatives, and disagree to the amendments of the House to other amendments of the Senate to the said bill, and agree to the committee of 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.

Mr. WEST, Mr. FERRY of Michigan, and Mr. DAVIS were appointed the conferees on the part of the Senate.

EQUALIZATION OF BOUNTIES.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 3341) to equalize the bounties of soldiers who served in the late war for the Union.

The bill was reported to the Senate without amendment.

Mr. ALCORN. I desire to offer an amendment to come in as an adtional section:

SEC. —. That all laws prohibiting the payment of pensions to the soldiers of the revolutionary war and the war of 1812 and their widows on account of disloyalty be, and the same is hereby, repealed.

In behalf of the amendment I wish to say a word. I shall vote for the bill with a great deal of pleasure. The soldiers of the war of the Revolution are too old to talk about; but those of the war of 1812, assuming that they were twenty years of age at the time the war was closed, were sixty-seven years of age when the war of the rebellion began. To-day they are eighty-one years old, if they were twenty years old at the time the war of 1812 closed and peace was declared. In regard to the soldiers of 1812, I wish to say that I do not know one single one within the State that I represent in part who went into the rebellion; but I do know one at least who was upon the pension-list who was a Unionist and remained so, and who is to-day a poor blind man, maintained by the charity of his friends. I do think that it is an act of injustice to a man like this to cut him off simply because he lived in a district declared to be in rebellion that was in truth in rebellion.

This is an act of justice. I think the bill to equalize the bounties is proper; but I desire to put along with the bill this act of justice toward these old soldiers that will be a solace to them in their old age at least and afford them some comfort before they die. They feel that they are being dealt with unjustly by the Government. I trust the chairman of the Committee on Military Affairs will not oppose the amendment I offer to this bill.

Mr. LOGAN. I shall not detain the Senate longer than a few moments. It is not my purpose to discuss the bill at length. Different bills have been before the Senate and the House of Representatives for the last eight years for this purpose. This bill in its terms will require less money to equalize bounties than any of the other bills

that have been before Congress. In reference to the amount involved no exactly accurate statement can be made by any one, whether it be the Adjutant-General or the Second Auditor. It is an impossibility for any person to make an accurate statement as to the amount of money that a bill of this kind will cost the Government. Before I proceed to make any statement in reference to that, I will say to the Senator from Mississippi that his amendment, however meritorious it may be—and I have nothing to say about that—is calculated to affect this bill, and I suggest to him that his amendment would be much more appropriate to a pension bill. Indeed, it is already ingrafted in a pension bill that is before the Senate. I would prefer, if it is to pass, that it should be in some other bill. I would prefer it on the House bill already pending as to pensions, or on the bill laid aside this morning. I fear it would endanger the passage of any bill to which it is attached, not because it would not be passed in the House, but because of the want of time to take up a bill there now within the two last days of the session. It seems to me amendments ought not to be made for that purpose.

I am not here to say that a proper amendment should not be made to this bill if it needs amendment in the line in which the bill goes. I will not object to that if it is proper. I would consent to a bill being amended at the last hour if it was right to do it. I shall not object to anything of that kind, only suggesting that it might possibly have that effect. I will not object to an amendment on that account if it is a proper amendment and an appropriate amendment to the bill.

But the objection to this bill has always been that it would cost a great deal of money. Some persons say, and it has been said on this floor, that it would cost $100,000,000. In reply to that at the time I said that there are certain officers of this Government who are very much opposed to the passage of a bill of this kind for the reason that it would impose upon them a great deal of labor and it is perfectly natural for persons to try to rid themselves of burdens whenever they can. But to come directly to the point as to the amount this bill will cost, I have an estimate made up by the Adjutant-General.

Mr. MORTON. What document is that the Senator is reading from?

Mr. LOGAN. The document is the report of the Adjutant-General, but I am reading from Mr. GUNCKEL's remarks in the House of Representatives in reference to this bill.

When the Adjutant-General is called upon to give the number of enlistments in the war for the purpose of making an estimate as to the amount of money a bill of this kind will cost, he sends to the House an estimate of all the enlistments that were made during the war. During the war the enlistments amounted to 2,675,000. He makes that report to the House. I have the estimate here, and I will give it exactly as it is given by him. I have the estimates from the War Department and the Second Auditor's Office. I desire to call the attention of Senators to this fact: when he is asked to make an estimate, the Adjutant-General gives the number of enlistments during the war, 2,675,000. You will mark that the number of enlistments during the war is not a proper basis to estimate bounties on; and why? Over one-third of the enlistments during the war were of men who enlisted twice, veterans, and he takes both these enlistments and counts them both to make up the whole number of enlistments. Instead of taking the number of soldiers who were employed during the war, he gives the number of enlistments. When men were first called out they were three-months men; then they enlisted again for a year; when the year was out many of them enlisted for three years or during the war. So it was with the two-years men. They were enlisted, and then at the expiration of that term, the war not having ended, they were asked to veteranize, as it was called, and a majority of them did veteranize. So we find that the number of enlistments which are given by the reports made can be no basis whatever upon which to make an estimate as to the amount of money that the bill will cost. I cannot say myself how many soldiers there were in our Army during the war, neither do we get that official report. We only get a report as to the number of enlistments. My opinion is that there was not more than a million and a quarter of men employed during the war, and yet there were 2,675,000 enlistments. If one man enlisted four times he was counted every time, and so there would be four soldiers enumerated in the list given in as the foundation of the money estimate in reference to the bounties.

But I say there is no basis for the statement that it will cost one hundred and forty-one millions, as estimated by the Second Auditor, or $105,000,000 as estimated by the Adjutant-General, making a difference of thirty-six millions between the two estimates, showing that certainly one or the other works upon a false basis. But suppose we take the whole number of enlistments during the war counting them at 2,675,000, and allow a bounty of $8.33⅓ per month; take the length of time they served, and it will not make anything like $100,000,000 if the bounty is given. For instance, to give the bounty to every soldier who is mentioned, although some of them enlisted three or four times, it would amount to a little over $720,000,000. There were paid to the soldiers during the war as bounties $405,021,000 from the Goverment of the United States. According to the estimate of the Auditor it would require $141,000,000 to pay the bounties of those men who have not been paid; in other words, to equalize the bounties of the soldiers now, counting enlistments, not enumerating the number of men by the number of enlistments, under this bill, which you will perceive provides for paying $8.33⅓ per month, which is a bounty equal to $100 per annum; if you pay every soldier $8.33⅓ per month, as I have said, the total bounties would amount to about $720,000,000. Then under this bill is deducted the bounties that were paid by the States. I have a list of all the States which paid bounties to their soldiers, and the amount was $286,781,256. Add that to the $405,021,000 paid by the General Government and it makes nearly $700,000,000 bounties that were paid by the Government and by the States. We deduct the bounties paid by the States. If a soldier received no bounty from the Government but received a bounty from the State, if that bounty received from the State is equal to the bounty he would be entitled to from the Government then he receives nothing. All these bounties are to be deducted, and he is only to receive the amount which would make him equal to other soldiers who received the full bounty. But it may be argued, and will be if there is an argument made, that the States paid some of them $800, some $500, some $300, and therefore the State bounties were in excess and on that account the whole deduction cannot be made. That is true, but I have considered that in the deduction. Different persons who have computed bounties heretofore have taken off two-fifths, and I have admitted that three-fifths of the amount of money paid by the States for bounties is that much in excess of what should be required to equalize the bounties. Then I have taken two-fifths, believing it to be a fair estimate, and have added that two-fifths to the amount of the bounties already paid, which two-fifths amount to $95,593,900. I have taken that two-fifths and added it to the amount of bounty already paid. That amount of bounty already paid by the States, counting two-fifths of that paid by the States and the bounties of the General Government, make over $600,000,000.

I take the $114,000,000 that they claim and make no deduction from it and add it to the $405,000,000, which makes $546,000,000. Then I add the $93,000,000 to that, making up the bounty, and then deduct that which is left, and it leaves $20,712,552.42. That is my estimate, and that is a fair basis upon which to place the estimate for the equalization of bounties.

Mr. SCOTT. If it does not interrupt the Senator's remarks, I should like at that point to put to him a question. Under the provisions of this bill the amounts paid by the several States to the soldiers are to be deducted. Now if it should turn out, as I have no doubt it will, that some States paid a very much larger amount of bounty to soldiers than other States, then will there not exist a claim upon the part of the States paying the larger amount for an equalization also? Would not that constitute just as fair a basis of claim upon the part of the States, which I understand paid five or six hundred dollars of bounty when another paid $300, as the claim of the soldier to be equalized with those who received more than he did?

Mr. LOGAN. Not at all. It was a mere voluntary act on the part of the States for the purpose of furnishing soldiers, and they have no right to make a claim on the Government or anybody else for it. It was a bounty, a voluntary gift, for which they can make no claim any more than the Government can make a claim on the soldier to pay back his bounty.

But to show that my estimate is a fair one, I may mention that substantially the same estimate has been made frequently. A bill of this character has passed the House four different times. General Schenck, in the Thirty-ninth Congress, estimated his bill at $30,000,000, but his bill did not make the exceptions that this bill does. Henry D. Washburn, in the Fortieth Congress, estimated his at the same amount, $30,000,000. Mr. Krebs, in the Forty-second Congress, estimated a bill similar to this at $20,000,000. Now you will mark that since these estimates have been made in the House of Representatives we have passed various statutes. For instance we have passed a statute giving bounties to a regiment in Connecticut that was mustered in 1861 and under the law was not entitled to any bounty. We gave to that regiment bounty. That takes it out of this bill, for they received their bounty. We gave Indians and colored persons a bounty. That takes them out of this bill. We gave it to what were termed the Sixth Missouri regiments, who were refused bounty for a number of years because they remained in the State of Missouri. We gave to them a bounty, which takes them out of the bill.

Hence, since the estimate of General Schenck some five or six million dollars have already been paid in bounties which at that time were estimated in his bounty bill. So we find that the estimates which have been made at various times come very near the same amount. Now, I will say to the Senate that if you can get an estimate made upon the number of soldiers actually serving in the war and those that have actually been paid, then you can get a fair estimate such as I have made.

Now, I will say to the Senate, passing by this point for the present, why should there be objection to this bill in regard to the fairness of its provisions? The objection to it is because, it is said, it will take money out of the Treasury. That is true. It is said it will take a large amount immediately. That is not true. The Adjutant-General in making his statement at one time said it would require ten years' time to make up all these accounts and pay all these bounties. That calculation was based upon the length of time it has taken heretofore to pay bounties under former laws. The papers of some applicants have not yet been decided upon under the law of 1866. So it would take say ten years. You would divide this expense through that length of time. First we provide that the applications may be

made within five years. Then you run along. Many applications will probably be made the first year, many others the second, and so on; but the applications cannot all be made the first year or the second year or the third year, or, if so, they cannot be examined. It requires time not only to make the applications, but to make the examinations necessary. The examinations have to be made, the evidence has to be compared. It has to be compared with the rolls of the States that paid bounties, with the rolls of the Government paying bounties; and in that way it will take a series of years in order to pass through all these accounts.

Then as to the justice of the claim, let us examine that for a moment. Is the claim just? If not it ought not to be paid. If it is just it ought to be paid. The first soldiers who were employed in the war received no bounty. Many soldiers who were promised a bounty received none. How was that? Many soldiers received during the last year of the war no pay at all as a bounty. For instance, a man who volunteered for three years or during the war or veteranized was entitled to $300 bounty; $100 the first year, $100 the second, and $100 the third. It will be remembered that when the war ended the term of service had not expired, the three years had not expired, and by an order of the Secretary of War these regiments were mustered out of the service, and not having served the full year of the last year they were denied any bounty whatever. Will any Senator say it is just, after a man enlisted for three years under the promise of $300, when he is ready to perform his part of the contract, and by remaining in the field does perform his part of the contract, for the Government to muster him out five days before his time expired and then say, "You have not fulfilled your contract, because you have not served the time that you enlisted for." That is the manner in which many regiments were treated. Many regiments all over the country who served the full time within a few days or a few weeks were denied their bounty upon that theory, that the contract had not been carried out on their part.

That is all there is in this bill. It is to give to these men who received no bounty who saved their country the same amount of bounty according to the length of time they served as was given to those who volunteered, received bounty under the laws, and to fulfill to those regiments that were mustered out prior to the expiration of their time that contract which the Government entered into with them when they joined the service of the United States. I appeal to my friends on both sides of this Chamber to do justice now by these men who are entitled to this pay. They are entitled to it. They earned it; they ought to have it; and let me say to you they will get it. If you do not give it to them now, it will be given to them at some other time. This bill or one like it has passed four times through the other House of Congress. The last bill that passed there, the one that is now under discussion, passed the House by an almost unanimous vote. Nearly all the democrats voted for it; nearly all the republicans voted for it as an act of justice to the soldier. It was not made a party measure in the House at all. It was made a measure for the purpose of doing justice to men who were entitled to claim that justice should be done to them. It was not a measure of party consideration, but was a measure voted for by both sides, considering it as a just act, and I hope it will receive the sanction of both sides of this Chamber to-day, not as party measure, but as a measure for the purpose of doing that justice to these men which becomes a Government that requires justice to be done. In their name to-day—and their name, I remind you, is legion—I appeal to the Senate of the United States to pay them that little pittance which they should have been entitled to when they were mustered out, but were deprived of. I say to you that if you fail to pass this measure now—I do not know that my term will be very long in this body, and it makes little difference to me whether it is or not, but so long as I do have a seat on this floor I will urge this bill the same as I have urged it for the four years I have been here, and in the same way that I urged it when I was in the other branch of Congress where I helped to pass it twice, and urge it because I deem it just, because I deem it right, and for no other reason.

This is all that I care to say on this subject now, as I intended not to detain the Senate at any great length from doing other business that they may deem important to be done.

Mr. SHERMAN. I would ask my honorable friend to point me out the provision of the law under which he claims that this money is due to the soldier.

Mr. LOGAN. I did not hear the Senator.

Mr. SHERMAN. I understood the Senator to say that under the law as it existed when these soldiers were discharged they were entitled to a bounty of $100 a year.

Mr. LOGAN. I said that where they volunteerd for a term they were entitled to a bounty, but many of them were mustered out before their time expired, and therefore that deprived them of having that which they were entitled to under the law; and that was the fact.

Mr. SHERMAN. I should be very sorry if the declaration made by the Senator from Illinois was true. The Government of the United States has fulfilled the legal obligation that was made between the soldier and the United States. I never heard that denied. I never heard a contrary assertion made. Indeed, if the honorable Senator from Illinois is correct that the Government of the United States agreed to pay the soldiers $100 bounty and did not do it, it is a dishonor upon the United States that ought to be promptly rectified; but I never heard it claimed, I never heard it pretended, I never heard it said before that the United States had failed to pay every dollar it had agreed to pay to the soldiers mustered into the service of the United States.

Mr. LOGAN. The Senator will understand my statement. I said this, and this he cannot controvert, because it is the fact: Suppose a soldier was entitled to $100 bounty a year. If he served three years he was entitled to $300; but he was mustered out five days before that time expired; then he lost the $100.

Mr. SHERMAN. If the United States would muster a soldier out under those circumstances and not give the bounty I should consider it a gross wrong.

Mr. LOGAN. The United States did that very thing, and we have tried to correct it, and in one instance it was corrected, where men were mustered out, and regiment after regiment was mustered out in that way and did not get their bounty. I say again it is an outrage. I said so then. Troops were mustered out in that way a few weeks before their terms expired and received not the last bounty that they were entitled to. So it was throughout the entire Army.

Mr. SHERMAN. So far as any legal obligation exists to pay soldiers $100 a year bounty, it ought to be paid, and I will vote for any bill that may be framed by the Senator from Illinois to pay soldiers any bounty which an existing law authorizes to be paid or requires the Government of the United States to pay; and I would frame it upon the broadest principles of equity, on the ground that where a soldier had been discharged, as he says, a short time before the expiration of his term, I would consider that discharge as a full performance of his duties under the enlistment for three years or during the war. But we might as well take the fact as we know it to be, that this is not a claim for a debt due to these soldiers. It has not heretofore been put on that ground. It is not a claim as the money which we agreed to pay in the nature of an obligation, but it is a claim precisely what it is called, a bounty to soldiers. If we were in a condition to pay to the soldiers who served in the Army of the United States $100,000,000, or any other given sum of money, there is no man who would be more ready to give that vote than I. We never can pay these soldiers, if we would pour out not only the Treasury of the country but the property of the country. We never can pay them for their services, because they have preserved us our country. If we undertake to pay out of the Treasury of the United States all that we owe to these soldiers on the broad principles of human obligation, we never can pay them. All the taxes you can levy on your people cannot gather together enough money to pay them. But all that any government in the prosecution of a war can perform is to fulfill its obligation to pay to the soldiers and the citizens all that it has agreed to pay them, and there stop. You cannot go any further. We have agreed to give to the soldiers, their widows and their orphans, pensions, and the pension laws define that obligation, and we now pay $30,000,000 a year to those who have suffered during the war, their widows and their orphans, a larger pension-list than ever was maintained by any nation in the world in any time. This is a part of our obligation, and we pay that because we agreed to pay it—because in our enlistment laws there was a provision made that those who might be wounded in our service should receive pensions, and that their widows and orphans should be provided for. Therefore the pension law has been maintained, and the people of the United States pay with great cheerfulness $30,000,000 a year to meet this obligation, because it was an obligation to the soldiers which we were bound to perform. The question of paying bounties is quite a different thing.

If our land was overflowing with money, if there were no public debts, no duties, no obligations, then we might give the surplus revenue or any sources of revenue to the soldiers and never pay the debt we owe them. But, sir, let us not deceive ourselves. My honorable friend has figured this bill down as a demand on the Treasury to the amount of $20,000,000, and he spreads that over eight or ten years, and thus reduces it to an annuity for eight years of about $3,000,000. My colleague in the House, who had charge of the bill there and is the author of it, estimated that it would require $29,728,000; and after he made that estimate the cost of the bill was increased by various amendments. Certain persons connected with the Second Auditor's Office, who presented a favorable report and who presented the basis of the estimate upon which my colleague in the House based his estimate, estimated the amount to be $59,752,000. We know that the Paymaster-General and the Second Auditor, and two or three other officers who have examined this matter, have put the amount at $100,000,000; but, as the Senator from Illinois says, no man can tell.

Mark it, Senators, this is not a demand to be spread over eight years, but it is a demand to be met within six months. Say not to me that these soldiers, scattered all over our country, who will know of the passage of this law, will not promptly present their claims; but when they are presented they must be paid; they must not be evaded or avoided, delayed or hindered. When you pass this law, the soldiers will be paid. What proportion of the claims will be presented within the next six months? Do we not know that the great body of them will be presented as soon as the claim agents, authorized by this bill to receive $10 for every application, scatter over the country, gather these claims together, and present them? We know how it will be. This bill itself provides that $10 for each application shall go to the claim agent, and no more; and these claim agents will be busy all over

this country to gather in these claims, and they will be pushing them in on the Treasury. Are we prepared to meet them?

Sir, I am tired of this business. It is rather expected of me that whenever somebody ought to speak in behalf of the Treasury of the United States, I should get up and do it. I do not feel myself bound to do it any more than any other Senator. I am as much a friend of the soldier as any man who ever lived. I propose to do as much for the soldief who served under our flag as my honorable friend from Illinois, or any member of this body. I have been willing in the past and am willing now to do it; but when this unexpected demand is made upon us, and Senators almost fear that their motives may be suspected, almost dislike, I may say almost fear, to vote against a bounty bill to soldiers—I say under these circumstances it is our duty to look this thing in the face. I say to you that if this bill passes it puts upon a Treasury, already deficient to meet its current interest and expenses, from eleven to twenty million dollars, according to the statements that were made by us and known by all. It throws upon that Treasury a burden variously estimated by the Senator from Illinois, and others, from twenty to one hundred and forty-one million dollars. Sir, look at the provisions of this bill, that every soldier is entitled to $100 a year bounty; and the whole amount of that bounty, according to the estimates before us, and on which all these calculations are based, is $150,000,000. That is the extent of our obligations.

But it is said that some of these soldiers have been paid bounties by the States and we deduct the amount paid by the States. But, sir, if we owe one dollar of this money we owe $141,000,000, and if the States have come forward and paid this bounty, we are bound to pay the States, because if we owe the debt it must be paid either to the soldiers or to the States, and if you use the bounties paid by the States to pay off your obligation to the soldiers, how can you deny to the States any demand that they may make on you for the return of the bounties paid by them? You cannot do it.

The amount then is $141,000,000. My honorable friend says $20,000,000 of that will go to the soldiers. You will have to provide then for the payment of the balance to the States. How can you answer this? If it is a debt at all, it is a debt for the whole amount, and if a part is already advanced by the States, we owe it to the States, principal and interest. No sooner will this bill pass and large sums be drawn under it from the Treasury of the United States, when demands will come from the States to equalize bounties among them, and then you will have another question to meet. In the State of Connecticut they paid enormous bounties. I believe they gave six or eight dollars a month, a bounty perhaps larger than this, to all the soldiers who served under the call of the governor of the State of Connecticut. Their bounties were very large, far larger than we could afford to pay in the Western States. How can you resist their demand for the equalization of bounties? If Connecticut poured out her treasure freely to induce men to enter the service of the United States, why should you not refund her that money? Thus you introduce a new series of questions involving demands on the Treasury.

I take it that we are practical legislators, that we are willing to take some risk of having our motives misunderstood, that we are willing to oppose popular measures. The Senate of the United States is organized as a body elected each member for six years, for the purpose of checking bills resting upon popular emotion or popular gratitude. We are here as the conservative body to guard the public Treasury, to guard the public honor, to be governed by perhaps a little stronger sense of obligation than may be supposed to rest upon those who spring suddenly from the people, members of the other House. That is the theory of our Government. If the Senate, knowing that there is now a deficiency in the Treasury, knowing that we have already appropriated more money than we have got to pay, is now willing to saddle the Government with this additional debt without any means to provide for it, we do not exhibit those evidences of care and conservatism and forethought which ought to distinguish the Senate of the United States.

I will not vote for the bill; and if I am accused by the soldiers of Ohio—and we had four hundred thousand of them—I will tell them that I believe the Government of the United States has fulfilled to them the legal obligation into which it entered with them when they entered into the service of the United States. We can never pay them by money for their heroism or their sacrifices. We cannot assume this debt again without loading down our people with fresh liabilities and fresh taxes. I therefore will stand in opposition to it, and I appeal to the Senate as the conservative body to meet this bill and at least postpone it to a time when there is money in the Treasury to meet these demands and not pass this law which will make an obligation when there is not money in the Treasury to meet it.

Mr. LOGAN. I do not rise to discuss the question at any length again, but merely to call the Senator's attention to the suggestion I made to him in reference to soldiers, many of whom I did not say were defrauded, but were deprived of what I considered their right under the law. I can give him several instances. Here is one; I quote from the speech of Mr. GUNCKEL, of his State, a very honorable gentleman, who makes these statements:

> Some soldiers of the Thirty-ninth Ohio state their case thus: They enlisted for the term of three years under the President's proclamation of May 3, 1861, before the 22d day of July, 1861; but by the failure of the officer to correctly date their enlistment and of the United States mustering officer to muster them into the service before August 6, 1861, they have received, and under existing laws, as construed by the Treasury Department, can receive no bounty.

There is one case from the Senator's own State where the men served faithfully the whole length of the time, but because the mustering officer did not date their muster correctly they have been denied all bounty by the Treasury Department.

Mr. MORTON. I ask the Senator from Illinois, if he is prepared to do so, to state the different bounty laws which were passed and the amounts given at different times. I would like to understand that.

Mr. LOGAN. I will do that presently; but if I should neglect it, the Senator can call my attention to it. Again, Mr. GUNCKEL said:

> Soldiers from Missouri, Kentucky, Ohio, Indiana, Iowa, and West Virginia who enlisted for six or nine months, or any period less than one year, were excluded on a decision by the War Department that they were not volunteers but militia.

That is what I had reference to when I spoke about the six regiments of Missouri troops. Soldiers from Ohio, Indiana, Kentucky, Iowa, and Missouri have been excluded on the ground that they were called militia, and received no bounty whatever under the decisions of the War Deparment.

Mr. EDMUNDS. Were they not militia?

Mr. LOGAN. How could they be militia when they were mustered into the Army of the United States, armed and clothed and paid under the orders of officers of the Army of the United States? I agree they were militia in one sense, because that term in our Constitution constitutes everybody militia.

Mr. EDMUNDS. The Constitution also provides for raising and supporting armies.

Mr. LOGAN. But it speaks of the President having command of the militia, and the Senator knows it has reference to just such people. Let us go further:

> But it so happened that they were enlisted between two calls—

Mark the reason why they were deprived—

> They were enlisted between the dates of two calls; that soldiers enlisted before and after received full bounties, but they received nothing at all.

Because they were enlisted between two calls of the President some men were denied the right to bounty, while those who enlisted under the two calls, one prior and one subsequent, both got the bounty. Here is another case:

> Some of the enlisted men of the Fourth Iowa Regiment complain that they were enrolled prior to July 22, 1861, but on account of being ordered beyond the limits of the State of Iowa were not regularly mustered into United States service until subsequent to August 6, 1861, and so deprived of bounty.

They were enlisted and ordered out of the State before the mustering officer made out their muster, and because they were under orders and could not be mustered they were denied their bounty, although they were soldiers the same as anybody else and served in the war the same as any one else.

I could give the Senator from Ohio another instance. Here is a Senator [Mr. SPENCER] who was in command of a regiment. They served under me a small portion of the time. That regiment was raised in Alabama. While we were stationed in Northern Alabama we recruited a regiment of cavalry, called the First Alabama Cavalry, and the Senator from Alabama was the colonel commanding that regiment. They served through the war, served as faithfully as any soldiers ever did serve, and they were denied bounty because they were recruited in a rebel State. That is another decision of the War Department.

These things that I speak of I have a personal knowledge of. Let me give you another instance. In New York the United States called for three-years men, authorized by the Congress of the United States. The State of New York did not wait for the call, but her Legislature provided for re-enlisting two-years men, and accordingly thirty-eight New York regiments were re-enlisted into the service of the United States under the act of the Legislature, accepted by the Government under the subsequent call, and yet these thirty-eight regiments have been denied bounty because they were enlisted prior to the call being made, although they were accepted by the Government, and accepted after the call to make up the call. These instances illustrate the inequality that has been done to some of the soldiers who have not had justice. I could go on and give other instances. I could give case after case. Let me give you another case. Suppose a man enlisted for three years. He served out within one day of his first year, which would entitle him to $100 bounty. On that day he is killed in battle; his wife and his children get no bounty, although he is killed. Why? If he had lived his wife and children would have got a bounty; but they are not entitled to any bounty because he was killed just one day before his enlistment expired; and there are thousands of cases of that kind If a man within a week of the expiration of his time was taken to hospital and the surgeon mustered him out of service because he had an incurable disease or wound, that man would get no bounty, although he was wounded and mustered out of the service on account of his wounds. Why? Because his wounds caused him to be mustered out of the service.

These are the cases that I appeal for. These are the cases that we are talking about when we talk about equalizing bounties. It is the case of wounded men mustered out prior to the expiration of their service, of sick men mustered out, of regiments mustered in and serving that have been denied their bounty under the law by a decision of the War Department, which in my judgment is unjust and unfair.

Our friend the Senator from Ohio speaks about appealing to the

soldiers of Ohio. I know he is as patriotic and kind as any one. I claim no more patriotism than he does nor any more than he is entitled to; but when he talks about appealing to the soldiers, let me say that when he appeals to a one-legged or a crippled soldier who was mustered out on account of his wound just one day before his time expired and tries to convince him that he is not entitled to a bounty, his appeal will be in vain. He cannot convince him. When he appeals to the wife of the man who was killed in battle one day before his time expired and tells her she is not entitled to bounty because her husband failed one day of his service, he will have a hard time to make her believe it.

I know something about appeals to soldiers. They are not unreasonable; but when their demands are correct and just, as they are in this particular instance, I do not blame them for not listening to appeals. I do not blame the crippled soldier, and the widow who weeps because she gets no bounty when others are entitled to it, her husband having been killed but twenty-four hours before his time expired, for not being satisfied, and I never will.

But the Senator from Indiana asked me to give the dates of the bounty laws. A one hundred dollar bounty act was passed July 22, 1861; a fifty dollar bounty act passed July 28, 1866; a one hundred dollar act, July 22, 1861; and a one hundred dollar act July 20, 1866. These are the different acts.

Mr. MORTON. Has the Senator the references to the statutes?

Mr. LOGAN. I have not; but I have the volumes here, all marked, and can find them.

Mr. MORTON. I should like to have them read.

Mr. LOGAN. The different statutes that I referred to awhile ago were special statutes that took many cases out of the law we now propose. There was a statute in reference to colored men, in reference to Missouri troops, in reference to Connecticut troops. Quite a number of troops whom the Senator would embrace in his remarks are taken out of this bill by special acts of Congress, and I will turn to the statutes as they were passed, and which I have marked. I happened to turn to one of the last statutes. On July 13, 1868, a statute of this kind was passed:

That the troops recognized in an act entitled, "An act making appropriations for completing the defenses of Washington, and for other purposes," approved February 13, 1862, be, and are hereby, considered as placed on an equal footing with the volunteers, as to bounties; and that all laws relating to bounties be applicable to them as to other volunteers.

I will explain that. The law that this refers to was an act in reference to the defenses of Washington, to which an amendment was offered that authorized the raising of certain regiments, four I think in Maryland and six in Missouri. The six regiments raised in Missouri that this act applies to were refused bounty because, although they were raised under a law the same as other troops, yet the War Department decided that they were merely militia, and therefore not entitled to bounty. This act was passed in 1868 which pays these three regiments their bounty, and therefore I said they were taken out of this bill. The bounties have already been paid to these six regiments under this special act of 1868.

The act of March 3, 1869, is another act that takes a certain portion out of this bill, which reduced it in amount, as I stated to the Senate. I will read it:

That when a soldier's discharge states that he is discharged by reason of "expiration of term of service," he shall be held to have completed the full term of his enlistment and entitled to bounty accordingly.

This act was passed to cover just the case I stated where men were mustered out of the service before their time expired and were denied the bounty; but some of them were mustered out "by reason of the expiration of the term of service," and this statute was passed so that men who were mustered out by reason of their term of service having expired should be entitled to their bounty, and they have received it.

SEC. 2. *And be it further enacted*, That the widow, minor children, or parents, in the order named, of any soldier who shall have died, after being honorably discharged from the military service of the United States, shall be entitled to receive the additional bounty to which such soldier would be entitled if living, under the provisions of the twelfth and thirteenth sections of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1867, and for other purposes," approved July 28, 1866, and the said provisions of said act shall be so construed.

SEC. 3. *And be it further enacted*, That all claims for the additional bounties granted in sections 12 and 13 of the act of July 28, 1866, shall, after the 1st of May next, be adjusted and settled by the accounting officers of the Treasury under the provisions of said act; and all such claims as may on the said 1st of May be remaining in the office of the Paymaster-General unsettled shall be transferred to the Second Auditor of the Treasury for settlement.

SEC. 4. *And be it further enacted*, That all claims for bounty under the provisions of the act cited in the foregoing section shall be void, unless presented in due form prior to the 1st day of December 1869.

There is another exception that is taken out of this bill.

Mr. MORTON. The Senator from Illinois has paid much more attention to this subject than I have, and I want to ask him a question for information. This is a bill to equalize bounties. Have any soldiers enlisted under laws of the United States during the war, or serving as militia, received from the Government of the United States for the time they served bounties at the rate of $8.33⅓ a month as fixed in this bill? For example, have any of the three-year men enlisted in 1862 or 1863 received bounties at that rate for the time they served, from the United States, so that others are to be equalized and receive the same? That is the point.

Mr. LOGAN. I will explain that to the Senator. One hundred dollars per annum was the bounty which was given to persons who served one year. That $100 bounty is just the amount precisely per month named in this bill. The six regiments of volunteers in Missouri received the bounty just in accordance with the other soldiers who received their bounty. They served, I believe, one year, but I am not sure as to the length of time. Does the Senator from Missouri remembers the time those regiments served?

Mr. BOGY. I think six months.

Mr. LOGAN. Then they received fifty dollars bounty. The amount of bounty is not mentioned in the statute, but they received bounty in accordance with other bounty laws. The bounty laws gave just $8.33⅓ per month, but did not give it per month. It amounted to that amount per month, but was given for six months, for twelve months, for two years, and for three years. This bill is in order to give bounty to the men who did not serve out the time on account of sickness or on account of being mustered out shortly before the term expired. If they were mustered out a month sooner than the expiration of the term on account of wounds or on account of sickness, they get $8.33⅓ a month, and so on. That is what we mean by equalization of bounties.

Mr. EDMUNDS. Those who were mustered out on account of sickness and wounds received in the service got a pension, which takes the place of the bounty.

Mr. LOGAN. I beg the Senator's pardon; a pension does not take the place of a bounty, because every man who received a bounty in the war that was wounded received a pension besides. It does not take the place at all; they are entirely different. If an officer of the Army draws a pension, no amount of money paid to him otherwise is taken in lieu of a pension. There is no such thing. A pension is a separate and distinct proposition from bounty or any other pay.

Mr. MORTON. I understand the point to be this: that under the law the bounty was to be paid for a full term of one year, two years, or three years.

Mr. LOGAN. Yes, sir.

Mr. MORTON. But those who did not serve the term out were cut off from any?

Mr. LOGAN. Yes, sir; that is it.

Mr. MORTON. The proposition now is to pay them by the month, so that they may get bounty for the time they served.

Mr. LOGAN. Exactly; that is the proposition; and what I read from these statutes is to show that many persons to whom the Senator from Ohio referred in speaking of the amount this bill would cost have already been paid under special acts of Congress. I said several millions of dollars had been taken out by special acts of Congress from the amount that had been estimated before, to show that I was correct in my estimate. That is the reason I spoke of these special acts, and there are many more of them, but I do not wish to detain the Senate by citing them, though I have them all here. If any person wants to hear them, I will turn to them and read them, as a matter of course.

Mr. President, I do not desire to detain the Senate in the discussion of this measure, but I do appeal to Senators on both sides of the Chamber to do this justice now. They have been asked to do it for the last eight years, and bills have lain upon our table. Four different bills have been reported from the House of Representatives to us and asked to be passed. Two or three different bills have been reported from the Committee on Military Affairs of the Senate, and we have been asked to pass them. Now, if there is not some action taken, if this bill is not passed, those men who are deprived of that which I consider a just demand on the Government will want to know why. As I said, this is not on politics, as to which party shall be for this, or which party shall be against it. It is a question of justice that appeals to all men, irrespective of their party predilections, and all should be willing at least that these men should have justice done them.

At one time during the dark hours of this grand Republic appeals were made on the other side. Different appeals were then made in this Chamber and in the other branch of Congress; not by soldiers, but by men who wanted soldiers to help save the Government. When you appealed to the populace of this land to furnish veterans to save the old flag and the Constitution of this country, that appeal was responded to with such alacrity as has never been witnessed in any land before. By the hundred thousand the soldier went singing "Tramp, tramp." That was his war-cry; and under the flag he enlisted to save the country. That same soldier that you appealed to then, and who listened to your appeal, appeals to you now to do him the same justice that he did your Government when you appealed to him for his service. I say let him not be turned away; I say let not his appeal be answered in coldness and in indifference; but let it be answered by the warmth of heart that ought to belong to every patriotic man in this land, and say to him that justice which man should demand of man shall be done by the Government toward the veteran who saved his country.

Sir, appeals were made from the other side of this Chamber this morning to remember the old soldiers of the war of 1812. While you make appeals for the soldier of the war of 1812, for which we have provided, and for which we intend to provide where the provision has not been made or where it has been cut off, I say forget not the soldier that did much more than he did, although he did his duty,

who, when the country was reeling and rocking as a drunken man, knowing not where it might fall, or whether in the fall it might not be crushed to atoms, came forward to steady the rocking pillars beneath this tottering fabric. He appeals to you. I say let that appeal be answered in all honesty of conscience and justice.

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

Mr. EDMUNDS. I move to amend that amendment by adding after the words "war of 1812" the words "and Mexican war." I do not see any ground for making the distinction against the men who were so gallant in the Mexican war. There were a good many of them.

Mr. LOGAN. I hope that amendment will not be adopted. I was a Mexican war soldier myself, and I understand the object too well. I do not want this bill defeated by amendments, and I hope the amendments will not be adopted, either of them.

Mr. EDMUNDS. The Senator says he understands the object. That is not the best possible reason against an amendment to an amendment. If no amendment prevails the Senator might be right, but if we are going to have an amendment, let us have it philosophically. I should like to have the Senator state the grounds of distinction between a soldier of the war of 1812 and one of the war of 1847, against Mexico.

Mr. LOGAN. I want the Senator to understand me. I say I do not want either amendment adopted.

Mr. EDMUNDS. Then, if the Senator does not make a distinction, I suppose it is because he sees there is no distinction; and if there is no distinction, then if we are to have anything, let us have everything which falls within the same principle. The theory of the original amendment is that it is unjust to withhold from people who were engaged in the rebellion against the United States any of the benefits or bounties or gifts that the Government may make to soldiers. Justice does not depend on the age of a man or the length of time ago that he performed some act that entitles him to a grateful recognition by his country. Therefore, if it be right that we shall reopen the pension and the bounty rolls to people who were engaged in the rebellion, and who lost the benefits of such pension and bounty, having been soldiers in the war of 1812, the same principle precisely applies to soldiers in the Mexican war. It may be that a soldier in the war of 1812, if he was an old man, could furnish more in respect of the weight of his influence, his venerable character, to aid the cause of rebellion than a younger man who served in the Mexican war could. It does not depend on age at all. It depends on the fact. Therefore, if the fact of a soldier of the war of 1812 having engaged in the rebellion does not relieve us from any obligation of honor to contribute to his support now, it does not relieve us in respect of a soldier in the Mexican war who did the same thing. If we are acting upon this sentiment, let us act upon it in a logical and philosophical way. That is my proposition. I am not, Mr. President, in favor of putting on to this bill any such proposition; but as long as it is proposed to put on one part of the proposition, I propose to go the whole figure.

Mr. MORTON. Mr. President, I think there is a very material difference between the proposition of the Senator from Mississippi and that of the Senator from Vermont. The soldiers of the war of 1812 were necessarily too old to take an active part in the late rebellion. They were too old to go into the field. But that is not the case with the soldiers of the Mexican War. Very many of them were engaged upon the one side or the other during the late war. That was so in my State. I presume it was so in the Southern States. Therefore the amendment offered by the Senator from Vermont would include many men who served in the confederate army, while that offered by the Senator from Wisconsin would not include those who served in either army. Their sympathies and what influence they had may have been upon the side of the rebellion, but they were not active participants in it. At the same time I hope the amendment of the Senator from Mississippi will be voted down. I hope we shall not encumber the bill with that amendment.

Mr. ALCORN. Mr. President, the Senator from Indiana has anticipated a portion of what I intended to say; but there is another point that I desire to make, showing the distinction between the amendment proposed by the Senator from Vermont and the amendment that I propose. If the distinction that exists is not apparent to him, I do not hope that anything I could say would make that distinction clear; but I think the distinction is broad and well taken. There is no law upon the statute-book and it has not been the policy of this Government up to this time to pension the soldiers of the Mexican war. The soldiers of the Mexican war have not been pensioned. The soldiers of the war of 1812 have been pensioned. I know the law to which I see the honorable Senator [Mr. EDMUNDS] is about to refer, but that will not contradict what I state to be true as a matter of fact. It has been the policy, however, of this Government, and was before the late war began, to pension the soldiers of the war of 1812; and while this law was in existence, while it was in full force and operation the rebellion began and the Government of the United States, in the exercise of an authority which belonged to them and which they had a right to control, saw proper to strike from the roll of pensioners all that body of men who lived south of a particular line. The test has not been applied to them as to whether they were loyal or disloyal. They have not been convicted of disloyalty. They were presumed to be disloyal, because they lived south of a particular line. They have not been adjudged disloyal. The have not had a day in court, but they have been by an act of Congress inhibited from the benefits of a law of Congress simply because they resided in the Southern States.

The theory of the amendment that I propose goes upon this line: that the war has been ended, that amnesty has been granted, that restoration has been consummated, that the past should be forgotten, and that the old soldier who is now taking his departure to

> The undiscovered country, from whose bourn
> No traveler returns—

as he leaves, as he bids us good-by, now above eighty years of age, should be made to feel the fact that while his eyes look still upon the sun of heaven the Congress of the United States has wiped out the distinctions that had been made by reason of the war. It is the theory of the policy of the Government. It is carrying out the policy of reconstruction, the policy of restoration. It is doing simply an act of justice to those old men who are now knocking at your door.

Mr. LOGAN. I will ask the Senator a question if he will allow me——

Mr. ALCORN. Certainly.

Mr. LOGAN. If he does not think it would be fair to withdraw his amendment to his bill and propose it to some other bill? It is in two or three bills now before the Senate.

Mr. ALCORN. I will advise the honorable Senator that the old soldiers have been in the keeping of the able Senator from Indiana, [Mr. PRATT,] who has here put forward their case in language more eloquent than I can repeat. The Senate has not shown a disposition up to this time, nor do I believe there is a disposition here, to make any legislation touching the relief which they pray for. This morning this amendment was here reported, or rather it was in the body of a bill that came from the House of Representatives, and the honorable Senator from Illinois moved to strike it out. I regretted that he did so. I was for that bill. I am for it now. I will not oppose that bill if he will allow it to go as it came from the House of Representatives; but even to repeat the same thing in this bill will do no harm.

Mr. LOGAN. I only say to the Senator, so far as that bill which was reported this morning is concerned, that the same provision is in another bill from the Pension Committee.

Mr. ALCORN. But that will never see the light of day.

Mr. LOGAN. If the Senator will allow me until I get through my statement, this is a bill from the Military Committee, having nothing to do with pensions whatever, and I did not want to ingraft upon such bills that which belongs to a pension bill, and which is already in the pension bill. Hence I moved to strike it out, not on account of any opposition to the particular thing, as I said at the time, but because it did not pertain to that particular bill. Without saying whether I would be for the bill or not, I stated the reason because it did not pertain to and was not germane to that bill, as every one knows. That was the reason I offered to strike it out.

Mr. ALCORN. I think this amendment is germane to this bill.

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. No. 4820) authorizing the Wisconsin Central Railroad Company to straighten the line of their road; and

A bill (H. R. No. 4840) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1876, and for other purposes.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4840) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1876, and for other purposes, was read twice by its title, and ordered to lie on the table.

Mr. SHERMAN. I ask for an order to print that bill.

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

The bill (H. R. No. 4820) authorizing the Wisconsin Central Railroad Company to straighten the line of their road was read twice twice by its title.

Mr. BOUTWELL. That bill has been considered by the Committee on Public Lands of the Senate, unanimously agreed to, and I believe there can be no possible objection to its passage. I hope the Senate will allow it to be passed now.

Mr. EDMUNDS. I think we ought to finish this important measure, particularly as I want to make a little speech just now.

The VICE-PRESIDENT. Objection being made, the bill cannot be considered at this time.

Mr. HOWE. I simply ask that the bill may be allowed to remain on the table for the present.

The VICE-PRESIDENT. The bill will lie on the table.

VISITORS TO MILITARY ACADEMY.

The VICE-PRESIDENT appointed Mr. ALLISON and Mr. RANSOM members of the board of visitors on the part of the Senate to attend the annual examination of the cadets at the United States Military Academy at West Point, New York.

MARBLE ROOM AND CORRIDOR.

Mr. ROBERTSON. I ask that the following order be made:

Ordered, That the Sergeant-at-Arms be directed to exclude from the marble room and adjacent corridor during the session of the Senate, for the residue of the session, all persons not entitled to the floor of the Senate.

Mr. EDMUNDS. That is right.

The order was agreed to.

EQUALIZATION OF BOUNTIES.

The VICE-PRESIDENT. The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 3341) to equalize the bounties of soldiers who served in the late war for the Union.

Mr. EDMUNDS. Mr. President, the distinction that the Senator from Mississippi and the Senator from Indiana make between people who served in the field in the rebellion and those who did not serve in the field but, still aided it, in my opinion is altogether fanciful and altogether unjust. I think the soldiers of the rebellion who served in the field were just as honorable, and are just as much entitled to sympathy now that the thing is over, and to consideration, as those who did not serve in the field. I should like to have somebody point out to me the difference between the two.

Mr. ALCORN. The Senator will allow me to say that I did not dispute that point.

Mr. EDMUNDS. The Senator says he has not disputed it. If he will read the RECORD to-morrow he will see who disputed it; and the Senator from Indiana too. When gentlemen went into what is now, or was last year, said to be the "lost cause"—whether it was the lost cause or not the future will determine—they went into it, almost all of them, no doubt in the sincere belief that they ought to do so; and let no one tell me that the man who bravely shouldered his musket or drew his sword in defense of what he thought to be State rights and the right to secede, &c., which received large encouragement from men in the North, is not entitled to just as much respect and just as much consideration as those who believed as he did, and, doing what they could do out of the southern army, were entitled to. You cannot stand upon any such distinction. The idea of proscribing a man who had been engaged in the rebellion because he was in the southern army, and doing a favor to a man who was engaged in the rebellion and was not in the southern army, is contrary to all my notions of what people are entitled to who engage in a cause that they believe in. There is not any such distinction. If there be any distinction at all, I should have a higher respect for the man who risked his life on the battle-field in favor of what he believed to be right rather than he who staid at home and aided it in whatever ways he could without running that risk. The distinction, therefore, is totally untenable, and it does not do to say that you will exclude soldiers in the Mexican war from the benefits of this act on the ground that some of them shouldered their muskets in defense of what they called southern rights. It will not stand the test either of justice or of sentiment, in my opinion.

But, Mr. President, the Senators say that after all this class of soldiers of the war of 1812 is a small class. Suppose it be a small class. Does the justice of this bill depend upon the number of people to be benefited by it? I take it not. If it has any justice at all it is upon the ground that the Senator from Illinois puts it, that it is an honorable debt, so to speak; and I never heard that the justice of a debt depended on the number of creditors a man had. It is not so in the part of the country where I reside, nor in any other part of the country that I know anything about.

It is totally impossible, therefore, in my judgment, for Senators consistently to say that they will not do this act of justice, or generosity, or whatever it may be, to a man who engaged in the Mexican war, and who is deprived of his bounty or his pension in consequence of having engaged in the rebellion, and to say that you will do it to the man who was engaged in the war of 1812 and did whatever he could, in the field or out of it, to assist the southern cause. If there is anything in this, it is a thing which covers all classes of our fellow-citizens in the South who engaged in the rebellion, and do not let us stultify ourselves by making fish of one and flesh of the other.

Mr. MORTON. Mr. President, the bill before the Senate is a bill to equalize bounties. It is not a pension bill. A bounty is one thing and a pension is another and a very distinct thing.

Mr. EDMUNDS. Yes; but the amendment is a pension amendment, the Senator will observe.

Mr. MORTON. The proposition of the Senator from Mississippi is to attach a pension measure to a mere bounty bill. His amendment belongs more properly to a bill of a different character.

This bill to equalize bounties, in my opinion, has been very greatly exaggerated. The amount required for the equalization of bounties, I think, will not be nearly so large as has been represented and in fact is commonly understood. I think I have had an exaggerated notion myself upon that subject.

What is the principle of this bill, and when understood who can resist the justice of it for one moment? The Government by three or four bounty laws established the principle of paying bounties at the rate of $100 a year. That is the starting-point. I wish to state distinctly that the Government established the principle of paying bounties at the rate of $100 a year, $50 for six months, $200 for two years, and $300 for three years. But it turned out that owing to the construction of the laws and the rules established by the War Department many honorably discharged soldiers did not receive their bounty at all. Under the rule adopted, if the soldier served five months out of six but was discharged from wounds or other cause, he lost the bounty. So if he served two years and six months, he only got $200 for the time instead of $250. In other words, to get the bounty he must serve out the full term. If he was discharged for misconduct, if he was a deserter, or if he was a shirk, the case is different; but this bill only applies to honorably discharged soldiers. It takes as a basis the rate of bounty provided by law, the rate of $100 a year, but provides that he shall be paid by the month and not by the year, so that if he served two years and six months and was then discharged from sickness contracted in the service or on account of wounds received in battle he would receive bounty for two years and six months, and would not lose the last six months' bounty because he did not serve out the remaining six months.

Now I want to know who can resist the justice of that. It is a simple question of absolute, downright justice. Suppose you hire a man to work on your farm at the rate of $200 a year; he works for you faithfully six months and then dies, perhaps on account of disease contracted in your service, and you should refuse to pay him the six months he has worked because he has not worked out the whole term—there you have got the case exactly. It is a simple proposition to pay a bounty for the time served according to the principle established by the Government for the full term. The Government says, "We will pay you $100 a year, but under the construction given to the law you must serve the year out." We say that is not right. If you serve six months, then you get six months' pay, or if you become sick or fall from wounds or were killed in battle, you should have the benefit of it if alive, or your family if dead. The principle of justice is so absolute and downright, that it seems to me nobody can resist it.

Mr. President, justice to the soldiers cannot be always deferred. It must and will triumph some time. If it does not come this Congress it will come at some other Congress. It is a part of the war debt, as much so as the 5.20 bonds or the 10.40 bonds. It is founded on the same principle of justice. It is an obligation resting upon this nation, and if it takes $20,000,000 or $50,000,000 can make no difference. It is a debt this nation honestly owes and it ought to be paid. In other words, let the bounty be equalized; put all honorably discharged soldiers upon the same basis; pay them at the same rate. They are entitled to it. The justice of it no man can dispute, and that is all that this bill contemplates. I am for it. I vote for it with all my heart.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Vermont [Mr. EDMUNDS] to the amendment of the Senator from Mississippi, [Mr. ALCORN.]

Mr. PRATT. Mr. President, the pending question as I understand it is upon the amendment offered by the honorable Senator from Mississippi. That amendment in part includes the restoration to the pension-rolls of those who were dropped in pursuance of the act of 1862. That act was very imperative in its terms. It has been carried into the Revised Statutes, and I read it in this connection:

No money on account of pensions shall be paid to any person, or to the widow, children, or heirs of any deceased person, who in any manner voluntarily engaged in, or aided or abetted, the late rebellion against the authority of the United States.

Now, sir, that was directed against and was to affect those who were upon the pension-roll, and who were there because of disability, maimed in the service, or because of the death of those through and under whom they claimed pensions. It is upward of sixty years since the close of the war with Great Britain. That war closed in February, 1815, and we are now in the year of grace 1875. Consequently it has been correctly stated upon this floor that there are very few, probably none of the surviving soldiers of the war of 1812 who are not now at least eighty years of age. The law that I have read struck every one of those survivors from the rolls who was drawing a pension in pursuance of law. Let me suppose that he had lost a leg in the service of his country in the war of 1812. He lived in the South and his sympathies were with the South in the rebellion. The law commanded the Secretary of the Interior to strike his name from the pension-roll, although he held his certificate of pension, which in terms entitled him as long as he lived to a pension of ninety-six dollars a year.

Now, sir, however that act may have been justified as a measure of prudence or policy, or what you please to call it, during the war, I have always thought that it ought to have been one of the first acts of Congress after the return of peace to have wiped it from the statute-book. Why do I say so? Because every certificate of pension is a certificate of indebtedness of the United States to the pensioner holding it, certifying absolutely and without condition that on account of the disability that he has suffered in his country's service he shall, so long as he lives, be entitled to receive ninety-six dollars a year. It is just as sacred as one of the Government bonds. Let me suppose that any gentleman holding a registered bond of the United States, if there were such bonds during the civil war outstanding, had happened to live in the South and happened to be engaged in the rebellion or in aiding and abetting it. He held the Government bond for $1,000 which he had purchased with his money, and by it the United

States had promised to pay him or his assignees that sum of money twenty years after date. Does any gentleman suppose that he forfeited his right to his money because of his participation in the rebellion? Has Congress ever attempted to confiscate any portion of the debt the United States owed, the public recognized debt—to confiscate any of its bonds because they happened to be held by rebels? Never. Such a thing was never heard of.

Now this pension certificate is ten times more sacred in its character than any bond that the Government of the United States ever issued. What does it mean? What does it express? It is the indemnity which the nation agrees to pay to this poor, maimed pensioner for the arm or the leg which he has lost in the service of his country. That is the way the contract reads; and no nation can afford to go back upon a contract of that sacred character. And yet the law of 1862 was imperative in its terms and commanded the Secretary of the Interior to strike from the rolls every one of those maimed soldiers of the war of 1812 who held these certificates. Two hundred and more of them were stricken from the rolls in obedience to this rigorous statute. I have before me a letter from the Commissioner of Pensions of a recent date in which he answers the inquiry I made, How many survivors of the war of 1812 are there who were pensioned and who were stricken from the roll? He says that two hundred were stricken from the rolls, and about sixty of this number now survive. In the bill which the Committee on Pensions had the honor to report a few weeks ago, the House bill, we provided in explicit terms for the resumption of payment to these survivors in a section of that bill which is now before me and which I will read:

That the Secretary of the Interior is directed to restore to the pension-roll the names of all persons now surviving heretofore pensioned on account of service in the said war of 1812 whose names were stricken from the roll in pursuance of the act entitled "An act authorizing the Secretary of the Interior to strike from the pension-rolls the names of such persons as have taken up arms against the Government, or who have in any manner encouraged the rebels," approved February 4, 1862, and pensions shall be paid to the persons whose names are thus restored from and after the passage of this act.

Full justice, sir, would require this Government to pay the survivors arrears, to take up these certificates from the day the pensions were suspended, and pay every dollar to these old soldiers and their heirs from the time that payment was suspended for causes and considerations probably good enough at the time, and for the reason that this is an obligation of the highest and most sacred character which any government can enter into. It was but the fulfillment of a promise which the Government gave to these soldiers when they enlisted in the service of their country in the year 1812: "If you enter the Army and become disabled we will indemnify you for any disability you may suffer, by giving you an annuity as long as you live;" and this pension certificate expressly certified a fulfillment of that obligation. Hence it was always to me a question not admitting of a doubt that this Government owed it to itself, owed it to its own dignity, owed it to justice, to restore to the pension-rolls these men who were drawing pensions and whose names were dropped under the requirements of this law.

Therefore, so far as the amendment of the Senator from Mississippi reaches the soldiers of the war of 1812 who were drawing pensions, it is eminently proper, and I shall support it with my whole heart.

The case is not so clear as to the proposition which is now pending before the Senate on a bill from the House, that all the surviving soldiers of the war of 1812 who were not disabled in the service shall receive a bounty in the shape of a pension at the rate of ninety-six dollars a year during their natural lives. The law, as it now stands, limits the pension, or the bounty rather, to those who served for a period of sixty days and were loyal, and it excluded those who did not adhere to the cause and Government of the United States during the late war. But that act was an act purely of bounty. It was not strictly a pension law. Congress had fulfilled its contract with the soldiers of that war when it gave pensions to those who were disabled and to the widows of those who were killed in the service or died of wounds received in the service. I repeat, Congress had performed its strict, legal obligation when pensions were thus provided. Therefore the act of 1871 was rather an act of bounty. It gave a pension to all who were loyal who had served for the period of sixty days; but I am not prepared at this time to say how I shall vote on the proposition to open the door to all who served in that war, without reference to their loyalty in the bestowment of this bounty.

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

Mr. ALCORN. I shall take the responsibility of withdrawing the amendment I offered, if I have the privilege.

Mr. MORTON. That is right.

The VICE-PRESIDENT. The amendment is withdrawn.

Mr. FERRY, of Connecticut. I desire to offer an amendment in the same behalf, in the last line of the third section and the fifth line of the fifth section to strike out the words "or State." As soon as the amendment has been reported I will make a few remarks upon it.

The VICE-PRESIDENT. The amendment will be reported.

The SECRETARY. It is proposed in section 3, line 6, to strike out the words "or State;" so that if amended that part of the section will read:

There shall be deducted therefrom any and all bounties already paid under the provisions of any United States laws.

And in section 5, line 5, after the words "United States" to strike out the words "or State;" so that if amended that part of the section will read:

That every petition or application for bounty made under the provisions of this act shall disclose and state specifically, under oath and under the pains and penalties of perjury, what amount of bounty has been paid under the provisions of any United States laws, &c.

Mr. FERRY, of Connecticut. I must confess, Mr. President, that the remarks of the Senator from Illinois by my side [Mr. LOGAN] have thrown a new light upon this bill and placed it in an entirely new attitude in my apprehension; but at the same time it is impossible for me to see how that Senator or any Senator, upon the ground of justice to the soldier, upon which the bill is now placed, can be willing to retain these two words which I move to strike out. As the bill stands, it is provided that from the bounties which shall be paid to the soldiers under this bill shall be deducted any bounties that they may have received under the provisions of any United States or State laws. The State in which I reside contributed very large State bounties to the support of its soldiers and their families during the entire period of the war. None of its soldiers, under this bill, can receive the meed of justice which it is said this bill is intended to confer without first deducting from what is due to them from the United States that which their State gave to them as its bounty.

The bill proceeds upon the theory that the Government of the United States in conferring its bounties of $100 a year really contracted to pay to its soldiers $8.33⅓ per month in annual payments of $100, or semi-annual payments in some cases of $50. It is the theory of the bounty laws that they constitute a contract between the Government of the United States and the soldier that he should receive this payment of $8.33⅓ per month, payable annually or semi-annually, as the case might be. But it is said that where a soldier happened to be killed or disabled by a wound, or, from some other cause, without fault of his, ceased to serve before the annual or semi-annual payment came around so as to be payable, the United States took advantage of that and refused to pay him the monthly amount that was in arrears since his last payment. That is the theory of this bill. If that is so, why in Heaven's name are the soldiers of Connecticut, to whom the United States owes this debt just exactly as much as it owes it to the soldiers of Indiana or Illinois, compelled to deduct the bounty which their State gave to them or their families? I owe the Senator from Illinois $100. He brings an action against me in court, and I reply that you shall deduct the amount which the Senator from Indiana has paid me on a debt which he owed me; and that is the identical proposition which the insertion of the words "or State laws" creates in the third and fifth sections of this bill.

If it is true that the bill stands upon the ground of justice of a debt contracted by the Federal Government and now due to the soldier, due as arrears of monthly payments of bounty, for which he has not received payment simply because he was shot before pay-day came around, most assuredly the Connecticut soldier who was shot before pay-day came around is entitled to receive his pay from the United States, although his family may have been receiving from the bounty of the State of Connecticut something for their support during the time that he was in the service. Upon the theory upon which the Senator from Illinois places this bill it is a monstrous iniquity to deprive the soldiers of the bounty-paying States of a debt due to them by virtue of a contract with the United States because of the bounty paid to them by their States. I do trust that such injustice will not be done to the soldiers of any of the States as to refuse to pay them what the United States owes them because their State has given them a voluntary contribution.

On this amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LOGAN. Mr. President, I do not see the iniquity that the Senator points out or that he professes to see. I will say—and I desire the attention of the Senator from Connecticut—that little over a year ago his colleague, since deceased, introduced a bill here in the Senate to pay two regiments of soldiers of Connecticut, or probably more, who had received no bounty. I reported the bill from the Military Committee and that bill was passed. That was giving to Connecticut an advantage over almost any other State.

Mr. FERRY, of Connecticut. If the Senator will excuse me, I know about that bill. It was framed by myself, but introduced by my colleague for particular reasons. That bill never passed the House.

Mr. LOGAN. It passed the Senate.

Mr. FERRY, of Connecticut. It passed the Senate. It was only for about two hundred men, one-half or three-fourths of whom were of my own regiment, and the rest of another regiment. But it did not produce the effect the Senator was about to speak of. At the same time, the bill never passed the House.

Mr. LOGAN. I was going to say that it was claimed that those persons did not receive the bounty they were entitled to under the law. I did not know but that the bill was passed; but this bill covers the case in that particular instance anyhow. The particular provision to which the Senator objects is the provision which deducts the bounties paid by the States to the soldiers. I have the data here which I read this morning. I will read the States: Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, District

of Columbia, Indiana, Illinois, Iowa, Minnesota, Missouri, and Kansas paid these bounties. Some of them paid a great deal more than others. Some of them paid as high as $800.

Now I ask if any injustice is done to the soldier who got $800 bounty when he was only entitled to $300 by saying he shall keep the bounty he got? It is no matter whether he got it from the State or the Government. It was in order to relieve the Treasury from the embarrassment which has been spoken of that this deduction was made. I do not see that it makes any difference to the soldier whether he gets the bounty from a State, county, town, or the General Government. When we undertake to equalize bounties we try to put all the soldiers as nearly as possible on a par, so that they shall all receive the same amount of money for their service. Although the Senator says it is an outrage, it certainly is not an outrage upon the soldier. So far as the State is concerned and the General Government, that is a question for them to settle. I said here this morning that I do not believe the Government is responsible to the State. I say so again; but my decision is not final as a matter of course. That is only my opinion; but so far as the soldier is concerned, the soldier certainly is not injured. The State may be, but the soldier is not. If the soldier is paid $500 bounty by the State and $300 by the General Government, he is not put on an equality with other soldiers because he receives $500 in excess of other soldiers. That does not put them on an equality. This bill is for the purpose of equalizing the soldiers so far as the pay is concerned, and for that reason I deem it just and proper. I made a calculation of the amount of bounty. I took two-fifths of the amount of the bounties paid by the States and added that to the amount of bounties paid by the Government and found that two-fifths was about the amount that would reduce it down to an equality with that which the Government paid.

Mr. BOGY. I desire to ask the Senator from Illinois a question.

Mr. LOGAN. Certainly.

Mr. BOGY. I wish to know if the States have been reimbursed by the Government the amount of bounty which they paid to their soldiers?

Mr. LOGAN. No, sir; I understand not. I understand the States have been reimbursed for indebtedness they created in recruiting soldiers but not for bounties paid to soldiers. That is about all I care to say about that.

While I am on the floor I will call the attention of the Senator from Ohio to the Adjutant-General's order that I spoke of this morning. The Senator from Ohio said that if the Government had deprived the soldiers of receiving their bounty merely because they were mustered out a few days before the time expired, he thought that would be an injustice; but he thought that I was mistaken. I would not read it but for the objection made by the Senator from Connecticut. Inasmuch as I am on the floor I will now read the order of the Adjutant-General to show the Senator that I was strictly correct in reference to it. I will not read all the order, because it is quite a long one; but I will read two paragraphs referring to the point I made. The order is speaking about how bounties shall be paid. The Adjutant-General says:

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE,
Washington, May 8, 1865.

* * * * * * *

For instance: if the soldier volunteered for two years, and is mustered out before the expiration of the first year of his service, he cannot claim either the second or third installments of bounty of $200, which would have been payable to him had he continued in the service till the expiration of the two years for which he enlisted.

Following that he says:

Only the volunteer who at the time of his discharge has completed one-half the term of service for which he enlisted is entitled to the second installment of one-third the amount of bounty given to him by the act, and he is entitled to no more of that bounty. If he is discharged on the next day after the expiration of one-half of his term of enlistment the second installment of the bounty is due and payable to him, but the discharge precludes him from receiving a third installment, that being due only to a volunteer who may have served his entire term of enlistment.

Mark the language. I said it was a contract with the Government. Now mark what the Adjutant-General says:

If he is discharged on the next day after the expiration of one-half of his term of enlistment the second installment of the bounty is due and payable to him, but the discharge precludes him from receiving a third installment, that being due only to a volunteer who may have served his entire term of enlistment.

That shows if he was mustered out just one day before he could not get a dollar of it. That is what I said this morning when the Senator thought I was mistaken in reference to it.

Now I do hope that this amendment will not be adopted. I do think the provisions of the bill are just, so far as the soldier is concerned. As far as justice to the States is concerned it is a different question. If the States desired to pay these bounties, if they could obtain soldiers in no other way but by paying out bounties, that was their own business; but the soldier is certainly not entitled to receive bounties from the Government and the State too under this bill. It certainly is not just that he should where he has received the full amount that the Government intended he should have.

Mr. FERRY, of Connecticut. Mr. President, this bill is either to pay soldiers a bounty or a debt. The Senator from Illinois in his opening remarks placed his case upon the ground that it was a debt due from the United States to the soldier of the United States, because the Government had contracted to pay him at the rate of $8.33⅓ a month in annual or semi-annual payments, and had unjustly taken advantage of his failure to serve up to the time when the amount became payable, in case he was killed or otherwise prevented from completing his term of service. If it is a debt, as I said before, then it is of no sort of consequence how many persons or States paid him bounties.

Suppose the State of Connecticut had provided to give to every one of her soldiers a gold watch, would the Senator from Illinois deduct from the payment of this debt, as he calls it, due from the United States to the soldiers, the value of the gold watch? If it were a bounty that we are enacting here, then certainly I should be opposed to the entire bill, loading the Treasury with such an amount of money in its present condition; but I take it upon his own ground, that the bill is intended to provide for the payment of the arrears of a debt due from the United States to its soldiers. The Senator asks is it unjust that the Government should refuse to pay this debt because the soldier has received a bounty from some other quarter? I say it is most manifestly unjust. If the Government of the United States contracted with me as a soldier from Connecticut to pay me $100 bounty, and I was disabled by wounds before the amount became payable, it would be a violation of that contract for the Government of the United States to refuse to pay me the *pro rata* amount due to me no matter if the State of Connecticut had given me $1,000 bounty. It is bounty in my State for the encouragement and comfort of its soldiers and of their families while they were in the service of the country. It is contract on the part of the Government of the United States with its soldiers upon which the Senator bases this bill; and if it is not contract, and if justice does not require this, the bill ought not to pass. If it is contract, then the soldiers of the States which gave bounties are entitled to receive from the Government of the United States what it owes them, just exactly as much as they were entitled to receive their arrears of pay. What sort of an answer would it be?

A soldier with six months' arrears of monthly pay is shot. His family receives the arrears of pay. We have laws upon our statute-books providing modes by which, through the proper Departments, those arrears shall be paid, because it is a debt, it is a contract which the Government made to pay him. O, but, says the Senator from Illinois, he is a Connecticut soldier and his State gave him ten dollars bounty, and it is no wrong to him therefore not to pay him his arrears. That is the ground upon which this strange provision is placed.

Mr. LOGAN. I did not say a Connecticut soldier.

Mr. FERRY, of Connecticut. Any soldier. Your State is a bounty State; take any State. To say in one breath that the payment you provide for in this bill is a debt contracted by the United States, and due upon principles of justice to the soldier as much as arrears of pay, and then to say that those who have received bounties from any source whatever, I care not what, shall not receive the arrears of debt justly due to them, I assert is a monstrous injustice. I do think that if this bill shall be passed in this form, there is instantly created by its passage a liability upon the Government of the United States to pay over to the bounty States the whole amount of money which they have thus paid. Why? What you have then done by this bill will be the confiscation of the whole amount of those State bounties to pay these arrears of debt to your soldiers which you refused to pay in instances where the soldiers did not serve out their full term before the annual or semi-annual payment became due. You have perverted the bounties provided for by the States into a means of paying your Federal obligations to the soldiers of the Federal Army. If it be not thus transferred into an obligation upon the Federal Government in behalf of the State, what have you done? You have taxed the bounty States to an enormous amount for the purpose of paying the soldiers of the non-bounty States for the service that they rendered to the Government of the United States. In any way in which I can look at this matter, the only legitimate, just mode of procedure with this bill is to strike out the words which I have moved to strike out; and leave the Government to pay its own debts out of its own Treasury, and not confiscate the State bounties for the purpose of paying Federal debts with them.

Mr. MORTON. Mr. President, I hope this amendment will not be adopted. I think it is as unsound in principle as to some extent my friend's statement is unsound in history. I have a very vivid recollection of the period to which he refers. I was myself occupying a position that gave me a very clear understanding of the difference between the bounty and the non-bounty-paying States; and in one sense this is a bill to pay a debt. By the technical construction of the acts of Congress, unless the term was served out the bounty was not drawn for the year or for the six months; but if anybody else stepped in and paid the debt, the soldier at least could not complain. But I want to say in regard to the bounty that this is rather a bill to do substantial justice among soldiers and to soldiers. The object of it is to place them upon an equality in point of fact if not in point of law; that one soldier who was honorably discharged shall be paid as much as another soldier who was honorably discharged, for the length of time that he served.

Now, Mr. President, this bill might go further than it does, and go further with propriety. When it first came up this morning I had a purpose of offering an amendment to it. In some States, and in my own, there were bounties paid to soldiers that were not in consequence of any State law. In some counties in my State there were voluntary contributions to the amount of thousands of dollars to pay

bounties to soldiers during 1864 and the winter of 1865. Townships were assessed, without any authority of law in many cases, to raise money to prevent the draft from falling on the township. A case of that kind is not covered by this bill, but it only applies where the bounty is paid by virtue of a State law. The bounty-paying States had the advantage of the non-bounty-paying States. My own State was not in a condition to offer bounties. In the first place, the political condition of Indiana prevented her from offering any bounty as a State. In the next place, the State was not nearly so wealthy according to her population as the States of New England, especially Connecticut and Massachusetts.

There were two purposes involved in the paying of bounties on the part of States, counties, townships, and cities. The first was patriotic. I want to give to every State, every county, and every city full credit for patriotism; but there was another purpose behind that, and that was to avoid the draft, because they all knew that if the State or the county in the State did not furnish its quota the draft would fall upon that State or that county, and there was a great desire to avoid that. That was the second purpose after patriotism.

Those States that were able to offer large bounties, like Massachusetts and Connecticut, had the advantage over States that could not do it, because they got many men from other States. I will not say about Connecticut, for I do not know, but as the governor of Indiana during that whole period, I was in a position to know something about it, and I am able to say that more than one thousand men from Indiana went and enlisted in other States on account of the high bounties. I do not say it in discredit of those soldiers at all. They were patriotic, but they naturally went where they could get the largest bounties; and I had official knowledge that over one thousand men were drawn from Indiana to enlist in other States in consequence of the high bounties. Those States that were able to pay those bounties had the advantage of drawing men from other States, and did do so. It was a voluntary matter on their part and they have no claim against the Government for it. This bill will give them no claim; it will give them no equity, none in the world.

The idea of frightening any Senator from the support of this bill upon the ground that it will create a claim in favor of a State that offered bounties seems to me to be utterly without any foundation in reason. Those States that were rich enough to go forward and offer bounties did it upon their own responsibility; and they have no earthly claim against the Government for it, and can have none whether this bill passes or not. They had the advantage of it at the time; they had the credit of it at the time also. States that could offer no bounty, in a different position from Connecticut and Massachusetts and other States, were compelled to struggle to make up their quota, and did raise their quota under circumstances of difficulty and of trial that other States knew nothing or very little about. I speak of the State of Indiana, and I speak from some personal experience on the subject, too.

Then, Mr. President, the purpose of this bill is to do substantial justice between the soldiers and let all be paid bounties at the same rate per month for the time they actually served, at least so far as may be, still leaving to the soldiers of the State of Connecticut the advantage; because when you have applied so much of their State bounty as would equalize their bounties under the acts of Congress, the soldiers of Connecticut still have the advantage over the soldiers of any other State in this Union, except those from Massachusetts.

Therefore, Mr. President, I hope the amendment will not be made.

Mr. EDMUNDS. This is a very extraordinary proposition which the Senator from Connecticut has moved to strike out. It is that the United States are to say to the soldiers of some of the States, "You have been provided for all that you are justly entitled to have by your own States, and we will give you nothing; but we will take those of you who were in the States that did not provide for you sufficiently and we will pay you out of the United States Treasury instead of allowing your States to provide for you themselves;" or else it is saying that by the acts of Congress about bounty there is justly and in good faith due to these soldiers, on account of the understanding between them and the United States, something more, because, as the Senator from Indiana puts it, it was a mere technical construction when you offer a bounty to be paid for a certain length of service if you fail to pay it when that certain length of service is not performed. So that we owe to everybody who enlisted under the laws of the United States, treating him in good faith, a bounty by the month instead of by the year. Then, why do you not pay it? "O, you had friends at home," you say to the First Regiment; "you came from Connecticut or Vermont, and they, seeing that the Government of the United States were not doing all for you and your families that ought to have been done, took care of you in the time of it." Therefore, we will say that under the laws of the United States, which spoke to all alike, not one thing to one State and another to another, but to every soldier of the Republic alike, saying, "If you will serve two years you shall have $200 bounty, and if you shall serve three years you shall have $300; never mind about the contract; never mind about this construction of justice and good faith on the face of the act of Congress; but we will refuse to pay you what we say under our own act is due to the rest, because you had friends at home who, in another way, made up as much to you as we owe you." Well, Mr. President, if that is not robbing Peter to pay Paul, I do not understand what robbery is.

But see how it will work. The State of Indiana, acting in the Congress of the United States by her Senators, proposes coolly to tax the soldiers and the rest of the people of the State of Vermont to help make up what they say is due in justice and good faith to the soldiers of Indiana from the General Government; but to what is due in justice and good faith to the soldiers from Vermont under the very same laws you say we will offset something that Vermont did for you before.

In substance, then, if you apply it to the State of Vermont alone, who paid her soldiers a bounty of $7, all alike, from the very first three months' men who turned out at the sound of the gun at the first instant, to those who served until the 19th of April, 1865, and who, besides that, under authority of law, paid bounties, as the United States did, upon first enlistment; you say to her, who paid this $7 a month bounty, amounting to nearly $10,000,000, to the 35,000 soldiers whom she put into the war. If there is to be $100,000,000 taxation to make up this bounty, we will take $1,000,000 out of the tax-paying soldiers of Vermont, and pay it over to the soldiers of the State of Indiana, under this very act of Congress which gentlemen say requires that you should treat them all alike.

Now, Mr. President, if anything more unjust or monstrous than that can be proposed, as an act of legislation, I do not understand it; and I can tell the Senator from Indiana and the Senator from Illinois that the soldiers of Vermont will not thank them for any bill of this character, under color of patriotism, or justice, or charity, or anything whatever, for perpetrating an act of wrong upon them and upon the other soldiers of the United States who furnished, by their labor and their skill, the wealth upon which tax is enforced. They will not see the justice of it, and they will not be misled by any cry of equality which says that the very same act of Congress means one thing for the soldiers of Indiana and another thing for the soldiers of Vermont.

I hope, therefore, that everybody who is in favor of having equality among soldiers and equality among States whose citizens were soldiers, and who make up the States now, will strike out this provision robbing the States and the soldiers of those States, and what they have done among themselves, in order to make it up to the soldiers of other States.

Mr. OGLESBY. I had not intended to take any time of the Senate in the discussion of this measure. I have had but little hope that we should reach it at all here, and I came this morning not as well prepared as I would have been if I had had any thought to discuss it.

It is very difficult for members of this body living in the West, however it may be in other States of the Union, to make satisfactory answer to the soldiers of the republic, who have served it long and well, as to why they have not received for the time of service they gave the country a bounty in proportion to that time of service rendered by their soldiers. I have found it very difficult to appease these soldier-citizens. There is a large particle of justice as well as equity in their claim against the Government for this bounty. If a man enlisted for three years and served two years, he received the bounty; if a man enlisted for three years and served less than two years, he did not receive the bounty—in full, I mean. If a man was wounded or disabled in the service and discharged from the service in consequence of wounds or from disabilities, he did receive a bounty; but if he was discharged from whatsoever cause, without full term of service, he has not received it. This is an effort now, at this late day, nearly ten years since the close of the war, to render to those men what they believe and what I must say I believe an act of justice.

It is objected to this bill by Senators here that it is not fair in its provisions. One objection prior to that, however, is that it draws a large amount from the Treasury. Very well, Mr. President, it does draw a large amount from the Treasury; but the nation that contains the Treasury has drawn a large amount of blood from these men. There are many men to-day who served this Government three months, six months, twelve months, eighteen months, who have been doomed to poverty since the close of the war because of that service alone; men who went into the war and gave up their callings in life; young men who were cut off from the pursuit of professions and trades in life; men in the flower of youth and bloom of manhood, at the age best adapted for the acquirement of artistic skill, were deprived of the means of entering into competition with the laboring-men of the country in the arts and industries, because their time was given to the nation. They received $8 a month, and then they received $13 a month, and finally $16 a month. Officers of the Army received higher pay, much higher pay. I happened to hold a commission for a portion of the war. All the officers are cut off in this bill, every one of them, high and low. It deals alone with the non-commissioned officers and the privates. It deals alone with the men who bore the burdens of the war with but little of its honors.

It is said that the Government cannot pay this debt; it is a burdensome debt. Some talk has been made about additional taxation this session. A very earnest effort was made to pass a bill within the past twenty-four hours, through this body, imposing additional tariff duties and additional taxes upon the country. I did feel it my duty, under the knowledge and information I possessed upon the subject of that bill, to vote against its passage. If some such measure as this had met the favorable consideration of this Congress, my views upon that subject might have been modified.

But, sir, with no bounties to soldiers; no more payment to them on account of their service to the country; no more payment of the

public debt, or but a small payment of it monthly, to ask us to put additional means at the disposal of the honorable Secretary of the Treasury, a gentleman whom I highly esteem, and who is worthy of the confidence of the whole country, because of his patriotism, his good sense, and his fidelity to his trust; to put more means into the Treasury administered by a republican President, in whom I have the same confidence this hour that I have ever had, for purity, patriotism, and ability, and for fidelity to the best interests of his country—until this hour I have held it to be my duty to vote against that bill. If some such measure as this had met the favorable notice of this body, my views might have been modified. It will take money out of the Treasury, and that money must come out of the people. It does not come from any other source and I know it. It must come through our tariff laws, or through our excise laws, or from what are sometimes called miscellaneous sources. I know where the means come from. Every man and woman in the land is perfectly advertised upon that question.

We all know where the resources of the country come from. They come by tariff and by taxation, or by loan. We are not making any more loans now. We are re-funding our national debt as rapidly as we can. We are lowering the rate of interest upon our national obligations whenever we can find creditors to accept a bond at a lower rate for one at a higher rate. We are doing everything as a party to-day that an intelligent people has a right to expect of us to be done to carry on the Government successfully and wisely; and it will be the gloomiest hour the American people ever beheld if they shall be so forgetful of their best interests as to remove from power the party holding the reins of government to-day, and substituting for it some other concern that nobody knows anything about.

Yes, sir, it takes money out of the Treasury, and if we pass this bill, as candid men on this floor, we must look the fact in the face and prepare to assist the Secretary of the Treasury to find the means to pay these men, if it shall become the law.

I expect to vote for this bill. I am prepared to vote as a Senator here for this bill and to place this demand on the Treasury. I am prepared to vote for this bill and put the soldiers of the Republic upon an equality one with another, as far as this bill goes toward the doing of that thing; and if the money is not in the Treasury, then I will stand here and give my vote to furnish the money to pay the obligation. I will not expect the President to do it; I will not expect the Cabinet of the President to do it; I will not expect the Secretary of the Treasury to do it; but I do understand it is a part of my duty as a Senator here to vote to provide the means to meet these obligations.

Now, sir, that is fair talking and fair dealing. Nobody misunderstands it either here or in Illinois, where I must go in a few days and give an account of my stewardship here; and it is a very much more difficult job to do it there than here.

I shall vote for this bounty bill. The honorable Senator from Connecticut feels that it is an unjust law. The honorable Senator from Vermont feels that it is an unjust law; that it ought to be amended, that the words "or States" or "bounties provided by States," now in the bill, should be stricken out. They urge the adoption of that amendment with considerable zeal, and with considerable force also. Now I will reply to that what they replied to me last night, or what one of the Senators replied to me on this floor. A bill was pending here last night of the utmost significance, of the utmost interest to this country, and the Senator from Vermont who had the bill in charge, [Mr. MORRILL,] on that occasion said that if amendments should be proposed and carried to that bill, he would regard those amendments as fatal to the bill, and therefore such movements as in hostility to the bill. He advertised us of that result, and I tried to help him as far as I could. I voted against the amendments.

Now I say to that honorable Senator, and to the gentlemen who propose amendments to this bill, that this bill, after having, session after session, passed the lower House of Congress, and session after session failed here, comes at the latest days of an expiring Congress to us from the House again, modified, reduced, lessened, cheapened, brought down to the lowest possible dollar, in order that it might pass the House and have some hope of passing here—I say to the honorable Senators from Connecticut and Vermont, and especially to the Senator of the Finance Committee, [Mr. MORRILL, of Vermont,] who reported the late tax-bill, that if you impose amendments on this bill in this body to-day you send it to worse than the tomb of the Capulets, you send it into absolute nonentity; it is the last of the bounty bill. Would you have it go back to the House under the present pressure of affairs, with the expectation of passing it? Never; not if the court understands itself, and it thinks it does.

Mr. HAGER. "She thinks she do." [Laughter.]

Mr. OGLESBY. "I think she do." [Laughter.] I stand corrected by the honorable Senator from California, who was once a judge of a court, and had control of a great many subjects requiring that sort of disposition.

This is the best bounty bill that can be offered. It is not a final bounty bill. I say to the Senator from Connecticut and the Senator from Vermont, it is not a final bill on this subject. It is a bill that provides now for the time being. It does not cut off the claims of other soldiers. It does not include all the soldiers, as they feel they ought to be included. It is no estoppel upon the soldiers in the other States of the Union to come forward at another and more propitious day with a bounty bill that shall do them still more justice. This bill does all the justice, in the estimation of the House, that Congress can do now.

The members who have had this bill in charge in both houses of Congress have felt that to make it acceptable, to give it any show of success, they must put it in the least objectionable shape, and must cut it down to the lowest possible dollar. Senators on this floor, coming from States where large bounties were given or where, perhaps, bounties were given of sufficient magnitude to equalize any bounties their soldiers will receive under this bill, feel that it is an unjust measure. I say to them that Congress has gone as far as it believes it can go now. It does not cut them off for the future. When you ask why not admit them now with others, I say you have kept the others in abeyance ten years. Congress has held these other men back for ten long years.

I could offer an amendment to this bill, and I would be justified in doing it, for my own regiment, that I once had the honor to command, was kept in the service faithfully and against its will long after the day provided in this bill when bounties shall be allowed for regiments and soldiers. For many, many months after the 5th of May, 1865, the Eighth Illinois Volunteer Infantry, with which I started in the war in 1861, was kept in the service; and although governor of the State of Illinois, and appealing to the Secretary of War, the lamented Stanton, imploring him for their discharge over and over again, he denied me, and I remember his reason was that I was governor of the State, and it was my own regiment, and he had no right to take liberties with my regiment. Sir, they would be entitled to bounty for every month they served after the close of the war, and it would be no more than just to amend this bill to include men who were in service after the 5th of May, 1865. But I will not ask it for that regiment or any other. I offer no amendment now, because I will not be the means of delaying justice to these men by putting on amendments here that might be in themselves wise or equitable. I will not venture to do that to-day.

The future is all before us. Perhaps the revenues and resources of this nation may be more abundant hereafter. If the Senators from those States who think the amendment proposed by the Senator from Connecticut should be adopted now, shall feel that this bill has not been just to their soldiers, it is open hereafter for further legislation. We have waited a long time, and do not get now all that the soldiers feel they ought to have. But the chairman of the Committee on Military Affairs in this body, who had reported another and a larger bill than this, agreed to accept this and urge its passage as the best that could be done at this time.

I only want to say, in regard to the amendment pending, that I shall vote against it. I will not stop to discuss whether it is constitutional, legal, or just to cut off these States that have paid the soldiers' bounties, and from which this bill cuts them off in settling in the Treasury Department with the soldiers drawing bounties. I will not debate that measure with them now. I will not say that they are wrong in insisting upon amendments, but I will say to those gentlemen, if the time shall ever come to debate that amendment, there are other arguments to be heard upon both sides, and certainly very strong ones, I think, to be urged against it. But I do not care to debate it now. I only mean to say that if any amendment of any kind is placed on this bill here—I quote the example of the honorable Senator from Vermont [Mr. MORRILL] in his emergency bill last night for what I am saying now on this one—that it is the last of it; it will not go through the House.

Although I am up, apparently, on the question of the pending amendment, I say I do not care to go into an analytical discussion of the reasons for and against that amendment. Many things are to be stated upon both sides of it. This much I will say, in conclusion, that the soldiers who served the nation received only their monthly pay, and nothing more than their monthly pay. They have not received a dollar's bounty to this day, for if they were not wounded or disabled, they received no compensation. If they have been healthy men, they have received nothing but their private soldier's pay. At this late hour in the decade since the close of the war, this is an effort to give them something more; it is an effort by Congress to meet their just claims.

So far as this bill goes, so far as it reaches that class of soldiers, without meaning to discriminate against soldiers from other States, or my own either, if they shall be cut off by the State allowances for State bounties, without meaning to discriminate against any Union soldier who served the country, whether he received a large local or State bounty, without meaning to say any unkind thing of them because of the large pay they received under various circumstances in addition to their monthly compensation as private soldiers, I do say that every Senator here must believe that he will be justified in giving to that class of men what is their due who received neither State, local, nor private bounty, nor anything but their monthly pay.

We shall commit no error, gentlemen, in paying that class of men $8.33 a month for the time they served the country.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Connecticut, [Mr. FERRY,] on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 34, nays 21; as follows:

YEAS—Messrs. Anthony, Bayard, Bogy, Boreman, Boutwell, Chandler, Conkling, Cragin, Davis, Dennis, Edmunds, Ferry of Connecticut, Frelinghuysen, Goldthwaite, Gordon, Hager, Hamilton of Maryland, Hamilton of Texas, Johnston, Jones, McCreery, Merrimon, Morrill of Maine, Morrill of Vermont, Ramsey, Robertson, Sargent, Saulsbury, Scott, Stevenson, Stewart, Stockton, Washburn, and West—34.

NAYS—Messrs. Alcorn, Cameron, Carpenter, Clayton, Dorsey, Ferry of Michigan, Flanagan, Gilbert, Harvey, Hitchcock, Ingalls, Logan, Mitchell, Morton, Oglesby, Patterson, Pratt, Schurz, Sherman, Spencer, and Wright—21.

ABSENT—Messrs. Allison, Brownlow, Conover, Cooper, Eaton, Fenton, Hamlin, Howe, Kelly, Lewis, Norwood, Pease, Ransom, Sprague, Thurman, Tipton, Wadleigh, and Windom—18.

So the amendment was agreed to.

Mr. HAMILTON, of Texas. I move to strike out section 9 of the bill, in the following words:

That no adjustment or payment of any claim of any non-commissioned officer, musician, artificer, wagoner, or private soldier, sailor, and marine, or his proper representative, under the provisions of this act, shall be made, unless the application be filed within five years from the passage of the same.

And in lieu thereof to insert the following:

That section 4717 of the Revised Statutes of the United States is hereby repealed, and all widows, dependent fathers and mothers, or minor children, who have been admitted to the pension-rolls, shall receive the rate of pension allowed to them respectively, from the date of the death or disability of the person on whose account the claim was made.

I ask the Clerk to read section 4717 of the Revised Statutes.

The Secretary read as follows:

No claim for pension not prosecuted to successful issue within five years from the date of filing the same shall be admitted without record evidence from the War or Navy Department of the injury or the disease which resulted in the disability or death of the person on whose account the claim is made: *Provided*, That in any case in which the limitation prescribed by this section bars the further prosecution of the claim, the claimant may present, through the Pension Office, to the Adjutant-General of the Army, or the Surgeon-General of the Navy, evidence that the disease or injury, which resulted in the disability or death of the person on whose account the claim is made, originated in the service and in the line of duty; and if such evidence, shall cause a record of the fact so proved to be made, and a copy of the same to be transmitted to the Commissioner of Pensions, and the bar to the prosecution of the claim shall thereby be removed.

Mr. HAMILTON, of Texas. Section 9 of the bill, which I propose to strike out, is precisely of the same character as the section just read in the Revised Statutes. It is a limitation upon the right of parties who are said to be entitled to this money under the laws of the United States. I have no doubt that the bill proposed here is a just one; that the parties are entitled to the money. That seems to be the conviction of all the military men, and, I believe, of the lawyers of the Senate as well. I have heard nobody oppose the bill on the ground that it is not justice to the soldiers.

The ninth section of the bill says that if they fail to file their claims after five years they are cut off and barred forever afterward. So, too, section 4716 operates as a bar against a large class of pensioners, widows, orphan children, dependent fathers and mothers, who have just claims against the Government, and who are just making them out after a lapse of twelve or more years, during which they have been deprived of the stipend which was offered to them by the Government, because they were so unfortunate as not to find the records clearly in their favor, and not able to find witnesses to prove the facts of their case until just now. We are passing every week, almost, a large number of pension cases through the Congress of the United States, because they could not go through the Pension Office under the law. The parties have been unable to procure the testimony, and unless the record evidence shows that the parties are entitled to it, that the soldier was in the service, that he was sick or died, or was disabled, the Pension Office cuts them off.

The rule has been in Congress here for the last three years to pass pension bills to take effect from the date of passage. Occasionally a case comes up that is so strongly urged, and has much political influence, and appeals to the sympathies of Senators so strongly that it is passed without much difficulty. I recollect a case here last winter, of a colonel of a regiment in New England, in the late war, who was wounded at Fort Wagner. He was wounded severely, but he recovered as he supposed; nevertheless, afterward, for ten years he was more or less disabled, on what account he was unable to say. He was a conscientious man, and would not say he was disabled by the wound he received in the war. He would not make the necessary proof to entitle himself to a pension, and never made application for a pension until he was operated upon by a surgeon, and an ounce ball was taken from him that he had been carrying for ten years. Then the difficulty was explained, and his friends brought him here to Congress and asked for a pension, dating from the date of the wound. Everybody said it was so clear and meritorious a case that it went through the House without a dissenting voice, and it went through the committee here, and the Senate likewise.

I say that was a just bill. I looked into it and examined into it; but it was not according to the rule laid down in the law. He was a lawyer himself, and he said he had no case; that he could not go before the Pension Office because he was not a pensioner. He recovered, as he supposed, before he discovered what was the matter with him. No case can illustrate more strongly the injustice of the rule as laid down in the law. I do not believe there is a Senator on the floor that will gainsay the justice of this case. It is the opinion of all that I have talked to on the subject that this will take nine or ten millions out of the Treasury. Suppose it does. As a member of the Committee on Pensions, I do not conceive it my duty to do the work of the Ways and Means Committee of the House, or the Finance Committee of the Senate. I try as near as possible to ascertain what the Government promised to the soldiers during the late war; what is just between the soldier, or his dependent friends and relatives, and the Government, and let somebody else find out where we shall get the money to pay.

For my part, if it takes $20,000,000 out of the Treasury, I feel that it is but justice to those people who cannot have now what everybody admits they are entitled to, that is, pay from the date of the death or the disability of the party on whose account the claim for pension is made. This section of the Revised Statutes stands as a bar to those people. They cannot go before the Pension Office, and when they appeal to Congress, Congress has been in the habit of saying, "Very well, we will be controlled now by the general law in the application of principles to this case, and when they come into our hands we will follow as nearly as possible the rule according to the general law.

I think, Mr. President, that the bill under consideration will take a much larger amount out of the Treasury than the amendment which I propose to add. The claims, to my mind, are exactly alike, so far as the obligation of the Government is concerned, but unlike in respect to the merits of the claims. One party is dependent, absolutely disabled, with no ability to take care of themselves. They are upon the charity of the community or of the Government, one of the two; whereas the other class are in all probability still able to make a living and to take care of themselves, and to take care of their families.

I hope the Senate will put this amendment on the bill. If Senators think it will take too large an amount of money out of the Treasury, I have no objection to laying both on the table; but I should like to see them go all together.

Mr. LOGAN. I have no doubt the Senator would like to see them all go together on the table. I did suppose there was a place somewhere where soldiers' rights could rest secure; but I find there is not. Finding the left of the Chamber are solidly against this bill, and enough republicans, who once cried for help from the soldiers, joining with them to put an amendment on this bill to defeat it, I am satisfied that when you have the service of a soldier once you are done with him. Senators here on this floor, and I call the attention of the country to it, who opposed this bill because it took so much money out of the Treasury, voted for an amendment a few moments ago that added more money to it. There is the consistency of Senators on this floor They oppose the bill because it takes money out of the Treasury, and then vote for an amendment that duplicates the amount of money that is to come out of the Treasury. The meaning of that is to defeat the bill. I prefer to have manhood enough to stand up on this floor and vote squarely against a proposition that I am against rather than to undertake to saddle it with amendments to defeat it. I said to-day that I hoped there was a disposition to help the sick, and the unfortunate, and the crippled soldier, who had been deprived of his pay, as he has been, according to the order that I read to-day, fulminated by the Adjutant-General of the Army, depriving those men of what they were honestly entitled to under the laws of this Government. I did hope there were men enough, friends to the unfortunate, here on this floor to say they would not still deprive them of their rights. In this I was deceived.

We propose to allow the bounties that have been paid by States to be deducted from the bounties that the Government is to pay. I said this morning that that deduction amounted to two-fifths, or over $200,000,000, and yet the Senate voted it on by a solid democratic vote, a portion of the republicans voting with them. I have no fault to find with any man for voting for the amendment of the Senator from Connecticut; Senators had a perfect right to vote for it; but it would have been more manly to have struck the bill right in the face and defeated it than to have tried to defeat it in this way.

Now, I object to the amendment of the Senator from Texas. I object to it because it is unsound in every particular. His theory in reference to pensions is unsound and his theory in reference to this bill is unsound. He says he wants the proviso attached to this bill in reference to pensions so that there shall be no limitation on the granting of pensions. I do not want it for the reason that I do want limitations. There should be a statute of limitations applicable to every sort of claim. A pension claim is a claim the same as any other claim except that it is based upon different principles. There should be a statute of limitations. The statute of limitations is five years. That has been extended to some persons by special act of Congress. Wherever a law is passed allowing persons to apply to the Government for the adjudication or allowance of a claim, there ought to be attached to the same law a proposition depriving them of that claim unless they apply within a certain length of time. The ninth section of this bill is a limitation. It provides that unless the applicant makes the application within five years he shall be debarred from making his application. That is right. There will be but few who will not make their claims within that time. If there are deserving cases in which the application fails to be made, they can be examined by Congress, and by a special act they may be relieved.

I want to appeal to the friends of this bill (what friends it has left)

to stand by it and pass it as it is now with the amendment of the Senator from Connecticut. At the same time I tell them that there is such a thing as a conference committee between the two Houses. There is such a thing as concurring in an amendment by one House to an amendment made by another. This bill passed the House by an almost unanimous vote, and if the opponents of this bill in the Senate Chamber intend to attach more money to the bill to be taken out of the Treasury, let the responsibility rest with them. Let us pass the bill and send it to the House. In my judgment, the House that passed it almost unanimously will agree to the amendment, if it does take double the amount of money out of the Treasury. If gentlemen want to saddle it with that amount of money, I want the Senate to give us a square vote. I want to see the opponents of the bill in the Senate vote solidly against soldiers receiving their just dues, if they have a mind to defeat the bill. It makes no difference, as a matter of course, with them to do it squarely, because they rise above party; they rise above the exigency of the times; they rise above the question of the mere pittance paid to the soldier; they are statesmen of elevated character and great breadth of intellect, and for that reason I give them credit as statesmen, wise men, who are not to be appealed to merely for the pittance that belongs to the poor man. Now, we are willing to be set down by his side, and we are willing for the country to say that, although we are poor in our ability to plead for his rights, yet we do make the plea in sober earnestness, and make it to the best of our ability and according to our best judgment and our conscience in the premises; and when the vote is taken I want to see a full vote. I do not want to see empty chairs on this side of the Chamber, as I have seen nearly all day, with the chairs all full on the other side.

Has it come to this, that the republican party of this country are alarmed; are they afraid to vote; are they afraid to show their hand; are they afraid to deal out justice to men; are they afraid to do their duty in this hour to the men of this country who deserve to have that duty done for and to them? If so, I want to know it. If that is the case I want to be able to tell the four hundred thousand soldiers that have petitioned for this claim before the Congress of the United States that there are some men here who are their friends, although they may be in the minority, and I want to be able to say to them that the men who stood by them in the conflict of arms yet stand by them in the halls of legislation in this country. I want to say to them that the men who falter are men who stood on the other side during the war, are the men who hated the flag and hated the soldier that bore the flag. I want to tell them that the same enemies they had during the war are their enemies now, and that their friends during the war are their friends now. Shall I not be able to say this much to them? If not, I want them to be able to read the names on the record of their country that are afraid to defend their rights in this Chamber.

Mr. ANTHONY. Mr. President, it is manifest that to-night we shall have to have a night session and sit up a great part of the night. There are several committees of conference that are obliged to be out of the Chamber, and the Committee on Appropriations has been obliged to be out for a long time, and will be again. Therefore I move that we take a recess from half past five to eight o'clock.

Mr. LOGAN. I hope we shall not do any such thing. I hope we will get a vote on this bill.

Mr. ANTHONY. I hope we shall before half past five o'clock.

Mr. LOGAN. Let us have a vote, and after that we can move in this matter.

Mr. ANTHONY. I will try the question now. I move that at half past five, to-day, the Senate take a recess until eight o'clock.

The VICE-PRESIDENT. The Senator from Rhode Island moves that at half past five o'clock the Senate take a recess until eight o'clock.

Mr. LOGAN. You may do that, but perhaps I will get the floor on some other bill, and I think I can speak until to-morrow at twelve o'clock.

The VICE-PRESIDENT. The Senator from Rhode Island moves that a recess be taken from half past five until eight o'clock this evening.

The motion was agreed to.

Mr. PRATT. I now move that the pending order be laid aside informally, for the purpose of resuming the consideration of the pension cases upon the calendar. The Senate was kind enough this morning to give me some ten minutes, during which time some twelve private pension bills were passed. There remain thirty-one or thirty-two pension bills; the most of them are bills which have come here from the other House.

Mr. EDMUNDS. The Senator only asks for private bills, I understand.

Mr. PRATT. Only private bills. My motion is that the Senate proceed to the consideration of those bills, and none others. I do not think they will occupy more than thirty or forty minutes.

Mr. LOGAN. Why not take the vote on this bill first?

Mr. PRATT. Because the Senator has had the floor with that bill ever since about half past twelve, and there does not seem to be any better prospect of reaching a vote now than there did during the first hour the Senator had the floor, and called this up as the chairman of the Committee on Military Affairs.

Mr. LOGAN. I beg the Senator's pardon; it was taken up by a vote of the Senate after the morning hour had expired, and is now the regular order.

Mr. SHERMAN. I think I can suggest a compromise which will suit most Senators, because we are all interested in the passage of these little pension bills.

Mr. LOGAN. I know we are.

Mr. SHERMAN. It is that the recess be till half past seven, and the half hour from half past seven to eight to be confined to pension cases. The time can be changed by common consent, and let that half hour be occupied by the Senator from Indiana.

Mr. LOGAN. As a matter of course I must submit to the will of the Senate.

Mr. SHERMAN. I supposed the Senator would agree to that.

Mr. LOGAN. No, sir; I have had but two bills passed in the hour allowed me. This bill was taken up by a vote of the Senate, and is now the regular order of business.

Mr. SHERMAN. I do not wish to displace it at all.

Mr. LOGAN. I shall oppose laying aside this bill until it is voted on, and I take it from the Senator from Indiana as very unfair to make this proposition. I gave way to him this morning ten minutes out of the time that was allotted to me, and then when the time arrived that was allotted to me the Chair cut me off, on objection being made by a Senator that I should not proceed. I then afterward, when there was no business before the Senate, asked the vote of the Senate on taking up this bill, which the Senator agreed to. The Senator from Indiana has had hour after hour, and has passed forty or fifty bills, and he now asks to lay aside this measure which is as important as any that has been before Congress, and is one that has been before it for six years, to take up special cases. I hope he will not press that motion, for I do assure him that he will gain no time by it. I have only claimed the rights and privileges that are allowed to others, and I have not been treated that way on this floor. The time that has been allotted to me has been taken away, and Senators have moved to lay aside the business that came from my committee, and have done it time and again.

Now, if the Senate are opposed to this bill, let them vote it down, and let them record their votes on the record, and not attempt to defeat it by these side moves. I only ask a fair vote on the bill, and let Senators record themselves. If gentlemen think they are going to take time by shoving aside measures that I have charge of, they are very much mistaken, because my physical ability now will allow me to consume just as much time as any other man in the Senate, and I do not intend to be laid aside in this way. If any gentlemen do it, I give them notice that they will gain no time by it.

Mr. PRATT. Mr. President, this movement is not intended to be hostile to the measure which the Senator from Illinois has so much at heart.

Mr. LOGAN. Then let us take a vote on the measure.

Mr. PRATT. You have been four hours trying to get a vote.

Mr. LOGAN. Yes, sir; and there have been bills here five days without a vote.

Mr. PRATT. The Senator speaks about the time given to the Committee on Pensions. Some two or three weeks since that committee was called on, had perhaps two hours, and passed during that time some forty bills. The committee will not be called again this session. Since that period the committee has been busily at work, and examined and reported upon some forty bills.

Mr. LOGAN. I will say to the Senator that, if he will allow this bill to be voted upon to-night, I will stand by him and help him to get time to press his measures before the Senate. I have had no time for my committee. I have had a pile of bills lying on my table that have not been acted upon, and that will not be. This is the only measure of any importance that the Senate has permitted the Committee on Military Affairs to have before it at this session.

Mr. PRATT. The honorable Senator has served himself on the Committee on Pensions, and he knows the character of these private bills, and he knows how disastrous it would be to the beneficiaries of these bills if they should be allowed to fail now at this last moment.

Mr. LOGAN. Yes, sir; but let me say to the Senator that there are nearly 300,000 men interested in the very bill before the Senate now. If the Senator expects to shove them aside with a few pension measures, he is very much mistaken.

The VICE-PRESIDENT. Objection is made to the request of the Senator from Indiana. It requires unanimous consent.

Mr. PRATT. Does it require unanimous consent that the pending order should be laid aside for the purpose of taking up pension bills?

The VICE-PRESIDENT. The Senator can make a motion to postpone; but the Chair did not understand the Senator to make that motion, but to ask that it might be done.

Mr. PRATT. If the Senator will consent that I may have half an hour on the re-assembling of the Senate after the recess to call up these bills, I would gladly agree to defer my motion.

Mr. LOGAN. I will consent. The Senator shall have all the time he wishes, all the session, if he wants it, after this bill is voted on. It will take but a few minutes to vote on it.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Texas [Mr. HAMILTON] to the bounty-bill.

Mr. HAMILTON, of Texas. I ask for the yeas and nays.

Mr. LOGAN. I hope the yeas and nays will not be taken. There is no use in deviling a bill to death.

The yeas and nays were not ordered.

The amendment was rejected.

Mr. EDMUNDS. I move an amendment to the bill—

SEC. —. That the Secretary of the Treasury is hereby authorized to borrow, on the credit of the United States, so much money as shall be needed to carry this act into effect, whenever, from time to time, there shall not be in the Treasury not otherwise appropriated sufficient funds with which to meet the payments required by this act.

SEC. —. That for the loans to be made as provided in the preceding section, there shall be issued and disposed of any of the kinds of bonds described in the act of Congress approved July 14, 1870, entitled "An act to authorize the refunding of the national debt."

I do not wish to prevent this bill from coming to a vote; and will only say, and to explain the amendment, we have refused to pass any tax-bill. We are facing an empty Treasury. Assuming that those who are in favor of this bill mean not to make a promise to the ear and deny it in practice, and really mean to pay this money as fast as it is ascertained to whom it is due, then we must provide for a deficiency in the Treasury to meet it, if a deficiency should occur. This amendment, therefore, provides that if, whenever any of this money is payable, there shall be no unappropriated money in the Treasury with which to pay it, the Secretary of the Treasury shall borrow money to do it, and then it provides the class of securities, which are the last class, fixed by the act of 1870, so as to make the debts of the United States harmonious, for the purpose of carrying that into effect. On this amendment I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. LOGAN. I presume the Senator offers this amendment in good faith; and if he will support the bill if it is put in——

Mr. EDMUNDS. Mr. President, I offer it in good faith, but I cannot support the bill, because I believe it to be wrong. If a majority of the Senate believe it to be right, then I believe it to be right in all sincerity that we should see to it that there is money to be had to pay these soldiers.

Mr. LOGAN. I wish to say a word before the vote is taken. I tried this morning to explain to the Senate—I believe I did to the satisfaction of most of them—that this bill would not take more than $20,000,000 out of the Treasury, and it would run along from seven to ten years in doing that; but the amendment voted on by the enemies of the bill and some of the friends of the bill adds to that very much more money, and for it the Senator from Vermont voted.

Mr. EDMUNDS. I certainly did; because it was right, as I thought.

Mr. LOGAN. I do not know how many millions it adds to the bill, but quite a number. Inasmuch as the enemies of the bill have added more money to it than the friends of the bill intended it should take out of the Treasury, for the purpose of giving those who voted against it a chance to have the amount of money that they have added to it paid, I will accept the amendment of the Senator from Vermont.

Mr. EDMUNDS. The Senator cannot accept the amendment, but he can vote for it; and I am very glad that he will do so. Nobody can accept an amendment to a bill, that I know of, but the Senate; but I am very glad my friend is for it. I wish to say one word in respect to what he has said about the enemies of this bill putting on an amendment. The amendment that has been put on was so just, so demonstrably just, that some Senators, who only have public interest and public honor at heart and were in favor of this bill, felt themselves obliged to vote for it. I was glad to see it; I was glad that they were independent of mere considerations of expediency when equality and justice were brought into question. I hope nobody will be disturbed at the suggestion of my friend from Illinois, that this bill has now been put into a shape that if it is to pass it may require more money than it would have required if, instead of having a measure of so-called equality and justice, you had one which was to plunder one part of the soldiers of the United States to pay others.

Mr. LOGAN. That is very nice talk; I am glad to hear it. The Senator talks about maintaining the honor of the Government! Well, I do not claim that I have ever maintained the honor of the Government. I will leave that for other people to say. I will only say to the Senator that before he makes these intimations he had better look and examine other people besides those that he refers to. I have no objection to providing for the payment of this money, and inasmuch as the bill has to go back to the House anyhow, by the amendment already adopted, if it should pass, and I have no knowledge whether it will or not, let it be put on. When I said that I accepted the amendment, I stated it in good faith. I said if the amendment was offered in good faith I was perfectly willing to accept it. I know I have no power to accept it technically unless the Senate shall agree to it, but I stated that merely to indicate to the friends of the measure that I have no objection to it, inasmuch as I was managing the bill. I am willing it shall be adopted. There is no necessity for calling the yeas and nays, as far as that is concerned, for I do not presume there will be any opposition made to the amendment.

Mr. MORTON. There is a tax-bill lying on the table which the Senate can take up and vote upon, which I voted for last night, and would be glad to vote for again to-night, which, if it passes, and I think now, from what I have heard, it will be strong enough to pass, will obviate any necessity for borrowing money for this or any other purpose. But I have this to say, that we borrowed money all through the war to pay bounties and to pay soldiers, and if we have to borrow money there is no more patriotic purpose for which to borrow it than to equalize bounties among soldiers, and pay to soldiers those bounties from which they were cut off by a technical construction of the law.

The Senator from Vermont made a remark a moment ago, speaking of the amendment for which he voted, and which has added many more millions to the operation of this bill if it shall pass—that is, striking out the word "State" and striking out State bounties in stating the accounts of the soldiers—that the bill as it stood before robbed the soldiers of one section of the country to pay others. What justification for that remark was there in the bill? I ask you how any soldiers could be robbed, or how any soldiers could suffer, how any soldier would lose one cent from the bounties paid by States being taken into account. It takes nothing from any man. So far as I am concerned, I will vote for the amendment.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment of the Senator from Vermont, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 41, nays 12, as follows:

YEAS—Messrs. Anthony, Boreman, Boutwell, Chandler, Conkling, Conover, Cragin, Dorsey, Edmunds, Ferry of Connecticut, Ferry of Michigan, Flanagan, Goldthwaite, Gordon, Hamilton of Maryland, Hamilton of Texas, Hamlin, Harvey, Hitchcock, Howe, Ingalls, Jones, Logan, McCreery, Merrimon, Mitchell, Morrill of Maine, Morrill of Vermont, Morton, Norwood, Oglesby, Patterson, Pratt, Ramsey, Sargent, Schurz, Sherman, Spencer, Stevenson, Stewart, and West—41.

NAYS—Bayard, Bogy, Cooper, Davis, Dennis, Frelinghuysen, Gilbert, Hager, Saulsbury, Sprague, Stockton, and Washburn—12.

ABSENT—Messrs. Alcorn, Allison, Brownlow, Cameron, Carpenter, Clayton, Eaton, Fenton, Johnston, Kelly, Lewis, Pease, Ransom, Robertson, Scott, Thurman, Tipton, Wadleigh, Windom, and Wright—20.

So the amendment was agreed to.

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

The bill was read the third time.

The PRESIDING OFFICER. The question now is, Shall the bill pass?

Mr. EDMUNDS. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The CHIEF CLERK proceeded to call the roll.

Mr. HAMILTON, of Texas, (when his name was called.) I am paired with the Senator from Arkansas, [Mr. CLAYTON.] If he were present he would vote for the bill, and I should vote against it.

Mr. SCHURZ, (when his name was called.) On this question I am paired with the Senator from Georgia, [Mr. NORWOOD.] If he were here I would vote "yea," and he would vote "nay."

The CHIEF CLERK concluded the call of the roll, which resulted, yeas 30, nays 30; as follows:

YEAS—Messrs. Alcorn, Boreman, Cameron, Carpenter, Conkling, Conover, Cragin, Dorsey, Ferry of Michigan, Flanagan, Gilbert, Hamlin, Harvey, Hitchcock, Howe, Ingalls, Jones, Logan, Mitchell, Morton, Oglesby, Patterson, Pratt, Ramsey, Scott, Spencer, Wadleigh, West, Windom, and Wright—30.

NAYS—Messrs. Allison, Anthony, Bayard, Boutwell, Chandler, Cooper, Davis, Dennis, Eaton, Edmunds, Ferry of Connecticut, Frelinghuysen, Goldthwaite, Hager, Hamilton of Maryland, Johnston, McCreery, Merrimon, Morrill of Maine, Morrill of Vermont, Ransom, Robertson, Sargent, Saulsbury, Sherman, Sprague, Stevenson, Stewart, Stockton, and Washburn—30.

ABSENT—Messrs. Bogy, Brownlow, Clayton, Fenton, Gordon, Hamilton of Texas, Kelly, Lewis, Norwood, Pease, Schurz, Thurman, and Tipton—13.

The VICE-PRESIDENT. On this question 30 have voted in the affirmative and 30 in the negative. The Chair votes in the affirmative; and the bill is passed.

CRUELTY TO ANIMALS.

Mr. CONKLING. I ask the Senate to take up a bill, which will take but a moment, reported from the Committee on the Judiciary, to prevent cruelty to animals in this District. It is Senate bill No. 1144.

The bill (S. No. 144) to prevent cruelty to animals in the District of Columbia was considered as in Committee of the Whole.

The VICE-PRESIDENT. The bill will be read.

Mr. CHANDLER. I move to postpone that and all prior orders to take up House bill No. 1588.

Mr. CONKLING. I call for the reading of the bill. The Senator cannot interrupt that.

The VICE-PRESIDENT. The bill has been taken up and will be read.

The bill was read.

The Committee on the Judiciary reported the bill with amendments.

The first amendment was in section 1, line 6, after the word "sustenance" insert "or care."

The amendment was agreed to.

The next amendment was in section 1, after the word "weather," in line 16, to insert:

Or drives, or causes to be driven, when the ground, road, or street is slippery from snow or ice, any horse not so shod as to enable him to travel without slipping.

So as to read:

Or unnecessarily fails to provide the same with proper food, drink, shelter, or protection from the weather, or drives, or causes to be driven, when the ground, road, or street is slippery from snow or ice, any horse not so shod as to enable him to travel without slipping, shall, for the first offense, be punished by a fine not less than five dollars nor more than fifty dollars, and for every subsequent offense not less than twenty-five dollars nor more than one hundred dollars.

The amendment was agreed to.

The next amendment was in line 5 of section 2, to strike out the words "by the fine imposed," and insert "as provided;" so as to read:

SEC. 2. That any person or persons who shall cause, procure, or in any way be interested in the procuring of the matching or fighting of any fowls, dogs, or other

animals in any place within the District of Columbia, shall be punished as provided by the first section of this act.

The amendment was agreed to.

The next amendment was to strike out the letter "s" after the word "cow" in line 2, section 3; so as to read:

SEC. 3. That any person or persons who shall have any milch-cow in his control or custody, who shall cruelly or unnecessarily fail to relieve the same of her milk at the proper time, shall be punished for the first offense by a fine of not less than ten dollars nor more than one hundred dollars, and for every subsequent offense by a fine of not less than twenty-five dollars nor more than one hundred dollars.

The amendment was agreed to.

The next amendment was in line 7 of section 4, after the word "warrant" to insert:

Shall be authorized to take possession of the animal or animals in respect of which the violation of this act occurs.

So as to read:

SEC. 4. That any person found violating the laws in relation to cruelty to animals may be arrested and held without a warrant, in the manner provided by the charter of the Association for the Prevention of Cruelty to Animals, granted by an act of Congress approved June 21, 1870; and the person making an arrest, with or without a warrant, shall be authorized to take possession of the animal or animals in respect of which the violation of this act occurs, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested, and shall properly care and provide for such animals until the owner thereof shall take charge of the same.

The amendment was agreed to.

The next amendment was in line 18 of section 4, after the word "care" to insert:

Provided, That before any such sale shall take place, at least twenty-four hours' notice of the time and place of sale shall be given to the owner, if he can be found in said District, and also by posting written or printed notices thereof, three days before such sale, at three public places near the place of sale; and if the owner disputes the charges for care and provisions, he may require the person charging the same to submit the same to the justice of the peace who issued the warrant, at a specified time; and such justice shall, without unnecessary delay, examine and decide upon the validity and amount of such charges.

The amendment was agreed to.

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

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

DEDUCTIONS FROM SENTENCES.

Mr. CONKLING. I move to take up House bill No. 3504, which provides for deductions from the terms of sentence of prisoners in penitentiaries—a very short bill, which will take but a moment. Like the other, there are few to speak for it, and therefore I feel bound to insist on it.

The motion was agreed to; and the bill (H. R. No. 3504) to provide for deductions from the terms of sentence of United States prisoners was considered as in Committee of the Whole.

The Committee on the Judiciary reported the bill with an amendment, which was, to insert at the end of the bill the following as an additional section:

SEC. 2. That on the discharge from any prison of any person convicted under the laws of the United States on indictment, he or she shall be provided by the warden or keeper of said prison with one plain suit of clothes and five dollars in money, for which charge shall be made and allowed in the accounts of said prison with the United States: *Provided*, That this section shall not apply to persons sentenced for a term of imprisonment of less than six months.

The amendment was agreed to.

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

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

The bill was read the third time and passed.

TAX AND TARIFF BILL.

Mr. MORRILL, of Vermont. I move to take up from the table House bill No. 4680, to further protect the sinking-fund and provide for the exigencies of the Government.

Mr. SHERMAN. I would like to have the yeas and nays on that motion.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. CRAGIN, (when his name was called.) On this question I am paired with the Senator from New York, [Mr. FENTON.] Were he here I should vote "yea," and he would vote "nay."

Mr. ROBERTSON, (when his name was called.) On this question I am paired with the Senator from Georgia, [Mr. NORWOOD.] If here, he would vote "nay," and I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 26, nays 23; as follows:

YEAS—Messrs. Anthony, Boreman, Boutwell, Cameron, Chandler, Conkling, Dorsey, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Hamlin, Howe, Mitchell, Morrill of Maine, Morrill of Vermont, Morton, Patterson, Pratt, Ramsey, Sargent, Scott, Spencer, Wadleigh, Washburn, and West—26.

NAYS—Messrs. Bayard, Bogy, Cooper, Davis, Dennis, Goldthwaite, Gordon, Hager, Hamilton of Maryland, Hamilton of Texas, Johnston, Jones, McCreery, Merrimon, Ransom, Saulsbury, Schurz, Sherman, Sprague, Stewart, Stockton, Thurman, and Wright—23.

ABSENT—Messrs. Alcorn, Allison, Brownlow, Carpenter, Clayton, Conover, Cragin, Eaton, Fenton, Ferry of Connecticut, Gilbert, Harvey, Hitchcock, Ingalls, Kelly, Lewis, Logan, Norwood, Oglesby, Pease, Robertson, Stevenson, Tipton, and Windom—24.

So the motion was agreed to.

The VICE-PRESIDENT. The bill is before the Senate.

Mr. FERRY, of Michigan. I ask the Senator from Vermont to yield to me to take up a bill from the table.

Mr. MORTON. Let us take a vote on the tax-bill.

Mr. MORRILL, of Vermont. I much prefer to dispose of this bill before the recess. We have but a half hour. All I desire is to take a vote.

Mr. BAYARD. I think the Senator from Vermont will find there will be some discussion about the bill, and if he will permit me to bring in a bill, which he has concurred in, and that is recommended unanimously by the Committee on Finance, I shall be obliged to him.

Mr. MORRILL, of Vermont. I hope the Senator will not ask me to do that, because I have been asked by half a dozen about me, but declined.

The VICE-PRESIDENT. The bill is before the Senate as in Committee of the Whole, and open to amendment.

Mr. JOHNSTON. I move to postpone the bill indefinitely, and on that motion I desire to be heard.

Mr. FERRY, of Michigan. I ask the Senator from Virginia to yield to me to allow a bill to be taken from the table to concur in a House amendment.

Mr. JOHNSTON. Provided I do not lose the floor.

Mr. FERRY, of Michigan. Certainly not. I ask that the bill (S. No. 420) be taken from the table to concur in the House amendment.

LANDS IN MICHIGAN.

The VICE-PRESIDENT laid before the Senate the amendment of the House to the bill (S. No. 420) to amend the act entitled "An act for the restoration to homestead-entry and to market of certain lands in Michigan," approved June 10, 1872, and for other purposes.

The first amendment was in line 16, after the words "restored to market" to insert "offered for sale at a price not less than $2.50 per acre."

Mr. FERRY, of Michigan. I move that the amendment of the House be concurred in.

The motion was agreed to.

Mr. FERRY, of Michigan. There is an amendment reported by our committee, to correct a typographical error changing section 4 to 24. As this bill will necessarily go to the House in case of this amendment, I ask that it be non-concurred in, and I will then follow it with a concurrent resolution instructing the Committee on Enrolled Bills to correct the error. This is to save the bill from going to the House.

The VICE-PRESIDENT. The amendment will be reported.

The CHIEF CLERK. The amendment is in section 2, line 3, before the word "four" to insert "twenty," so as to read "section twenty-four."

Mr. EDMUNDS. What does that mean?

Mr. FERRY, of Michigan. I will state to the Senate, and especially to the Senator from Vermont, that in the original print the land section described in this bill was section 24, but during the process in the House it changed—I do not know how—only I know the fact that section 4 is an error, which was discovered in the Committee on Public Lands of the Senate, and they reported an amendment changing "four" to "twenty-four," as it was originally printed. Now, I frankly say that I desire that the bill shall pass, and I have a concurrent resolution to authorize the enrolling committee to make the correction. I ask that the amendment be non-concurred in.

The VICE-PRESIDENT. The Senator moves that the amendment be non-concurred in.

The motion was agreed to.

Mr. FERRY, of Michigan. Now I offer this concurrent resolution and ask its passage:

Resolved by the Senate, (the House of Representatives concurring,) That the Joint Committee on Enrolled Bills be authorized in examining the enrollment of the bill (S. No. 420) to amend the act entitled "An act for the restoration to homestead-entry and to market of certain lands in Michigan," approved June 10, 1872, and for other purposes, to correct a clerical error discovered in the bill after its passage, by inserting in section 2, line 3, after the word "section" and before the word "four," the word "twenty," so that the third line of that section will read, "of range two east, and section twenty-four, in township 47 north."

Mr. EDMUNDS. There is a little objection to that particular concurrent resolution which of course is not of much consequence; and that objection is that it is not true. It states what is untrue on the face of it, that this error has been discovered since the passage of the bill. The bill is finally passed at this moment by concurring in one amendment and receding from another. I suppose it is not of much consequence nowadays, but I will say that I for one put in a protest against this method of doing business. We are in such haste, in our appetite for public lands, that we must pass a bill that we know to be incorrect, and follow it instantly by a concurrent resolution to correct it, asserting on the face of the resolution what is not true, that an error of that kind was discovered after the passage of the bill. I of course do not interpose any objection to it this time, but I think it does not characterize the proceedings of the Senate very highly to be doing business in that way.

Mr. FERRY, of Michigan. I am following the precedent set at this session in two cases before this. I have followed the lead of other Senators.

Mr. EDMUNDS. Such errors have not been corrected when it was known that they existed when the bill passed, and it was publicly stated. Here we have receded from an amendment, knowing that it

ought to be made, as proven by the assertion of what is not true as a reason for changing it a moment afterward.

Mr. FERRY, of Michigan. My conscience will not trouble me. If the Senator does not like it he will vote against it, and I will vote for it.

The resolution was agreed to.

JAMES J. MURPHY, DECEASED.

Mr. CARPENTER. I am directed by the Committee to Audit and Control the Contingent Expenses of the Senate to report the following resolution and ask its present consideration. There will be no objection to it, I am sure:

Resolved, That the Secretary of the Senate be directed to pay, out of the contingent fund, to the widow of James J. Murphy, deceased, late a member of the Official Reporting Corps of the Senate, the same amount which was paid to the mother of George S. Wagner, late librarian of the Senate, for funeral expenses and other allowance, under the resolution of December 23, 1874.

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

CHANGE OF NAME OF A PORT.

Mr. HAMLIN. I ask that a House bill be taken from the table changing the name of the port of Nobleborow to Damariscotta.

By unanimous consent, the bill (H. R. No. 4856) to change the name of the port of Nobleborow to Damariscotta was read three times and passed.

REMISSION OF TAXES.

Mr. EDMUNDS. Let us have the regular order.

Mr. BAYARD. I ask the consent of the Senator from Virginia, who has the floor, to pass House bill No. 4833.

Mr. JOHNSTON. I have no objection.

Mr. MORRILL, of Vermont. I hope the Senator from Delaware will be allowed to pass that bill.

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 was considered as in Committee of the Whole.

Mr. BAYARD. I may state that the bill is unanimously recommended by the Committee on Finance.

The bill was read. The Committee on Finance reported the bill with amendments.

The first amendment was in line 5 of section 1 to strike out after the word "indebtedness" the words "issued by," and insert in lieu thereof "made against;" so as to read:

and release any claims for tax on circulation of evidences of indebtedness made against any mining, manufacturing, or other corporations, &c.

The amendment was agreed to.

The next amendment was in lines 6 and 7 to strike out the words "(except banks and bankers) in the sixth collection district of Michigan," and in lieu thereof to insert:

other than against any national banking association, State bank, or banking association.

The amendment was agreed to.

The next amendment was in line 14 to strike out the word "either" after the word "construed," and strike out after the word "cases," the words "or otherwise, in such district," and insert "except as to national banking associations."

Mr. EDMUNDS. I would suggest to the Senator from Delaware that the exception ought to be as broad as the prior part of the bill, including State banks and State banking associations. I see no propriety in making this applicable only to national banking associations.

Mr. BAYARD. I believe the amendment, as it stands, to be necessary to reach the relief the committee designed to give. The hardship of this case was that when the parties presented a form of the certificates of indebtedness against the corporation, to the Commissioner of Internal Revenue, he distinctly informed them that a private bank or banker would not be liable to this tax, but that a national bank alone would be liable. Under that the certificates of the corporations were issued, in some cases by State banks. Under the construction of the Commissioner of Internal Revenue the hardship was that after they had allowed these certificates to be issued, or reissued, not being created by themselves, but by these mining corporations, they were then suddenly called upon to pay this constructive tax of 10 per cent. on a large amount, which would be absolutely ruinous. They submitted the matter to the discretion of the Commissioner of Internal Revenue, who stated in the original letter, which I hold in my hand, that the tax would be only applicable to national banks.

Mr. EDMUNDS. May I ask the Senator to send that letter to the desk and have it read? If the Commissioner of Internal Revenue thought the act of Congress did not apply to State banks as distinguished from private bankers, then I must express my surprise; but we will see what the Commissioner does say.

Mr. BAYARD. I send up the letter.

The Secretary read as follows:

TREASURY DEPARTMENT, OFFICE OF INTERNAL REVENUE,
Washington, August 8, 1872.

SIR: D. G. Stone, of Negaunee, Marquette County, Michigan, writes the Office inclosing "a hand-draft for one dollar," which reads as follows:

1 1

Pittsburgh & Lake Angeline Iron Co.

MARQUETTE, MICH., *Sept.*, 1871.

Pay H. Diamond, Supt., or bearer,
One Dollar. 2739.

value received, and charge to account of T. Dwight Ells, Treas. A. Kidder, Agent.

Cleveland, O.

And inquired "whether, when these drafts are used for circulation and received as deposits in banks and paid out, a private bank or banker (as also a national bank) is liable to a tax of ten per cent. on amount paid out, as circulation?"

It would appear from the terms of sec. 6, act March 3, 1865, as amended, that a private bank or banker would not be liable to the said tax, but that a national bank would be liable.

Very respectfully,

B. J. SWEET,
Acting Commissioner.

T. NORTH, Esq.,
Assessor, Vassar, Mich.

Mr. EDMUNDS. It appears, I submit to the Senator from Delaware, that the Commissioner of Internal Revenue does not say that the law does not apply to State banks. He only says it does not cover private banks. My suggestion was, in respect to remitting these penalties, that we ought not to remit beyond the effect of the letter of the Commissioner of Internal Revenue, based upon a misconstruction, as it is claimed. I do not know whether it was a misconstruction or not of the law; and the law, as stated by the Commissioner of Internal Revenue, does not excuse a State bank. He says it excuses the private banker. My suggestion was that after the words "national bank or banking association" the words "or State bank" be inserted, as not falling within this relief, and it ought not to be included, because the Commissioner does not appear by this letter to have misled any State bank upon the topic referred to.

Mr. BAYARD. In the first place, this is a matter of retrospective relief. After the 1st day of November, 1873, the use of these tokens as circulation was not permitted, nor is a tax received from them. It runs during a period of time in which there was a misapprehension on the part of those bankers who passed these tokens over their counter as to the tax to which they were liable. This letter does distinctly say that it is the national bank; it does not say "alone;" but the national bank that is liable to the payment of the tax, and that the private bank is not. In this case none of the tokens which we seek to relieve from taxation were issued by any but these mining and manufacturing corporations. It is not the issues of State banks at all that are sought to be affected. There is nothing in the bill that proposes that. It is the due-bill, the post-notes of the manufacturing and mining corporations alone which are to be relieved, not the issues of State banks; but if these manufacturing and mining corporations' paper was passed over the counter of a State bank, we hold that the State bank, acting under the opinion of the Commissioner of Internal Revenue, should be relieved from the tax as much as the private banker. The question has been submitted to the Commissioner of Internal Revenue. They were not banks of issue.

Mr. EDMUNDS. The bill does not say anything as to whether a bank is a bank of issue or any other thing. It says, that the provisions of section 3412 of the Revised Statutes, shall not be construed, in the pending cases, except as to national banking associations, to apply to this class of things, so that in any prosecution against a State bank of issue, doing a banking business, we are to give this relief. If that is right, very well; but I do not know why it is right. Because a State bank, before this period of time mentioned a bank of issue, not a savings bank, nor a private banker, chose not to pay the tax that it ought to have paid into the Treasury of the United States, why should it be relieved? If this letter of the Commissioner had said that a State bank of issue did not fall within the law, and State banks of issue were, therefore, misled in making these issues, there would be great force in what the Senator says; but the letter does not say that.

Mr. SHERMAN. I think there are no State banks of issue. There are State banks in the nature of savings banks, as I understand, but they are simply incorporated brokers.

Mr. EDMUNDS. Does the Senator mean to say that in the year 1863, or whatever the time was, in the State of Michigan there were no State banks of issue?

Mr. FERRY, of Michigan. Not in the upper peninsula.

Mr. EDMUNDS. But this bill is not confined to the upper peninsula of Michigan. It is broader in its character than that. It applies to the whole State of Michigan, and all other States for aught I know.

Mr. SHERMAN. It reaches cases in the South also.

Mr. EDMUNDS. I do not want to prevent the passage of the bill, the committee having considered it; I only suggest, in the interest of justice to all, that with this exception which now includes national banking associations, should also include State banks of issue.

Mr. SHERMAN. I desire to offer an amendment by adding one word, which my friend will see the importance of. After the word "issued," in the last line, I want to insert the words "or re-issued."

Mr. EDMUNDS. I move to amend the last amendment of the committee "except as to national banking associations," by adding "and State banks of issue," so that they will fall within the exceptions. Senators will see that it does not apply to any existing case.

Mr. FERRY, of Michigan. I hope that amendment will not be made. The object of the bill was to apply specially to the upper peninsula of Michigan, as it passed the House. It came to the Senate

and was referred to the Committee on Finance, and they, in their judgment, saw fit to make it general. Now if, according to the construction of the Senator from Vermont, this latitude is given, it may affect injuriously those who are seeking relief. I hope the Senator from Vermont will not, by any amendment which he insists upon, act injuriously to the interests of these men, who innocently have used this paper, supposing, in good faith, that they were authorized to do it. During all this time, until recently, the Government has never applied to them or made any charge against them for taxation; but when the Government did, they protested against it, and stated that if they had done acts contrary to law it was known to the Government, and the Government should have notified them.

I am not disposed to take up the time. I see the hour for the recess has nearly come. I hope the amendment of the Senator from Vermont will not be agreed to.

Mr. EDMUNDS. I agree with the Senator from Michigan, that it would be right, as he states it, if his case was limited to banks that were not banks of issue, and to private bankers. He says that in the northern peninsula of Michigan there were no State banks of issue. If there were no State banks of issue, the amendment that I propose to the amendment of the committee will not hurt anybody in the northern peninsula of Michigan. I only want to protect the interests of the United States, if I can, so that my amendment is not obnoxious to the objection of the Senator from Michigan.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Vermont to the amendment.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. SHERMAN. I move to add the words "and reissued," after "issued," in the eighteenth line, so as to prevent the possibility of their coming in and being reissued.

The amendment was agreed to.

The bill was reported to the Senate as amended, and 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.

The title of the bill was amended so as to read:

"A bill to authorize the Secretary of the Treasury to adjust and remit certain taxes and penalties claimed to be due from mining and other corporations, and for other purposes."

RECESS.

Mr. RAMSEY. I move that the Senate proceed to the consideration of the bill for the creation of the Territory of Pembina.

Mr. JOHNSTON. I believe I have been entitled to the floor all this time, and this business has been going on by consent, but the hour for the recess has come.

The VICE-PRESIDENT. The hour of half past five has arrived, and the Senate will take a recess until eight o'clock p. m.

EVENING SESSION.

The Senate re-assembled at eight o'clock p. m.

Mr. JOHNSTON. I believe I am entitled to the floor.

The VICE-PRESIDENT. The Senator from Virginia is entitled to the floor on the tax bill.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. SARGENT. I ask that the sundry civil appropriation bill, with the amendments of the Committee on Appropriations, be printed.

The motion was agreed to.

CLERKS OF COMMITTEES.

Mr. RAMSEY submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay the clerks of the several standing committees of the Senate their usual per diem compensation for the month of March.

PAY OF PAGES.

Mr. TIPTON submitted the following resolution; which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the pay of the pages of the Senate be continued until the end of the present month, and that the Secretary is hereby directed to allow and pay the same.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLINTON LLOYD, its Chief Clerk, announced that the House had passed a bill (H. R. No. 4854) for a ratification of an agreement with the Jicarilla Apache Indians, in which it requested the concurrence of the Senate.

WILLOW SPRINGS DISTILLING COMPANY.

Mr. HITCHCOCK. With the consent of the Senator from Virginia, I move to take up House bill No. 4829.

Mr. JOHNSTON. I cannot yield after this.

By unanimous consent the bill (H. R. No. 4829) for the relief of the Willow Springs Distilling Company, of Omaha, Nebraska, was considered as in Committee of the Whole.

It is a direction to the Secretary of the Treasury to credit the Willow Springs Distilling Company, of Omaha, Nebraska, with such amounts as he shall find, on investigation, to be assessed against them, and still remaining payable as taxes upon grain used in excess of the surveyed capacity of their distillery during the months of September, October, November, and December, 1873, and January, February, March, and April, 1874, if the company shall prove, to the satisfaction of the Secretary, that the average production of spirits from each and every bushel of grain used and consumed in the production of spirits by them during the time specified was at least three and one-quarter gallons, and that they have paid the legal tax upon all spirits produced.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

TITLE TO ARLINGTON ESTATE.

Mr. HOWE. I ask the Senator from Virginia if he cares to go on for just a single moment? I have in my hand a bill which has passed the House unanimously.

Mr. JOHNSTON. I decline to yield, for I have had half-a-dozen applications.

Mr. HOWE. The Senator declines, I understand.

Mr. PRATT. I wish to make a motion.

Mr. JOHNSTON. The Senator cannot make a motion while I am on the floor.

The VICE-PRESIDENT. The Senator from Virginia is entitled to the floor on House bill No. 4680, which is before the Senate as in Committee of the Whole, the pending question being on the motion of the Senator from Virginia [Mr. JOHNSTON] to postpone the bill indefinitely.

Mr. JOHNSTON. Mr. President, I propose to give a plain and brief statement of the facts and the law in regard to the claim of G. W. Custis Lee to Arlington, in connection with Senate bill No. 661, heretofore introduced by me. Arlington is one of the historical estates of the country. It is situated in Virginia, nearly opposite to Washington, and overlooks that city, and is visible from many parts of it. It was the property of George W. Parke Custis, who died in 1857. By his will, which was duly admitted to probate in the proper court, he devised "to his dearly beloved daughter and only child, Mary Ann Randolph Lee, my Arlington house estate, in the county of Alexandria, containing eleven hundred acres, during the term of her natural life." Mary Ann Randolph Lee was the wife of Robert E. Lee.

The will contained this further provision:

On the death of my daughter, Mary Ann Randolph Lee, all the property left to her during the term of her natural life, I give and bequeath to my eldest grandson, George Washington Custis Lee, to him and his heirs forever, he my said eldest grandson taking my name and arms.

Whether this devise gave G. W. Custis Lee a vested or contingent interest is questionable. If the remainder was contingent, then G. W. Custis Lee had *no estate* in the property till the death of the life tenant. If it was a vested remainder, he had no estate in possession till that event.

After the death of the testator, Parke Custis, Arlington was taken possession of by Robert E. Lee, in right of his wife, who continued to reside there till the war commenced. The property was placed on the commissioner's books in the name of Mary Ann Randolph Lee, and the taxes were assessed against her. She had no trustee, but the devise was to her directly, and the estate held by her.

Robert E. Lee was a colonel in the Army of the United States. He was a Virginian by birth and residence. He was not hostile to the Government of the United States. On the contrary, South Carolina seceded in December, 1860, and he remained at his post. Other States followed, and he still kept his place. Fort Sumter was fired upon, and the troops of the United States had a collision with citizens in the streets of Baltimore, and still he adhered to the United States. But on the 19th of April, 1861, the convention then in session in Virginia passed an ordinance of secession, and that State united herself with her sister States of the South. Colonel Lee believed that his allegiance was due primarily to his own State, and therefore, in the war then impending, he felt impelled to take whatever side his State took. If she had gone for the Union, no doubt he would have done so too.

His espousal of the southern side in the contest made it necessary for him to abandon his home, and his fortunes were followed by his wife and children. Arlington was thrown into the lines of the Union forces, and remained so till the war ended.

On the 5th August, 1861, Congress passed "An act to provide increased revenue from imports, to pay interest on the public debt, and for other purposes," and on the 7th June, 1862, passed "An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes;" and on the 6th February, 1863, enacted still another law, entitled "An act to amend an act entitled 'An act for the collection of direct taxes in insurrectionary districts within the United States, and for other purposes,'" &c.

The first-named law imposed a direct annual tax of $20,000,000 upon the United States, and apportioned to Virginia $937,552.67, and provided all the machinery for assessing and collecting the tax. The tax imposed upon Arlington was $92.07.

The Treasury Department and the commissioners appointed under the law ruled, in construing the statutes, that nobody could pay the

taxes upon property assessed except the person against whom and in whose name the tax was charged. That this was so is proved by the evidence of John Hauxhurst, one of the commissioners at Alexandria, who made the sale in this case, given in the case of Tacey *vs.* Irwin, reported in 18 Wallace, and by the finding of Judge Bond, the circuit judge who tried that case; and by an extract from a letter addressed 30th December, 1874, by the Commissioner of Internal Revenue to the Hon. George E. Wright, of the Senate, in relation to the bill for the relief of owners and purchasers of lands sold for direct taxes in insurrectionary States, which is as follows:

The third section provides in certain cases, where the original owners will not, or cannot through disability, execute a quit-claim deed, and where it shall also be shown that the tax commissioners made it their rule not to receive the tax, &c., after advertisement and before sale, unless tendered by the owner, in proper person, the purchase-money may be refunded to the purchaser on condition that he executes a quit-claim deed to the original owner. This provision is intended to afford relief where the titles to United States tax-sale property have become practically worthless by decision of the United States courts, as in Virginia. See opinions United States Supreme Court in Bennett *vs.* Hunter, 9 Wallace, p. 326, and Tacey *vs.* Irwin, 18 Wallace, p. 549. It will be seen that the latter opinion invalidates all those titles in Virginia, as the tax-commissioners testify that their rule as to tender, which the Supreme Court declares illegal, was applied in all cases. The only relief now afforded to purchasers at tax-sale is under the act of May 9, 1872, by which they must have been evicted by judgment of a United States court before their money can be refunded. This section would prevent this useless litigation, which must be more or less collusive, as the judgment of the court is known beforehand.

Mr. Hauxhurst testifies:

Question. How many pieces of property were sold as "belonging to Mr. Dixon?"
Answer. Two.

Q. Was it not a common occurrence for parties to ask you, both in and out of office, whether you would receive payment of the taxes from any one except the owner in person, without any special offer to pay on their part?

A. It was a common occurrence.

Q. Have you any recollection of his (Quesenberry) offering any money in payment of these taxes?

A. I have not. I mean by this answer to say that he did not show me any money or state that he had any.

Q. If Mr. Quesenberry had shown any money, or had stated that he had it, would that have made any difference in the action of the commissioners?

A. It would not.

And here is Judge Bond's statement of the facts proved:

The said commissioners in performing their duties under the said act of June 7, 1862, did not at any time, or in any case, make, or cause to be made, any demand for the payment of the tax, either upon the owner or occupant of the property, respectively, liable therefor, or upon any person whatever; and they made no effort, in any case, of any kind whatever, to collect said tax before proceeding to a sale of the land, except the publication of the said notice of September 11.

On the expiration of sixty days from the 14th of September, 1863, the said commissioners treated all of said property in said city and county, on which the tax then remained unpaid, as forfeited to the United States, and liable to sale under said seventh section of said act of June 7, 1862, and they proceeded, from time to time, to advertise the same for sale accordingly.

Pending the advertisement of the property for sale under the said seventh section, said commissioners, pursuant to a general rule adopted by them to that effect, invariably refused, in all cases, to receive the tax upon property so advertised, unless tendered by the owner in his own proper person; and, notwithstanding the tender of the tax by any agent, relative, or friend of the owner, the commissioners nevertheless treated and sold the property as delinquent.

This rule and practice was established and followed by them pursuant to instructions from some officer of the Treasury Department. Applications were made to said commissioners by the agents and friends of absent owners to pay the tax upon advertised property and save it from sale; which applications, under the operation of said rule and practice, were uniformly refused by the commissioners. No note, record, or memorandum of such applications was kept or made by the commissioners, though such applications were frequent. The premises in the declaration mentioned were sold as aforesaid by the commissioners without the knowledge or consent of the said Dixon, he being absent from Alexandria, and within the confederate military lines, from the —— day of ——, 1861, continuously to the day of his death. Whilst the said premises, however, were advertised for sale, his brother-in-law went to the office of the commissioners to see after the payment of the tax on the property, but made no formal offer or tender of payment, because such offer or tender was, in effect, waived by said commissioners, they declining to recognize any tender unless made by the owner in proper person.

Judgment.

Wherefore it is considered by the court that the plaintiffs do recover of the defendant the premises in the declaration mentioned according to the finding of the court, and that they recover also their costs by them about their suit in this behalf expended.

HUGH L. BOND,
Judge, &c.

NOVEMBER 23, 1871.

As Mrs. Lee did not appear in person to pay the tax, Arlington was sold; not so much of the land as was necessary to pay the small sum of $92.07, but the whole estate, containing eleven hundred acres, and worth many thousands of dollars.

The act of February 6, 1863, contained, among others, the following provision, viz:

And provided further, That at such sale any tracts, parcels, or lots of land which may be selected under the direction of the President for Government use, for war, military, naval, revenue, charitable, educational, or police purposes, may, at said sale, be bid in by said commissioners, under the direction of the President, for, and struck off to, the United States, &c.

Under this provision the President directed the purchase of Arlington "for Government use, for war, military, charitable, and educational purposes," and it was struck off to the United States for the sum of $26,800. The President did not seem to be content to designate one use to which the property should be applied, but wanted it for the various and conflicting uses "of war, military, charitable, and educational purposes."

The purchase having been made, the Government at once took possession of the property, and has held it ever since. About two hundred acres have been made a national cemetery, and the remainder has been leased to freedmen and is otherwise used by the Government.

The State of Virginia was not admitted to representation in Congress till January, 1870, and in consequence the claim of Mrs. Lee was not brought before that body prior to that time. General Lee died 12th October, 1870; and on the 22d January, 1872, I presented to this body the respectful petition of Mary Ann Randolph Lee, setting out the facts of the case, giving her reasons for believing the claim of the Government to Arlington to be invalid, and closing with this statement:

But, assuming the most favorable view for the United States possible under the circumstances, it cannot be doubted but that a serious cloud rests upon the title. To remove this cloud and quiet the title to the property would appear to be the evident interest of the Government of the United States.

Your petitioner, and her son, G. W. Custis Lee, (the owner of the reversion,) are willing to avoid, however, all litigation on the subject, and to have an amicable settlement of this matter. With this in view, they now offer to the Government of the United States, through your honorable bodies, that upon the receipt of three hundred thousand dollars they will execute and deliver such necessary releases and conveyances as may be adjudged sufficient to sanction and quiet any claim which the Government may now have, by making a legal and valid title to the property.

Your petitioner therefore prays your honorable bodies for the passage of a law making the necessary appropriation to secure and effectuate the above offer.

Respectfully submitted.

MARY A. R. LEE.

The petition, upon my motion, was referred to the Committee on the Judiciary, but no report was ever made upon it.

Mary Ann Randolph Lee died in November, 1873, and the claim to Arlington vested in her eldest son, G. W. Custis Lee, and on the 6th of April, 1874, I presented a memorial from him, which was also referred to the Committee on the Judiciary. He also set forth the facts and gave his reasons for believing the sale void, and that the property belonged, in law and equity, to himself. His memorial ends as follows:

The Government by its agents is in possession of the "Arlington-house estate," claiming title under the tax-sale certificate. It has been devoted, as your petitioner is informed, to the purpose, in part at least, of a national cemetery for soldiers who died during the civil war. Your petitioner's remedy through the courts of the country is, as he is advised, clear and complete. But while the associations of his early life would make the recovery of the estate peculiarly agreeable to him, he is frank to say that, as Congress has devoted it to the purpose of a national cemetery, and naturally desires to preserve in their graves, under the guard of the Federal authority, the remains of those who lost their lives in the service of the country, your petitioner is willing to avoid litigation, by the release of his title to the estate, upon the payment of a just compensation. Such a purpose was expressed by Mrs. Mary A. R. Lee, the life tenant, and your petitioner renews the proposal to release and convey to the United States, by valid deed, his fee-simple title of the estate, upon the payment to him of its fair and just value. Your petitioner has thus candidly presented his views of his claim, and respectfully asks for the passage of a law making the necessary appropriation for the purchase of said estate by Congress, upon the execution of a legal deed conveying a complete and valid title to the same to the United States.

All of which is respectfully submitted.

G. W. C. LEE.

And in presenting the memorial, after stating briefly its contents, I said for him and by his authority:

Mr. Lee has been advised that his claim could be enforced in the courts, but he states in his memorial, and I now say for him, that he is not in the least inclined to disturb the purposes to which the property is devoted, and therefore he comes before the Congress of the United States and asks that the Government will cause his claim to be examined, and, if found good, pay him a fair and reasonable price for the estate.

At the same time I introduced a bill, which was also referred to the Committee on the Judiciary, giving the Court of Claims jurisdiction to hear and determine the claim of Mr. Lee. The bill provided that he might commence his suit by a petition in writing, a copy of which was to be served on the Attorney-General, who should defend for the United States; that the proceedings "should be conducted and determined in all respects as near as may be according to the rules and principles of equity practice in other courts of the United States, and that the court should have full power to grant relief in the premises."

It further provided that, in the event the finding was for Mr. Lee, the court should then "proceed to determine what will be a just compensation for the estate, and shall receive evidence by deposition, to be taken by either party to the suit, upon due notice to the opposite party;" and that an appeal might be taken by "either side to the Supreme Court of the United States, which was invested with full jurisdiction to hear and determine the same, in the same manner and with the like effect as in other equity causes from the circuit courts of the United States."

In preparing this bill I pursued the precedents established in the case of *Ex parte* Atocha, (17 Wallace,) and in the act of July, 1870, in regard to the Arkansas Hot Springs, the title to which was claimed both by the Government and by citizens, and made the bill almost a copy of the one to be found in Statutes at Large, volume 16, page 199, giving jurisdiction to the Court of Claims in that case.

It is certainly a matter of importance to the United States that they should have a good title to all the property held by them; and it is not to be presumed that any just government would desire to seize and hold by force and without right the estate even of a rebel. And I did hope that when I suggested, on behalf of Mr. Lee, that he really still owned in law and right the Arlington estate, and believed he could recover it in a court of law, but did not desire to do so on

account of the purposes to which it was now devoted, and gave what seemed to me to be good reasons for doubting the validity of the Government title, and offered to submit his claim, both of title and compensation, to a United States court, to be determined in the end by the Supreme Court, that the proposition was reasonable and fair, and should have been accepted; but the Committee on the Judiciary thought otherwise, and reported against the bill.

Mr. Lee is informed that the tax was actually tendered before the sale on behalf of Mrs. Lee, and has good reason to believe that the tender can be proved.

And now, having stated the facts of the case, I wish to call attention to several provisions of the statutes referred to, and to decisions of our courts, which to my mind clearly establish the proposition that the Government is in fact without any valid title to Arlington.

The acts in question purported to be nothing more than tax laws—laws to provide increased revenues and to pay the interest on the public debt. In the execution of such laws, there should be no discrimination of persons, but assessments and collections should fall equally upon the just and unjust, and should be in all things uniform. But let us see whether these laws were executed by the officers of the Government in that spirit. I quote now from the testimony of John Hawxhurst, one of the commissioners of direct tax at Alexandria, Virginia, given in the case of Tacey *vs.* Irwin:

Question 2. What principle or what consideration governed the commissioners in advertising the property for sale after the expiration of the sixty days provided by law for the payment of the tax? Did they advertise all indiscriminately, or was there any discrimination shown?

Answer. The first list of about fifty pieces of property was selected from the general list of property belonging to those persons who were *supposed to be most offensive to the United States Government.*

And not only was this the spirit in which these new revenue laws were executed, but the statutes themselves contained several provisions very offensive and unjust, and, in my opinion, directly in conflict with the Constitution.

Let it be recollected that Mary Ann Randolph Lee was under the disability of coverture. The third section of the act of June 7, 1862, is as follows, viz:

That it shall be lawful for the owner or owners of said lots or parcels of lands within sixty days after the tax commissioners herein named shall have fixed the amount, to pay the tax thus charged upon the same, respectively, into the Treasury of the United States, or to the commissioners herein appointed, and take a certificate thereof, by virtue of which the said lands shall be discharged from said tax.

And the seventh section of the act of February 6, 1863, has these two provisions, viz:

In all cases where the owner of said lots or parcels of ground shall not, on or before the day of sale, appear *in person* before the said board of commissioners, and pay the amount of said tax, with ten per centum interest thereon, with the cost of advertising the same, or request the same to be struck off to a purchaser for a less sum than two-thirds of the assessed value of said several lots or parcels of ground, the said commissioners shall be authorized at said sale to bid off the same for the United States, at a sum not exceeding two-thirds of the assessed value thereof, unless some person shall bid a larger sum, &c. * * * * *

And provided further, That if the owner of said lots of ground shall be a minor, or non-resident alien, or loyal citizen beyond the seas, a person of unsound mind, *or under a legal disability*, the guardian, trustee, or other person having charge of the person or estate of such person, may redeem the same at any time within two years after the sale thereof, and in the manner above provided and with like effect.

Now, these sections, together with the rule uniformly observed by the commissioners, required the owner to appear in person before the sale and pay the tax and other charges upon the estate. Suppose the owner (as in this case) was a married woman, or a lunatic, or an infant, then the statute and the rules required what might be an impossibility, and what was certainly in contravention of all our ideas of law and right. The commissioners were strict constructionists, and if the owner should have happened to be an infant at the breast its rights were forfeited, and its estate gone, unless it appeared in person and in person paid the tax, "for," said the commissioners, "we will allow nobody to do it for him." Or if the property belonged to a lunatic, who was perhaps confined in some asylum, in order to preserve his estate he had to recover his reason, make his escape from the asylum, and pay the tax, for nobody could do it for him. And so also with a married woman.

This was the case before the sale.

And to add to the enormity and absurdity of the statute and the regulations, while before the sale nobody but the infant, the lunatic, the *feme covert*, could pay the tax, after the sale these persons were not permitted to redeem, but the redemption could only be made by the "guardian, trustee, or other person having charge of the person or estate of such person," &c. The infant in the mean time may have attained majority, but could not redeem, because that could only be done by his guardian. The married woman, by the death of her husband, may have become sole, yet she could not now do what she only could do while she was covert. The lunatic may have become sane, yet he would not be permitted to do what the law allowed nobody else to do while he was a lunatic.

Mary Ann Randolph Lee was a *feme covert*, and only had a life-estate in Arlington. Can the whole estate, as well that of the remainderman or reversioner as of the life-tenant, be sold for the default of the life-tenant in paying the taxes, especially when that life-tenant is under a disability? In any law, even if it had been framed expressly as a punitive law, or intended for confiscation, would it be legal and constitutional to punish one person and subject him to the loss of his property for the default of another? And, especially, should this be done in a bill the avowed purpose of which was to raise revenue and provide for the payment of the interest on the public debt? Yet that is what has been done in this case. The Government not only claims the life-interest of Mrs. Lee, but the entire estate. She is dead; her life-interest has terminated; yet the Government still holds and claims Arlington; and this, too, when the law and the irrevocable rules that governed the commissioners made it impossible for the owner of the remainder or reversion to protect his interest or prevent a sale; because, as the land was charged to Mary Ann Randolph Lee, she was regarded, of course, by the commissioners as the owner, who before a sale could only pay the tax. If G. W. Custis Lee had called in person to have paid the tax, the reply would have been that he was not the owner; that the land was assessed in the name of, and the tax charged to, Mrs. Lee, and that she, and she only, could pay the tax and thus keep off a sale. And if the land had been actually sold, and G. W. Custis Lee had desired to redeem, still he would not have been allowed to do even this, for, by the terms of the law, where the owner was under a disability only a trustee, guardian, or committee could redeem.

I submit it to the candid and fair consideration, therefore, of the Senate whether a law is to be maintained as just and constitutional which produces these results and does such enormous injustice as this.

But if the United States *would* buy this estate, then it ought at least to have put itself in the position of another purchaser, and have done what the law required an individual to do if he had bought. The United States bid in the property for $26,800.

The thirty-sixth section of the act of August 5, 1861, declares:

But in all cases where the property, liable to a direct tax under this act, may not be divisible, so as to enable the collector, by a sale of part thereof, to raise the whole amount of the tax, with all costs, charges, and commissions, the whole of such property shall be sold and the surplus of the proceeds of the sale, after satisfying the tax, costs, charges, and commissions, shall be paid to the owner of the property, or his legal representatives, or if he or they cannot be found, or refuse to receive the same, then such surplus shall be deposited in the Treasury of the United States, to be there held for the use of the owner or his legal representatives until he or they shall make application therefor to the Secretary of the Treasury, who, upon such application, shall, by warrant on the Treasury, cause the same to be paid to the applicant.

Then if an individual had bid $26,800, the money, after deducting the tax, &c., would have been placed in the Treasury, for the future use of the owner. Why should not the United States, when it became the best bidders do the same thing and cause the money to be placed in the Treasury also? What is there either in the law or in the justice of the case to make the rule different between the United States and another purchaser, and exempt the former from what the latter would have been required to do? Yet the United States have not done what a citizen who purchased would have done, and though they bid $26,800, have only paid $92.07, with certain charges added, and do not seem inclined to comply with their contract and pay the sum they agreed upon. The property was exposed to open sale; the United States step forward and say, "I will give $26,800," and the bid is accepted. The United States gets the land, yet does not pay the money.

The act of February 6, 1863, contains this proviso, viz:

That the certificate of said commissioners shall only be affected as evidence of the regularity and validity of sale by establishing the fact that said property was not subject to taxes, or that the taxes had been paid previous to sale, or that the property had been redeemed according to the provisions of this act.

The Supreme Court of the United States, in the case of William *et al. vs.* Peyton's Lessee, 4 Wheaton, had decided that—

In the case of a naked power, not coupled with an interest, the law requires that every prerequisite to the exercise of that power should precede it.

In the case of lands sold for the non-payment of taxes, the marshal's deed is not even *prima facie* evidence that the pre-requisites required by law have been complied with, but the parties claiming under it must show positively that they have been complied with.

The provision of the statute quoted last above was, no doubt, an attempt to evade the force of this decision. But is a law entitled to any favorable construction or consideration which attempts to declare that its own requirements shall be not complied with? The law requires certain things to be done before a sale should be made—notably that the time and place of sale should be advertised—a fact easily proved. Yet this might have been wholly and willfully omitted, and the owner, under the law, would not be allowed to prove the omission. There might have been fraud in a sale or misconduct in the commissioners, yet they would not have been given in proof under the statute.

The act of August 5, 1861, only provides, when land is capable of division, for the sale of so much of it only as may be necessary to pay the tax assessed and the charges. And while the subsequent acts of June, 1862, and February, 1863, do not in terms contain this same provision and allow, if they were the only statutes on the subject, the sale of the whole land, no matter how valuable, for the tax, no matter how trifling, yet it is by no means clear that Congress intended to repeal the original law in that respect. In all the history of tax-laws there has been great uniformity of legislation in favor of a sale of no more of the land than is needed for the collection of the tax. It is not to be supposed that Congress intended to pass an act of confiscation, under the disguise of a bill to raise revenue. Tax-laws, which always trench upon private right for the public good, must be construed strictly, and the law must not be stretched in its

administration beyond the limit prescribed by the legislative power. And your petitioner is advised that it was the duty, according to the decision in the case of Bennett *vs.* Hunter, of those who administered and executed the law, to construe the acts of 1861, 1862, and 1863 together, and to give such a construction to them as, while it rendered effectual the collection of taxes, should not destroy or affect private rights further than was absolutely necessary. It was not necessary to sell eleven hundred acres of land to pay a tax of $92.07, when the sale of ten, or at most twenty acres, would have been sufficient for the purpose. The cases of Stead *vs.* Course, 4 Cranch, 403; City of Washington *vs.* Pratt, 8 Wheaton, 681; Mason *vs.* Fearson, 9 How., 248; Bennett *vs.* Hunter, reported both in 18 Grattan and 9 Wallace, show how the Supreme Court, as well as the State courts, strongly uphold the title of the original owner against a vendee at a tax-sale, when it is not made as the necessary and proper means for collecting the tax, and lean against any construction of the laws authorizing it which would pervert it from being an indispensable measure to obtain a tax, into an instrument of forfeiture.

The court of appeals of Virginia, in Bennett *vs.* Hunter, 18 Grattan, 100, decided that "The power of Congress to provide for the sale of land for the payment of taxes is limited to that object, and a law which requires that the whole land shall be sold in all cases, without regard to the fact that it may be divided without injury to it, and the tax may be paid by a sale of part of it, is unconstitutional." And the decision was affirmed by the Supreme Court of the United States on appeal from the same case, reported in 9 Wallace.

The acts of 1862 and 1863 make no provision for the sale of personalty, if any can be found, to pay the taxes assessed upon land, but provided for the sale of the real estate itself, notwithstanding it might be covered over with goods and chattels. But this is in direct contravention of Magna Charta, which was adopted on the 15th June, 1215, six hundred and fifty years ago, and from that day to this has been regarded in England and the United States as the embodiment of civil liberty. That instrument has this clause, viz:

> Neither we nor our bailiffs shall seize any lands or rents for any debt while chattels of the debtor are sufficient for the payment of the debt, &c.

And it was this careful protection of *land*—this guarding by law of the *homes* of the people—that, more than anything else, has given sanctity to Magna Charta and stability to the English government. The Americans are called a land-loving people, and if we wish to make our Government stable and our people contented let us preserve also this same feature in our legislation.

The Constitution of the United States declares that "the Congress shall have power to exercise exclusive legislation, in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular States and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places *purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings.*"

It is well known how jealous the framers of the Constitution were of the power which the Government they were making *might* acquire, and how carefully they endeavored to avoid the granting of any authority to destroy the States themselves or their proper jurisdiction. Therefore, they gave the United States the right to acquire land for such purposes as were necessary and proper to carry on the Government and accomplish the objects for which it was created, but for no other purposes. The United States might acquire land upon which to erect a seat of government; and as the war-making power was in the General Government, and not in the States, it might purchase land for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings, but these only because they were necessary to carry on war. But even these things, necessary and proper as they were, could not be done *without the consent of the State in which the land was situated.* But Arlington was not purchased by the Government upon which to build "forts, magazines, arsenals, or dock-yards." It was bought "for Government use, for war, military, charitable, and educational purposes." And the consent of the State of Virginia, in which the land is, was never asked, nor has it ever been given, though at the time of the purchase the government of Virginia, as recognized by the United States, which had its seat first at Wheeling, and afterward at Alexandria, was intensely loyal.

But the purposes for which the purchase was nominally made are most diverse and contradictory. How the Government could use the same tract of land at one and the same time for war and military and charitable and educational purposes, is not easy to see.

A fort and an asylum would not do very well standing side by side, nor would a school be apt to flourish close by an arsenal or a dock-yard. And in this connection it might be pertinently asked, where the power is found in the Constitution for the United States to buy land for charitable and educational purposes? Certainly it was never intended that the United States should own land as a mere proprietor, and on the same terms and for the same uses that a private individual would—that they should raise corn and potatoes, or let the land out to tenants. And yet that is what is done with Arlington, except as to so much as is used as a national cemetery, with which latter purpose it is neither the wish of Mr. Lee nor myself to interfere, nor to raise any question, either legal or constitutional.

If the United States can become a purchaser at its own sale for taxes, and then buy land in any part of the States and continue to hold it as a mere owner, without the consent of the State in which it is, then it is easy to see how any State might be sold out *in toto* and purchased by the Government. It has paid nothing for Arlington; it need only outbid everybody else at every sale, which it could do with safety, because the citizen would have to pay the money on his bid if accepted, but the United States, following the precedent in this case, would pay nothing. A bidder in that happy condition need not be particular as to the sum bid.

In the case of Arlington, it is believed by those who are interested that it can be proved that the taxes were actually tendered before the sale, not by Mrs. Lee in person, but by a friend for her. If this should be the fact, as I confidently believe, then, under the decision of the Supreme Court in the case of Bennett *vs.* Hunter, the sale was void. In that case the court said:

> The case requires the consideration and determination of one point only, namely, whether the commissioners under the act could make a sale for taxes, notwithstanding a previous tender of the amount due? * * * * * * *
>
> But to whom did the right to make this payment belong? The obvious answer is, to the owner, either acting in person or through some friend or agent, compensated or uncompensated. The terms of the act are, that the owner or owners may pay; and it is familiar law that acts done by one in behalf of another are valid if ratified either expressly or by implication, and that such ratification will be presumed in furtherance of justice. * * * * * * *
>
> But it is insisted that the right of payment is limited by the act to the actual owner in his proper person. But we perceive no such limitation in its terms. * *
>
> We cannot doubt that it might be properly exercised by the owner in person, or through any other person willing to act in his behalf and not disavowed by him. * * * * * * * * * * *
>
> The application of these principles decides the case before us. * * *
>
> The sum due the United States for taxes, penalty, and costs was tendered to the United States before sale, and it was their duty to accept it. This tender was not objected to as insufficient, but was refused solely because not made by the owner in person. This refusal not being warranted by the act, the tender must be held good. The certificate of sale under which the plaintiff in error claims title cannot, therefore, be sustained.

But whether any tender was in fact made or not, either by Mrs. Lee in person, or by any one for her, is a matter of no consequence. The commissioners acted under a uniform rule to take the taxes from no one but the owner in person; and the Supreme Court, in the case of Tacey *vs.* Irwin, 18 Wallace, cited above, decided that the mere existence of such a rule of itself made all sales by the commissioners absolutely void. The court said:

> It is difficult to see how, upon the case as found here, the sale can be sustained. * * * * * * * * * * *
>
> If an offer in a particular case to pay the tax before sale, and refused by the commissioners because not made by the owner in person, renders a subsequent sale by the commissioners void, (see Bennett *vs.* Hunter, *supra*,) surely a general rule announced by the commissioners, that in all cases such an offer would be refused, must produce the same effect. Such a rule, of necessity, dispenses with a regular tender in any case. In the absence of any proof to the contrary, it is a legal presumption that the tax in this case, though not actually offered, would have been offered and paid before sale, but for the known refusal of the commissioners to accept any offer when not made by the owner in person.
>
> If so, the commissioners were not authorized to make the sale in controversy, and the judgment must be affirmed.

I insist, therefore, that the sale under which the United States claims Arlington is void, and that the title is still in G. W. Custis Lee:

First. Because any law which requires a sale of a whole tract of land to pay a tax is unconstitutional, if the land can be divided and a part would pay the tax and charges. (Bennett *vs.* Hunter, 18 Grattan, affirmed by Supreme Court, 9 Wallace.)

Second. Because I believe that it can be proved that the tax was actually tendered before sale.

Third. Because the rule acted upon by the commissioners, not to take the tax from any one but the owner in person, made all sales void.

Fourth. Because the United States cannot acquire land in a State, and jurisdiction over it, without the consent of that State.

Fifth. Because in any event, admitting the right to sell land for taxes, only the interest of the party in default should pass, and not that of persons holding a remainder or reversion, and who were unable, under the law itself, to protect their own interest.

The Committee on the Judiciary, no doubt for what they deemed good reasons, have reported adversely on the bill introduced by me to refer the whole question, both of title and compensation, to the Court of Claims.

Mr. Lee confidently believes that the estate is his in law and equity. Having failed in his efforts before Congress, he will have no redress except in the courts. But if he should succeed in establishing his title, he will still come before Congress again and ask that body to compensate him fairly for property to which the courts have declared his right to be valid; but the use to which it is devoted he does not desire to disturb.

Mr. President, I withdraw the motion to postpone indefinitely.

REPORTS OF COMMITTEES.

Mr. OGLESBY, from the Committee on Pensions, to whom was referred the bill (H. R. No. 4776) granting a pension to Elizabeth Lanning, reported it without amendment.

Mr. WRIGHT, from the Committee on Claims, to whom was referred the bill (H. R. No. 3782) for the relief of Sewell B. Corbett, asked to be discharged from its further consideration, and moved that it be indefinitely postponed; which was agreed to.

ORDER OF BUSINESS.

Mr. BOREMAN. I ask unanimous consent to be allowed to take up the bill for the relief of E. Boyd Pendleton.

Mr. MORRILL, of Vermont. I insist on the regular order, and nothing else.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The Senator from Vermont insists on the regular order, being the House bill 4680, which is before the Senate as in Committee of the Whole and open to amendment.

Mr. BOREMAN. Is it in order to move to postpone that bill?

The PRESIDING OFFICER. It is.

Mr. BOREMAN. I move that it be postponed, for the consideration of the bill I hold in my hand.

The PRESIDING OFFICER. The Senator from West Virginia moves to postpone the pending and all prior orders, to consider the bill indicated by him.

Mr. EDMUNDS. To postpone the present order until when?

The PRESIDING OFFICER. The time is not named.

Mr. EDMUNDS. Is that indefinitely, or to a day certain, as stated in the rules?

The PRESIDING OFFICER. No time is named in the motion of the Senator from West Virginia.

Mr. MORRILL, of Vermont. I hope the Senator from West Virginia will not propose to postpone a measure of public importance for any private bill.

Mr. BOREMAN. It is a bill of merit and I think it ought to pass.

Mr. MORRILL, of Vermont. I have no doubt it is a bill of merit, but there are a great many such, and I think at this time of the night we ought to confine our attention to bills of this importance exclusively, and between this and the taking up some appropriation bills, I hope there will be two or three hours in the course of the night when we may consider these other measures that are pressing on the attention of the Senate.

Mr. SCOTT. I desire to say, on this subject, that the bill which the Senator from West Virginia proposes to take up is a bill reported from the Committee on Claims; it is one which did not receive the unanimous assent of that committee, and I think it will lead to some discussion. I desire to say that in the course of half an hour, at least, I expect to be able to report a bill from that committee for the payment of southern claimants, and we shall then ask for a time for the Committee on Claims, when the bill which the Senator from West Virginia proposes to take up by a vote will have as fair opportunity for consideration as the numerous other bills reported from that committee will have.

Mr. PRATT. Mr. President, I think there was an understanding this afternoon, that after the assembling of the Senate on the expiration of the recess, I should be allowed half or three-quarters of an hour for the purpose of having the Senate consider the private pension bills on the calendar yet remaining undisposed of. I now ask the indulgence of the Senate that I may be allowed to call up these private pension bills.

The PRESIDING OFFICER. The Senator from Indiana is not in order. There is a motion pending.

Mr. PRATT. I move to lay aside that order informally, for the purpose of proceeding to the consideration of these bills.

The PRESIDING OFFICER. That motion cannot be entertained by the Chair.

Mr. PRATT. I move to lay the pending order on the table.

The PRESIDING OFFICER. That motion is already pending.

Mr. THURMAN. Is not a motion to lay on the table always in order?

The PRESIDING OFFICER. It is. The motion of the Senator from Indiana was to lay aside the pending order and proceed to the consideration of pension bills.

Mr. THURMAN. I understood him to move to lay the bill on the table.

The PRESIDING OFFICER. The Chair did not so understand him.

Mr. THURMAN. Then I misunderstood the Senator. What was the motion of the Senator from Indiana?

Mr. PRATT. My motion was to lay the pending and all previous orders on the table for the purpose of enabling me to call up certain private pension bills and put them on their passage.

Mr. THURMAN. It is not necessary to lay all previous orders on the table; the pending order will do.

Mr. PRATT. Well, the pending order.

The PRESIDING OFFICER. The Chair cannot entertain a motion to lay the pending order on the table, and proceed to the consideration of other business. The only motion that is in order under the rule is to lay the pending bill upon the table. That motion can be entertained. Does the Senator make that motion.

Mr. PRATT. Yes, sir; I think there was a fair understanding that after the reassembling of the Senate this evening, I should be allowed to proceed with these pension bills.

The PRESIDING OFFICER. The motion to lay on the table is not debatable.

Mr. MORRILL, of Vermont. I wish to explain to the Senator from Indiana that the only thing proposed to him was to take the half hour from half past seven to eight, but that was not done; and now we are assembled for the sole purpose at this hour of considering this bill, and I trust the Senator from Indiana will not interfere with it.

Mr. SCOTT. Do I understand that it is the motion of the Senator from Indiana to lay the bill on the table?

The PRESIDING OFFICER. The Chair understands that motion to be made.

Mr. SCOTT. Was not a motion made by the Senator from West Virginia to postpone the consideration of the tax bill, for the purpose of taking up his bill?

The PRESIDING OFFICER. It was, but under the rules the motion to lay on the table takes precedence. The Senator from Indiana moves to lay the bill on the table.

Mr. THURMAN called for the yeas and nays, and they were ordered.

The Chief Clerk proceeded to call the roll.

When Mr RANSOM's name was called,

Mr. MERRIMON. My colleague [Mr. RANSOM] is paired with the Senator from New Hampshire, [Mr. WADLEIGH.] If the Senator from New Hampshire were here he would vote "nay" and my colleague would vote "yea" on this motion.

Mr. SCHURZ, (when his name was called.) On this question I am paired with the Senator from Indiana, [Mr. MORTON.] Were he here he would vote "nay" and I should vote "yea" on this motion.

Mr. HAMILTON, of Maryland. Upon this question I am paired with the Senator from Rhode Island [Mr. ANTHONY] until 10 o'clock. I would vote "yea" if at liberty to do so, and he would vote "nay."

The call of the roll was concluded.

Mr. PRATT. Having voted in the affirmative, I am assured by my friends all around me here that these bills will be taken up——

The PRESIDING OFFICER. The remarks of the Senator from Indiana are not in order, the vote not having been announced.

Mr. PRATT. I wish to change my vote; I vote "nay."

The result was announced, yeas 26, nays 30; as follows:

YEAS—Messrs. Alcorn, Allison, Bayard, Bogy, Cooper, Davis, Dennis, Eaton, Fenton, Goldthwaite, Hager, Hamilton of Texas, Johnston, Jones, Kelly, McCreery, Merrimon, Norwood, Oglesby, Saulsbury, Sprague, Stevenson, Stewart, Stockton, Thurman, and Tipton—26.

NAYS—Messrs. Boreman, Boutwell, Cameron, Chandler, Conkling, Cragin, Dorsey, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Gilbert, Hamlin, Howe, Ingalls, Mitchell, Morrill of Maine, Morrill of Vermont, Patterson, Pease, Pratt, Ramsey, Sargent, Scott, Sherman, Spencer, Washburn, West, Windom, and Wright—30.

ABSENT—Messrs. Anthony, Brownlow, Carpenter, Clayton, Conover, Ferry of Connecticut, Gordon, Hamilton of Maryland, Harvey, Hitchcock, Lewis, Logan, Morton, Ransom, Robertson, Schurz, and Wadleigh—17.

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

THE PRESIDING OFFICER. The question is on the motion of the Senator from West Virginia, [Mr. BOREMAN.]

Mr. MORRILL, of Vermont. I hope the Senator from West Virginia will now withdraw his motion to lay this bill aside, and take up a private bill.

The PRESIDING OFFICER. A motion is not in order to postpone one bill to take up another bill. The only motion to postpone the Chair can entertain is to postpone indefinitely or to postpone to a day certain.

Mr. BOREMAN. I do not desire to embarass the bill. I withdraw my motion.

SOUTHERN CLAIMS.

Mr. SCOTT. I am directed to report back from the Committee on Claims the bill (H. R. No. 4692) making appropriations for the payment of claims reported, allowed by the commissioner of claims under the act of Congress of March 31, 1871, with various amendments, and recommend its passage. I am not sure that this bill can be printed in time for action upon it, but the amendments consist simply of striking out a few of the items. I give notice that at the earliest opportunity I shall call the bill up for action.

The PRESIDING OFFICER. The bill will be placed on the calendar.

TAX AND TARIFF BILL.

Mr. MORRILL, of Vermont. Let us proceed with the bill before us.

The PRESIDING OFFICER. The bill (H. R. No. 4680) to further protect the sinking-fund and provide for the exigencies of the Government, is before the Senate as in Committee of the Whole.

Mr. SCHURZ. I move to amend the bill by striking out in the 4th line of the 5th section "on or before the tenth day of February," and inserting "4th day of March."

Mr. MORRILL, of Vermont. I desire to say now once for all that it is apparent that if it was important yesterday to pass this bill without amendment, it is much more important to-day, as we have less time now than we had then, and therefore I hope it will be the pleasure of the Senate to vote down all amendments that may be offered, and when the amendment that was adopted in Committee of the Whole shall be reached in the Senate, I shall then hope that amendment will be rejected, and that we shall pass the bill as it came from the House. I do not intend, myself, to occupy the time of the Senate in further discussion of this measure. It has been amply ventilated from the beginning, and there can, as it seems to me, be no purpose in further amendment or further discussion, except the consumption of time, and time is an important element to this Congress, as every Senator has more or less bills that he is desirous should receive attention, and that will receive attention unless this bill shall unnecessarily consume the time.

Mr. SCHURZ. I think I have shown the Senate, on a good many occasions, that it never has been my intention to consume time merely for the purpose of consuming time. I do not do so on this occasion, but I do not think that the reason given by the Senator from Vermont is valid against legitimate amendments. I think if this bill be amended in the Senate, and then goes to the House, it will be a very easy thing for the gentleman having charge of the bill in the House to ask the concurrence of the House in legitimate amendments, and I suppose the House will not refuse. So that if the bill be made better than it is now, the chances of its passage will be just as good as they are now. I therefore insist upon my amendment.

Mr. FRELINGHUYSEN. I would ask the Senator how that makes the bill any better. The objection to the bill has been that it did not tax stock on hand. The amendment will exempt more stock on hand than if the bill stands as it is.

Mr. BOUTWELL. And it opens the measure to dishonorable, if not dishonest transactions. The date of the 10th of February undoubtedly was placed in the bill so that no goods should be exempt from duty except those that were *bona fide* on board ship for this country prior to the knowledge of the purpose of Congress in regard to this law, and as the British provinces lie so close to some of our States, it may be a very easy matter for persons interested in illicit trade to take goods over from the provinces and have them on shipboard by the 4th of March.

Mr. SCHURZ. It must be patent to every one that goods which are put on ship-board in the British provinces, for the purpose of being conveyed to the United States, must have been in our ports long before this; therefore it does not apply. But I can think it also possible that contracts were made in view of the tariff as it stood before the bill was thought of, and that fair play requires us to make this bill applicable only to such goods as are shipped in full knowledge of this law.

Mr. MERRIMON. I beg to inquire, what is the state of the bill? My understanding last night was that the amendment of the Senator from Virginia was adopted to put whisky and tobacco upon the same footing, and that the bill was reported to the Senate before the motion to lay on the table was carried. I beg now to know the exact state of the bill.

The PRESIDING OFFICER, (Mr. INGALLS.) The amendment offered by the Senator from Virginia was agreed to.

Mr. MERRIMON. Was not the bill reported to the Senate?

The PRESIDING OFFICER. The bill was not reported to the Senate, but is still in Committee of the Whole and open to amendment. The pending question is on the amendment offered by the Senator from Missouri, [Mr. SCHURZ.]

The amendment was rejected.

Mr. SCHURZ. I move to amend the bill by striking out the fourth section.

The PRESIDING OFFICER. The Secretary will report the words proposed to be stricken out.

The Chief Clerk read the fourth section of the bill, as follows:

SEC. 4. 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. SCHURZ. I gave my reasons for striking out this section last night, and I do not want to reiterate them to-night; and in order to show to the Senator from Vermont that I do not act and move amendments for the purpose of consuming time, I shall abstain from all remarks, but simply call for the yeas and nays.

The yeas and nays were ordered and taken.

Mr. SCHURZ, (when his name was called.) On this question I am paired with the Senator from Indiana, [Mr. MORTON.] He would vote "nay" and I should vote "yea," if he were present.

Mr. MERRIMON. The Senator from New Hampshire [Mr. WADLEIGH] is paired with my colleague, [Mr. RANSOM.] My colleague would vote "yea" and Mr. WADLEIGH would vote "nay" on this amendment.

Mr. FENTON. I am paired on this vote with the Senator from Rhode Island, [Mr. ANTHONY.] If he were here he would vote "nay" and I should vote "yea" on this amendment.

Mr. HAMILTON, of Maryland. I have been refraining from voting on that pair on several divisions. Now I shall vote on this proposition.

Mr. MORRILL, of Vermont. I was just informed——

Mr. FENTON. I will withdraw my announcement and vote, or let the pair apply to me.

Mr. HAMILTON, of Maryland. Just as you choose. I would as soon vote, though.

Mr. FENTON. I will vote.

Mr. HAMILTON, of Maryland. Then I announce that I am paired with the Senator from Rhode Island. I should vote "yea" and he would vote "nay" if he were here.

The result was announced—yeas 23, nays 28; as follows:

YEAS—Messrs. Allison, Bayard, Bogy, Cooper, Davis, Dennis, Eaton, Fenton, Goldthwaite, Gordon, Hager, Hamilton of Texas, Johnston, Jones, Kelly, McCreery, Merrimon, Norwood, Saulsbury, Sprague, Stevenson, Thurman, and Tipton—23.

NAYS—Messrs. Boreman, Boutwell, Chandler, Conkling, Cragin, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Gilbert, Hamlin, Howe, Ingalls, Mitchell, Morrill of Maine, Morrill of Vermont, Oglesby, Patterson, Pease, Pratt, Ramsey, Sargent, Scott, Spencer, Washburn, West, Windom, and Wright—28.

ABSENT—Messrs. Alcorn, Anthony, Brownlow, Cameron, Carpenter, Clayton, Conover, Dorsey, Ferry of Connecticut, Hamilton of Maryland, Harvey, Hitchcock, Lewis, Logan, Morton, Ransom, Robertson, Schurz, Sherman, Stewart, Stockton, and Wadleigh—22.

So the amendment was rejected.

Mr. JOHNSTON. I offer an amendment as an additional section.

The amendment was read as follows:

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, sugar, gum, 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.

Mr. JOHNSTON. That amendment, as I understand, was prepared by an officer of the Internal-Revenue Department. I have a letter from the Commissioner on the subject, which I ask the clerk to read.

The PRESIDING OFFICER. The letter will be read, if there be no objection.

The Secretary proceeded to read the letter.

Mr. SHERMAN. I desire to state that that is an old communication which has been printed several times. This whole subject of licorice being admitted free of duty, for the manufacture of tobacco, was fully considered by the Senate a year or two ago, and the proposition voted down by a large majority. Why read the letter again?

The PRESIDING OFFICER. Does the Senator object to the reading of the letter?

Mr. SHERMAN. If anybody wants to be informed, I have no objection.

The PRESIDING OFFICER. The rule is that, when the reading of a paper is called for, and objected to by any Senator, it shall be determined without debate.

Several SENATORS. No one objects.

The PRESIDING OFFICER. If no objection be made, the reading will proceed.

The Secretary resumed and concluded the reading of the letter, as follows:

TREASURY DEPARTMENT,
OFFICE OF INTERNAL REVENUE,
Washington, February 27, 1873.

SIR: I have received your letter of the 26th instant, in which you ask for my views with regard to House bill No. 3549, authorizing "manufacturers of tobacco and snuff to transfer to their factories licorice and other ingredients used in preparations of tobacco and snuff, free of duties."

In reply, I have to inform you that I have had no time to give a thorough personal examination of this bill. I am informed, however, by Mr. Kimball, head of division in this office, in charge of tobacco, &c., that he made the draught of this bill, and that its provisions, so far as they relate to the withdrawal from bond, without the payment of customs duty, of imported materials used in the manufacture of tobacco and snuff, are similar to the provisions of section 168 of the act of June 30, 1864, and which are still in force, for the transfer of articles and materials from any bonded warehouse, without the payment of duty, to be used in the manufacture of articles liable to stamp-duties under Schedule C, when such articles are manufactured for export to a foreign country.

This bill seems to me to be drawn with care, and its provisions are such as to guard the Treasury against any abuse of the privilege given to such manufacturers. The entries which the law requires all tobacco manufacturers to make in a book, especially kept for that purpose, of all materials purchased and brought into their factories, their monthly reports to the revenue officers of purchases, production, and sales, with their annual inventories, enable the revenue officers to know at the end of each year the amounts, quantity, and kind of materials purchased, and used or consumed.

I have no means of knowing what amount of customs revenue would be remitted by this bill. But I have reason to believe that the manufacture of tobacco, particularly of plug tobacco, would be greatly stimulated, and as the cost of production would be so much lessened if the manufacturer is allowed to procure his materials free of duty, he is enabled to that extent more advantageously to compete for foreign markets.

A large proportion of the tobacco-crop of this country is now exported in the leaf.

If this crop could be manufactured in this country before exportation, it would greatly benefit the laboring classes, particularly the freedmen, give profitable employment to capital, and double the value of exports of tobacco. So far as this bill tends to promote these results, I deem it worthy of favorable consideration.

Yours, respectfully,

J. W. DOUGLASS,
Commissioner.

Hon. B. T. W. DUKE, *M. C., Washington, D. C.*

The PRESIDING OFFICER. The question is on the amendment of the Senator from Virginia.

The question being put, there was, on a division, ayes 13, nays 23—no quorum voting.

Mr. MORRILL, of Maine. Let us divide again; there is a quorum here.

The PRESIDING OFFICER. The Chair will again submit the question on a division, upon the amendment of the Senator from Virginia.

Mr. MORRILL, of Vermont. I will merely say——

Several SENATORS. No; not a word.

Mr. MORRILL, of Vermont. Very well.

The amendment was rejected, there being, on a division, ayes 16, nays 29.

Mr. THURMAN. I move to strike out the second section of the bill. The second section is that which imposes an increased duty on tobacco. The amendment of the Senator from Virginia, I understood, was that that section should not operate upon tobacco on hand.

Mr. MORRILL, of Vermont. No.

Mr. THURMAN. Am I mistaken in that?

Mr. MORRILL, of Vermont. It was providing for the use of licorice and other materials in the manufacture.

Mr. THURMAN. No; I mean the amendment adopted last night.

Mr. JOHNSTON. It was that it should only apply to tobacco hereafter manufactured.

Mr. THURMAN. That amendment does not prevent the increase of tax on tobacco hereafter manufactured. Now, in order to prevent that increase of tax on tobacco hereafter manufactured, I move to strike out the section.

Mr. President, it was truly stated by my colleague [Mr. SHERMAN] last night that the present tobacco-tax was the result of a protracted consultation among the persons interested in that interest, and it was supposed that that tax, onerous as it was, would remain steady and fixed for at least a reasonable length of time. This bill proposes to change it, and to increase the tax 25 per cent. at the very least. Tobacco is already taxed from 100 to 400 per cent. upon its value. Now, I put it to the Senate, suppose any other agricultural production was subjected to anything like this tax; suppose it were proposed to tax wheat 50 per cent. on its value, or 25 per cent., or even 5 per cent., what would you hear in this country? Suppose it were proposed to tax Indian corn 10 or 20 or 30 per cent. upon its value, what would you expect to hear from the country? And yet here is a tax now upon an agricultural production, tobacco, ranging from 100 to 400 per cent., and it is proposed to increase that tax.

Mr. President, we cannot look over the legislation of this country without seeing that there is scarcely an agricultural production that is not oppressed by our laws of taxation. Here this very bill proposes to increase by 11½ per cent. the tax on almost everything that is consumed by the agricultural community. It proposes to increase, I say, above the duties now payable, by 11½ per cent. the taxation upon almost everything that the farmers wear, or that the farmers use; and at the same time that it increases the tax upon what they thus consume, it raises the tax upon their products; it raises the tax upon distilled spirits, and thereby discourages distillation and injures the market for corn and barley and rye; it raises the tax on tobacco, already onerous as it is. And yet, Mr. President, we are asked to pass such a measure as this, and that by a Senate which professes to have the interest of the agricultural portion of the community particularly at heart. I hope that this section will be stricken out.

Now, while I am on this subject, let me call the attention of the Senate to what appears in a document that was laid before us only this day. The argument in favor of this taxation, the only argument that I have heard, is that we must make the sinking-fund intact. What does this public-debt statement, laid on our tables to-day, show? It shows that the total debt of the United States is now $2,242,000,000 in round numbers. That shows a decrease of the debt since 1862, when the sinking-fund was provided for, of more than $550,000,000. What further does this statement show? It shows that the decrease of the debt during the past month was $6,680,000; and accompanying this is a call by the Secretary of the Treasury for $5,000,000 of bonds to be redeemed forthwith. And yet, with these facts before us; with a decrease in the last month of more than $6,000,000 of the public debt; with a call for $5,000,000 of bonds, to be paid as soon as they are presented, we are told that the public credit requires that the people of the United States shall forthwith be taxed thirty-odd millions a year. And thirty-odd millions of dollars a year to do what? To protect the bonds that the United States has issued? Those bonds are already at a premium of from 12 to 15 per cent. in gold. Is there a bondholder of the United States who believes that the Government of the United States is bankrupt? Is there a bondholder who believes that the Government is likely to be bankrupt? Is there a bondholder who would not be willing to ask for his bond an additional premium if you would make that bond redeemable at fifty years instead of twenty years, or eighty years instead of forty? Why, sir, so far from these bondholders believing that the sinking-fund is necessary for the payment of their bonds; that the Government will be bankrupt if the sinking-fund is not maintained; that they will not get payment of their bonds unless the sinking-fund remains intact and this sinking-fund loan is executed, there is not one of them who would not this moment be glad to exchange his bond for a bond having twenty more years to run without any sinking-fund provision at all. No, sir; there is nothing whatever in this pretense. The sinking-fund provision was not for the sake of the bondholder at all; it was for the sake of the Government. The sinking-fund provision was to provide that the Government might pay off this debt, but the bondholder does not want it to be paid off. The bondholder's interest is that his bond shall have as long to run as possible; that it shall not be paid off. The sinking-fund provision was simply for the interest of the Government, that the Government might put an end to that indebtedness as soon as it was possible to do it, consistent with the interest of the country; but to say that we shall tax the people of the United States thirty-odd millions a year for the sake of the bondholding fraternity; for the sake of making their bonds good; for the sake of maintaining the public credit when we are paying off the public debt at the rate of $6,000,000 a month, and calling this day for $5,000,000 to be presented that we may redeem them, is, to my mind, the most bare pretense that ever was asserted on this floor.

Now, sir, I ask the Senate, under these circumstances, to strike out this second section of the bill, which increases the already monstrous tax upon one of the agricultural products of the country.

Mr. BAYARD. Mr. President, in the Secretary of the Treasury's report to Congress at the present session, the statement was made on page 6 of his estimates of the receipts of the Government for the fiscal year ending June 30, 1876. His estimate was $293,000,000; and the estimated total ordinary expenditures were $272,778,000. This he states does not include the $32,140,914 required for the sinking-fund, and he estimated $11,920,000 deficiency in the moneys necessary to provide for the sinking-fund. There is no time now, and I have no dispesition, to enter into an arraignment of the Administration for mere extravagance. In order to prevent embarrassment to the operations of the Government, I have steadily and readily voted all sums demanded by those who had charge of the appropriation bills of the Government—voted regularly and steadily for supplies for carrying on and maintaining the operations of the Government, intending, however, that while no embarrassment should come to the country from anything like a factious withholding of means, the time should come when we should hold our stewards to an account. Now, the present bill should be that which it professes, or rather which its advocates profess it to be, a simple bill to enlarge the revenues of the country to meet its required expense. I pass by the phraseology, its choice of names, entitled "An act to further protect the sinking-fund and provide for the exigencies of the Government." It is simply a revenue bill, and I have but this comment to make upon it: that in accordance with almost every bill which has been framed under the present Administration, and those which preceded it for twelve or fifteen years past, it has not been so much a bill to provide revenue to the Treasury, as it has been to create unequal burdens, and to protect favored and special classes. This bill is the last, I trust, that we shall soon see in this country, framed in the direction of those which have preceded it. I trust this is the last bill which, under the false pretense of raising revenue, is only a bill, to continue that unequal system of laying taxes, which shall bring little revenue compared with the tax and cost to the public, while benefit flows to favored and special classes.

Mr. President, the two items selected for the chief advance, distilled spirits and tobacco, alone bring now to the Treasury of this country, spirits, $50,000,000, in round numbers, and tobacco, over $33,000,000. Now it is proposed to take these two staple productions and increase the tax upon distilled spirits 28½ per cent. beyond its present volume, and upon tobacco 20 per cent. beyond its present volume. I have this comment to make, that upon both these articles, upon both of these staples, you have long since passed your revenue point. If the design was to bring money to the Treasury without distress to the people, or favor to other classes, you would obtain more money by a lower rate of taxation. I think these two advances will prove delusive, and I think they are reprehensible. I believe they will overstrain your powers of collection, they will further demoralize your people, and they will not give you the revenue that you expect to derive from them.

When will Senators learn that an overstringent law defeats itself? Laws to be successful must be reasonable. They must be proportioned to the power of the Government to collect without that great excess of inquisitorial power and of annoyance to those who are to be subjected to the tax. Besides, it seems to me that in this matter of taxing distilled spirits there runs that fine vein of morality combined with many views which seems to me so false and so absurd. I do not object to the system, for I think it a true one, of levying your tax upon leading articles, and allowing the tax to rest there until, by its stability, it shall extend itself over all those who consume, and thereby produce equality of taxation; but many are voting this high tax upon whisky, as it is termed, for the purpose of inflicting a high moral punishment at the same time that you exact large sums of money. Such a system of mingling morals and politics is absurd and unsound. It is property which you are taxing, and you ought to view it solely in a commercial sense if you wish to treat it with reason and justice.

At one time it was seen fit by those who controlled the finances of the country to impose a tax of $2 per gallon upon distilled spirits. I do not know that any statistics have yet informed us, I do not know that any statistics can ever accurately inform us, the precise proportion of this commodity which enters into use in the arts and that which is consumed as a beverage. My own impression is, from all that

I have been able to gather, that more is consumed in what may be termed the arts, including the arts of pharmacy and chemistry, than there is as a mere beverage. The fact, perhaps, would not be important except to show——

Mr. MORRILL, of Vermont. About 10 per cent is used in the arts.

Mr. BAYARD. Are the statistics reliable to that effect?

Mr. MORRILL, of Vermont. I think they are, so far as I know.

Mr. BAYARD. I am very much surprised to hear it. I had the impression it far exceeded that. I do know that the most earnest representations which the committee of which the honorable Senator and myself are associates in this body, the Committee on Finance, received against the raising of this tax came from the pharmacists and druggists of the country, and not from those who in any way consume this commodity as a beverage.

But let that go by. I only want to say that when we consider this as legislators, we are bound to consider it in its commercial liability and adaptability to bear a tax and maintain the revenue. When the tax on this commodity is ninety cents a gallon it amounted to over 300 per cent. *ad valorem*, and perhaps 500 per cent. *ad valorem*, upon the cost of the article from which it is extracted. When the duty levied was two dollars per gallon your revenues were $20,000,000 per annum from it. Coming to common-sense upon the subject, reducing your duties to a revenue point, you put forty cents a gallon, one-fifth of the former duty, and your revenues were more than doubled from the lower rate of taxation. Is nothing to be learned from this? I believe to-day, at seventy cents per gallon, it is about 400 per cent. *ad valorem* tax upon the value of the article from which this commodity is extracted. You have exceeded the revenue point.

In regard to tobacco, the same remark applies. It has been stated upon this floor that the tax upon tobacco runs from 100 to 400 per cent. *ad valorem* upon the agricultural product which is made the subject of this enormous tax. You draw $33,000,000 from a single agricultural product, and yet you propose to pack more burdens upon it. Why, Senators, this is not safe. It is not reasonable. It is not, in my opinion, the sound, judicious estimate of the capacity of these two commodities to bear your chief load of taxation, even did the exigencies of the country require it, which I do not admit; for, as was said by my friend from Ohio upon my right, [Mr. THURMAN,] last night, I think, in discussing this bill, you are beginning at the wrong end. It is not retrenchment; it is simply an increase of taxation at a time when retrenchment on every score is peculiarly demanded.

I am perfectly aware, at least I hope the truth is, that the people of this country are suffering under a peculiar and exceptional condition of things; that the depression of their interests is temporary; and that there will be a revival of trade, of commerce, of profit, upon a surer and safer basis than heretofore. It is not worth while to enter at this time into a consideration of the causes of this distress, but if it be true, as I trust and hope, that this depression is but temporary, then your revenues will increase with the return of prosperity. With the return of prosperity, if the stern hand of a fair and honest economy is kept upon the public purse, there will be no occasion for the laying of these increased duties.

Every section of this bill is, in my opinion, objectionable. I said that I believed you had passed the revenue point both on tobacco and upon distilled spirits; and that your revenues would be increased by a lower duty even than that which is imposed to-day. That, I believe, could be demonstrated.

We have an increase of 25 per cent. upon sugar, a necessity of human life which enters into the consumption of every living person in the country. This, too, is upon the lowest grades, which, being imported, give to the country not only employment for its labor, but give it all those grosser products which come from and are included in the lowest grades of sugar as imported.

And here again comes in section 4, the restoration of a horizontal 10 per cent. of the duties stricken off by the law of 1872. In short, Mr. President, from first to last, this bill is entirely a bill in the interests of the protectionists of the country. It is not half so much for revenue as it is for the incidental and gross taxation that is involved in your protective system.

I presume, from the votes we have seen here, and from the pertinacity with which the passage of this bill is pressed, that it will pass the Senate and probably become a law, but I hope and I believe it is the last bill framed in the same spirit, and on the same theory, that the American people will have to suffer from; that the time is to come, and is not far distant, when revenue will be derived in the manner easiest for the people to furnish it in, when this system of unequal laws, this system of illy and unfairly adjusted public burdens will be corrected; and that we shall not again see a bill straining all duties beyond the point of revenue for the sake of creating a system of unequal protection. I shall vote against this bill with great pleasure.

Mr. MORRILL, of Vermont. Mr. President, a single word. The Senator from Delaware belongs to the school which is constantly citing the example of Great Britain as to the way and mode of levying taxes. Now, the tax that we propose to levy upon tobacco is not as much by one-third as that of Great Britain. The tax upon whisky will be but a little more than one-third after the rate is raised to the proposed point; certainly it is not half the amount.

The Senator from Ohio has cited the fact that within the last month there has been a decrease of the public debt. We all understand the reason of that; that since the introduction of this bill in the House a large amount of whisky has been taken out of the warehouses and the taxes paid thereon, which has caused this excess in the last week or two; but we shall undoubtedly experience a deficiency of an equal amount in the future,

Mr. BOGY. I should like to ask my friend from Vermont a question. It grows out of a paper laid on our tables this evening stating that the Secretary of the Treasury desires to redeem $5,000,000 of bonds. Are those bonds to be redeemed out of money arising from the sale of 5 per cent. bonds, or from money already in the Treasury? I ask the Senator if he knows. The law of 1870, I will state, authorizes 5 per cent. bonds to be sold, and the proceeds of those bonds to be invested in the purchase of outstanding indebtedness of the nation. But the fourth section of the law also authorizes the Secretary of the Treasury to invest any surplus funds which he may have on hand for that purpose. This notice does not state whether this amount arises from the sale of 5 per cent. bonds, or from coin which he may have on hand, and as we have not heard recently of any 5 per cent. bonds being sold, as there is no evidence that any have been sold lately, I take it that it is from money already on hand.

Mr. MORRILL, of Vermont. The Senator is mistaken. I have no doubt it is simply an exchange of bonds. The Secretary of the Treasury is authorized to issue the 5 per cent. bonds and to obtain the money for them with which to purchase these or to pay these.

Mr. BOGY. In looking over the statement placed on our tables to-night I cannot come to that conclusion.

Mr. MORRILL, of Vermont. There is no doubt about it.

Mr. BOGY. I come to a different conclusion, that it is from the coin on hand, because there is no evidence of the sale of any 5 per cent. bonds. It seems to me the fact ought to be known before we are required to vote.

The VICE-PRESIDENT. The question is on striking out the second section.

Mr. MERRIMON. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. SCHURZ. On this question I am paired with the Senator from Indiana, [Mr. MORTON.] If he were present he would vote "nay," and I should vote "yea," on this motion.

Mr. FERRY, of Michigan. I will state that the Senator from Louisiana [Mr. WEST] is paired with the Senator from West Virginia, [Mr. DAVIS.] The Senator from Louisiana, if present, would vote "nay," and the Senator from West Virginia would vote "yea," on this motion.

Mr. MERRIMON. I desire to announce the pair of my colleague [Mr. RANSOM] and the Senator from New Hampshire, [Mr. WADLEIGH.] If present, Mr. RANSOM would vote "yea," and Mr. WADLEIGH would vote "nay."

The question being taken by yeas and nays, resulted—yeas 25, nays 31, as follows:

YEAS—Messrs. Alcorn, Bayard, Bogy, Cooper, Dennis, Eaton, Fenton, Goldthwaite, Gordon, Hager, Hamilton of Maryland, Hamilton of Texas, Johnston, Jones, Kelly, McCreery, Merrimon, Norwood, Saulsbury, Sherman, Sprague, Stevenson, Stewart, Stockton, and Thurman—25.

NAYS—Messrs. Anthony, Boreman, Boutwell, Cameron, Chandler, Conkling, Cragin, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Gilbert, Hamlin, Harvey, Hitchcock, Howe, Ingalls, Mitchell, Morrill of Maine, Morrill of Vermont, Oglesby, Patterson, Pease, Pratt, Ramsey, Sargent, Scott, Spencer, Washburn, Windom, and Wright—31.

ABSENT—Messrs. Allison, Brownlow, Carpenter, Clayton, Conover, Davis, Dorsey, Ferry of Connecticut, Lewis, Logan, Morton, Ransom, Robertson, Schurz, Tipton, Wadleigh, and West—17.

So the amendment was rejected.

Mr. JOHNSTON. I move to amend the bill by striking out the proviso which commences on the 13th line of the second page, and extends to the 33d line on the third page.

The VICE-PRESIDENT. The amendment will be reported.

The CHIEF CLERK. It is proposed to strike out the following proviso to the second section of the bill:

And provided further, That whenever it shall be shown to the satisfaction of the Secretary of the Treasury, by testimony under oath, that any person liable to pay the increased tax by this section imposed, had, prior to the tenth day of February, eighteen hundred and seventy-five, made a contract for the future delivery of such tobacco, cigars, and cigarettes, at a fixed price, which contract was in writing prior to that date, such tobacco may be delivered to the contracting party entitled thereto, under special permit from the Commissioner of Internal Revenue provided therefor, without previous payment of such additional tax; but the said additional tax shall be a lien thereon, and shall be paid by and collected from the purchaser under such contract before the sale or removal thereof by him, and when demanded by the collector of internal revenue for the district to which the same shall be removed for delivery to the purchaser; and any sale or removal by such purchaser, prior to the payment of such tax, shall subject him and such tobacco so sold or removed to all the penalties and processes of law provided in the case of manufacturers of tobacco so selling or removing tobacco to avoid the payment of tax.

Mr. JOHNSTON. Striking out that part becomes necessary from the fact that the previous proviso has already been amended by a vote of the Senate. This proviso can only have any meaning in the bill in the event the law is made applicable to tobacco on hand. It refers exclusively to tobacco on hand at the time of the passage of the bill. The provision now being to render the law applicable only to tobacco hereafter to be manufactured, this proviso is rendered superfluous and contradictory. Therefore it should be stricken out.

I hope, also, it will be stricken out for the further reason that it undertakes to make a contract between parties, or to vary a contract

already made between parties. It provides that the additional tax shall be paid by the man who has purchased tobacco where there has been a previous sale. I do not understand how Congress can compel a man who has bought tobacco at a fixed price to pay a greater price for it. Suppose a man has bought a lot of tobacco at 25 cents a pound, and Congress comes in and says, "You shall not pay that 25 cents a pound, but you shall pay 29 cents, an addition of 4 cents a pound." I respectfully ask what right Congress has to change a contract between the parties and to compel the purchaser to give more for the article than he had contracted for? I recognize no such authority in Congress as that, nor do I know how Congress is going to enforce it. A person has made a contract to buy tobacco, say at 25 cents a pound. When he comes to take it away, he is required to pay 29 cents—25 cents to the man he bought it of, and 4 cents additional to the Government. This 4 cents additional he was not bound to pay when he bought it. That is put on subsequently to his contract; and Congress undertakes to compel a man who has made a contract at a fair price, what the one party was willing to give and the other party willing to receive, to pay 4 cents additional per pound before he can get the article that he formerly bought. Now, where does Congress get the authority to make such a contract, or to enforce it when made? Suppose the collector demands this 4 cents a pound and the party refuses to pay it; what power has the collector or anybody else to compel the producer to pay this additional 4 cents a pound? The man may refuse to take it, and the tobacco is left on the hands of the man who has perhaps sold it and been paid for it. Suppose a case where there has been a sale of a lot of tobacco and an actual payment of money. The purchaser has paid and the seller has received the money. When the tobacco is being taken away, 4 cents a pound additional is demanded. The producer refuses to pay it. Do not Senators see that suits would grow up between parties? This section will produce litigation all over the country in cases of that sort. Congress is laying the foundation for that sort of litigation by this section, and the proviso ought to be stricken out.

Mr. MORRILL, of Vermont. I trust that this proviso will not be stricken out; and I hope we shall gratify the Senator from Virginia in making the bill symmetrical when it reaches the Senate by nonconcurring in the amendment that was before made in Committee of the Whole.

The VICE-PRESIDENT put the question on the amendment, and declared that the noes appeared to prevail.

Mr. JOHNSTON. I do not want to consume time by calling for the yeas and nays, but I would like to have a division.

The question being put, the amendment was rejected, there being, on a division—ayes 20, noes 21.

Mr. MERRIMON. I have no disposition to prolong this debate at this hour, but this subject is so interesting to my constituents and to two great industries in the country that I feel called upon to do all I can to defeat this measure, in a proper way. I therefore move to strike out the first and second sections, and upon that motion I ask for the yeas and nays.

Mr. MORRILL, of Vermont. I think that motion has already been made.

Mr. MERRIMON. No, sir.

Mr. MORRILL, of Vermont. Was it not made yesterday?

Mr. MERRIMON. I moved it on yesterday, but at the time I moved it it was not in order and the vote was not taken.

The VICE-PRESIDENT. The Senator from North Carolina moves to strike out the first and second sections of the bill, upon which motion he asks for the yeas and nays.

The yeas and nays were ordered.

Mr. FERRY, of Michigan. I am requested to state that the Senator from West Virginia [Mr. DAVIS] is paired with the Senator from Louisiana, [Mr. WEST.] The Senator from West Virginia, if present, would vote "yea," and the Senator from Louisiana would vote "nay."

Mr. MERRIMON. I desire to state that my colleague [Mr. RANSOM] is paired with the Senator from New Hampshire, [Mr. WADLEIGH.] If Mr. RANSOM were here he would vote "yea," and Mr. WADLEIGH would vote "nay."

The question being taken by yeas and nays, resulted—yeas 25, nays 33; as follows:

YEAS—Messrs. Alcorn, Bayard, Bogy, Cooper, Dennis, Eaton, Fenton, Goldthwaite, Gordon, Hager, Hamilton of Maryland, Hamilton of Texas, Johnston, Jones, Kelly, McCreery, Merrimon, Norwood, Saulsbury, Sherman, Sprague, Stevenson, Stewart, Stockton, and Thurman—25.

NAYS—Messrs. Anthony, Boreman, Bontwell, Cameron, Chandler, Conkling, Conover, Cragin, Dorsey, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Gilbert, Hamlin, Harvey, Hitchcock, Howe, Ingalls, Mitchell, Morrill of Maine, Morrill of Vermont, Oglesby, Patterson, Pease, Pratt, Ramsey, Sargent, Scott, Spencer, Washburn, Windom, and Wright—33.

ABSENT—Messrs. Allison, Brownlow, Carpenter, Clayton, Davis, Ferry of Connecticut, Lewis, Logan, Morton, Ransom, Robertson, Schurz, Tipton, Wadleigh, and West—15.

So the amendment was rejected.

The bill was reported to the Senate as amended.

The VICE-PRESIDENT. The question is on concurring in the amendment made as in Committee of the Whole. The amendment will be reported.

The SECRETARY. The amendment is in section 2, lines 11, 12, and 13, to strike out—

Not apply to tobacco on which the tax under existing law shall have been paid when this act takes effect.

And in lieu thereof to insert:

Only apply to tobacco manufactured after the passage of this act.

Mr. MORRILL, of Vermont. With that amendment I wish to ask the Senate to non-concur. It is of very little importance, but it necessarily sends the bill back to the House of Representatives. I hope it will be the pleasure of the Senate to non-concur in the amendment made as in Committee of the Whole.

Mr. JOHNSTON. I do trust that the Senate will concur in the amendment made in committee, it is so plainly right. It is so manifestly an unjust thing to make these discriminations against the industries of the South, that I do trust the Senate will adhere to its amendment. There is plenty of time. When the bill goes back to the House the friends of the measure can ask that the amendment be concurred in. If that is done the bill is passed. If it is not done a committee of conference can very soon settle it. It will not delay or defeat the bill. I do trust a provision of this sort, that is so oppressive to the South, so discriminating and unjust to the South and to a great interest, one of the greatest interests in the country, will not be retained in the bill. I hope the amendment will be concurred in.

The VICE-PRESIDENT. Is the Senate ready for the question?

Mr. MORRILL, of Vermont. I ask for a division.

Mr. THURMAN. When this bill was taken up we were given to understand by the Senator who has it in charge, that it was a bill that did not meet with the approval of his own judgment. If I understood him, he gave us to understand that if he had the framing of a bill on this subject, it would be a different bill from that before the Senate. From the expressions of other members of the Finance Committee we learn that this is a bill which never would have been framed by that committee had the duty of framing a bill upon the subject been devolved upon them. But we were given to understand that this bill must be taken, word for word and letter for letter, as it came from the House; in other words, that the Senate were to exercise no judgment whatsoever upon the subject, but that the House by sending this great measure to us in the last days of the session, was to dictate to the Senate what should be the law which we were called upon to enact. Now, after the Senate, notwithstanding that declaration, has amended this bill, and amended it in a way that I am sure commends itself to the judgment of almost every one on this floor, we are again told that we are not to exercise our own judgments; that we are to shut our eyes; that we are to lay aside our intellect, our experience, our judgment, and take this bill precisely as it came from the House.

Mr. President, is that a mode in which the Senate should legislate? Is that a mode of legislation consistent with the dignity and the character of the Senate? Is that performing the duties which the Senate was created to perform? Here is a bill that really never could have passed any committee of this body as an original measure; here is a bill that does not now command the assent of a majority of this Senate upon its merits; and now we are told that after the Senate has amended the bill in a single particular to make the bill consistent, to make it just and fair so far as that amendment can have that effect, the Senate is to become the mere slave of the House and pass this bill, word for word and letter for letter, as it is dictated to us. Sir, for one I am not willing to submit to any such dictation. There is no necessity whatsoever for this hot haste. If the sinking-fund needs to be made intact, if there is any necessity for that, it is but a few months until the next Congress will convene and the work can then be done. There is not a Senator on this floor who believes that the public credit would suffer by that delay. Let this bill go over until the next session; let this bill be defeated, and at the next session, the long session, when there is time to mature a bill on this subject, time to consider it, time to consider it here as well as in the House of Representatives, Congress can do that which the national honor and the national interests require. But to say that at this short session of Congress we shall be coerced into the passage of this bill word for word and letter for letter as it comes from the House, is simply to say that the Senate shall be guilty of an act of self-abnegation disgraceful to it and ruinous to its character and reputation.

Mr. BOUTWELL. Upon this particular amendment I desire to venture the suggestion that the Senate last night voted without understanding precisely the provisions of existing laws. By the existing laws there is a warehouse system connected with the manufacture of distilled spirits, but the warehouse system does not apply to the manufacture of tobacco. Therefore, the tax on all tobacco manufactured must be paid when the manufactured article is removed from the warehouse. The tax on whisky is only to be paid when it is removed from the bonded warehouse. If there is any fault in the system, it was in the act of 1868, by which a distinction was made between the two branches of manufacture in that respect. As the bill states, as it came from the House, the manufacturer of tobacco is required to pay upon the manufactured article before it is removed from the manufactory; and the manufacturer of distilled spirits is required to pay the tax before the article is removed from the Government bonded warehouse. For my part, I see not how any other rule than that which exists in this bill could have been applied to the two branches of manufacture. The bill in this particular is exactly as it should be, as presented to us from the House.

The VICE-PRESIDENT. The question is on concurring in the

amendment made as in Committee of the Whole, on which a division is asked.

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

Mr. JOHNSTON. The yeas and nays were called for by the Senator from Vermont, as I understood. If they were not, I call for them.

The yeas and nays were ordered.

Mr. BOGY. I do not wish to detain the Senate. I will only state that I think the Senator from Massachusetts is mistaken. I think the same rule applies to tobacco that applies to whisky. That is my understanding. We have large tobacco factories in my city, and large whisky establishments. I have had much to do as a lawyer with these branches of business, and I think the same law applies, that if tobacco remains in the warehouse——

Mr. BOUTWELL. I will say to the Senator from Missouri that there is no bonded-warehouse system connected with the manufacture of tobacco, but there is in connection with the manufacture of spirits.

Mr. BOGY. Nevertheless, the duty is not paid until it is required for sale. It remains in the factory, under the supervision of an officer of the Government, which is in effect the same thing.

The VICE-PRESIDENT. The Secretary will call the roll.

Mr. MERRIMON. My colleague [Mr. RANSOM] is paired with the Senator from New Hampshire, [Mr. WADLEIGH.] If my colleague were here he would vote "yea," and the Senator from New Hampshire would vote "nay."

Mr. FERRY, of Michigan. The Senator from Louisiana [Mr. WEST] is paired with the Senator from West Virginia, [Mr. DAVIS.] If here, the Senator from West Virginia would vote "yea," and the Senator from Louisiana would vote "nay."

Mr. SPENCER. I desire to state that the Senator from Illinois [Mr. LOGAN] is paired with the Senator from South Carolina, [Mr. ROBERTSON.] The Senator from Illinois, if present, would vote "yea," and the Senator from South Carolina would vote "nay."

The question being taken by yeas and nays, resulted—yeas 27, nays 29; as follows:

YEAS—Messrs. Alcorn, Allison, Bayard, Bogy, Clayton, Cooper, Dennis, Eaton, Fenton, Goldthwaite, Gordon, Hager, Hamilton of Maryland, Hamilton of Texas, Johnston, Jones, Kelly, McCreery, Merrimon, Norwood, Saulsbury, Sherman, Sprague, Stevenson, Stewart, Stockton, and Thurman—27.

NAYS—Messrs. Anthony, Boreman, Boutwell, Cameron, Chandler, Conkling, Cragin, Dorsey, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Gilbert, Hamlin, Hitchcock, Howe, Mitchell, Morrill of Maine, Morrill of Vermont, Patterson, Pease, Pratt, Ramsey, Sargent, Scott, Spencer, Washburn, Windom, and Wright—29.

ABSENT—Messrs. Brownlow, Carpenter, Conover, Davis, Ferry of Connecticut, Harvey, Ingalls, Lewis, Logan, Morton, Oglesby, Ransom, Robertson, Schurz, Tipton, Wadleigh, and West—17.

So the amendment was not concurred in.

Mr. ALCORN. I move to insert as an additional section the following:

That all corporations working mines of gold and silver, unpatented, on the public domain, producing over $100,000 per annum, shall pay a tax of 5 per cent. on their net yield, to be collected under such regulations as the Secretary of the Treasury shall prescribe.

The Government is in a very unfortunate condition when is met with the necessity of taxing the labor of the country. The labor of a country should not, as a principle of government, ever be burdened, but should be let loose and invited to new fields of enterprise. The principle upon which the Government of the United States can tax a commodity produced by the labor of the country in any section of the Union, while it may not be in violation of the Constitution itself, certainly is in antagonism to the spirit of that instrument. The principle once recognized, gives into the power of a section of the country at any time to suppress and destroy the prosperity of an antagonistic section, or a section whose products may not be in accord with the sentiments of the majority. The principle of taxing cotton, for example, at the close of the war, one that the Government of the United States resorted to, underlies to-day the total wreck of fortune, the poverty, and I may say the disorder that exists in the Southern States. The Government of the United States undertook to tax all cotton produced in the United States. Cotton was only produced in certain States. It was the great staple of those States. That tax, which was levied by the Government, reduced the cotton States to the point of starvation, and it was not until the Government of the United States discovered that the people were absolutely in danger of starvation that they withdrew from their statute-book that most pernicious law taxing cotton.

Now, you tax tobacco, you tax whisky, you follow the poor man in his toil, who cultivates the tobacco-stalk, and you tax his labor. You go by the door of the rich; you leave the man whose income amounts to millions, having repealed, under the demands of public sentiment, the law taxing incomes, and say to him, "We will not tax you." You go and find the man who toils in the tobacco-field, and speak to him, saying, "Here the tax shall rest."

If, then, you can go and follow the man who toils in the tobacco-field, if you can go and find the plowman who turns the soil on the prairies of Illinois, and tax thus indirectly his corn, I point you to another field in which your investigations might find a source of taxation. It is upon the public domain, worked by wealthy corporations, who are realizing millions from the public domain, who are exhausting the mines, and who are paying nothing to the Government of the United States. There is a commodity that you may tax which does not tax the consumer. There you may tax what is produced from the soil, for he digs the treasures from the soil, and it is from the soil of the nation. He brings up his millions. It is the product of the earth; it is the property of the nation.

My amendment goes by the poor man who, with his own pick and shovel, is there endeavoring to find for himself a fortune. It leaves the encouragement that exists to-day properly to the enterprise of mining. It touches no man who in his private capacity is toiling for the gold in the mines of Nevada and in the mines of California. It only goes to the wealthy corporations. It goes to the men of strength; it goes to the soulless corporation that digs up its millions, and says, "Pay over to the Government of the United States 5 per cent. of your net earnings, if your products shall be over $100,000 a year. If not $100,000 a year, the hand of the Government does not touch you." It still holds out the encouragement; it still speaks to the enterprising miner, and says, "Go on, go on, in accumulating your fortune."

Mr. President, if this amendment be adopted it will bring into the Treasury of the United States at least $3,000,000 by way of revenue. The Comstock lode alone, within the last twelve months, turned up, as the result of combination, as the wealth of corporations, from the public domain twenty millions of the precious treasure. Other corporations are extended over the country there, and this source of revenue will bring from the rich, it will bring from the strong; it will not tax the consumer, but will put $3,000,000 in your Treasury. How can you meet the man who toils in the corn-fields, who toils in the tobacco-field, who by the sweat of his brow cultivates that which produces the staple that you tax, when you have passed by the mining corporations upon the public domain and have refused to tax them? I know the fact that the masses of men who are agriculturists are patient. They will endure. They are not so jealous of their rights as are the commercial interests of the country. They are patient; they will bear burdens. Burden after burden you may pile on them; but there is a maximum of outrage and oppression that you cannot go beyond; there is a maximum that you cannot overstep. In this tax that you levy now upon the tobacco and whisky, and a tax indirectly upon corn, you are about to go, in my humble opinion, above the maximum, above the line of safety. The principle is one that is dangerous. Suppose you were to levy a tax which would prohibit altogether the cultivation of tobacco. You can do it. If you can tax tobacco twenty-four cents a pound you can tax it twenty-four dollars a pound. If you can tax tobacco, you can tax cotton. If you can tax cotton, you can tax rice; you can tax corn; and thus it is that you assert here a principle by which one section in this country can destroy and impoverish another.

Mr. STEWART. I suppose, of course, the amendment is a joke. I do not suppose anybody is in earnest about an amendment of that kind.

Mr. ALCORN. It may be a joke with my friend; it is a very serious matter with me.

Mr. STEWART. I take it for granted that the Senator from Mississippi is not quite as unfamiliar with public affairs as the amendment indicates.

Mr. ALCORN. I yield to my friend from Nevada in all the accomplishments of statesmanship. I know my extreme ignorance, and am prepared to learn from him now some lessons, if he will allow me to sit and hear him.

Mr. STEWART. I am glad of the acknowledgment that the Senator knows his ignorance. I do not think we needed that declaration further than we got it in the amendment. I think that was a sufficient declaration, without having made any further acknowledgment.

Mr. ALCORN. It is perhaps necessary for me to say so in order that it may be understood. It is not necessary for the Senator from Nevada to say it that his ignorance may be understood.

Mr. STEWART. It is very necessary that the Senator should state that, so that it may be understood.

Indeed, his amendment is a very good commentary on this bill. A portion of this bill protects the miners. It protects them through Pennsylvania. It is for the protection of the miners that you are repealing the 10 per cent. tariff reduction. You are protecting the labor of the miner. That is part of the pretext for passing the bill.

Now, we do not ask any protection with us. We are producing $75,000,000 to $100,000,000 a year, and do not ask any protection. We are paying duty on everything, and the miners are easy. This would put a load on them. I want to call attention to the fact that in this bill miners are protected so that you can pay them higher wages. Our miners are not protected. They will have to rely upon what they can find. The amendment says that if the amount produced is more than $100,000 it shall pay 5 per cent. All the mines, pretty nearly, produce as much as that, if they are worked at all.

Mr. EDMUNDS. Then the tax would be so much the larger?

Mr. STEWART. Very few of them are paying mines. This is to be a tax on the gross proceeds. Any mines if worked at all produce $100,000, but ninety-nine out of a hundred cost more than $100,000 to work them. You have to pay an assessment all the while on them, and if this is on the gross proceeds——

Mr. ALCORN. The Senator is right, on the gross proceeds; but the tax will be 5 per cent. on the net earnings.

Mr. STEWART. It does not make any difference whether it is on the net earnings or on the gross revenues. It would be a very pretty

thing to place in this bill, which protects the miners digging out iron ore in one part of the country, to levy a special tax on those digging out gold and silver. Nevada, California, and all the Pacific coast have generally voted for protection. They pay a very large amount of the revenue that comes from duties. They have generally voted for all the protective tariffs and sustained them during the war, particularly to keep up the credit of the country, for they believed it was absolutely necessary to do so. They have done that constantly, and now it is suggested that you ought to tax them. Let me tell you that there are engaged in hunting for mines some three or four thousand men, who spend their lives in that business, who are poor and who must always remain poor. It is only a few of the lucky ones that you propose to strike down in the amendment. It is the example of the lucky ones that offers the inducement, that continues the prospect of the great West. The mineral resources of the United States are perfectly inexhaustible; but the effort to find them, the effort to obtain the gold from the country, overcoming all the difficulties of transportation, are the only limits to the amount of gold and silver that can be produced. The great mass of men engaged in mining lose money. They sacrifice their whole lives and never reach the reward that they anticipate. That is the fact as to the great mass of them. Here and there there is a strike and a man makes a fortune. That is talked of; but the hundreds of thousands who never reach their reward you know nothing about.

Five per cent. may seem a very little thing; but if you put 5 per cent. tax on the mines that are dividend-paying you would largely diminish the number that pay dividends. You will take away the inducement to find other mines. The slightest embarrassment on it will prevent their reaching the gold. You will cut off the resources altogether. A constant supply of gold and silver is one of the principal supports of your financial system. All that has ever been asked for the miner is to be let alone, not to be harassed. Let us develop the mines. Notwithstanding it costs a dollar to get a dollar, and more too, and notwithstanding mining people are seldom frugal, still there is something fascinating about the chance occasionally to get rich. That is a characteristic of the American people. All people will take chances, and that will prosecute the work; but if you lay the heavy hand of taxation upon them when they have found it, if you interfere with their titles, you will strike a blow at that great industry from which it never can recover. The reason for the success of mining in the United States now, and why we are producing more and more every year, is because we are working under a system of law, because we are protecting prospecting and the developing of mines; because the miners are let alone. They do not ask to be helped by bounties or by tariffs. They do not ask for any tariff to be put upon their wages. If they cannot make it up, they ask nobody to help them out.

Mr. ALCORN. Mr. President, the Senator from Nevada rose to rebuke me as lacking every prerequisite of one who should stand here to judge of the questions that were brought before the Senate for their consideration. I supposed from the advertisement at the time he got up, that he was to illuminate this subject and make it very plain indeed that there was no merit in the amendment that I had offered. If there is a reason why this amendment should not prevail, the Senator from Nevada certainly has not stated it. He did not express, he did not even intimate a reason as to why it should not prevail, except the mere assertion. He does make an argument, however, with regard to taxing this industry which I attempted in the preface of my remarks to show attached to the agricultural products of the country. I had shown that it attached to cotton; that it had prostrated that industry; that it came near destroying the industry; that it reduced the people of the South to starvation and beggary, and that that poverty to which the southern people had been reduced exists to-day among them; that it is one of the reasons why they manifest irritation and discontent. It is because of the poverty of the people of the South. They have not recovered from the blow that was given them when the Government of the United States drew from their poverty $70,000,000 into the public Treasury.

Mr. STEWART. Will the Senator allow me?

Mr. ALCORN. I have not got to your case yet. I will be there presently. But I will hear the Senator.

Mr. STEWART. The Senator is making the argument that this kind of tax would destroy all industry, and as he did not want to destroy it, I supposed he was not serious about his amendment. I supposed it was a joke, and I said if it was not a joke, then it was a very serious thing. I supposed it was a joke, as a matter of course, and if not a joke it was a very stupid thing.

Mr. ALCORN. Yes, in your estimation, certainly, and that is worth a great deal, as is shown by the speech you have made.

Now, Mr. President, the honorable Senator from Nevada starts out by declaring that I am striking here at this industry. Why, said he, how many mines are there that roll out a hundred thousand dollars and yet do not make a cent? Very well, if they do not make a cent this amendment does not tax them. Notwithstanding that the gross earnings may be $100,000, it is a tax of but five per cent. on the net earnings. In that case you are left out, and you go without taxation. But the Senator says that I am after the poor man; that the poor laborer of Nevada, who winds his way among the mountains looking for silver or gold, would go in dread of this amendment if it should be passed by the Senate. It does not touch him unless he belongs to one of these soulless corporations. He has to lose his identity; he has to merge himself into a corporation, before the amendment ever finds him. It taxes nothing that has a soul.

Mr. STEWART. How many mines are being worked by individuals?

Mr. ALCORN. But your tax on tobacco taxes the soul; it taxes the poor man.

Mr. STEWART. How many gold and silver mines are being worked there that are not owned by corporations?

Mr. ALCORN. The honorable Senator wants to lead me into deep water. He is one of the men that understand the mountains of the gold regions. He knows something about them. I know nothing of them except what I have found out in the Committee on Mines and Mining, for when I went there I did not know anything on the subject.

Mr. STEWART. That is just exactly what I supposed.

Mr. ALCORN. I did not know anything about mines, but when I went there I learned something, and I have "panned" out this amendment since I have been on the Committee on Mines and Mining. I have found out that much. Then I say that this touches no man unless he belongs to a corporation, and not the corporation unless it is digging treasures from the public domain. No laborer in Nevada need have any fear of this amendment if it is passed. None will ever feel it except those soulless corporations that go upon the public domain and there exhaust its treasure; and when the earth is left lifeless, robbed of its treasure, they go and seek another place. Does the Senator tell me that these corporations should not be taxed when you have taxed the poor laborer upon the hills of Virginia and Kentucky and Illinois?

The honorable Senator says that these miners have stood by the Government, and that they support the Government. They do contribute their share. The miners are a praiseworthy population. I would not touch one of them. I would not burden one of those poor fellows who go out prospecting for a fortune, but I would bid him God-speed, and say, "Good fortune attend you, my friend, as you dig into the bowels of the earth." I have shown the good faith that was in me, for the other day when a curious man came from Nevada and said he wanted to dig a hole into White Pine Mountain, that had been lying there in its vast proportions since God spoke the world into existence——

Mr. THURMAN. Without a hole in it?

Mr. ALCORN. Without a hole in it. When this man wanted to go and open a hole in the mountain, I said, in God's name let him go, and I trust he will find treasures deeply hidden there. This amendment will not find him, however, unless he shall get out $100,000, and not then unless his net earnings reach that amount, and then he will be ready to pay 5 per cent. But you would not allow him to dig there. You absolutely refused to permit the man to dig a hole in the mountain. You have examined its crust, its surface, have been digging around and found nothing there. That ingenious, inquiring, enterprising, industrious man wants to go and run into the bowels of the earth and see what he can pan out there.

Mr. STEWART. We allow him to go and dig, but we do not want to give him an act of Congress to do it.

Mr. ALCORN. Exactly; you will allow him to dig, but you will not give him an act of Congress authorizing him to go and dig; and there is no other way I know.

Mr. STEWART. That is already allowed by law. The poor fellow is crazy. He is entitled to that now.

Mr. ALCORN. He may be crazy, but it seems that his demonstrations in the way of a hole in that mountain suggest to the Senator from Nevada that he may not, after all, be as crazy as he thinks he is. I do not know what is in him. God knows I do not know what is in the mountain. But I was willing to let the fellow dig there, and so I am willing to let everybody dig.

Mr. President, I do not wish to detain the Senate. I do not wish to debate this question. The amendment only taxes corporations, and not them, unless they have over $100,000 net earnings, and then the net earnings at 5 per cent. I have stated that according to the estimates I have made, though I may be at fault—but I do not think I am—that this measure will bring $3,000,000 into the Treasury. I now leave the question.

Mr. STEWART. One word. The richest man on the Pacific Coast to-day, fourteen years ago was swinging the pick. I have seen him do it many a time. Such examples as his make others work, and produce hundreds of millions.

Mr. ALCORN. Certainly, and there is a reward for his industry and his energy that every man in all the land ought to recognize. I trust there are many more like him.

Mr. STEWART. Such examples sustain the national credit.

Mr. ALCORN. Certainly. I would not strike at that.

Mr. JONES rose.

Mr. ALCORN. I will reply to the Senator's colleague, and then I will yield to him. I did not suppose I was going to get myself into this trouble, but I trust I shall work out of it after a while. The poor man is not touched by this amendment. No man will be deterred from going to Nevada, no man will be deterred from prospecting because of the fact that Congress taxes not the gross earnings of a corporation, but the net proceeds, 5 per cent., and not it until it has got to the point that it realizes $100,000.

Mr. JONES. I would like to know of the Senator if we could not raise more revenue, and just as well, unless there be a particular spite against this industry, by taxing all mines.

Mr. ALCORN. I never had any spite in my life against any industry.

Mr. JONES. Why tax the net income from this particular industry and not the net income from any other industry? If we are going to tax net incomes, let us start with it on everybody. Why select incomes from this one source?

Mr. ALCORN. When looking about for revenue to the Government, if it were to tax my little income, I should have with my own judgment to declare that there was no money in it, but "there's millions" in this other thing. [Laughter.]

Mr. THURMAN. The first thing that strikes one is that the proposition of the Senator from Mississippi is simply to add an additional tax to a bill which already imposes taxes that in my judgment ought not to be levied. He does not propose to substitute a tax on the product of gold and silver, in lieu of any tax contained in this bill. He leaves the tax on the agriculturist, whose labor produces the tobacco, whose labor produces the corn and the rye out of which the spirits are made; he leaves all these onerous and oppressive taxes, and proposes to add another tax to them. That does not strike me as being a remedy for the evils that are contained in this bill.

One word more. Formerly, in Europe, it was an established principle of law that all mines of the precious metals belonged to the King. That doctrine no longer obtains, I believe, in the amplitude in which it once was the law; and yet there is in Europe, in one country and another, a royalty imposed by the government upon the product of the mines of gold and silver; but that has never been the policy of the United States, and so of Mexico, I am told. I do not believe that at any time in the history of this country it has been considered the policy of the Republic to impose a royalty upon the production of gold and silver.

Furthermore, Mr. President, every ounce of gold and every ounce of silver that is produced is the result of labor. There is an equivalent in labor for every ounce of silver and every ounce of gold; and, perhaps, if we take the whole body of men working in gold and silver mines, the product of their industry in mining is not greater than the product of the industry of an equal number of men engaged in raising wheat or corn.

Mr. STEWART. Less proportionably.

Mr. THURMAN. It certainly is not more. Then, if my friend from Mississippi wants to find a subject of taxation that will raise him $3,000,000 a year and more, that will raise him three and one-half millions a year, instead of imposing a tax of 5 per cent. upon the product of the gold and silver mines of the country and discouraging that production, which in my judgment as a hard-money man ought to be fostered, let him propose to levy an additional tax of 1 per cent. on the national-bank circulation, which is an unmitigated and unpaid-for privilege, and he can have three and one-half millions a year.

Mr. STOCKTON. Mr. President, I did not intend to say a word on this question, and I have not yet spoken upon it. I propose now to say only a word, and that word is more by way of suggestion than of fault-finding with anything that has taken place. The subjects of taxation in old times were property. Property is what is protected by the Government, and this should be the subject of taxation. We were taught in old times, and the history has come down to us from our ancestors, that the theory was that it was because we protected property that it was taxed. We have learned from days away behind the Constitution, in the earliest principles of the common law, that were instilled into our minds, that taxation upon one individual at the expense of another; that taxation upon one subject at the expense of another subject, was illegal; to use a common phrase, unconstitutional, and violative of that general principle of equity and justice that is behind the Constitution itself. In making tariffs, we say that this object coming in shall be taxed to this extent, to that extent, or to the other extent. The tariff applies to imported goods. They are subjects which may be imported or not imported. You may tax them as you please; but when you come to tax the products of our own country, when you come to tax tobacco, to tax whisky, to tax silk, to tax any other product of the country, all of which have been brought up in the course of this discussion, I should like to know from some gentleman what authority you have to tax any individual subject. I may be entirely ignorant in regard to the question; I profess no great knowledge of it, but I do not see the authority on which you can tax one subject for the purpose of raising revenue and not tax another. Can you say that every bank in the United States shall pay so much money because you want so much money? Can you say that every railroad company in the country shall pay so much because you want so much?

Mr. President, that was the principle of the income tax. That principle of taxation has created civil war in many countries abroad, and it was so obnoxious to our people that it was repealed as offensive at the very earliest opportunity. If I am not mistaken, it was one of the very earliest taxes that were repealed.

It occurs to me that the principle of taxation is that all shall be taxed alike; that property shall be taxed alike; that if brains are taxed, that brains shall be taxed alike. The equality of taxation is a right that we all possess, and if the enormity of the other principle is not illustrated by what has occurred here in the last two days, and particularly to-night, I am incapable of appreciating what is an enormity. You begin with whisky and tobacco, and try to substitute for them tea and coffee, and then to-night some proposition is made to tax some particular individuals in reference to their business, because, as is openly avowed, they are making a good deal of money. When that is the proposition, it is simple robbery and not taxation; it is doing what you have no constitutional right to do, and, as I said before, away behind the Constitution is the right that you have to prevent unequal burdens being levied upon the people, which was the very doctrine of the Declaration of Independence itself. If you have to raise taxes, raise your taxes by a tariff laid upon all that people choose to import, so far as I am concerned. We can get along without importations; we have done it before.

If you mean to tax our home manufactures, tax them, but tax them equally. Do not tax the cotton in one State, and the whisky in another. Do not go into Ohio and stop all their distilleries, as one honorable Senator from Ohio told you you had done by one single tax, and, as was well said, the tax on whisky was a tax on the raising of corn, a product of the soil. Do not, as has been proposed to-night, tax every man who succeeds by his own industry, and his own energy, and his own brains in developing new products of the soil or developing a mine. Do not tax the man who may be making $50,000 a year and supporting fifty or sixty people by the work of his own brains and his own industry, and has no property to be taxed. Do not do that; but when you come to levy your taxes, levy them fairly upon all the industries of the country.

My proposition may be simplified in one word, strange as it may seem, that a tax upon tea, a tax upon coffee, a tax upon whisky, a tax upon tobacco, a tax upon gold, a tax upon silver, a tax upon incomes, is an outrage on any community that can bear taxation in any other way. Tax the property of your country that you protect. Let that bear the burden of taxation; that is better for the community. If you need an income-tax, if you must go back to the income-tax, do it boldly, bad as it may be; but do not do it in this indirect way, by saying that so much money is made by this interest and so much money by that.

This suggestion I have not made with any object of intruding particularly in this discussion, but for the simple reason that I have felt that it is a view of the case which, according to my own small light on the question, was important for gentlemen to think of. It does seem to me beyond all kind of question that the taxation of individual objects, which affect individual people, is violating a principle of law which forbids the making of special laws. We should make general laws. A law to be a law at all must be a general law. A law of taxation, by the fundamental principles of the British government before our Revolution, must be a general law. It did not apply to Jersey and Guernsey and some other islands, but it applied to every other part of the dominions of Great Britain. The revenue laws were founded on the same principle in old times. I do not mean to say that things are not changed there. I do not mean to dispute with gentlemen better informed than myself in reference to the methods of levying taxation there in later years; but I do mean to say that the great general principle at the bottom and foundation of all taxation is a general taxation that affects all the people of the community as a general proposition, that taxes the property of the country.

In these remarks, as I said before, I have no disposition to comment on a question not before us. The raising of money by a tariff involves a great many other serious questions. When you come to tax your own productions I do say that you have no right to tax one thing at the expense of another. If you do, with all the States we have, with their different interests and their different productions, you will find yourselves in inextricable difficulty. Why, sir, the seed of tobacco called the Connecticut seed is made into a wrapper, the inside of which is grown very largely in my own State and in that vicinity. An immense number of cigars and tobacco in various forms are put up out of it. You run up to Connecticut, you go away down to Florida, with this production. Then take the whisky production; there is hardly a part of this country that is not concerned in it. Every one of these things that you propose to tax affects many portions of the country; but can any man deny that this affects one State a great deal more than another? In my State it may be a trifling matter; in Connecticut it may not be very large; while the tobacco business in Virginia may be immense, and it may be a great wrong to them if you put this tax on. Take whisky, it is precisely the same way.

I am not discussing this thing in the manner it has been discussed before. I am discussing it as a great proposition, as far as my mind will enable me to do. Is it possible for you to form a system of taxation where you want money, when you come in and say, "we must have money, and so we will tax tea, we will tax coffee, we will tax cotton, we will tax whisky, and we will tax tobacco?" The difficulty is that it is unsound in principle; it is unjust in principle; it is a violation of all the laws that have guided taxation for centuries wherever the common law has prevailed. I do not mean to say that there are not a thousand precedents which may be brought up of the violation of these rules, in the corn-tax and in other taxes in England

and other places. I am simply going back, to do the best I can, in the few remarks I make, to the principle that lies behind this thing. I think it would be a great deal better to levy a tax upon the property of the country fairly between the States than to levy a tax upon products that appertain to individual States, and which bears hard upon one and hard upon another, and more lightly upon one and more lightly upon another.

Mr. President, whenever a tariff-bill comes up, you know how it is, I know how it is, we all know how it is. We laugh at one another about it; and that has existed for ages before my time. The free-traders are opposed to any protection at all; but if there is to be a tariff for revenue, they insist upon it that their own State and their own neighborhoods shall not be protected against. Some gentlemen said in the discussion here only last night—I think it was the Senator from Pennsylvania, [Mr. SCOTT,] and he said so very properly; I find no fault with him—that while Pennsylvania was defending her products here, pig-iron and other matters, which are so valuable to this country, other States had their own interests that they were always ready to advance and have protected, and he mentioned some products of my State. It is perfectly true; ever since I have been here, I have been constantly approached, when the tariff question was pending, by gentlemen who have been engaged earnestly and honestly in trying to develop products in my own State, to save and protect them from discrimination against them. I have been so urged in some cases by importers, in other cases by those who were their rivals in business. That comes from every State. That has always prevented us from making a proper tariff for this country, and no right tariff ever will be made for this country that is made upon any such basis. If I am to say that I would like this thing protected in my little town, and I would like that other thing protected in this other part of my State, and the Senator from Pennsylvania, with his honesty and true purpose to his own State, insists that it shall not be discriminated against, and shall show that you are hardly doing them justice, and those of other States do the same whenever the question comes up, what are you to expect? You levy your tariff revenue indiscreetly. You levy it in the heat and hurry of business. You levy it finally by the result of a party vote. You levy it by the arrangement that is made to carry a tariff-bill, not measured by the necessities of the Government, but you levy it by the dictates of a party caucus. After all, that is the way tariffs are made, and that is the way the taxes are laid.

Mr. President, in these perhaps the last words that I shall ever utter in this Senate, knowing as little as I do about this financial question and the methods of raising revenue, I protest against that system altogether from beginning to end. I believe the States of this Union to be perfectly independent in their own matters and affairs that have been left with them by the Constitution and sovereign in their own capacity; but when the representatives of those States, the Senators here, and the Representatives of the people of those States, the members of the lower House, meet together to make a tariff or to make a tax law, they should meet together in some other capacity than as the representatives of their little districts to take care of their small home interests or to see that they do some little good by which they may be enabled thereafter to gain something and be elected again. Far be it from me to insinuate that anybody does that; but may I not utter one word of warning, that we must have some other tariff system and some other system of taxation. Let me say to the chairman of the Committee on Finance of the Senate, to whom I listened for two evenings with so much pleasure on this subject, and to whom I always listen with pleasure, that my object in rising to-night was to suggest to him and other gentlemen, that in the future—I am not speaking particularly to this bill—if you want to make, as you insist on the other side of the house, a nation of this country, you can make a nation of it in this way with the help of a great many democrats.

The VICE-PRESIDENT. The question is on the amendment proposed by the Senator from Mississippi, [Mr. ALCORN.]

Mr. MORRILL, of Vermont. I do not suppose the mover of this proposition expected seriously that it would receive any favor at the hands of the Senate, and at half past 11 o'clock at night certainly I shall not occupy any time. It would be just as appropriate to tax the proceeds of a coal-mine, or an iron-mine, or a copper-mine, as of a silver-mine; and perhaps some of them are much more profitable than silver-mines.

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

The amendment was rejected.

The bill was ordered to a third reading.

The VICE-PRESIDENT. The question is on the passage of the bill.

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

The yeas and nays were ordered and taken.

Mr. MERRIMON, (when Mr. RANSOM'S name was called.) My colleague [Mr. RANSOM] is paired with the Senator from New Hampshire, (Mr. WADLEIGH.) My colleague would vote "nay," and the Senator from New Hampshire would vote "yea."

Mr. SPENCER, (when Mr. ROBERTSON'S name was called.) I desire to state that the Senator from Illinois [Mr. LOGAN] is paired with the Senator from South Carolina, [Mr. ROBERTSON.] Mr. LOGAN would vote "nay," and Mr. ROBERTSON would vote "yea." Both of the Senators are absent on account of indisposition.

The result was announced—yeas 30, nays 29; as follows:

YEAS—Messrs. Anthony, Boreman, Boutwell, Cameron, Chandler, Clayton, Conkling, Conover, Cragin, Dorsey, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Gilbert, Hamlin, Howe, Mitchell, Morrill of Maine, Morrill of Vermont, Patterson, Pease, Pratt, Ramsey, Sargent, Scott, Spencer, Washburn, West, and Windom—30.

NAYS—Messrs. Alcorn, Allison, Bayard, Bogy, Cooper, Davis, Dennis, Eaton, Fenton, Goldthwaite, Gordon, Hager, Hamilton of Maryland, Hamilton of Texas, Johnston, Jones, Kelly, McCreery, Merrimon, Norwood, Oglesby, Saulsbury, Sherman, Sprague, Stevenson, Stewart, Stockton, Thurman, and Wright—29.

ABSENT—Messrs. Brownlow, Carpenter, Ferry of Connecticut, Harvey, Hitchcock, Ingalls, Lewis, Logan, Morton, Ransom, Robertson, Schurz, Tipton, and Wadleigh—14.

So the bill was passed.

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. No. 4860) authorizing the recorder of deeds for the District of Columbia to appoint a deputy recorder, and legalizing the previous acts of such acting deputy; also providing for the payment of expenses incident to his office;

A bill (H. R. No. 4861) granting a pension to Louis Heinley.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 4734) to establish certain post-roads.

The message further announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two houses on the bill (H. R. No. 3912) to reduce and fix the Adjutant-General's Department of the Army.

The message also announced that the House had passed a bill (H. R. No. 4858) 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, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House had signed the following enrolled bills, and they were thereupon signed by the Vice-President:

A bill (H. R. No. 4734) to establish certain post-roads;

A bill (H. R. No. 4730) providing for the payment of certain employés of the House of Representatives; and

A bill (H. R. No. 4856) to change the name of the port of Noblebo-row to Damariscotta.

DISTRICT TAX-BILL.

Mr. SHERMAN. I move to take up for consideration the bill (H. R. No. 4840) for the support of the District of Columbia for the fiscal year ending June 30, 1876, and for other purposes.

The motion was agreed to.

Mr. EDMUNDS. I ask how many times this bill has been read already.

The VICE-PRESIDENT. Twice.

Mr. EDMUNDS. When was it read twice?

The VICE-PRESIDENT. To-day.

Mr. SHERMAN. I desire to state that this bill contains, as I am informed, for I know but very little more about it than other members of the Senate, nothing but the provisions of a law necessary to levy and collect taxes in this District for this year at the rate of one and one-half per cent. Every Senator will see that it is indispensably necessary to pass a bill on this subject. This is a House bill maturely considered, and comes here with the sanction of the District commissioners, after having had a careful examination in the House. Everybody must see that the object of the bill must be accomplished at the present session. I do not think it will take longer than the reading of the bill in order to secure its passage.

Mr. WEST. I have no objection to this bill passing; but I should like to inquire when it came over from the House of Representatives.

The VICE-PRESIDENT. The Chair is informed that it came over to-day.

Mr. WEST. Will an objection carry it over?

Mr. SHERMAN. I hope the Senator will not object to the passage of the bill.

The VICE-PRESIDENT. The bill has been read twice.

Mr. SHERMAN. Let it be passed now. The appropriation bills can come up immediately afterward. This will take as little time now as at any other period. I hope the Senator will not interpose. If the Senator insists now on getting the appropriation bill ahead, that bill will take considerable time, and this bill will only take the time required to read it.

Mr. WEST. It will be too late for me to object after we get into a debate. The Senator knows very well that there is an appropriation bill lying on the table which takes precedence.

The bill (H. R. No. 4840) for the support of the government of the District of Columbia, for the fiscal year ending June 30, 1876, and for other purposes, was considered as in Committee of the Whole.

Mr. ALLISON. That last section, section 18, ought to be amended, It speaks of 3.65 bonds. It provides for the substitution of registered for coupon bonds. It seems to me the word "the" ought to be

stricken out. "That the registered bonds," it reads. There are no such bonds authorized.

Mr. SHERMAN. Certainly it is an advantage to the Government, and to everybody, to have them in the form of registered bonds.

Mr. ALLISON. I do not object to that.

Mr. SHERMAN. That is the policy of the law, to make them registered as far as possible.

Mr. ALLISON. I do not know that it is important to make the amendment I suggested. It is merely verbal.

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

LOUIS HEINLEY.

The VICE-PRESIDENT. The Chair will lay before the Senate certain House bills on the table.

The bill (H. R. No. 4861) granting a pension to Louis Heinley was read by its title.

Mr. SCOTT. I ask that that bill be put on its passage. It is simply to correct an error in a bill formerly passed, which the President vetoed for that reason. It puts the right name of the pensioner in the bill.

The bill, which provides for placing on the pension-roll, subject to the provisions and limitations of the pension laws, the name of Louis Heinley, late of Company E, One hundred and twenty-first Regiment Pennsylvania Volunteers, was read three times, and passed.

HOUSE BILLS REFERRED.

The bill (H. R. No. 4860) authorizing the recorder of deeds for the District of Columbia to appoint a deputy recorder, and legalizing the previous acts of such acting deputy; also providing for the payment of expenses incident to his office, was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 4854) for a ratification of an agreement with the Jicarilla Apache Indians was read twice by its title, and referred to the Committee on Indian Affairs.

The bill (H. R. No. 4855) to provide for the protection of witnesses required to attend before either branch of Congress or a committee of the same was read twice by its title, and referred to the Committee on the Judiciary.

The bill (H. R. No. 4858) 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 was read twice by it title.

Mr. HAMLIN. I ask that that bill lie on the table until the Senator from New Hampshire [Mr. WADLEIGH] shall be in his place.

The bill was ordered to lie on the table.

PRIVILEGES OF THE LIBRARY.

The VICE-PRESIDENT laid before the Senate the bill (H. R. No. 4857) extending the privilege of the Library of Congress to the Regents of the Smithsonian Institution.

Mr. HOWE. That bill is just three and a half lines long. I ask the Senate to consider it now.

The bill was read three times, and passed.

WISCONSIN CENTRAL RAILWAY.

The VICE-PRESIDENT laid before the Senate the bill (H. R. No. 4820) authorizing the Wisconsin Central Railroad Company to straighten the line of their road.

Mr. HOWE. I make the same request as to that bill. A bill just like it has been reported by the Committee on Public Lands. It takes no money and takes no land.

By unanimous consent, the bill was considered as in Committee of the Whole. It gives the consent and approval of Congress to the Wisconsin Central Railroad Company to build that portion of their road which lies between Portage City and Stevens Point, on the line adopted by the act of the legislature of Wisconsin approved February 10, 1865, instead of the line adopted by the act of the legislature of Wisconsin April 9, 1866.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

The PRESIDING OFFICER. There is a similar Senate bill on the Calendar, the bill (S. No. 1325) authorizing the Wisconsin Railroad Company to straighten the line of their road, which, if there be no objection, will be indefinitely postponed.

AMENDMENTS TO APPROPRIATION BILLS.

Mr. ALCORN, Mr. SCOTT, Mr. ANTHONY, Mr. FRELINGHUYSEN, Mr. MORTON, and Mr. BOUTWELL submitted amendments intended to be proposed to the bill (H. R. No. 4729) making appropriations for 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.

Mr. BAYARD, from the Committee on Finance, submitted an amendment 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 was referred to the Committee on Appropriations and ordered to be printed.

Mr. MITCHELL and Mr. KELLY submitted amendments intended to be proposed to the deficiency appropriation bill; which were referred to the Committee on Appropriations and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the House had agreed to the resolution of the Senate authorizing the Joint Committee on Enrolled Bills to correct a clerical error in the bill (S. No. 420) to amend the act entitled "An act for the restoration to homestead entry and to market of certain lands in Michigan," approved June 10, 1872, and for other purposes.

STEAMBOAT LAW.

Mr. CHANDLER. I move that the Senate proceed to the consideration of the bill (H. R. 1588) to revise, amend, and consolidate the laws relating to the security of life on board vessels propelled in whole or in part by steam, and for other purposes, to concur in the amendments of the Committee on Commerce.

Mr. WEST. I hope that bill will not be taken up. There is an appropriation bill lying here ready to be acted on, reported this morning.

Mr. FRELINGHUYSEN. I want to appeal to the Senate for one minute. I have here a bill, that will not take one minute to pass, that the Secretary of State is very anxious should be passed, and it is necessary that it should be passed, and go to the House. It comes unanimously from the Committee on Foreign Relations. It is to correct an error in the Revised Statutes. I hope Senators will permit it to pass.

Mr. CHANDLER. The steamboat bill has been read at length, and the amendments only require to be read. It need not take more than twenty minutes to pass the bill.

Mr. WEST. The Senator must be aware that I am constrained to object to that bill being taken up, and other Senators will understand me when I say that it is in violation of what has been understood as the order of business. There is an appropriation bill lying on the table now. The Senator cannot pass his bill in twenty minutes; he cannot pass it to-night, even if we sit here all night.

Mr. CHANDLER. I can pass it in thirty minutes. I shall move to agree to the amendments of the committee *en masse*.

Mr. CONKLING. That will not be in order, and will not be agreed to.

Mr. WEST. If we break the rules for one bill, we shall have to do it for others.

Mr. CHANDLER. I ask for the vote.

Mr. WEST. Very well, then; I call for the yeas and nays.

The PRESIDING OFFICER. The Senator from Michigan moves to take up the bill he has mentioned.

Mr. CONKLING. I shall not object to the steamboat bill, so called, being taken up, whenever it can be taken up and fairly considered. The Senator from Michigan, in reporting the bill, as the Senate will remember, disparaged it, disparaged the work of the committee, and said that if there was anything good left in it, it was some one thing to which he referred. Now he proposes, if I caught his words, to move to concur in the amendments in gross. I take it we all understand what that means. It means to have a committee of conference, and if the committee is as the Senator would like it to be, and concurs in his opinion of the work of the committee, then the report is to come back here, presenting what would be presented if we consider these amendments. Upon that I have a word to say.

I proposed that this bill should be committed for examination to any committee of the body, to a special committee to be moved by the Senator from Ohio, [Mr. THURMAN,] if he would move it. It was the pleasure of the Senate to recommit it to the Committee on Commerce, fixing the time when the committee should report the bill back. The committee thereupon sat down and devoted two entire days, from morning till night, to a patient, careful consideration of this bill. It comes here now, I think, the work of the entire committee, if I except the honorable Senator from Michigan.

That being the process through which the bill has gone, it is fair and right that those amendments should be considered, not to be passed over by a concurrence *pro forma*, and a committee of conference appointed to give them up and bring the bill back; but it is fitting that the judgment of the Senate should be passed upon the amendments to the end that when a committee of conference is appointed, following the parliamentary law, that committee, two of the three, would represent really the judgment of the Senate upon such amendments as are approved by the Senate; and I do not intend for one to forego anything which shall give a fair hearing to the amendments, meritorious as I believe they are, and correcting, as I believe they do, one of the most unjustifiable measures ever submitted to the Senate; and I think the Senate will find that I am by no means alone in the committee in this opinion.

Now, if the Senate wishes to take up this bill, to have it read, to have Senators understand what it is, and to pass on these amendments, and it is supposed we have time to do that, I do not stand here to object; but if it is to be taken up in a mere perfunctory style, and in form these amendments concurred in to the end that we may have the same thing over that we had once before, I shall object to that, and I shall resist it. The measure is too important, it concerns rights which are too sacred, far more sacred than the money involved in it, the lives, to say nothing of the property, of the millions who travel on steamboats; and I intend if I can, when this bill is considered, to secure once the attention of the Senate to it, and not to have it done in a corner by a conference committee, whose report we cannot amend, but must take it all or reject it all.

Now, my honorable friend from Michigan will, I think, acquit me of any disposition to be captious.

Mr. CHANDLER. No, sir; I do not. The Senator from——

Mr. CONKLING. Well, Mr. President, I have the floor at this moment, and if the Senator from Michigan interposes to say what I think is rather a curt thing, I will not yield the floor for that purpose.

Mr. CHANDLER. I do not care whether you do or not, sir.

Mr. CONKLING. Very likely not. Now, I say to my friend from Michigan, and I say exactly what I mean, that I have intended to be courteous to him in this whole proceeding. This bill was considered by the Committee on Commerce the other day for the first time, and then these amendments were reported by the vote of every member of that committee save the chairman of the committee. If that does not vindicate me from the charge of being captious, then I leave the Senate and the Senator to the judgment to be formed on that subject. I was about to say—but it seems I was not warranted in saying that—that the Senator from Michigan would acquit me from all disposition to be unaccommodating or factious in my opposition to this bill. He says he does not, and therefore I withdraw that remark. I trust the Senate will acquit me of that.

I have no interest in this bill which is not the interest of every member of the Senate. A great steamboat interest resides among the people whom I represent. Many persons intelligent on this subject, and largely interested in steamboat property, think as I think of this bill, and have instructed me accordingly. I am no more zealous in resisting some of its proposed provisions than are men who have large sums invested in this property. I will trust to their acquitting me for undue zeal in regard to it. Be that as it may, Mr. President, I will not resist a motion to take up the bill if the understanding is that it is taken up to be fairly and deliberately considered, as its importance deserves; but I do object to its being taken up with any understanding that it is to be huddled away upon a general motion, which would be in violation of the rules of the Senate, to concur *en masse* with forty or fifty amendments made to a complicated bill on the report of a committee, which comes here now to be considered for the first time. That I shall object to; and if it is to be taken up it must be with the understanding that no Senator violates any implied obligation by insisting upon the reading of the bill, and the judgment of the Senate upon these amendments, to the end that a committee of conference may be instructed what they are to stand by when they meet the managers on the part of the House.

Mr. CHANDLER. Mr. President, it will be remembered that I undertook the other day to pass this bill. The Senator from New York from his place in the Senate stated that the bill had never been read in committee, never considered by the committee, and the committee was called to a very severe account for negligence of duty. Now, sir, I owe it to the Committee on Commerce to give a very brief history of this bill; and by the way, before it is rereferred to that committee, the Senator pledged me that he would not occupy ten minutes on the passage of the bill if we would permit it to go back to that committee after its return to the Senate. Those were his words, "I won't occupy ten minutes." Now he says he wants time for a full consideration of the measure.

Mr. President, nearly four years ago substantially this identical bill was brought into this body and referred to the Committee on Commerce. The Committee on Commerce appointed the Ex-Senator from Maryland, Mr. Vickers, the Ex-Senator from Oregon, Mr. Corbett, and the late Senator from Connecticut, Mr. Buckingham, as a sub-committee to examine this bill, and they spent one whole month upon the bill, and worked upon it night and day, worked upon it during the sessions of the Senate. The Committee on Commerce then took the bill and went through it section by section, and discussed every amendment that was proposed. Never did the committee occupy so much time with any bill as it has occupied with the steamboat bill, and I will do the Senator from New York the justice to say that during the six years that he has been a member of that committee he has not expended on an average fifteen minutes a week in that committee-room. He of course did not know what had occurred upon that bill. It was his own fault that he did not know what had occurred on that bill. The bill was thoroughly investigated by that committee, and more thoroughly than any bill that ever came before that committee, and it has been before it for four years.

I have been trying, "in season and out of season," night and day, to get up the bill from the day it was referred and reported back by the Committee on Commerce, and now at the last moments of the session and almost the last day of my life in this body, when I ask that the work of four years be not thrown away, he informs the Senate that he wants time for full consideration, after having pledged himself to me that he would not occupy ten minutes in the discussion of the bill.

Mr. BOGY. It will be remembered by the Senate, Mr. President, that this bill was before us a short time ago, and we spent more than one or two hours in its consideration. Perhaps it was taken up on two separate days; I do not exactly remember as to that; but after being considered for a good while, the Senator from New York moved to have the bill referred to the Committee on Commerce, saying at that time that the bill had never been considered by that committee; that he wanted the bill committed to that committee so as to be read; that is the bill was reported he would raise no further objections to it. He made the statement in the Senate at that time—and he will not deny it now—that he would interpose no lengthy objection; he would merely state his position in a general way, and if it was the wish of the Senate that the bill should pass, he would do no more. The position which he assumes to-night is not in accordance with his statement which he made at that time; and the bill was referred with the understanding on the part of all the friends of the bill that the pledge which he then made would be carried out. The bill was recommitted to the Committee on Commerce, and it came back to us amended; and the Senator from Michigan has made many efforts to have the bill taken up by the Senate since that time and he has not yet succeeded. The Senator from New York now says, in direct contradiction to what he said before, that if the bill is taken up he wants the bill read, and all the amendments fairly and squarely considered. The friends of the measure, although not agreeing to the propriety of all the amendments, are willing at this late hour of the session to take the amendments one and all, as proposed by the Committee on Commerce.

Senators say that this is a great measure, affecting the interest of a very large class of persons. So it is. The great steamboat interest of the entire country, east and west, is affected by this bill. It is a subject which has been considered by them for years, not only in the West but in the East, and every chamber of commerce throughout the West, all the supervisors connected with the administration of the steamboat law, every officer of the Government connected with the steamboat law, is in favor of this bill as it is now. After the proposition made that if the bill was recommitted the Senator would withdraw his opposition beyond merely stating in general terms that he did not approve the bill, I cannot understand how he can now say that he wants the bill read and wants the amendments all fairly and squarely considered. We are willing to take the bill with all its amendments. It is true we have no right to bind the Senate; but it is fair to presume that these persons who have fairly, fully, and lengthily examined this subject, know what they are doing, and are responsible for their action. The majority of the Senate who were in favor of the bill before, are now willing to take it as reported by the Committee on Commerce, and if it is presented to the Senate it will take no time, unless the time is taken up by the Senator from New York, and if he does take it up, he takes up that time in violation of the appeal he made before, when the bill was recommitted to the Committee on Commerce, made in open Senate within the hearing of every Senator on this floor.

Mr. CONKLING. Mr. President, I have been arraigned by two Senators, one on the right and one on the left, and I wish to say a word in reply to both. And first to the Senator from Missouri. He commences with a misstatement and concludes with a misstatement. He commences by saying that I moved to refer this bill to the Committee on Commerce. That motion was made by the Senator from Michigan. He continues by saying that I said that when the bill came back I would confine myself to ten minutes or make no opposition, or some equivalent statement. It will be found that I said that if the Senator from Ohio would move a special committee, or move that the bill be referred to any committee of the Senate, and that committee would come in saying that it had considered and approved the bill, I would confine my opposition to a brief and general statement of my objections, and then the vote might be taken. How far that statement warrants the Senator from Missouri in undertaking to arraign me for a violation of an understanding, will be understood by a body of intelligent men, who know that the case now presented is not the report of a committee approving the bill, but the report of a committee disapproving it in some fifty particulars, which particulars I want considered by the Senate; and I have not intimated that I wished to say a word about them, even for ten minutes, but simply that the rules, the invariable rules of the Senate, shall be observed in hearing the amendments read and having them passed upon, without, as far as I know at this moment, my contributing one observation in their favor. A Senator who, upon such a state of facts, ventured to charge a fellow-Senator with what comes very near bad faith, is just the Senator to rise in the presence of the Senate and gravely insist and assert, as that Senator did the other day, that this bill was referred with an express understanding that it was only to be read in the committee, and that for the committee to amend it was usurpation and a violation of the terms of reference. So much for the Senator from Missouri.

The Senator from Michigan arraigns me for not (if I understand him) being present in the committee-room fifteen minutes a week during six years. Well, Mr. President, I will not enter with the Senator from Michigan into a comparison of his service and mine either in committee or in the Senate. I might possibly be betrayed into something which would look like criticism of those exact and painstaking processes illustrated so fully, perhaps, by no chairman of a committee in this body as by the distinguished chairman of the Committee on Commerce. It has been my pleasure for much more than fifteen minutes at a time to admire the dexterity and prowess, the great celerity of process, and the careful and elaborate and conscientious investigations which for six years have been bestowed for I should think at least fifteen minutes a week by the chairman of that committee upon the complex business which has come before it. As I say, lest I might be betrayed into some remark which would sound like criticism of the successful administration of the Senator, I will not enter into a comparison of his service in the committee and of

my own. I content myself with saying that no measure, not excepting this, was ever committed to a sub-committee of which I was one without receiving consideration and labor as careful and as painstaking as the manifold duties with which we are charged would permit.

This bill was committed to a sub-committee of which I was one; my honorable friend from Massachusetts [Mr. BOUTWELL] was another; our lamented friend who used to sit before me [Mr. Buckingham] was another. We all know his position touching this bill; we all know the language in which he would speak could he speak in regard to it. We all know that while we were engaged diligently in investigating it and by the aid of experts, by an operation on which I will not be tempted to comment even by the harsh language of the chairman and certainly not tempted to imitate him in the betrayal, if I did it truthfully and correctly, of private conversations and upon considerations of personal accommodation which the good-will I bear that Senator and the proprieties of this place forbid me to bring here—I say I will not comment upon the operation by which this bill was suddenly wrested from the sub-committee which had it in charge, taken from them, transported into the Senate, and put upon the docket of the Senate, in order that the members of that committee might be taken by surprise when they learn that it was said that the bill had been reported here for action in the Senate.

Now, Mr. President, the honorable Senator, making an issue very much like one of those peculiar to him, said and repeated that a bill substantially like this had been for four years before the Committee on Commerce. That statement is true or it is false. Bestowing but a very short time upon it, I mean to examine the precise question whether that statement is true or false. In 1871 was passed an act which is there, [exhibiting a volume,] and which is bound in the volumes of the statutes. That is the general steamboat law which now exists, and which was approved on the 28th of February; so that four years from three days ago this act became a law. Does the Senator from Michigan, in the presence of that fact, really believe he was right when he said that four years ago this act, which proposes to run a plowshare over the whole, was before the Committee on Commerce? O, no.

Mr. CHANDLER. Will the Senator allow me to give the exact date?

Mr. CONKLING. Always.

Mr. CHANDLER. On the 8th day of April, 1872, substantially this identical bill passed the House of Representatives and was referred to the Committee on Commerce of the Senate. On the 11th it was referred to the sub-committee, consisting of Messrs. Corbett, Vickers, and Buckingham. On the 9th of May it was reported back to the committee by the sub-committee, examined from the 9th to the 17th, amended, and on the 17th of May, 1872, it passed the Senate. It had already passed the House. It went to a committee of conference and the Senator knows how it was defeated. That was substantially this bill.

Mr. CONKLING. Mr. President, I said that I always yielded to the Senator when he wanted to state anything exactly. I am very glad he has corrected himself. The Senator shows by his own statement how he was in error when he said that four years ago there was such a bill as this before the Committee on Commerce. Four years ago there was no such bill. Three years ago there was no such bill, but there was, as he says, a bill substantially—"substantially" is an elastic word—a bill resembling this, before the Committee on Commerce at the time which he undoubtedly states correctly. I have not denied that; and had the Senator made that statement in the first place he would not have seen fit to challenge any statement I made.

I remember that bill. I remember being present a good deal more than fifteen minutes at such time as the bill was talked about. I do not remember what the Senator stated as to the length of time, because no one can remember; yet he greatly enlarged the length of time which in any sense was bestowed upon it. I do remember that the Senator came in and standing immediately opposite the Clerk's desk—I remember the procedure well and even the gesture which constituted its chief part—moved as he does to-night, that everything in gross should be passed upon by the Senate, and without the Senate knowing about it except the few persons who may have noticed it; and in twinkling of an eye it was done.

Mr. CHANDLER. I made no such proposition, if the Senator will pardon me. I proposed that it should be read.

Mr. CONKLING. If the Senator will pardon me one moment we are dealing with history at this moment. That being done a committee of conference was appointed which went out and dealt with the bill. I have here the report of that committee of conference, and what it did was to recede from everything in substance and bring the same bill back here. When it came back I opposed the passage of the bill without discussion, and it went over and that is the only consideration it ever had in the Senate until this time.

Then it came here, as I have intimated before, by a private request, an understanding, which I do not care to go into—I will not be tempted, even in exoneration of myself, to do it; but should I state the facts I think the Senate would see that I am not to blame, at all events, for the somewhat abnormal and sudden proceeding by which this bill was snatched from the committee while a sub-committee was investigating it, with many amendments to propose to it in committee, and, before it had ever been considered in committee one hour or one minute, brought into the Senate for action.

Now we come to the present session; and this will conclude all I have to say about it. After the committee has thoroughly examined the bill, comparing it with the existing law and devoting two days to it, and after the committee has proposed some fifty amendments, I am perfectly willing that those amendments should be considered fairly at any time and be acted upon, and the Senator will not have occasion to remind me of any remark I made about making my opposition brief, for I have no opposition to the bill if these amendments are fairly acted upon and adopted, so that they shall not be again given away by a conference committee, but shall be acted upon by the Senate. I have no opposition to make for ten minutes, or five minutes, or three minutes. On the contrary, had the Committee on Commerce reported back the bill as it was, or substantially as it was, then I understood perfectly that my declarations in the Senate and my own sense of duty would have led me to assign in brief and in general my objections to it, record my vote against it, and suffer it to pass; but the facts are entirely different. The bill comes here amended, as I have said, in forty or fifty particulars. If the Senate will take it up and consider it, I will waste no time, and considering these amendments and adopting them, I imagine that no other conference committee will go out for a few minutes and almost *en masse* give up all the amendments and come back to the Senate, so that we are to vote on the same bill as prepared by those whom the Senator insists are in favor of it.

Now, Mr. President, if all this has justly subjected me to the somewhat severe comment of the Senator from Michigan and to the somewhat offensive remarks made by the Senator from Missouri, so be it. I am not conscious of having done anything which has justly earned the somewhat free and easy liberty which has been taken on this subject; and, however that may be, I shall persevere in doing what I believe my duty to this bill, leaving every other Senator to judge, as I shall claim for myself the right to judge, upon my oath and my sense of duty, as best I can.

COMPENSATION OF EMBASSADORS, ETC.

Mr. BOGY. Mr. President——

Mr. FRELINGHUYSEN. I wish to say to the Senator from Missouri that I have here a bill which will not take more than a minute to pass, and which it is necessary should go to the House. It comes from the Secretary of State, and he is very desirous that it should be acted upon.

Mr. BOGY. I will yield for that purpose.

There being no objection, the bill (S. No. 1328) to amend sections 1675, 1676, 1681, and 1682 of the Revised Statutes of the United States was considered as in Committee of the Whole.

The bill proposes to amend section 1675 of the Revised Statutes, so as to read:

SEC. 1675. Embassadors and envoys extraordinary and ministers plenipotentiary shall be entitled to compensation at the rates following per annum, namely:

Those to France, Germany, Great Britain, and Russia, each, $17,500.

Those to Austria, Brazil, China, Italy, Japan, Mexico, and Spain, each, $12,000.

Those to all other countries, unless where a different compensation is prescribed by law, each $10,000.

And, unless when otherwise provided by law, ministers resident and commissioners shall be entitled to compensation at the rate of 75 per cent., chargés d'affaires at the rate of 50 per cent., and secretaries of legation at the rate of 15 per cent. of the amounts allowed to embassadors, envoys extraordinary, and ministers plenipotentiary to the said countries respectively; except that the secretary of legation to Japan shall be entitled to compensation at the rate of $2,500 per annum.

The second secretaries of the legations to France, Germany, and Great Britain shall be entitled to compensation at the rate of $2,000 each per annum.

Also to amend section 1676 of the Revised Statutes, so as to read:

The agent and consul-general at Cairo shall be entitled to compensation at the rate of $3,500 per annum.

Also to amend section 1681, so as to read:

The minister resident to Uruguay, when also accredited to Paraguay, shall be entitled to compensation at the rate of $10,000 per annum.

Also the following be added to section 1682:

And he shall receive compensation at the rate of $10,000 per annum.

Mr. BOREMAN. Mr. President——

Mr. SAULSBURY. I should like the gentleman who introduced the bill to make an explanation of it.

Mr. FRELINGHUYSEN. I would say to the Senator from Delaware that this bill is to restore the salaries the same as they were before the Revised Statutes. In fixing those Revised Statutes there was a change made, so that you cannot get at the percentage which the secretary of legation has unless there be a minister who has a salary fixed. Mr. Fish has sent up to the Senate a full explanation of it, and it has been submitted to the Committee on Foreign Relations and considered by them.

Mr. BOREMAN. That is all I wanted to know. I did not know but that it was to change the law.

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

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. MCPHERSON, its Clerk, announced that the Speaker of the House had signed the following enrolled bills; and they were thereupon signed by the Vice-President:

A bill (H. R. No. 78) granting a pension to Salem P. Rose, of North Adams, Massachusetts;

A bill (H. R. No. 330) granting a pension to Mrs. Penelope C. Brown, of Tennessee, widow of Stephen C. Brown, late a private of Company C, Eighth Tennesece Cavalry Volunteers;

A bill (H. R. No. 580) granting a pension to Rosalie C. P. Lisle;

A bill (H. R. No. 801) for the relief of L. R. Strauss, of Macon City, Missouri;

A bill (H. R. No. 1644) granting a pension to Hannah E. Currie;

A bill (H. R. No. 2685) for the relief of John Aldredge;

A bill (H. R. No. 3276) granting a pension to Davenport Downs;

A bill (H. R. No. 3435) to provide for the sale of the building and grounds known as the Detroit arsenal, in the State of Michigan;

A bill (H. R. No. 3688) granting a pension to William O. Madison;

A bill (H. R. No. 3698) granting a pension to William C. Davis, a private in Company B, Eleventh Tennessee Cavalry Volunteers;

A bill (H. R. No. 3703) granting a pension to Catharine Lee, widow of Jesse M. Lee, private Company B, Second Regiment Ohio Volunteers;

A bill (H. R. No. 3704) granting a pension to Mary E. Stewart;

A bill (H. R. No. 3706) granting a pension to Margaret H. Pittenger;

A bill (H. R. No. 3711) granting a pension to Martin D. Chandler;

A bill (H. R. No. 4141) to make East Pascagoula, in the State of Mississippi, a port of delivery in the district of Pearl River;

A bill (H. R. No. 4853) to change the name of the pleasure yacht Dolly Varden to Clochette;

A bill (H. R. No. 2093) for the relief of General Samuel W. Crawford, and to fix the rank and pay of retired officers of the Army; and

A bill (H. R. No. 4441) making appropriations for the support of the Military Academy for the year ending June 30, 1876.

STEAMBOAT LAW.

Mr. STEWART. I desire to make a report. I have tried all day to make a report.

Mr. BOGY. Mr. President, I shall not yield.

The PRESIDING OFFICER, (Mr. FERRY, of Michigan, in the chair.) The Senator from Missouri declines to yield.

Mr. CHANDLER. Will the Senator from Missouri allow me to make a brief statement about this bill? I have the bill before me. Will the Senator yield a single moment to me?

Mr. BOGY. Go ahead.

Mr. CHANDLER. Most of the amendments are brief. There are about forty or fifty amendments, but the great majority of them are very brief. Occasionally a brief section is cut out. Now I think we can finish this bill and could have got through with it some time ago but for this explanation that has taken place. I hope the Senate will grant me thirty minutes barely to have these amendments read and allow them to be passed and send the bill to the other House.

Mr. STEWART. I want a moment.

The PRESIDING OFFICER. Does the Senator from Missouri yield to the Senator from Nevada?

Mr. BOGY. A moment is a very indefinite portion of time. I cannot tell how long it is.

Mr. STEWART. I do not want any action.

Mr. BOGY. I shall be very brief. I shall speak but a moment myself. I have not much to say. I see that at this late hour of the session and of the night it will not be very agreeable to detain the Senate. Nevertheless it is due to myself that I should make a short statement.

The Senator from New York has charged me with having made a misstatement, and he proves that misstatement in his own way of proving it, by making himself a direct misstatement. Every Senator on this floor who hears me now and who heard him then will now agree with me in my statement. I did not say that the Senator had pledged himself to speak ten minutes if this bill was referred to the Committee on Commerce. I made no such statement. Yet he charges that as being a misstatement by me, when the statement was not made by me. The Senator knows I made no such statement, but the statement was made directly by the Senator from Michigan, in which he said that the Senator from New York had told him that if he moved to have this bill referred to the Committee on Commerce he would not detain the Senate longer than ten minutes afterward. I did not make that statement, but the Senator from Michigan made that statement, and the Senator from New York has not denied it. He has not denied it and I presume he cannot deny it. But I did make a statement that on the motion of the Senator from New York this bill was referred to the Committee on Commerce. I did not mean it in that way. I knew that the Senator from Michigan had made the motion *pro forma*, but I was informed at that time that it was at the request of the Senator from New York; that although the other Senator made the motion, he being the chairman of the Committee on Commerce and having charge of the bill, it was made at the request of the Senator from New York, who had told him that if he consented to make that motion he would then not speak longer than ten minutes.

The Senator did make the statement in the open Senate that the bill had never been read by the committee, giving the friends of the bill to understand that the object in having the bill referred back to the committee was to have it read, because it had never been read. Such was the impression of the majority of this body at that time, because we had a known majority in favor of the bill. That fact had been tested on more than one occasion, and upon every occasion we had carried a majority of the Senate with us. When the motion was made I objected to its adoption.

Mr. SCOTT. In the interest of the dispatch of business I feel compelled to make a point of order. I believe the motion is to proceed to the consideration of the steamboat bill.

The PRESIDING OFFICER. The motion is to proceed to its consideration. The Senator will state his point of order.

Mr. SCOTT. I raise the point of order that the discussion of what occurred in committee or what occurred in the Senate is not pertinent under the rule, that nothing can be considered except the propriety of the Senate proceeding to the consideration of this bill.

Mr. BOGY. That may be true; but as the Senator from New York charged me with having made a misstatement, I think I have convicted him of making one. I do not charge him with doing it; I think I have convicted him.

Mr. SCOTT. I feel justified in making the point of order for the reason that I am with the Senator in reference to the merits of the bill. I wish to get at the bill, and if we cannot get at that to get something else up and pass upon that.

The PRESIDING OFFICER. The Senator from Missouri will confine his remarks to the subject before the Senate. The merits are not debatable under the rule upon a motion to proceed to the consideration of a bill.

Mr. BOGY. So much for the Senator from New York. I think I have said enough on that subject to satisfy the Senate. He stands before this body in a singular position. The impression was made upon the mind of the Senate that the bill would no longer be objected to if it was referred to the committee and reported back. Such was the general impression. I went to the Senator having charge of the bill, the Senator from Michigan, and objected to the reference. He told me, "Let it be referred, because if it is referred it will be reported right back without amendment, and there will be no longer any substantial objection to it." With that understanding I assented, and with that understanding the bill was recommitted. The bill was reported back on the following Monday, and efforts have been made from that time until to-night to get it before the Senate. There was a majority for the bill. There is a majority for the bill, I presume, now. It is a measure of the very greatest importance to a large class of people. To the entire commerce of the West, and perhaps to the commerce of the East, it is of great importance that a measure of this kind should be adopted. If it has not been here for four years, it has been here for nearly three years. It is an old subject, well understood and well discussed, which has received the opposition of the Senator from New York for years. To that I have no objection. He has a perfect right to object to this or any other bill as he may deem proper. I have no objection to his doing so; but I do object to the mode and manner in which this bill is defeated if it is to be defeated. I hope that the bill will be taken up.

Mr. WEST. I believe the Senate is now about to take a vote on the proposition of the Senator from Michigan to take up what is known as the steamboat bill.

The PRESIDING OFFICER. That is the pending question.

Mr. WEST. When the Senator from Michigan made that proposition about one hour ago, I notified the Senate, as I was fully aware at the time, that if we embarked upon a discussion of that bill we should be engaged here all night. I call to the minds of Senators that there is a bill here, an appropriation bill lying there on the desk of the Vice-President, and it is their duty to act upon such bills in preference to all others. I hope they will stand by me on that proposition and vote down the motion to take up the steamboat bill.

Mr. RAMSEY. What appropriation bill?

Mr. WEST. The river and harbor bill.

The PRESIDING OFFICER. What is the motion of the Senator from Louisiana?

Mr. WEST. I have no motion to make.

Mr. SARGENT. I wish to say to the Senate that I have now, after waiting some five or six hours, received the sundry civil bill. It is absolutely necessary, if we are to consider this bill, that it shall be passed at an early moment. Otherwise it cannot get back to the House and go to a committee of conference and be enrolled, and all our labor will be lost. I would like to say for the Committee on Appropriations, who have worked on it all day long and until late in the evening without going to our dinners, that this bill should have a chance. I wish to call attention to the bill, and I trust the steamboat bill will not be taken up and that the sundry civil bill will be taken up and put on its passage.

Mr. SCOTT. I desire, before any action is taken on that or on the motion of the Senator from Michigan, to obtain consent to call up House bill No. 4850, for the purpose of correcting a mistake in the revision of the laws.

The PRESIDING OFFICER. Is there objection?

Mr. BOGY. I think we shall save time by going on regularly. I would rather the question of taking up the steamboat bill should first be disposed of. If it is the mind of the Senate not to take it up, let that be determined.

Mr. WEST. Let us vote on it.

The PRESIDING OFFICER. Is there objection to the consideration of the bill proposed by the Senator from Pennsylvania?

Mr. CHANDLER. I do not like to object, but we had better proceed regularly.

Mr. SCOTT. I hope the Senator will not object.

Mr. CHANDLER. Very well.

CUSTOMS SERVICE AT PHILADELPHIA.

There being no objection, the bill (H. R. No. 4850) authorizing the appointment of gaugers for the customs service at the port of Philadelphia was considered as in Committee of the Whole.

The bill authorizes the Secretary of the Treasury to appoint three gaugers for the customs service at the port of Philadelphia from the list of officers now under appointment as inspectors, whose compensation shall be the same as that paid to the gaugers at the port of Boston; but the number of officers or employés in the customs service at the port of Philadelphia is not to be increased.

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

REPORTS OF COMMITTEES.

Mr. STEWART. I now ask leave to make a report. I am instructed by the Committee on Railroads, to whom was referred the bill (S. No. 989) amendatory of and supplementary to the act entitled "An act to incorporate the Texas Pacific Railroad Company, and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and the act supplementary thereto, approved May 2, 1872; and the act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific Ocean," approved July 27, 1866, to report it back without recommendation.

The PRESIDING OFFICER. The bill will be placed upon the Calendar.

Mr. STEWART, from the Committee on Railroads, to whom was referred the following bills, asked to be discharged from their further consideration; which was agreed to:

A bill (S. No. 724) amendatory of and supplemental to the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862;

A bill (S. No. 754) to promote commerce among the States and to cheapen transportation of persons and property between the Atlantic seaboard and the Western States and Territories;

A bill (S. No. 788) amendatory of and supplemental to the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," approved July 1, 1862;

A bill (S. No. 796) amendatory of and supplementary to the act entitled "An act granting lands to aid in the construction of a railroad and telegraph line from Lake Superior to Puget Sound, on the Pacific coast, by the northern route," approved July 2, 1864, and the acts and resolutions additional thereto and amendatory thereof;

A bill (S. No. 932) granting the right of way through the public lands to the Saint John's Railway Company, and for other purposes;

A bill (S. No. 957) chartering a double-track freight-railway company from tide-water on the Atlantic to the Missouri River, and to limit the rates of freight thereon;

A bill (S. No. 1005) granting the right of way and depot grounds to the Oregon Central Pacific Railway Company through the public lands of the United States;

A bill (S. No. 1069) providing for the construction of the Oregon Central Pacific Railway and telegraph line;

A bill (S. No. 1127) to empower the Southern Pacific Railroad Company to change the line of their road, and to construct an additional branch;

A bill (S. No. 1194) granting right of way to the San Pete Railway Company;

A bill (S. No. 1197) to aid in the construction of the Southern Maryland Railroad, and for other purposes;

A bill (S. No. 1199) to survey the Austin-Topolovampo Pacific route; and

A bill (S. No. 1290) to encourage and promote telegraphic communication between America and Asia.

Mr. STEWART. I am also directed by the same committee to report back sundry petitions in regard to these measures. I will not take up the time of the Senate in reading the titles of the petitions, but ask that the committee be discharged from their further consideration.

The PRESIDING OFFICER. That order will be made.

RAILROADS IN THE TERRITORIES.

Mr. STEWART. I ask further, as I have the floor and as I seldom get it, that a vote be now taken on the report of the committee of conference on the right of way bill, which is lying on the table, and which has been read. We agree to the House amendment, and I ask that a vote be taken on that report.

The PRESIDING OFFICER. Is there objection? The Chair hears none. The question is upon agreeing to the report.

Mr. BAYARD. What is the report?

The PRESIDING OFFICER. The Secretary informs the Chair it has been read. It will be again reported.

The Secretary read the report as follows:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 378) to provide for the incorporation and regulation of railroad companies in the Territories of the United States and granting to railroads the right of way through the public lands, having met, after full and free conference have agreed to recommend and do recommend as follows:

That the Senate recede from their disagreement to the amendment of the House, and agree to the same with amendments as follows:

Strike out all of section 2 after "defile" on page 2, in line 11, down to and including line 20.

Strike out on page 2, line 23, section 3 of the amendment, "or," and insert in lieu thereof the following:

"And where such provision shall not have been made."

And the House agree to the same.

WM. M. STEWART,
T. O. HOWE,
Managers on the part of the Senate.

W. TOWNSEND,
JACKSON ORR,
W. S. HERNDON,
Managers on the part of the House.

Mr. BAYARD. Before the report is concurred in I wish to ask the Senator from Nevada whether the Senate has yielded the amendment insisted upon here, that when States formed out of these Territories come into existence as States the control over these railroad corporations should not be affected by anything in this act?

Mr. STEWART. The Senate has given up the whole proposition of forming corporations, and simply accepts the House proposition to grant rights of way, allowing the corporations to be formed hereafter. There is nothing about corporations in the bill.

Mr. BAYARD. Then I understand there is nothing affecting the rights of States to control these matters after the Territories shall become States?

Mr. STEWART. The simple proposition in the bill is to grant the right of way to railroad companies formed in the Territories. It does not deal with the corporations at all nor provide how they shall be formed. They will be formed under territorial laws.

Mr. BAYARD. Reserving to the States formed hereafter the right to regulate these corporations?

Mr. STEWART. The same as before. The Committee on Public Lands granted the right of way, and certainly it is all right.

The report was concurred in.

CIVIL APPROPRIATION BILL.

Mr. SARGENT, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 4729) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1876, and for other purposes, reported it with amendments.

STEAMBOAT LAW.

The PRESIDING OFFICER. The question recurs on the motion of the Senator from Michigan [Mr. CHANDLER] to take up House bill No. 1588.

Mr. SARGENT. I shall consider it my duty to object to everything until I can get up the appropriation bill.

The PRESIDING OFFICER. The question is on taking up the steamboat bill. The Senator from California objects.

Mr. SARGENT. I have to object to everything until I can get the appropriation bill up. I consider that a high duty.

Mr. CONOVER. I hope the Senator will withdraw that objection for a moment. I simply want to take up a House resolution.

Mr. SARGENT. It gives me great pain to object to my friend, but I am charged with a high duty, with an important bill, and I think it more important than any other bill.

Mr. CONOVER. I will move to take up the——

The PRESIDING OFFICER. The question is on taking up the steamboat bill, on which the yeas and nays have been called for.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question is on the motion to take up the bill.

The motion was not agreed to.

RIVER AND HARBOR BILL.

Mr. CONOVER. I hope the Senator from California will yield to me now for a moment.

Mr. WEST. I move to take up 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.

Mr. SARGENT. I raise the point of order on that. The Senator is not in charge of that bill and I do not think he should antagonize it with the sundry civil appropriation bill.

Mr. WEST. The Senator from Louisiana may not be in charge of the bill, but the bill is before the Senate and it is competent for any Senator to call it up.

The PRESIDING OFFICER. The question is on taking up for consideration the bill named by the Senator from Louisiana.

The question being put, there were on a division—ayes 14, noes 23.

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

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 28; as follows:

YEAS—Messrs. Alcorn, Allison, Bogy, Clayton, Conkling, Conover, Dennis, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Goldthwaite, Hamilton of Texas, Harvey, Howe, Norwood, Oglesby, Pease, Ramsey, Scott, Sherman, Thurman, West, and Windom—24.

NAYS—Messrs. Anthony, Bayard, Boreman, Boutwell, Chandler, Cooper, Cragin, Davis, Eaton, Gordon, Hager, Hamilton of Maryland, Hamlin, Hitchcock, Ingalls, Jones, Kelly, McCreery, Merrimon, Morrill of Maine, Sargent, Saulsbury, Spencer, Stevenson, Stewart, Stockton, Washburn, and Wright—23.

ABSENT—Messrs. Brownlow, Cameron, Carpenter, Dorsey, Fenton, Ferry of Connecticut, Gilbert, Johnston, Lewis, Logan, Mitchell, Morrill of Vermont, Morton, Patterson, Pratt, Ransom, Robertson, Schurz, Sprague, Tipton, and Wadleigh—21.

So the motion was not agreed to.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. SARGENT. I move that the Senate proceed to the consideration of House bill No. 4729, the sundry civil appropriation bill.

Mr. WEST. Mr. President——

The PRESIDING OFFICER. The Chair will state the question. The Senator from California moves that the Senate proceed to the consideration of the bill which he has named, the sundry civil bill.

Mr. WEST, (at one o'clock and fifteen minutes a. m. Wednesday.) I move that the Senate do now adjourn.

Mr. ALLISON. I hope not.

Mr. SARGENT. What good does that do?

Mr. WEST. You can vote it down if you please. I have no faith in keeping the body here now.

The PRESIDING OFFICER. The question is on the motion to adjourn.

The motion was not agreed to.

The PRESIDING OFFICER. The question is on the motion of the Senator from California to proceed to the consideration of the sundry civil bill.

The motion was agreed to; and the bill (H. R. No. 4729) making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1876, and for other purposes, was considered as in Committee of the Whole.

Mr. RAMSEY. I appeal to the Senator from California to let me call up the Pembina bill.

Mr. HAMILTON, of Maryland. I appeal to the Senator from California to allow me to take up the Louise Home bill.

Mr. RAMSEY. I beg to say to the Senator from Maryland that I made the first appeal.

Mr. SARGENT. I decline to yield to any such purpose.

The PRESIDING OFFICER. The Senator from California declines to yield. The Secretary will report the bill at length.

Mr. RAMSEY. The Senator then refuses to hear my appeal.

The PRESIDING OFFICER. The Senator from Minnesota again appeals to the Senator from California. Does the Senator from California yield?

Mr. SARGENT. I decline to yield.

Mr. RAMSEY. I know the Senator will allow me to call up the Pembina bill. It will take but a few minutes.

Mr. SARGENT. I decline to yield.

The PRESIDING OFFICER. The bill will be read, and the amendments reported by the Committee on Appropriations will be acted on as they are reached in the reading of the bill.

The Secretary proceeded to read the bill.

The first amendment reported by the Committee on Appropriations was in line 11, to reduce the amount appropriated for the public printing, for the public binding, and for paper for the public printing (including the cost for printing the debates and proceedings of Congress in the CONGRESSIONAL RECORD) from $1,625,507.66 to $1,603,507.66.

Mr. ANTHONY. Why is that amount reduced? The amount that was named in the bill was thought to be insufficient for the proper service of the Government, and I see that it is reduced still further. Will the Senator explain to me why this reduction is made?

Mr. SARGENT. The Senator is very well aware that at the time this bill was considered during this day in the Committee on Appropriations the tax bill had been abandoned and there was no hope of passing it. That will account for many of the amendments which appear in this bill. I myself voted differently in committee from what I was disposed to do, but as a Senator on this floor after the passage of the tax bill I think we can pass this bill in reasonable shape, and pass the river and harbor bill also. I desire to keep whatever faith may be necessary in regard to the appropriations.

If the Senator will look a little further on in the bill, he will find that we reduced this item for the Court of Claims from $12,000 to $10,000, the amount appropriated last year. The committee had no information that it was necessary to increase that amount, and we gave them the amount they had last year. There is the War Department; we gave them for printing $100,000, which was the amount they had last year, striking out the words "and twenty." That accounts for the difference in the printing. If the Senator has any special information that the War Department or the Court of Claims needs this extra amount, I suppose that will influence the Senate to restore those items in the bill as it came to us from the House.

Mr. ANTHONY. I cannot say that I have, but we have applications here continually from the Departments for printing reports and documents at the expense of the general appropriation, which ought to be provided for in their special appropriations. I suppose that these items as they come from the House are based upon recommendations of the executive officers. If the reduction was made because it was apprehended that the tax bill would not pass, as the tax bill has passed I suggest that it be put back again.

Mr. SARGENT. That remark applies generally to the bill, and not particularly to these items; but the item of printing we have to guard zealously. I know that the Senator does so himself in the Committee on Printing, but the Committee on Appropriations have a duty too. There is a disposition to magnify it all the time. This large additional increase of $20,000 for the War Department we did not see was necessary, and therefore we probably would have recommended that it should be cut down in any case; but I am willing to submit the question to the Senate, and do not want to take up time on it.

The PRESIDING OFFICER. The question is on the amendment of the committee.

The amendment was rejected.

Mr. SARGENT. The other two amendments in lines 16 and 19 of course will have the same fate.

The next amendment was in line 16, reducing the appropriation for printing and binding for the Court of Claims from $12,000 to $10,000.

Mr. SARGENT. I withdraw that because the other, which was stricken out, was a footing.

Mr. HOWE. Will the Senator from California inform the Senate what printing is done with that $12,000?

Mr. SARGENT. It is for the records of the Court of Claims and the briefs of the Government attorney.

Mr. HOWE. The records of causes?

Mr. SARGENT. The records of the court.

Mr. THURMAN. The reports, you mean.

Mr. SARGENT. No; this item relates to the printing of the records of the court.

Mr. HOWE. The Government, then, pays for printing cases made up against itself?

Mr. SARGENT. In which it is a party.

Mr. HOWE. Made up against itself?

Mr. SARGENT. Exactly. It may be in its favor for aught I know. It is the record in its own cases.

Mr. HOWE. The United States is always defendant in those cases.

Mr. SARGENT. Undoubtedly. We follow the existing law. The law requires this printing; and we make no appropriations except in accordance with law.

Mr. HOWE. What law?

Mr. SARGENT. The statute law of the United States.

Mr. THURMAN. Precisely the same as the record printed in the Supreme Court, and the losing party pays the cost. The record must be printed for the service of the judges; and if the petitioner loses his case the cost of the record is charged in the bill of costs.

Mr. HOWE. I never have seen that statute which requires this printing to be done, and I think it would be a little troublesome to find it.

The PRESIDING OFFICER. The question is on the amendment reducing the appropriation from $12,000 to $10,000.

The amendment was rejected.

The next amendment was in line 19, page 2, to reduce the appropriation for printing and binding for the War Department from $120,000 to $100,000.

Mr. SARGENT. That also comes under the first amendment, which was rejected, and I ask leave to withdraw the amendment, as the footing was changed.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CONKLING. I wish to inquire of the Senator from California whether it would be agreeable to him to have any amendments offered as we go along or to have them withheld?

Mr. SARGENT. I should much prefer that Senators should wait until the committee get through with their amendments.

The reading of the bill was continued. The next amendment of the Committee on Appropriations was to strike out lines 54, 55, and 56, in the following words:

For new life-saving stations on Long Island Sound, one at Eaton's Neck, and one at Point Judith, $10,000.

Mr. ANTHONY. I suppose this was stricken out for the reason that the Senator from California stated.

Mr. SARGENT. Partly that and partly because these are new life-saving stations, and the life-saving service, like the signal service, is increasing very rapidly. It is getting to be very expensive, and the committee were conservative upon this point. They thought that unless there was very strong reasons for it this ought not to be allowed. There are light-houses and life-saving stations there.

Mr. ANTHONY. These are very dangerous points, where many wrecks have occurred and many lives have been lost. Certainly we cannot appropriate $10,000 for any better purpose than for the salvation of human life; and as the tax bill has passed, I hope the Senator will allow this amendment to be rejected.

Mr. SARGENT. Very well; I submit it to the Senate.

The amendment was rejected.

The next amendment was after the word "donation," in line 75, to strike out the words "or purchase;" so as to read:

And the Secretary of the Treasury is hereby authorized, whenever he shall deem it advisable, to acquire, by donation, in behalf of the United States, the right to use and occupy sites for life-saving or life-boat stations and houses of refuge, the establishment of which has been, or shall hereafter be, authorized by Congress.

The amendment was agreed to.

The next amendment was on page 7, line 140, after the words "Secretary of the Treasury" to strike out "in his discretion may" and insert the word "shall;" so as to read:

That the Secretary of the Treasury shall have executed one or two of such printings by such responsible and capable and experienced bank-note companies, &c.

Mr. ALLISON. I do not know whether I fully understand that. Does that amendment require that it "shall" be done here?

Mr. SARGENT. The amendment was put on after consideration by the committee, and the Secretary of the Treasury being present, stated that this form of the amendment was just as he desired it.

The amendment was agreed to.

The next amendment was in line 143, before the word "contract" to strike out "shall" and insert "may," and in line 144 after the word "same" to insert "be done within the District of Columbia;" so as to read:

That the Secretary of the Treasury shall have executed one or two of such printings by such responsible and capable and experienced bank-note companies or bank-note engravers as may contract for the same, to be done within the District of Columbia, at the lowest cost to the Government.

Mr. MERRIMON. I desire to ask the Senator from California why it is required this work should be done in the District of Columbia?

Mr. SARGENT. On account of the enormous cost of transportation. The proposition was made by one of the principal bank-note companies of New York to open their establishment here. The cost of transportation is something enormous, and the risk is also something, and they propose to do it in that way. This was done when the Secretary of the Treasury was present with us and he said it was right.

Mr. MERRIMON. Will the effect be to reduce the cost?

Mr. SARGENT. That is what we believe unquestionably.

The amendment was agreed to.

The next amendment was in line 170, page 8, to reduce the appropriation for defending suits and defraying expenses thereof in claims against the United States pending in any Department; and for the defense of the United States in the Court of Claims, to be expended under the direction of the Attorney-General, from $80,000 to $50,000.

The amendment was agreed to.

The next amendment was after the word "dollars" in line 170 to insert the following proviso:

Provided, That from and after the passage of this act, the salary of the district judge of the United States for the eastern district of Wisconsin shall be $5,000 per annum: *Provided, further*, That the compensation of the counsel of the United States provided for by section 5 of the act of Congress creating a court of commissioners of Alabama claims, approved June 23, 1874, shall not exceed $10,000 per annum, and eight dollars per diem for expenses.

Mr. ALLISON. I move to amend the amendment by inserting what I send to the Clerk's desk to come in after "per annum" in line 174.

Mr. MERRIMON. I desire to ask the Senator from California why this discrimination is made as to this judge?

The PRESIDING OFFICER. The Secretary will report the amendment of the Senator from Iowa.

Mr. MERRIMON. I thought that was not in order.

Mr. CONKLING. I thought that Senators were to wait until we got through with the committee amendments.

Mr. SARGENT. I only regret that the Senator from Wisconsin [Mr. CARPENTER] is not here to defend this amendment which he sent to the committee. I can only repeat what he stated to the committee, that they had great difficulty in getting a judge there of adequate experience and talent to take this place; that two or three had been nominated who refused to accept, but he had finally succeeded in inducing one gentleman of high character to take the place under promise of an effort on his part to have his salary placed at this figure, and that was the only means by which they could retain a judge there.

Mr. BOGY. That was the argument?

Mr. SARGENT. That argument influenced the Committee on Appropriations.

Mr. MERRIMON. I do not think there should be a distinction made.

Mr. CONKLING. We do not hear over here what Senators say although we try to.

The PRESIDING OFFICER. The Senator from Iowa moves to amend the amendment as will be reported.

The SECRETARY. It is proposed on page 8, line 174, after the words "per annum" to insert:

And the salary of the judge of the district court of the United States for the district of Iowa shall be the like sum of $5,000.

The PRESIDING OFFICER put the question, and declared that the noes appeared to prevail.

Mr. ALLISON. I ask for a division, and I desire to say a word on this amendment. Iowa has but one judicial district. Wisconsin has two. The business of Iowa is more than double the business of the whole State of Wisconsin and the district judge of Iowa has a very large amount of labor to perform.

Mr. SARGENT. I do not wish to be excluded from raising a point of order; and as it is going to lead to discussion, I raise the point of order on the amendment of the Senator from Iowa.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. SARGENT. That the amendment has not been sent to the Committee on Appropriations for its consideration and is not reported from any standing committee.

The PRESIDING OFFICER. The Chair sustains the point of order.

Mr. ALLISON. Then I move to strike out on line 170, after the word "provided" down to and including the words "per annum" in line 174.

Mr. CONKLING. Do not move to strike out. Call for a division of the amendment of the committee and vote against the proviso.

Mr. MERRIMON. It is not in yet.

The PRESIDING OFFICER. The Senator from Iowa moves to strike out a part of the amendment.

Mr. SARGENT. A division of the amendment will amount to the same thing.

Mr. ALLISON. The last portion of this amendment I do not object to, but I desire to strike out the portion which increases the salary of the judge in the district of Wisconsin.

Mr. CONKLING. I wish to ask a question of the Chair. This being an amendment of two substantive propositions is it not divisible, and if the Senator calls for a division of the question, does he not enable himself to vote on the first part of it?

The PRESIDING OFFICER. The amendment can be taken together. The Senator from Iowa moves to strike out a part, which is in order. The question is on the amendment to the amendment.

Mr. HOWE. Do I understand the motion of the Senator from Iowa is to strike out that provision for salary of the judge of the eastern district of Wisconsin, and will the Senator be good enough to point out the reason for that?

Mr. ALLISON. I endeavored to point out the reason in offering the amendment which I proposed to the amendment of the committee.

Mr. HOWE. What is that amendment?

Mr. ALLISON. An amendment increasing the salary of the judge of the district court of Iowa to the same sum.

Mr. HOWE. Does the Senator from Iowa think it right to strike down that salary because the salary of the judges of all the States is not raised?

Mr. ALLISON. I take it to be the judgment of the Senate that the salary of this judge ought not to be raised when the facts are that the district judge of Iowa has twice the business, twice the territorial area of the judge of the eastern district of Wisconsin.

Mr. HOWE. I think the Senator from Iowa will not insist on his amendment. I have no facts before me which lead me to doubt that the salary of the district judge of Iowa ought not to be as high as the sum mentioned here. All I can say about it is that I have no information upon the point, but the Judiciary Committee of the Senate has recommended that the salary be $5,000.

Mr. OGLESBY. What is the salary now?

Mr. HOWE. Thirty-five hundred. The Committee on Appropriations has inserted the provision in the bill. I certainly do not think the Senator from Iowa is taking the shortest road to have justice done to the judge of his own State, by stricking out this.

Mr. ALLISON. I was not aware until it was stated now by the Senator from Wisconsin that the Judiciary Committee had made this discrimination in favor of this judge in the eastern district of Wisconsin. If they have, and the Appropriation Committee concur, of course the Senate will not strike it out.

Mr. HOWE. The motion is withdrawn then, I take it.

Mr. WRIGHT. I desire to say one word on this amendment. I have no objection to the increase of the salaries of the district judges if it can be done so as to be just and right to all, but here is a proposition to increase the salary of the judge of the district court of the eastern district of Wisconsin. The circumstances under which this recommendation was made by the Judiciary Committee I shall not refer to. It is not necessary that I should do so.

In the eastern district of Wisconsin it is proposed to increase this judge's salary to $5,000, when I have no question on earth that almost every district judge in the United States has a larger amount of business than there is in that district, and I take my own State as an illustration. All I want is common fairness. If it is right to increase this judge's salary, then it is right to increase the salaries of the other judges as well; and if it is not right to increase the salaries of the other judges, it is not right to increase the salary of this judge; and I say it is unfair; I say it is a discrimination that is not justified upon any principle on earth, to increase the salary of this judge and not give an opportunity to increase the salaries of the other judges. I say strike this out and let all stand alike, or else let others come in and have an equal chance.

The business before the judge of the district court of the State of Iowa is twice that in the eastern district of Wisconsin, and more than there is in the entire State of Wisconsin, and yet it is proposed to increase the salary of this one judge, simply, as I understand, because it is difficult to obtain some man to take the place unless he can get a better salary. But here is a man who has been living upon a starving salary for years and years, and because some other man will not take the place in another State, you increase the salary.

Mr. HAMLIN. Mr. President, I would like to know if there was distinctively any proposition submitted to the Committee on the Judiciary to raise the salaries of other judges?

Mr. CONKLING. No, sir.

Mr. HAMLIN. I understand the Senator from New York, then, that they had only one case before them, which has done injustice to all the other judges in the United States.

Mr. WRIGHT. I have said that the circumstances under which that recommendation was made I shall not refer to here. The chairman of the committee is here, and he can understand as well as myself. Of course I do not intend to say anything about that. I do not want to say anything about it, but I do insist that there is no justice in the proposition to increase the salary of this judge on this appropriation bill.

Mr. SARGENT. I hope we shall have a vote on this. The Senate can very soon decide whether to sustain the committee.

Mr. CLAYTON. I have an amendment to offer, to come in after "per annum," in line 174.

Mr. SARGENT. I believe the order is that the committee's amendments are first to be acted on.

The PRESIDING OFFICER. It is in order as an amendment to the amendment.

Mr. CLAYTON. It has been referred and has been before the Committee on Appropriations.

The PRESIDING OFFICER. The amendment will be reported.

The CHIEF CLERK. It is proposed, after the words "per annum," in line 174, to insert:

And provided further, That the judge of the eastern district of Arkansas shall be paid at the rate of $5,000 per annum from the date of the resignation of the late judge of the western district of said State, and to continue at said rate while the courts in both the said districts are held by the judge of the eastern district of Arkansas.

Mr. CLAYTON, I desire to say a few words on this amendment.

Mr. SARGENT. I cannot raise the point of order on that, I will say in justice to my friend from Iowa, because it was sent to the Committee on Appropriations.

Mr. CLAYTON. I want to say a word. Here was a proposition sent to the Committee on Appropriations to do what? To pay an officer an extra salary for the performance of double duty. Last spring the judge of the western district of Arkansas resigned. Under the law the judge of the eastern district was compelled to hold the courts of both districts, and he has been doing so from the date of the resignation of that judge to the present time. The districts are eight hundred miles in extent—a larger jurisdiction than any other district in the United States. He has had to travel at his own expense over this district and hold three different courts at three different places.

Mr. BAYARD. On what salary?

Mr. CLAYTON. Thirty-five hundred dollars; in a State, too, where travel is very expensive.

Mr. ANTHONY. And somewhat dangerous.

Mr. CLAYTON. He is performing his duty, and he is doing a service that has cost this Government $7,000 a year to do before. While Judge Story was holding that court and the Government paid for two judges, they paid $7,000 a year for this service, and now Judge Caldwell, of the eastern district of Arkansas, is doing this same service for $3,500 a year. I do claim there is merit in this case, and I do think, while the judge is doing that double service at unusual expense, he should be paid this salary; and I hope the Senate will give it to him.

I am very much surprised, however, to see that while the proposition to increase the salary of this judge in Wisconsin, where it is not shown that any additional labor is required, has been inserted in this bill, this proposition to pay an officer for double service has not been inserted.

Mr. SARGENT. I move that the five-minute rule apply to amendments on this bill.

The motion was agreed to.

Mr. CONKLING. I am surprised somewhat at the view taken of this amendment and at the ground of the opposition to it. The honorable Senator from Maine very naturally asked whether any other case was before the Judiciary Committee, and I am able to say no others case was before the committee. The Senator from Wisconsin, not now in the Chamber, a member of the Judiciary Committee, brought this case to the knowledge of the committee, and it was this case and not some other upon which the committee passed. I have no hesitation in stating one of the chief grounds upon which the committee acted. The judge of this district has resigned recently, the inadequacy of salary doubtless being one of the causes which led him to resign. A man has been nominated who we are told is a distinguished and qualified lawyer, and he was nominated in accordance with a very general wish of the bar. He frankly avowed that he could not take the office and hold it upon the present salary. Very naturally, therefore, in order to secure the services of the man whom the bar and the bench of Wisconsin preferred, the Senators from Wisconsin said they would make an effort to put up this salary. So that, as the Senator from California intimated, the acceptance of the office by one confessedly fit depends more or less on the fate of this amendment.

Mr. President, the Judiciary Committee did authorize this amendment to be reported, and I say to my friend from Arkansas that I am not now engaged in opposing his amendment or reflecting upon it in any way. I am speaking of the amendment reported by the committee. The Committee on the Judiciary, for good reasons as they thought, reported this amendment. There are two very grievous cases in my own State as to which the bar of all parties have been crying out for two or three years. There are two judges there, whose pay is wholly inadequate, and they are greatly worked. I might oppose this because the salary of those judges is not properly provided for, but it would strike me as exceedingly unreasonable. If it is true that a judge in Iowa is not properly paid, move the amendment, and move it in order, as the Senator from Wisconsin, who is now absent has moved this, and let us pass upon that; but shall it be said that we will vote down an amendment which is in order, which is meritorious, which no Senator says is not meritorious, because, forsooth, other amendments were not introduced in behalf of other judges and were not before the committee, and therefore the committee did not, as it could not, pass upon them?

It seems to me that would be a wild Indian justice. Here have been several bills to increase the salaries of judges. We have passed upon them. None of them included, except the bill I offered the other day, which the Senate was good enough to pass, the two cases I referred to; but could I justify myself in sitting here and saying, "I will vote down all these bills, although they be confessedly meritorious, because another judge in Ohio, New York, or some where else has not been included?"

Now I humbly submit, especially in the absence of the Senator from Wisconsin, who has come from home recently, knowing the circumstances of this case, it would be very austere for the Senate to say, "We will strike down this amendment although it is properly here, examined by two committees and reported by two committees, merely because other Senators did not bethink themselves and introduce other amendments relating to other officers, judicial or otherwise." No Senator feels more than I do, in the case of my own State, that salaries there ought to be raised. Judge Blatchford, who, living in New York, sits in court nearly the entire year round, receives $4,000 salary, while judges of city courts in that city receive $17,500. Everybody knows that this is monstrous; but shall I justify myself because of that in voting down this amendment if it prove to be meritorious? Now I venture to suggest that the amendment either ought to be adopted or it ought to stand as it is, we passing over it until our friend from Wisconsin, who happens to be absent and who knows all about this, shall at least have a hearing upon it. Dealing with an absent Senator and a meritorious amendment, I appeal to Senators not to strike it down for some reason which has nothing in the world to do with the case.

Mr. ALLISON. I desire to say one word in justification of my proposition to strike out. Do I understand the Senator from New York to say that the Judiciary Committee sent this amendment formally to the Committee on Appropriations?

Mr. CONKLING. Why, Mr. President, the Senator says "formally." I answer, no, they sent it substantially. The committee received the amendment, it being moved by the Senator from Wisconsin. It was voted upon as the committee vote upon any other amendment after hearing a statement of the case, and the committee's report was in favor of the amendment. It was referred to the Committee on Appropriations and by them reported and ingrafted in the bill. That is not formal, but it is real.

Mr. ALLISON. I will say in justice to myself that my attention was called to the fact that probably an amendment would be offered from the Committee on Appropriations with reference to this subject, but I was not aware until I saw the printed bill at this moment that this amendment was in the appropriation bill, although I was present nearly all the day in the Appropriation Committee, when that subject was considered, and I was only absent for a short time upon a committee of conference.

Mr. SARGENT. If my friend will allow me right there, I will state that there were seven members of the Committee on Appropriations present when this amendment was voted upon.

Mr. ALLISON. I have nothing to say upon that subject; I am only speaking in justification of myself. Now, then, when I propose an amendment providing for an increase of the salary of a judge who has twice the territorial area of this judge and twice the business of the whole State of Wisconsin, I am ruled out by the Senator in charge of this bill because I am not in order. I simply submit that.

Mr. CONKLING. May I ask my honorable friend one question? Is the Senator's being ruled out the fault either of the newly-appointed judge in Wisconsin or of the Senator from Wisconsin who moved this amendment?

Mr. ALLISON. Certainly not, nor the Senator from New York. I am not complaining of them.

Mr. CONKLING. Then I do not see why the Senator should retaliate because the rules of the Senate require an amendment to be reported by a committee and these other amendments have not been reported.

Mr. MERRIMON. I believe the district judges are paid in a very niggardly way; their compensation is not sufficient; but I am not willing to see a distinction made. I move in line 172 to add to the word "judge," the letter "s," and——

The PRESIDING OFFICER. That is not in order, as two amendments are now pending.

Mr. MERRIMON. When it is in order, I will make that motion to amend.

Mr. THURMAN. Is the question on the salary of the Wisconsin judge?

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arkansas [Mr. CLAYTON] to the amendment of the committee.

Mr. THURMAN. I understand that is offered as an amendment to the provision in the bill raising the salary of the judge in Wisconsin.

The PRESIDING OFFICER. The Senator is correct.

Mr. THURMAN. I suggest to the Senator who has the bill in charge and to all others, inasmuch as the Senator from Wisconsin, who is absent now, feels a strong interest in this matter, that we pass on to the next amendment, leaving this amendment to be considered hereafter, when he shall come in.

Mr. MERRIMON. I have a suggestion on the amendment. I want to make it so that Senators will think about it. My proposition is to add the letter "s" to the word "judge" in line 172, and to strike out in lines 172 and 173 these words, "for the eastern district of Wisconsin." The provision will then read:

That from and after the passage of this act the salary of the district judges of the United States shall be $5,000 per annum.

Mr. EDMUNDS. I could not see my way clear to favor this amendment, either in the place from which it came or here; but I think the Senator from Ohio states a very proper thing, that the Senator from Wisconsin being absent to-night, it is only a matter of proper courtesy to him, as we should all wish it to be given to us, to let this matter go by for the time being. I am not for it; I never have been for it; but I hope no one will object to letting it be passed by until the Senator from Wisconsin shall come in.

Mr. WRIGHT. Allow me to make one remark. I am quite willing that that shall be done. I do not know that I would want to have this amendment voted on at all in the absence of the Senator from Wisconsin. I think that is eminently proper, but I think it is due to myself that I should say one word. I will not violate any confidence, and I think I shall be sustained in what I say, that the proposition before the Committee on the Judiciary was brought up in rather an informal way about the time it adjourned. The statement in full, of course, is not necessary to be given here. Indeed, I may state for myself that I hardly knew it was agreed upon that it should be reported. I had no knowledge that it had been reported at all until it came here. I spoke to my colleague, or rather sent a note to him to-day, that if anything of the kind was done I wanted attention given to the matter for our own State. It seems until he received the note he had no knowledge anything of the kind was done. I state that much in justification of ourselves in reference to our own judge and in reference to what I believe to be a duty on behalf of a judge who is overworked in my own State. I had no knowledge that this amendment had been offered. I thought indeed the matter had been dropped. If I had known that the amendment would be offered here, I certainly would have offered an amendment for my own State. I think under the circumstances it is hardly just to us to insist that this salary should be increased.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Arkansas to the amendment of the committee.

Mr. SARGENT. Does that affect the second proviso? Can the provisos be separated?

The PRESIDING OFFICER. There is an amendment pending to that provision in the bill.

Mr. SARGENT. Not to the second proviso.

The PRESIDING OFFICER. The Senator from Arkansas has moved an amendment.

Mr. SARGENT. Let us pass over the whole thing.

The PRESIDING OFFICER. The whole amendment will pass over if there be no objection. The Chair hears none.

Mr. WRIGHT. I offer as an amendment to the bill the amendment that was ruled out of order, and I ask that it be printed.

The PRESIDING OFFICER. The amendment will be printed and referred to the Committee on Appropriations.

Mr. HAMLIN. I ask the consent of the Senate to send the same committee an amendment to this bill increasing the salary of the district judge of the State of Maine to $5,000.

Mr. EDMUNDS. I ask consent to send to the same committee an amendment increasing the salary of the district judge of the State of Vermont to $5,000.

The PRESIDING OFFICER. The Chair asks the same consent for the judges of the eastern and western districts of Michigan.

Mr. SCOTT. I will ask the same consent on behalf of both the district judges of Pennsylvania, the eastern and western districts.

Mr. SARGENT. The Committee on Appropriations does not meet to-morrow morning and cannot report then.

Mr. EDMUNDS. That does not make any difference.

Mr. MITCHELL. I ask consent to send to the same committee an amendment increasing the salary of the district judge in Oregon.

Mr. HITCHCOCK. I ask the same consent for Nebraska.

Mr. DAVIS. I ask the same consent for West Virginia.

Mr. SPENCER. I move to add the judge of the southern district of Alabama.

The PRESIDING OFFICER. The amendments will be referred if there is no objection.

Mr. CONKLING. I insist that they are out of order.

Mr. EATON. Perhaps I might as well add Connecticut, and for this reason——

Mr. KELLY. I will add Oregon.

Mr. MERRIMON. I will add North Carolina.

Mr. EATON. I will say that the judge in Connecticut serves without pay four months in the city of New York every year——

The PRESIDING OFFICER. There is no amendment pending. The Chair has heard the notice, and it has been referred.

Mr. EATON. I hope none of these will pass. I have simply added that name so as not to fall behind others.

The PRESIDING OFFICER. They have gone from the Senate to the committee. There is nothing pending. The Clerk will resume the reading of the bill.

Mr. BOREMAN, (at two o'clock a. m. Wednesday.) I move that the Senate do now adjourn.

Mr. SARGENT. I desire the Senate not to adjourn until half past two, and then I will make the motion myself. I trust the Senator will stand by me a little longer.

Several SENATORS. Adjourn to ten o'clock to-morrow.

Mr. EDMUNDS. Say nine o'clock.

Mr. SARGENT. I simply say I object to adjourning now.

Mr. BOREMAN. I will not insist on the motion.

Mr. MERRIMON. I offer an amendment to the sundry civil bill which I ask to have referred to the Committee on Appropriations.

The PRESIDING OFFICER. That order will be made.

Mr. SPENCER. I move to amend the amendment of the Senator from North Carolina by adding after the words "North Carolina" the word "Tennessee."

Mr. SARGENT. I move that when the Senate adjourns it adjourn to meet to-morrow at ten o'clock. We have no committee meetings to-morrow and the Senate can meet at ten.

Mr. THURMAN. I hope the original idea of the Senator will be adopted, that we sit here until half past two and then adjourn.

Mr. SARGENT. Very well; let us do that.

Mr. THURMAN. There is more than half the Senate absent.

Mr. HOWE. I ask the consent of the Senate to offer a couple of amendments to this bill and have them referred to the Committee on Appropriations.

The PRESIDING OFFICER. They will be so referred.

The Chief Clerk resumed the reading of the bill.

The next amendment of the Committee on Appropriations was to strike out lines 229, 230 and 231; as follows:

For thirty-six hundred copies, including paper, of the map of the United States prepared in the General Land Office, $6,000.

The amendment was agreed to.

The next amendment was in line 244, in the items for the jail of the District of Columbia, after the word "dollars" to strike out the words:

After advertisement, to the lowest responsible bidder: *Provided*, That it does not interfere with existing contracts.

So as to make the clause read:

For kitchen utensils, wash-room apparatus, and driving-engine, $5,600.91.

The amendment was agreed to.

The next amendment was to strike out the following clause beginning in line 251:

For furniture, carpenter, and mason-work and materials, painting, plastering, and other work necessary to the proper repair of the capitol building at Olympia, Washington Territory, $5,274.75, or so much thereof as may be necessary; to be expended under the direction of the Secretary of the Interior.

Mr. MITCHELL. I hope that amendment will not be concurred in.

Mr. SARGENT. I will say to my friend from Oregon that we have struck that out intending to get information on it in the committee of conference. The House committee did not send us the papers in regard to it. Let it go out *pro forma*, and if they shall show proper grounds for retaining it we can retain it at the conference.

The amendment was agreed to.

The next amendment was in line 304, page 13, to strike out "fifty" and insert "twenty-five," and in line 305 to strike out "clerk" and insert "Senate, and twenty-five copies for the use of the House;" so as to make the clause read:

To enable the Clerk of the House to have prepared for the Public Printer copies of all the "summary reports" of the commissioners of claims in cases reported to Congress as disallowed under the act of March 3, 1871, of which twenty-five copies shall be printed and bound for the use of the Senate, and twenty-five copies for the use of the House, $1,000.

Mr. MERRIMON. I beg to ask the Senator from California if there is any real necessity for that?

Mr. SARGENT. I think that these summary reports will be useful to the Committees on Claims of the respective Houses and to Senators who desire to know the summary of such cases.

Mr. MERRIMON. After they are reported adversely, they are out of the way.

Mr. SARGENT. It gives us the reasons. It is a future record so that we may know why the adverse reports are made. It perpetuates testimony.

Mr. DAVIS. It relieves Congress.

The amendment was agreed to.

The next amendment was to strike out from line 307 to line 315, as follows:

To enable the Clerk of the House of Representatives to cause to be erected, in the Congressional Cemetery, monuments in memory of those Representatives who

have died since the erection of those last authorized; said monuments to be of marble or granite, and of uniform size and style with those previously erected, and to be contracted for by him with the lowest responsible bidder therefor, after due public notice, $1,500, or so much thereof as may be necessary.

The amendment was agreed to.

The next amendment was to insert after line 333—

Provided, That the last clause of an "Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1874, and for other purposes," approved March 3, 1873, amending "An act to extend the laws of the United States relating to customs, commerce, and navigation in the territory ceded to the United States by Russia, to establish a collection district therein, and for other purposes," is hereby repealed.

Mr. EDMUNDS. I should like to have that explained.

Mr. SARGENT. I have a letter from the Secretary of the Treasury recommending this on the ground that by a provision put in the bill referred to he was entirely unable to restrain the sale of whisky to the Alaska Indians, producing a great deal of mischief. The legislation was exceptional, and it ought to be repealed. I have here the Secretary's letter of four pages, which can be read if the Senator desires.

Mr. EDMUNDS. Yes, sir.

Mr. SARGENT. If the Senator will turn to volume 17 of the Statutes, page 530, he will find the clause referred to.

The Chief Clerk read as follows:

TREASURY DEPARTMENT,
Washington, D. C., January 16, 1875.

SIR: I am in receipt of your communication of the 9th ultimo, in which you call attention to the last clause of the act making appropriations for sundry legislative, executive, and judicial expenses of the Government, (17 Statutes at Large, 530,) and inquire as to the operation of the clause in question, and whether in my opinion the provision is judicious.

In reply, I beg leave to say that the portion of the clause which extends the laws of the United States relating to customs, commerce, and navigation over the Territory of Alaska, was taken from the first section of the act of July 27, 1868, (15 Statutes at Large, 240,) which has been reproduced in section 1954 of the Revised Statutes.

The fourth section of the act of 1868, which has been also substantially reproduced in section 1955 of the Revised Statutes, puts the introduction of distilled spirits into Alaska under the control of the President, by empowering him to restrict, regulate, or prohibit their importation into that Territory.

The effect of the provision which extends sections 20 and 21 of the act of June 30, 1834, (United States Statutes at Large, volume 4, page 732,) as amended by the act of February 13, 1872, (United States Statutes at Large, volume 12, page 339,) over the Territory, has been to produce collisions between the officers of the revenue and the military authorities which are incompatible with an efficient administration of the laws. The deputy collector of customs at Fort Wrangle has been recently arrested and imprisoned by a lieutenant of the Army who was stationed at that post; and a claim for damages has already been received by this Department from the master of a steam-vessel bound up the Stikine River, who, being unable to make entry at Fort Wrangle on account of the imprisonment of the deputy collector, was compelled to return to Sitka for that purpose. The collection of the revenue and the administration of the revenue laws is liable, therefore, under the provisions of the clause in question to be at any moment obstructed and for a time suspended by the intervention of the military authorities.

The amendment moreover appears to have caused no diminution of the quantity of spirituous liquors obtained by the natives; and so far as this Department has been able to secure reliable information upon the subject, the introduction of spirituous liquors for the supply of officers of the Army and the troops stationed in the Territory, has had a tendency to favor the clandestine introduction of such liquors and their distribution among the natives.

The character of the population of Alaska is quite unlike that of the Territories to which the act of 1834 was originally intended to apply, and the territory itself, as regards its adaptation to the supply of human wants, has little resemblance to the Indian countries referred to in that statute. The introduction of liquors into Alaska can be effected only through the ports of the Territory, to which it must be brought in coasting or other vessels. These ports being under the supervision of officers whose special duty it is to observe their movements and prevent infractions of the laws relating to importations, it would be seen that those officers are in a position sufficiently favorable to enforce restrictions upon the introduction of liquors without the intervention of a military force.

In my opinion the powers vested in the President by the act of 1868 and section 1955 of the Revised Statutes are adequate for the control of the introduction of liquors or fire-arms; and if in other respects they are insufficient, the remedy is not supplied by the provisions of the clause under consideration.

Very respectfully,

B. H. BRISTOW,
Secretary.

Hon. A. A. SARGENT,
United States Senate.

Mr. RAMSEY. I desire to appeal again to the Senator from California. He evidently cannot get through with his bill to-night. It is a bill of a great many items, and they cannot be considered now. I think if the Senator will be kind enough to give way to me, I can get the Pembina bill passed to-night.

Mr. SARGENT. I have told my friend on the floor of the Senate to-night plainly, I have told him in conversation as plainly, that I should not yield to anything until this bill be passed.

Mr. RAMSEY. I think a remark of that kind is very unkind of the Senator. I have never known such a request as I have made to be refused.

Mr. SARGENT. I call the Senator to order.

The PRESIDING OFFICER. The question is on the amendment.

Mr. EDMUNDS. I am not by any means satisfied that this amendment ought to be adopted. The number of customs officers in the Territory of Alaska, to whom this amendment remits the whole business of excluding the introduction of and traffic in liquors with the Indian tribes and inhabitants of that Territory, is very small. They have no physical force to compel obedience to their commands. There are no courts in that country. It is not an organized Territory; it is a mere wild outlying domain. The law of 1834 respecting intercourse with the Indian tribes outside of Territories attached the countries of those Indian tribes to the adjacent judicial districts for judicial purposes; and the military, as it respects the Indian country, (there being no law in force there in the sense of having any means to administer it,) are authorized to arraign anybody who is violating the intercourse acts by carrying in whisky and fire-arms and take him out of the country to a place where he can be tried before a court for such an offense.

Now the Territory of Alaska, whatever may be the character of its inhabitants, is situated in respect of the means of reaching justice in precisely the same way. There are no means at all there of administering justice. There is no authority that I know of except the act of 1834 which authorizes anybody to seize a person in the Territory of Alaska and carry him either to Washington Territory or to Oregon. So that, with the small number of civil officers of the Government in that Territory, having no powers of a magistrate or to administer oaths except in official cases connected with the customs, such as the officers of the Army by one of the sections in the Army laws, and no means to compel extradition, such as, by the act of 1834 the Army has in taking people out of the Indian country, I very much fear, without having any opportunity of looking at this precise question at this moment, that if we adopt this amendment and put it into this appropriation bill, of course upon hurried consideration, we shall find that we have destroyed the means, as slender as they may now be, of keeping whisky and fire-arms out of that country and away from that people; and I think everybody concurs in the belief that the greatest curse perhaps that can be inflicted upon this people is the introduction of alcoholic liquors.

Now, on account of some little collisions that have occurred by an intemperate Army officer having abused his powers or exceeded his authority, between him and the customs officers, which are vexatious and troublesome for the moment, to set aside this plan which now exists under the law, without being sure that we have an effective provision for taking offenders who bring these prohibited and dangerous articles in there to some place where they can be tried, is in my opinion a very dangerous thing. I think it will result disastrously not only to the little happiness and progress those people are able to have and make, but to the interest of the United States.

I hope, therefore, that in this appropriation bill the Senator from California will not insist that this regulation shall be placed, but will leave it for a little while until a careful investigation into the state of the whole law may enable us to take such measures, if any, as are necessary.

Mr. SARGENT. The original proposition which is sought now to be repealed was put on the sundry civil bill. It certainly was not well considered. Mr. Elliott, of the Smithsonian Institution, who was appointed as Government agent and was for two or three years; in Alaska, a man of very high character, reported when he returned the last time that this provision was working very badly, that the military men would have whisky, the soldiers would get it, that they would give it to Indian men and women, and the result was extremely demoralizing; that the former condition of things before this act went into operation was very much better; that the only way to rescue the Territory from the difficulties which were growing up under the legislation we now propose to repeal was by reverting to the condition of things before and putting it under the control of the Treasury Department. The Treasury Department has its revenue-cutter, which goes from place to place, which can intercept any vessel that is loaded with whisky or that dispenses whisky. Whisky can only be brought into the ports, which are few in number and at each of which there is a revenue officer. He even went further, and thought the presence of the military in the Territory at all was rather demoralizing to the people. Whether that be so I know not except in the incidental case which he mentions, and that is that the whisky seems to have had a very much greater flow among those people than it had before.

The representations of Mr. Elliott came to my ears. I was not willing to trust the expressions of even so intelligent a man as Mr. Elliott, and therefore I addressed a letter to the Secretary of the Treasury who took several weeks to consider the matter and to reply, and did reply by the letter which has been read from the Clerk's desk. The Secretary certainly thinks it is better for the morals of the people of that Territory that this matter should be as is proposed by the amendment offered by the committee. But I do not wish to to take up the time of the Senate; I simply ask for a vote upon it.

Mr. EDMUNDS. Mr. President——

The PRESIDING OFFICER. The time of the Senator from Vermont has expired.

Mr. EDMUNDS. I hope the Senator from California will allow me to say a word.

The PRESIDING OFFICER. The Chair hears no objection.

Mr. EDMUNDS. As the Senator knows, I am not drawing this in question for any other purpose than to have what is right done. I have conversed with Mr. Elliott on this subject, and his views are very peculiar. In a great many respects I think he is right. In a great many other respects it would require some further consideration to satisfy me that he is right. He wishes, as the Senator says, to turn out the Army altogether and to have some revenue-cutter to sail up and down there and do the whole business. Now, over this wide extent of coast, hundreds and thousands of miles for aught I know, certainly hundreds and hundreds of miles, with deep bays and long

points and forests, it is totally impossible for any revenue-cutter to prevent liquors being landed at any place other than the ports, and then it comes around and gets through to the settlements of the Indians; and it being there, with no means of proving that it has been smuggled, what is the customs officer under the law authorized to do about it? The customs officer under the law has no authority that I know of—if there is I wish it might be produced—to seize liquors except for a violation of the customs laws. There they are. What are you to do? I have shown you, as I think, correctly, that they have no authority to arrest anybody; they have no authority to take affidavits in support of a prosecution; they have no authority to carry anybody out of that Territory at all.

Under the Indian laws of 1834, giving power to the Army to expel intruders and liquors that are found in the Territory and to arrest offenders and carry them out for trial, you have a means; but wiping these out entirely, you have, so far as I know, no means of doing anything except doing what you can by a ship preventing liquors from getting in; and once in, your power is gone.

Mr. MITCHELL. I should like to ask the Senator from Vermont if it is not the fact that the law of 1834 is absolutely nugatory so far as it has any application to Alaska, in that under that law the military are only authorized to detain a party arrested for a violation of the non-intercourse laws for the period of five days? There are no courts there, and it is perfectly impossible to get to a court in three times five days.

Mr. EDMUNDS. My friend is perfectly right; the law is not right as it is for that very reason; but your customs officer has no authority to detain anybody for five minutes, and he has no authority to carry anybody out of the Territory. If that be so, then the only difficulty as it now stands in respect to getting rid of the offender is that the military authority have not time enough to carry the offender out. They did carry one out, and he was set free in Oregon by Judge Daddy.

Mr. MITCHELL. He was detained in imprisonment two months in Alaska before they undertook to take him to Oregon—a very great hardship.

Mr. EDMUNDS. That was an abuse undoubtedly if the military officer was to blame for it; but if a revenue-cutter goes from Oregon to Alaska only once in three months, what could the officer do? He could not do anything but hold him and carry him to the court. That was a hardship unquestionably. Upon strict Indian principles, the military officer, under the act of 1834, perhaps might have thrown this man into the sea. That would have been harder still. He would have got him out of the Territory in that way if he had thrown him three miles.

Mr. SARGENT. I should like to remind my friend that we are under the five-minute rule.

Mr. EDMUNDS. Very good, if the Senator wishes to make that point. We will wait until to-morrow and see.

Mr. SARGENT. I am not making any point, only reminding him.

Mr. EDMUNDS. I only remind the Senator that he has introduced into an appropriation bill a distinct provision of legislation which has no business here.

Mr. SARGENT. Does the Senator raise a point of order?

Mr. EDMUNDS. I cannot raise a point of order, because for some reason or other——

Mr. SARGENT. The Senator says I had no business to do it. That was the reason I suppose he was transgressing the rule.

Mr. EDMUNDS. No; I am appealing to the Senator on moral grounds that he is loading an appropriation bill—not in an offensive sense.

Mr. SARGENT. I move that the Senate adjourn.

The motion was agreed to; and (at two o'clock and twenty-seven minutes a. m., Wednesday, March 3) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, *March* 2, 1875.

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

CHANGE OF NAME OF A PLEASURE YACHT.

Mr. PIERCE. I ask unanimous consent to report from the Committee on Commerce a bill to change the name of the pleasure yacht Dolly Varden to Clochette.

The bill, which was read, authorizes the owner of the pleasure yacht Dolly Varden, of Boston, Massachusetts, to change its name to Clochette.

There was no objection; and the bill (H. R. No. 4853) was received, read three times, and passed.

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

The latter motion was agreed to.

WESTERN DISTRICT OF ARKANSAS.

Mr. SENER. I ask unanimous consent to report back from the Committee on Expenditures in the Department of Justice the bill (H. R. No. 3621) to abolish the western district of Arkansas, and for other purposes, with Senate amendments, and to move that the House non-concur in the Senate amendments, and ask for a committee of conference.

Mr. HODGES. I object.

Mr. SENER. I move to suspend the rules for the purpose I have intimated.

Mr. SPEER. I hope this will not be objected to. The bill was unanimously passed by the House.

Mr. SENER. It is only a question of standing by our own action. I move to suspend the rules.

The SPEAKER. The Chair will recognize the gentleman for a motion to suspend the rules when there is a quorum. There is evidently no quorum now.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The SPEAKER. The Chair announces as managers on the part of the House of the new conference on the legislative, &c., appropriation bill Mr. HORACE F. MAYNARD of Tennessee, Mr. CHARLES O'NEILL of Pennsylvania, and Mr. J. C. ROBINSON of Illinois.

ORDER OF BUSINESS.

Mr. COTTON. I submit the following resolution:

Resolved, That the rules be so suspended as to permit the Committee on the District of Columbia to now report House bill No. 4840, for the support of the government of the District of Columbia for the fiscal year ending June 30, 1876, and for other purposes, for consideration in the House.

I will simply say that the gentleman from Pennsylvania [Mr RANDALL] and the gentleman from Indiana, [Mr. WILSON,] have amendments which they wish to offer, and I propose to permit those amendments to be offered for the consideration of the House.

The SPEAKER. Why does not the gentleman get his proposition in shape, so that the House can vote on it directly?

Mr. RANDALL. Allow me to submit a statement. The gentleman from Iowa, [Mr. COTTON,] in charge of this subject, has a long bill, which embraces other subjects than that which relates properly to the taxation of the District. The gentleman from Indiana [Mr. WILSON] has an amendment in the nature of a substitute, which embraces only provisions relating to the taxation of property in the District, both real and personal. I have a further amendment in the nature of a substitute, which was prepared at my request by the board of commissioners, and embraces only taxation on real property. If the proposition of the gentleman from Iowa is brought up for consideration, then the proper plan would be for the gentleman from Indiana to move his amendment in the nature of a substitute for the bill, and upon that I will move a further amendment in the nature of a substitute for that of the gentleman from Indiana.

Mr. SENER. I make the point of order that there is no quorum present.

The SPEAKER. That will be determined by a vote.

Mr. SENER. The Chair made that point upon me without a vote.

The SPEAKER. Very well; there have been a great many members come in since. Besides the gentleman did not have in his hand a bill of one tithe the importance of the bill of the gentleman from Iowa.

Mr. SENER. It was a bill which the House had passed——

The SPEAKER. The Chair must exercise his discretion.

Mr. RANDALL. This whole matter must stand still unless the House act upon it to-day.

Mr. MAYNARD. I suggest that the gentlemen having charge of these matters, or interested in them, entertaining different views upon the subject, might get together informally and agree upon some one proposition that could be submitted to the House.

The SPEAKER. The Chair has urged that for three days; he has urged that some proposition be submitted to the House upon which the House could come to a direct vote.

Mr. RANDALL. We do not want to limit debate; the House can do that by a majority vote.

Mr. THOMPSON. I wish to amend the resolution so as to include House bill No. 4292.

The SPEAKER. Do not mix that with the tax bill.

Mr. THOMPSON. It is as important as the other.

The SPEAKER. What is it?

Mr. THOMPSON. Under the old law the recorder of this District appointed his deputy, who was authorized to administer oaths, take acknowledgments, &c. The new law changed that; but, without being advised of it, the recorder still confided the duty to his deputy, and hundreds of deeds are on record in this District to-day that are void because of that informality. This bill is to cure that defect, and is exceedingly important.

The SPEAKER. Unanimous consent can be asked for that bill afterward. There is no necessity whatever for mixing it with the tax bill. The gentleman from Iowa asks that the rules may be so suspended that the tax bill may be brought before the House for consideration. The question is upon seconding the proposition to suspend the rules.

Mr. COTTON. I am willing to limit debate to an hour.

Mr. RANDALL. The majority can close debate in one minute if they wish.

The SPEAKER. Why not make it a resolution to bring the three propositions before the House to be voted upon?

Mr. COTTON. Very well; I will make that proposition.

The SPEAKER. Is there objection to it? [After a pause.] The Chair hears none.

TAX BILL FOR DISTRICT OF COLUMBIA.

The House accordingly proceeded to the consideration of the bill (H. R. No. 4840) for the support of the government of the District of Columbia for the fiscal year ending June 30, 1876, and for other purposes.

Mr. COTTON. It is unnecessary to take time to read this bill.

Mr. MERRIAM. Is it the bill which we considered the other night or is it a new one the gentleman has brought in since?

Mr. COTTON. It is a new one.

The SPEAKER. The gentleman can state the provisions of the bill.

Mr. COTTON. This bill contains provisions not only in relation to taxing the property of the District of Columbia for the fiscal year ending June 30, 1876, but it contains also some provisions in regard to the board of audit and a provision in regard to the election of a Delegate for the District of Columbia.

Mr. MERRIAM. We do not want that.

Mr. COTTON. I understand many gentlemen are opposed to that provision. The bill is before the House, and the gentleman from Indiana [Mr. WILSON] proposes a substitute which is purely a tax proposition, taxing both the real and personal property of the District. The gentleman from Pennsylvania [Mr. RANDALL] proposes a substitute to tax real estate only. Their propositions relate simply to taxation, while the proposition of the committee contains other provisions.

Mr. WILSON, of Indiana. I hope I may have the attention of the House for a moment. I submit a substitute for the bill of the Committee on the District of Columbia, and if I can have the attention of gentlemen I will explain the difference between the two propositions. The bill of the committee which I hold in my hand contains, in addition to provisions relating to taxing real and personal property, other provisions with reference to a great variety of subjects. For instance, one is a provision for the election of a Delegate for the District of Columbia, the election to be held upon a registration made in 1872, certain provisions being made in reference to the correction of that registration by a board of registration that existed at that time. It contains also provisions in relation to the payment of certain persons for work done by them, and other provisions of that sort.

The bill I offer as a substitute has reference to taxation exclusively, with the exception that it authorizes the board of commisioners to equalize the pay of the employés of the District. This bill contains a further provision that the 3.65 bonds may be issued in denominations of $1,000 and $5,000. It contains also a provision for taxing both real and personal property, setting out machinery by which the latter shall be reached. This is the substance of the bill. I cannot of course go into details. Gentlemen can learn those when the bill is read.

Mr. MERRIAM. What is the proposed rate of taxation?

Mr. WILSON, of Indiana. This bill proposes a tax of 1½ per cent. If the House sees fit to make the rate 2 per cent. there need be no trouble on that point.

Mr. MERRIAM. Will the gentleman accept an amendment to make the rate 2 per cent.?

Mr. WILSON, of Indiana. Certainly I will.

Mr. RANDALL. Whichever substitute may be adopted, that question can be reached.

Mr. WILSON, of Indiana. Let me say further that I have prepared my bill as carefully as I could upon consultation with the commissioners of the District, and I am authorized to say that if the House comes to the conclusion that personal property should be taxed, then the commissioners are entirely satisfied with the substitute which I submit. On the other hand my friend from Pennsylvania has a bill which has been prepared by the commissioners of the District, and which does not tax personal property. If the House should come to the conclusion that personal property ought not to be taxed, then that measure will have the entire approbation of the commissioners. So that by taking up the bills in this way the House will act upon three propositions: first, that coming from the committee, which contains various matters to which I have alluded, then the proposition which is in the hands of the gentleman from Pennsylvania, which taxes real property.

Mr. WILLARD, of Vermont. How much?

Mr. WILSON, of Indiana. The tax proposed in the bill of the gentleman from Pennsylvania is 2 per cent.

Mr. WILLARD, of Vermont. I think it ought to be 2 per cent.

Mr. RANDALL. I offer an amendment in the nature of a further substitute. I wish to say to the House that there is but a single question of difference involved between the substitute of the gentleman from Indiana and the one which I present. The House is called upon to decide, in the first place, whether personal property in this District shall be exempt from taxation. Those who are in favor of such exemption will vote for my amendment; those who believe that both real and personal property in this District should be taxed, will vote against my substitute and for that of the gentleman from Indiana. Whichever of the substitutes may be adopted, or if both are rejected, the question will then turn on the proposition of the gentleman from Iowa, [Mr. COTTON.] We desire, then, that these distinct propositions shall be tested; first, whether the rate of tax shall be $2 or $1.50 on $100; second, whether church property shall be exempt or not——

Mr. MERRIAM. Is personal property exempt in both bills?

Mr. RANDALL. It is in mine.

Mr. COTTON. The House now has the several propositions before it; and after we decide which of these bills we will take, any gentleman can move an amendment as to the rate of taxation. I move the previous question.

The SPEAKER. The previous question is considered as operating.

Mr. SPEER. Is there anything in the substitute of the gentleman from Indiana which limits the rates which newspapers shall charge the District for advertising delinquent taxes?

Mr. WILSON, of Indiana. There is a limitation on that subject, as the gentleman will see when the bill is read.

The SPEAKER. The Clerk will read the substitute of the gentleman from Indiana, [Mr. WILSON.]

The Clerk read as follows:

Be it enacted, &c., That for the support of the government of the District of Columbia for the fiscal year ending June 30, 1876, there shall be levied upon all real and personal property in said District, excepting only the real and personal property of the United States and that hereinafter stated, a tax of $1.50 on each $100.

SEC. 2. That the amount collected under the provisions of this act shall be distributed for the purposes required under the various acts in force in the District of Columbia, upon a just and fair apportionment to be made by the commissioners of the District of Columbia or their successors in office: *Provided*, That before any of said fund shall be expended said apportionment shall be established and published by said commissioners at least six times, consecutively, in a daily newspaper of the District of Columbia; and said published apportionment shall stand as the law for the distribution of the funds herein mentioned: *Provided further*, That deficiencies in any of said funds enumerated in said apportionment may be supplied from any surplus in either of said funds so apportioned; but, unless a surplus exists, the revenues belonging to one fund shall not be applied to the purposes of any other fund.

SEC. 3. That one-half of the tax levied by this act upon real and personal property shall become due and payable on the 1st day of October, 1875, and the other one-half of such tax shall become due and payable on the 1st day of April, 1876; and in every case where the tax levied by this act shall be paid in installments as herein authorized, each of said payments shall be deemed to have been made on the several funds and for the different purposes indicated in the second section of this act; and an equal *pro rata* proportion of the payments so made shall be carried to the credit of the respective funds.

SEC. 4. That if one-half of the tax herein levied upon the real and personal property taxed by this act shall not be paid on or before the 1st day of October, 1875, said installment shall thereupon be in arrears and delinquent; and there shall be added, to be collected with such taxes, a penalty of 2 per cent. upon the amount thereof on the first day of each succeeding month until payment of said insallment and penalty. And if said installment shall not be paid on or before the 1st day of April, 1876, together with the one-half of said original tax due on or before said 1st day of April, a like penalty shall be added on said last one-half of such tax; and the whole together shall constitute the delinquent tax on such part or parcel of land, to be dealt with and collected in the manner prescribed by law.

SEC. 5. That it shall be the duty of the collector of taxes in said District to prepare a complete list of all taxes, on real property upon which the same are assessed, in arrears on the 1st day of May, 1876; and he shall, within ten days thereafter, publish the same, with a notice of sale, in the regular issue of a daily newspaper published in said District, to be designated by the commissioners of the District or their successors in office as hereinafter provided, once a week for three successive weeks, giving notice that if said taxes due, together with the penalties and costs that may have accrued thereon, shall not be paid prior to the day named for sale, the property will be sold by the said collector at public auction, at the south front of the court-house, in the city of Washington, on the second Tuesday of June following, between the hours of 10 a. m. and 6 o'clock p. m. of said day to the highest bidder or bidders. Upon the day specified, aforesaid, the collector shall proceed to sell any and all property upon which such taxes remain unpaid, and continue to sell the same every day until all the real property as aforesaid shall have been brought to auction. Immediately after the close of the sale, upon payment of the purchase-money, he shall issue to the purchaser a certificate of sale; and if the property shall not be redeemed by the owner thereof within one year from the day of sale, by payment to the collector of said District for the use of the legal holder of the certificate of the amount for which it was sold at such sale, and 15 per cent. per annum thereon, a deed thereof shall be given by the commissioners of the District, or their successors in office, to the purchaser at the tax-sale, or the assignee of such certificate, which deed shall be admitted and held to be a good and perfect title in fee-simple to any property bought at any sale herein authorized: *Provided*, That no property advertised as aforesaid shall be sold upon any bids not sufficient to meet the amounts of tax, penalty, and costs; but in case the highest bid upon any property is not sufficient to meet the taxes, penalty, and costs thereon, said property shall thereupon be bid off by the said commissioners, or their successors in office, in the name of the District of Columbia; and if within one year thereafter such property is not redeemed by the owner or owners thereof, by the payment of the taxes, penalties, and costs due at the time of the offer of the sale, and 10 per cent. per annum thereon, a deed for said property shall be made to said District, as in cases of individual purchasers: *And provided also*, That minors or other persons under legal disability be allowed one year after such minors coming to, or being of, full age, or after the removal of such legal disability, to redeem the property so sold, or of which the title has, as aforesaid, become vested in the District of Columbia, from the purchaser or purchasers, his her, or their heir, heirs, or assigns, or from the District of Columbia, on payment of the amount of purchase-money so paid therefor, with 10 per cent. per annum interest thereon as aforesaid, and all taxes and assessments that have been paid thereon by the purchaser, or his assigns, between the day of sale and the period of such redemption, 10 per cent. per annum interest on the amount of such taxes and assessments, and also the value of improvements which may have been made or erected on such property by the purchaser or by the District of Columbia, while the same was in his, her, or its possession.

SEC. 6. That the collector of taxes, immediately after he shall have made sale of any property as aforesaid, shall file with the comptroller a written report, in which he shall give a statement of the property advertised and the property sold, to whom it was assessed, the taxes due, to whom sold, the amount paid, the date of sale, the cost thereof, and the surplus, if any, and the lands so as aforesaid sold to the District. Any surplus remaining after collection of taxes, penalties, and costs on any real estate, shall be deposited by the collector of taxes to the credit of the surplus fund, to be paid to the owner or owners, or their legal representatives, in the same manner as other payments made by the District of Columbia.

SEC. 7. That when the installment of one-half of the taxes on personal property

so as aforesaid due and payable on or before the 1st day of October, 1875, shall not be paid on or before said date, or when the remaining installment shall not be paid on or before the 1st day of April, 1876, then, and in either such event, the collector of taxes may distrain sufficient goods and chattels found in said District, and belonging to the person, persons, association, firm, or corporation, charged with such tax, to pay the taxes remaining due under the provisions of this law from such persons, firm, association, or corporation, together with the penalty thereon and the costs that may accrue; and thereupon said collector shall immediately proceed to advertise the same by public notices posted in front of the court-house and in the office of said collector, and by advertisement three times for one week in some daily newspaper published in said District, as hereinafter provided, stating the time when and place where such property shall be sold, the last publication to be at least six days before the day of sale; and if the taxes and penalty thereon for which such property shall have been distrained, and the costs and expense which shall have accrued thereon, shall not be paid before the day fixed for such sale, which shall be not less than ten days after the taking of such property, the collector shall proceed to sell, at public auction, in front of the court-house, to the highest bidder, such property, or so much thereof as may be sufficient to pay said taxes, penalty, and accrued costs and expense of such distraint and sale. The collector of taxes shall be allowed, for making such distress and sale, the same fees as are now by law allowed to the marshal of said District for making levy and sale of property under execution. Said collector shall report in detail every such distress and sale, in writing, to the commissioners of the District, or their successors in office; and his accounts, in respect of every such distress or sale, shall forthwith be submitted by him to the accounting-officers of the District and audited by them. Any surplus resulting from such sale shall be paid into the treasury of the District, and, upon being claimed by the owner or owners of the goods and chattels, shall be paid to him.

SEC. 8. That the property exempt from taxation under this act shall be the following, and no other, namely: First, houses for the reformation of offenders, almshouses, buildings devoted to art or belonging to institutions of purely public charity, houses to improve the condition of seamen or soldiers, free public library buildings and cemeteries; secondly, the lands or grounds appurtenant to any said house or building, so far as reasonably needed and actually used for the convenient enjoyment of any said house or building for its legitimate purpose and no other; but if any portion of any said building, house, grounds, or cemetery so in terms excepted is used to secure a rent or income or for any business purpose, such portion of the same, or a sum equal in value to such portion, shall be taxed against the owner of said building or grounds; thirdly, such property as is non-exempt from taxation by the laws of the United States; fourthly, goods, chattels, and other personal property owned by persons domiciled in said District, but whose legal residence is out of said District and which property is taxed elsewhere; fifthly, the stock, so far as the individual owner is concerned, of any corporation which is taxed on its capital in said District; sixthly, all property exempt by law from execution, including all libraries or books in use and not held for sale, not over the value of $500, and all household, store, shop, or office furniture or tools, not held for sale, not over the value of $590.

SEC. 9. That from the assessed value of the credits only of any person, there shall be deducted the amount of any valid and bona-fide debt or debts, which any such person shall individually and absolutely owe, upon the same being established by the affidavit of such person claiming deduction, as hereinafter provided.

SEC. 10. That the commissioners of said District, or their successors in office, shall cause to be prepared a printed blank schedule of personal property, including bonds, deeds of trust, mortgages, credits, and all other choses in action or possession, owned or held in trust or otherwise subject to taxation under the provision of this act, together with deductions claimed, to which shall be appended an affidavit in blank setting forth that the foregoing presents a full and true statement of all the personal property, bonds, deeds of trust, mortgages, credits, and all other choses in action or possession, subject to taxation, together with the amount of indebtedness on account of which deductions are claimed; and the assessors provided for in this act shall deliver to each person, or leave the same at his residence or known place of business, one of said blanks, and also to the proper officer of each corporation, and to each guardian, executor, administrator, or firm, and the person to whom addressed shall fill up the same and make and sign the affidavit to the truth thereof as aforesaid before the said assessor, who is hereby authorized to administer each oath without charge, and thereupon said assessors shall assess such property at its fair cash value, and enter the same in a column upon said blank to be provided for that purpose, and the amount thus ascertained, after making the deductions provided in this act, shall be entered upon the books for taxation: *Provided*, That if any person, firm, or corporation shall fail to make the list of his or its said property as in this section provided for, the assessor shall, from the best information he can procure, make an assessment against such person, firm, or corporation, to which he shall add 50 per cent. thereof, and the person so refusing shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined in any sum not exceeding $500, to which may be added imprisonment not exceeding thirty days: *And provided further*, That if any person shall make a false affidavit touching the matters herein provided for, he shall be deemed guilty of perjury, and, upon conviction thereof, shall be subject to the penalties for that offense now provided by law; and if the return provided for in this act shall not be made by any firm, each member thereof resident of said District shall be liable to the penalties of this act.

SEC. 11. That the capital stock of all corporations in said District (not herein exempted) shall be appraised in bulk by the assessor, and the corporation issuing the same shall be liable for the tax thereon according to such value; but from the appraised value of the stock shall be first deducted the value of any real estate of said corporation in said District, which shall be separately taxed against said corporation.

SEC. 12. That the commissioners of the District, or their successors in office, shall appoint five competent persons to be assessors, and to hold office for the term of one year, the salary of each of said assessors to be $750 per annum. Said assessors shall, before the 1st day of May, 1875, under the direction of the superintendent of assessments and taxes of said District, assess the value of all the real and personal property in said District liable to taxation hereunder, and shall state the same separately, in books to be kept in a systematic manner; and such value for taxation shall be the true value, in the lawful money of the United States, of the property so assessed. The assessed value shall have reference to the date of the 1st day of April, 1875. Said assessors shall, between the 1st day of May, 1875, and the 20th day of May, 1875, hold daily sessions for the purpose of equalizing the assessments theretofore made by them, and for the purpose of hearing and determining any and all appeals from the valuations theretofore made by them. Each assessor shall, at the meetings of the assessors, as aforesaid, make full and detailed reports of his acts as such assessor. And during said period they shall have power to revise assessments theretofore made by them or any of them, by either justly increasing or justly diminishing any particular assessment. Upon the assessments so as aforesaid made and finally revised, the tax hereinbefore provided for shall be levied, and the collector of taxes shall be in readiness to receive payment of the same on and after the 1st day of July, 1875. Said assessors, before entering upon their duties, shall respectively take or subscribe an oath or affirmation, before any officer authorized to administer oaths or affirmations in said District, to faithfully discharge the duties of their said office; which oaths, when taken, shall be certified by the persons before whom the same shall have been taken, and shall be filed with the commissioners of the District.

SEC. 13. That the treasurer of the District, upon receiving any moneys, shall forthwith deposit the same in the Treasury of the United States; and said moneys thus deposited shall be drawn from the Treasury of the United States only in such sums and at such times as the same shall be actually required, and only for expenditures authorized by law, and only upon warrants of the accounting officers of the District, issued under the direction of the commissioners of the District or their successors in office.

SEC. 14. That the commissioners of the District or their successors in office are hereby authorized to reduce, adjust, and equalize the pay or salaries of all officers or employés payable from the funds of the District government in whole or in part: *Provided, however*, That the aggregate sum of pay and salaries shall not be increased beyond the present aggregate amount of pay and salaries.

SEC. 15. That the third section of the act of the Legislative Assembly of the District of Columbia entitled "An act prescribing the mode of assessment for special improvements, and providing for the collection thereof," approved August 10, 1871, shall be, and is hereby, amended so that the sales under said law shall be advertised twice a week for three successive weeks, instead of as heretofore required.

SEC. 16. The commissioners of the sinking fund of said District shall destroy by burning all bonds, sewer certificates, and other obligations of every kind of the city of Washington, the city of Georgetown, and of the District of Columbia whatsoever heretofore paid or redeemed by either of said boards, under the direction of the Secretary of the Treasury, and shall preserve the evidence thereof as shall be prescribed by said Secretary.

SEC. 17. That section 4 of the act entitled "An act for the government of the District of Columbia," approved June 20, 1874, be, and the same is hereby, amended by striking out the word "March," and inserting in lieu thereof the word "June," so far as the same applies to the tax imposed by said section: *Provided*, That the penalty of 1 per cent. per month shall be added to delinquent taxes under said act until the sale of property under said act as hereby amended shall have taken place.

SEC. 18. That the 3.65 registered bonds of the District of Columbia, authorized by acts of Congress approved June 20, 1874, and February 20, 1875, in lieu of coupon bonds, may be issued in denominations of $1,000 and $5,000.

Mr. RANDALL'S substitute was read, as follows:

That, for the support of the government of the District of Columbia for the fiscal year ending June 30, 1876, there shall be levied upon all real estate of said District, excepting only that hereinafter stated, a tax of $2 on each $100 of the assessed value thereof; said assessment to be made subject to provisions of law hereinafter contained.

The following described property shall be exempt from said tax:

All real estate belonging to the United States and to the District of Columbia; all lands used exclusively for burial of the dead, except such as are held with a view to profit, and all buildings belonging to institutions of purely public charity, together with the land actually occupied by such institutions not leased or otherwise used with a view to profit.

The amount collected under the provisions of this act shall be distributed in the same manner as provided by an act of the Legislative Assembly entitled "An act imposing taxes for the fiscal year ending June 30, 1874," approved June 26, 1873; and deficiencies in any of said funds in said apportionment may be supplied from any surplus in either of said funds; but, unless a surplus exists, the resources belonging to one fund shall not be applied to the purposes of any other fund.

One-half of said tax upon each and every part or parcel of real estate shall become due and payable on the 1st day of October, 1875, and the other one-half shall become due and payable on the 1st day of April, 1876.

If one-half of said tax due upon property taxed by this act shall not be paid on or before said 1st day of October, said installment shall thereupon be in arrears and delinquent, and there shall be added a penalty of 10 per cent. to the amount thereof, to be collected with such taxes, and a like penalty of 2 per cent. upon the amount thereof shall be added on the first day of each succeeding month until payment of said installment and penalty. If said installment shall not be paid on or before said 1st day of April, together with the other one-half of said original tax falling due on said 1st day of April, a like penalty shall be added on said last one-half of such tax, and the whole together shall constitute the delinquent tax, to be dealt with and collected in the manner prescribed by law.

The collector of taxes in said District shall prepare a complete list of all taxes and property upon which the same are assessed, in arrears on the 1st day of May, 1876; and he shall within ten days thereafter publish the same, with notice of sale, in the regular issue of a daily newspaper published in said District, to be designated by the commissioners of the District, once a week for three successive weeks; and all the provisions of the act of the Legislative Assembly, entitled "An act prescribing the duties of certain officers for the District of Columbia, and fixing their compensation," approved August 23, 1871, as to the sale of real property and the collection of taxes on real estate in arrears, are hereby made applicable to the tax hereby imposed and in arrears as aforesaid, except as modified by this act, and except that the deed conveying the property so sold shall be executed by the commissioners of the District, instead of the governor and the secretary.

The commissioners of the District shall appoint five assessors to hold office for the term of one year, the salary of each said assessor to be $750 per year. Said assessors shall, before the 1st day of May, 1875, under the direction of the superintendent of assessments and taxes of said District, assess the value of all the real property in said District liable to taxation hereunder, and such value for taxation shall be the true value of the property so assessed, and shall have reference to the date of the 1st day of April, 1875. Said assessors shall, between the 1st and 20th days of May, 1875, hold daily sessions for equalizing the assessments theretofore made by them, and for hearing and determining any and all appeals from the valuations theretofore made by them. And during said period they shall have power to revise assessments theretofore made by them, or any of them, by either justly increasing or justly diminishing any particular assessment. Upon the assessments so as aforesaid made and finally revised the tax hereinbefore provided shall be levied, and the collector of taxes shall be in readiness to receive payment of the same on and after the 1st day of July, 1875, subject to the option of paying installments as hereinbefore provided. Said assessors before entering upon their duties shall respectively file with the commissioners of the District a certificate of a legally-administered oath or affirmation to faithfully discharge the duties of their said office.

The treasurer of the District upon receiving any moneys shall forthwith deposit the same in the Treasury of the United States; and said moneys thus deposited shall be drawn therefrom only in such sums and at such times as the same shall be actually required, and only for expenditures authorized by law and only upon warrants of the accounting officers of the District, issued under the direction of the commissioners of the District.

SEC. 2. *And be it further enacted*, That the commissioners of the District are hereby authorized to adjust and equalize the salaries of all officers or employés payable from the funds of the District, in whole or in part. But the aggregate sum of pay and salaries shall not be increased beyond the present aggregate amount of pay and salaries.

All advertisements under the third section of the act of the Legislative Assembly of the District of Columbia entitled "An act prescribing the mode of assessment for special improvements, and providing for the collection thereof," approved August 10, 1871, shall be published twice a week for three successive weeks, instead as heretofore required.

The commissioners of the District and the commissioners of the sinking fund shall destroy by burning all bonds, sewer certificates, and other obligations of

every kind, of the cities of Washington and Georgetown and of the District, heretofore redeemed or paid by either of said boards of commissioners, under the direction of the Secretary of the Treasury, and shall preserve such evidence thereof as may be prescribed by said Secretary.

That section 4 of the act of Congress entitled "An act for the government of the District of Columbia, and for other purposes," approved June 20, 1874, be, and the same hereby is, amended by substituting the word "June" for "March," so far as relates to the taxes imposed by said section 4 of said act of Congress: *Provided*, That the penalty of 1 per cent. per month shall be added to delinquent taxes until paid, or until sale of the property under said act as hereby amended.

The property of the District shall be exempt from distraint, attachment, levy and sale, or execution or decree of any court, and said District shall not be made garnishee in any suit or action.

That the 3.65 registered bonds of the District of Columbia authorized by acts of Congress approved June 20, 1874, and February 20, 1875, in lieu of coupon-bonds, may be issued in denominations of $1,000 and $5,000.

Mr. RANDALL. The difference between the substitute I have offered and the one offered by the gentleman from Indiana [Mr. WILSON] relates purely to the question whether personal property shall be taxed in this District.

Those who wish that the taxation of this District shall be confined to real estate will vote for my substitute. Those who prefer that the personal property in this District shall be also taxed, will vote against my substitute and for that of the gentleman from Indiana, [Mr. WILSON.] The question of what percentage the tax shall be will subsequently be determined. When that question is presented I will undertake to show the relative amounts that will be raised by a tax of $1.50 and $2 respectively.

Mr. COTTON. The rate of tax will be a separate question after we have decided what property shall be taxed.

Mr. RANDALL. I yield to the gentleman from Massachusetts [Mr. E. R. HOAR] to state a fact.

Mr. E. R. HOAR. The committee which prepared the bill for the government of the District were informed that on one occasion personal property was taxed in this District, and that the total amount of taxes returned from real and personal property together was not as much as the amount that had been realized on real property alone the year before.

Mr. RANDALL. I may state that the amount of tax which it is estimated will be realized from taxing personal property is $100,000.

Mr. MERRIAM. At the present time there is a large amount of moneyed capital, bank stock, &c., in this city.

Mr. RANDALL. I call for a vote.

Mr. WILLARD, of Vermont. I understood that an amendment was to be offered to the substitute of the gentleman from Pennsylvania [Mr. RANDALL] making the tax 2 per cent.

Mr. RANDALL. The bill I have introduced provides only for taxing real estate, and fixes the rate at two dollars.

Mr. WILLARD, of Vermont. Very well.

Mr. RANDALL. The bill offered by the gentleman from Indiana [Mr. WILSON] taxes both real and personal property at the rate of $1.50.

Mr. COTTON. Let me state once more that we are not now settling the rate of taxation. That question will be open after we agree which bill we adopt.

Mr. WILSON, of Indiana. If the amendment of the gentleman from Pennsylvania does not prevail, and if the substitute I have offered is adopted, I propose then to ask the House to vote upon the question, as to whether the tax will be 1½ or 2 per cent.

Mr. SMITH, of Ohio. Why not settle that question first?

Mr. WILSON, of Indiana. We will get along faster, I think, by voting first whether we shall tax personal property or not. That naked question is presented by the amendment of the gentleman from Pennsylvania. If you do not want to tax personal property, vote for his amendment. If you do want to tax it, vote it down. Then, as I have stated, if my substitute is adopted I will allow an amendment to change the rate from 1½ to 2 per cent. So you will get at it all in a logical form.

Mr. RANDALL. I will present the figures showing the exact amount to be realized from taxation at the different rates, after the point is settled as to the property to be taxed.

The SPEAKER *pro tempore*, (Mr. WHEELER in the chair.) The question is, Will the House substitute the amendment proposed by the gentleman from Pennsylvania [Mr. RANDALL] which proposes to tax real estate only?

The question being taken on Mr. RANDALL'S substitute, it was not agreed to.

The SPEAKER *pro tempore*. The question recurs, Will the House substitute for the original bill offered by the committee the bill offered by the gentleman from Indiana?

The question being taken, the substitute offered by Mr. WILSON, of Indiana, was agreed to.

The SPEAKER *pro tempore*. The substitute of the gentleman from Indiana is now before the House to be considered as the original proposition.

Mr. RANDALL. I propose that we permit the question to be tested between the rate of $2 and the rate of $1.50 per $100.

The SPEAKER. The bill of the gentleman from Indiana fixes the rate on real and personal property at $1.50 per $100. The pending proposition is to make it $2 per $100.

Mr. WILSON, of Indiana. Before the question is put I desire that the gentleman from Pennsylvania shall have an opportunity to present some figures which he has on that subject.

Mr. RANDALL. A reassessment of the property here, which is most desirable, it is estimated will give a valuation of $90,000,000.

Mr. SMITH, of Ohio. That is of real estate.

Mr. RANDALL. Yes. On that a rate of $2 will realize $1,800,000. Allowing 15 per cent. for delinquent taxes, there has to be deducted from that $270,000, leaving the net amount $1,530,000; to which there should be added the amount to be realized from licenses, $175,000, and from water rents $65,000; the whole aggregating $1,770,000.

The estimated expenditures of the District will be $3,120,000, from which deduct $1,770,000, and we have left for the Government of the United States to pay $1,350,000. The amount already appropriated in the sundry civil bill is $1,060,000. The rate, therefore, of $2 will involve a further appropriation by Congress in excess of that in the sundry civil bill of $290,000.

Mr. WILLARD, of Vermont. Then we are to understand that even fixing the tax at 2 per cent. there is still a deficiency of about 300,000?

Mr. RANDALL. Yes; a deficiency of $290,000. A rate of $1.50 per $100 on $90,000,000 should realize $1,350,000. Strike off 10 per cent. for delinquents, $135,000, and the net returns will be $1,215,000. Add $175,000 for licenses and $65,000 for water-rents, and there is an aggregate of receipts of $1,455,000. The estimated expenditures of the District, as I before stated, are $3,120,000. Deduct from that the amount realized from the 1½ per cent., $1,455,000, and there is a deficiency left for the Government of the United States to pay of $1,650,000. The amount already appropriated in the sundry civil bill is $1,060,000; therefore at a rate of 1½ per cent. there will still be required a further appropriation of $605,000.

The judgment of the House has been given that personal property shall be taxed. That of course plays no part in the figures which I have presented. The amounts to be made up by the Government in addition to what it has already voted in the sundry civil bill will be $290,000, on the basis of a tax of $2 per $100 on real property, and $605,000 on the basis of a tax of $1.50 per $100 on real property.

Mr. TREMAIN. How much is it estimated would be realized from personal property?

Mr. RANDALL. The estimate made by the commissioners of the amount to be realized from personal property is $100,000.

Mr. O'BRIEN. At what rate?

Mr. RANDALL. The same rate as fixed for real property in the bill I proposed, to wit, $2 on $100.

Mr. CHIPMAN. I desire the House to yield to me for two minutes. I want to state to the House this fact, that the gentleman from Pennsylvania has left out of his calculations a very important item. The personal property to be taxed will amount to at least $15,000,000.

Mr. RANDALL. I have no means of arriving at that except the estimate formed by the commissioners.

Mr. CHIPMAN. But I have some means. In 1871 the personal property in the District amounted to $11,000,000, and we have had most of our prosperity and growth since that time.

Mr. RANDALL. We can have no dispute about that.

Mr. CHIPMAN. I want to say, in addition to the fact that our personal property adds $15,000,000 to the $90,000,000 which the gentleman assumes as the basis of taxation on real estate, that we have now due in this District over a million and a half of dollars of delinquent taxes. Our people are making every effort possible to pay these taxes, but they cannot pay them. Now you propose to add 2 per cent. more, much of which will fall on the people before that which is now due can be paid. I want you to tax us what we can pay, and no more. We shrink from no proper proportion of the burden falling upon this local government; but we do shrink from a burden which cannot be lifted, and which will only add to the already large delinquent tax. I think that $1.50 will be paid; but I think that all over that will be delinquent, and that you will have to make it up either now or hereafter. I beg the House, as probably my last request of this Congress, in view of all the circumstances, that we be shown that consideration and fairness which I have been so often obliged to acknowledge on the part of the House.

The question was put on substituting $2 in lieu of $1.50, and on a division there were—ayes 52, noes 83; no quorum voting.

Tellers were ordered; and Mr. WILSON, of Indiana, and Mr. GLOVER were appointed.

The House divided; and the tellers reported—ayes 36, noes 112.

Mr. WILLARD, of Vermont. I call for the yeas and nays.

The yeas and nays were not ordered, only 14 members voting therefor.

So the amendment was not agreed to.

Mr. RANDALL. I move to amend the eighth section so as to make the exemption apply "to church property or buildings and grounds actually occupied by churches."

Mr. O'BRIEN. I ask the gentleman to include in his amendment charitable institutions.

Mr. RANDALL. That is already in.

Mr. O'BRIEN. No, it is not; only public institutions. I allude to orphan asylums and institutions of a kindred character.

Mr. KASSON. You do not want the words "church buildings and grounds," but simply "church buildings."

Mr. RANDALL. Well, I will modify my amendment and move to insert the words "church buildings."

Mr. G. F. HOAR. I suggest the word "churches" instead of "church buildings."

Mr. KASSON. "Church buildings" will not do. A church may be a corporation and own other buildings than the church.

Mr. RANDALL. I modify my amendment so as to make it read, "church buildings and the grounds actually occupied by such buildings." And now let me say one word.

Mr. G. F. HOAR. I hope the gentleman will insert the word "churches" instead of "church buildings." A church may own a block of stores.

Mr. RANDALL. No; I prefer the words "church buildings."

Mr. WILSON, of Indiana. I would state to the gentleman from Massachusetts that what he seeks to avoid is already provided for in the bill; and if the House will listen to the reading of a small paragraph from the bill they will see that it is amply provided for. It is as follows:

But if any portion of any said building, house, grounds, or cemetery so in terms excepted is used to secure a rent or income, or for any business purpose, such portion of the same, or a sum equal in value to such portion, shall be taxed against the owner of said building or grounds.

Mr. CHIPMAN. There are many churches which own whole squares of ground, which are not used for any purpose, and I think that the gentleman from Pennsylvania has the amendment about right now.

Mr. RANDALL. I believe it to be against public policy and good morals to in any manner cripple the churches or the Sunday-schools of the country. I know that a great deal of the good I have in me comes from the fact of my attendance on Sunday-schools when a boy, and that a great deal of the bad I might now have in me is not in me by reason of my attendance on such Sunday-schools.

Mr. COTTON. Let me say one word if I can be heard. I will state to the House one reason why we did not exempt church property, and that is, that the churches of this city have not been assessed a penny for the street improvements made in front of their grounds and buildings, while every lot-owner has been assessed one-sixth of the expense of the work in front of his ground; and in other cities I understand that they are taxed a great many thousand dollars for the improvements. That is one reason why we did not exempt church property.

The amendment offered by Mr. RANDALL was adopted.

Mr. MERRIAM. I desire to offer an amendment to come in in line 22 of section 5, to strike out the words "one year" and insert the words "two years;" so that it will read:

Immediately after the close of the sale, upon payment of the purchase-money, he shall issue to the purchaser a certificate of sale; and if the property shall not be redeemed by the owner thereof within two years from the day of sale, by payment of the amount for which it was sold at such sale and 15 per cent. per annum thereon, a deed thereof shall be given by the commissioners of the District, or their successors in office, to the purchaser at the tax-sale or the assignee of such certificate, which deed shall be admitted and held to be a good and perfect title in fee-simple to any property bought at any sale herein authorized.

I propose simply to make the period allowed for redemption two years from the day of sale. I will simply state that there is not a city in the world where the time of redemption is less than two and a half years.

The amendment was agreed to.

Mr. WILSON, of Indiana. Now, the same amendment should be made in line 45 of the same section, to strike out "one year" and insert "two years;" so that it will read:

And if within two years thereafter such property is not redeemed by the owner or owners thereof, by the payment of the taxes, penalties, and costs due at the time of the offer of the sale, and 10 per cent. per annum thereon, a deed for said property shall be made to said District, as in cases of individual purchasers.

The amendment was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WILSON, of Indiana, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MISSION OF SAINT JAMES, WASHINGTON TERRITORY.

Mr. PRATT. I ask unanimous consent that House bill No. 1450, for the relief of the mission of Saint James, in Washington Territory, be passed.

Mr. COX. I object to that bill at the instance of the Delegate from Washington Territory, [Mr. MCFADDEN.]

Mr. PRATT. I move to suspend the rules and pass it.

Mr. LOWE. From what committee is this bill reported?

Mr. PACKARD. It is the unanimous report of the Committee on Private Land Claims.

Mr. BUCKNER. The committee were unanimously in favor of it.

The motion to suspend the rules was seconded.

The question was put on the motion to suspend the rules; and on a division there were—ayes 74, noes 41; no quorum voting.

Tellers were ordered; and Mr. PRATT and Mr. SPEER were appointed.

The House divided; and the tellers reported—ayes 89, noes 60.

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

The yeas and nays were not ordered, only fifteen members voting therefor.

So (two-thirds not voting in favor thereof) the rules were not suspended.

ORDER OF BUSINESS.

Mr. MCNULTY, (who stood in the area in front of the Clerk's desk.) I desire to move a suspension of the rules to put on its passage the bill which I send to the Clerk's desk, which is reported unanimously from the Committee on Indian Affairs, and which provides for twelve hundred Indians who are destitute and starving.

Mr. KASSON. I wish to make the point of order that gentlemen desiring to bring bills before the House during these last days of the session should stand so far back from the Chair at least that they may be heard, for it is impossible to hear anything in the confusion prevailing here.

The SPEAKER. If each individual member would make a resolution to help to keep order, there would be no disorder here. The Chair directs the Doorkeeper that every gentleman on the floor not privileged to it shall be invited to retire, and the Chair gives two minutes for the execution of that order; and in the mean time the Clerk will read the rule in reference to admissions on the floor.

The Clerk read as follows:

No person except members of the Senate, their Secretary, heads of Departments, the President's private secretary, foreign ministers, the governor for the time being of any State, Senators and Representatives elect, judges of the Supreme Court of the United States and of the Court of Claims, and such persons as have by name received the thanks of Congress, shall be admitted within the Hall of the House of Representatives or any of the rooms upon the same floor or leading into the same: *Provided*, That ex-members of Congress who are not interested in any claim pending before Congress, and shall so register themselves, may also be admitted within the Hall of the House; and no persons except those herein specified shall at any time be admitted to the floor of the House.

The SPEAKER. The Chair will state that nothing in these last days of the session shall be submitted to the House without the House thoroughly understanding what it is.

Mr. SAYLER, of Ohio. There is a small delegation of half a dozen members of the house of representatives of the Ohio Legislature and senate present in the city, and I ask that they may be excluded from the order and allowed the privileges of the floor.

The SPEAKER. The Chair would suggest that they be admitted to the members' gallery. There are five hundred gentlemen of that character to-day in the city of Washington.

Mr. SAYLER, of Ohio. I did not know that.

The SPEAKER. It is impossible to obtain order unless the rules are enforced. The Chair, however, will submit the request of the gentleman from Ohio [Mr. SAYLER] that the delegation from the Ohio Legislature may be admitted to the privileges of the floor.

Mr. KASSON. Is it a delegation or is it simply members of the Legislature who are present here?

Mr. SAYLER, of Ohio. They are simply members.

Mr. KASSON. Then I submit that it is not a proper case for dispensing with the rule.

Mr. SAYLER, of Ohio. They are here as a body.

Mr. KASSON. And is not their Legislature now in session?

The SPEAKER. Objection is made to the request of the gentleman from Ohio, [Mr. SAYLER.]

JICARILLA APACHE INDIANS.

Mr. MCNULTA. I am instructed by the Committee on Indian Affairs to report a bill for the ratification of an agreement with the Jicarilla Apache Indians, and I am instructed to ask a suspension of the rules for that purpose. I desire to say that this bill is recommended by the Department, by a large number of the citizens of the Territory, and by the Delegate from the Territory of New Mexico, [Mr. ELKINS,] as will be found by reference to Executive Document No. 138. It also has the unanimous approval of the Committee on Indian Affairs.

The bill (H. R. No. 4858) was received, read three times, and passed under a suspension of the rules, two-thirds voting in favor thereof.

PROTECTION OF WITNESSES.

Mr. E. R. HOAR. The select committee appointed to consider what protection should be afforded to witnesses before either House of Congress have instructed me to submit a report accompanied by a bill.

Mr. HAZELTON, of Wisconsin. I suggest that the bill be read, and the report can be printed in the RECORD.

The report was as follows:

The select committee, to whom was referred a resolution of the House adopted on the 19th of January, 1875, as follows—

"*Resolved*, That a committee of five members be appointed by the Speaker to inquire whether the privileges of this House have been violated by the arrest and detention of Whitelaw Reid, of New York, at the suit of Alexander R. Shepherd, while said Reid was within the District of Columbia under the subpœna of a committee of this House authorized to send for persons and papers, and for the purpose of attending and returning as a witness before said committee, and that they consider and report whether any and what legislation is necessary or expedient for the protection of witnesses coming into the District by the order of either House of Congress"—

have considered the matters referred to them, and report:

It appeared that the attendance of Whitelaw Reid was required before the Committee on Ways and Means, as a witness upon an investigation ordered by this House, in which that committee was authorized to send for persons and papers. He attended accordingly; and after his examination, but before a reasonable time had been afforded for his return to his home in New York, he was arrested and held to bail under a criminal prosecution for a libel, and a summons to appear in a civil suit for a libel was also served upon him. He was not arrested in the civil suit, and has made an application for the protection of the House or for their interference in his behalf.

We are of opinion that his arrest upon the criminal process was lawful; and that if he was entitled to exemption from the service of civil process, he can assert his privilege, if he is disposed to do so, in the court before which such process was made returnable. There is therefore nothing in the case of Mr. Reid which requires the action of the House.

Upon the second branch of the resolution we find that by the settled parliamentary law of England and America a witness in attendance upon either branch of Congress or a committee thereof with power to send for persons and papers, whether regularly summoned or attending voluntarily upon notice and request, is privileged from arrest, except in case of treason, felony, or breach of the peace. This exception is held to include all indictable crimes and offenses. But it is an open question whether a witness coming within the jurisdiction of the courts of a State or of the District, and only amenable to the service of process by reason of his personal presence, is protected against the service of civil process upon him which does not require his arrest or detention. Different courts, of highly respectable authority, have made opposing decisions upon the question. We are not aware that it has ever been determined by the Supreme Court of the United States.

In the uncertainty that exists upon the subject we are unanimously of opinion that it should be settled by legislation, and that the better reason is in favor of extending the protection. It is important to have the attendance of witnesses before committees of Congress whose duty it is to examine them made as easy and safe as is consistent with the ordinary administration of justice. Congress has power to compel citizens of the United States to come in to the District as witnesses from the most distant States and Territories. It is not reasonable or just that a person thus brought within the local jurisdiction of the District courts should have his civil rights affected injuriously, as they obviously might be, if he should thereby be compelled to transfer the defense of a civil suit to a distant forum, and thus be subjected to serious inconvenience and expense. The liability of such a result might often deter witnesses from attending, or induce them to evade a summons. As far as civil rights are concerned, we think the witness brought into the District by a superior power should not be regarded as within it for any other purpose than that of giving his testimony, and that he should not have his condition changed to his prejudice on that account.

We therefore recommend the passage of the accompanying bill.

For the committee:

E. R. HOAR,
Chairman.

Mr. E. R. HOAR. The report is not long, but I did not expect to have it read. I move that the rules be suspended and the bill accompanying the report be passed.

The bill to provide for the protection of witnesses required to attend before either branch of Congress or a committee of the same was read. It provides that no person whose attendance is lawfully required, or who shall be summoned or notified to attend as a witness before either branch of Congress or a committee thereof, or who shall come into the District of Columbia to attend as such witness, shall, while coming or attending or during a reasonable time for his return after his necessary attendance as a witness has ceased, be subject to the service of any civil process upon him within said District upon any claim or cause of action arising before his coming into the District as such witness, so as thereby to give any court of the said District jurisdiction over him in any suit at law or in equity.

The SPEAKER. Is there objection to the passage of this bill?

Mr. LOWE. I object.

The SPEAKER. The question is on suspending the rules and passing the bill.

The motion to suspend the rules was seconded; and upon suspending the rules the ayes were 97 and the noes 17; no quorum voting.

Tellers were ordered; and Mr. E. R. HOAR and Mr. LOWE were appointed.

The House again divided; and the tellers reported that there were ayes 131, noes 33.

So (two-thirds voting in favor thereof) the rules were suspended, and the bill (H. R. No. 4855) was passed.

WISCONSIN CENTRAL RAILROAD COMPANY.

Mr. ORR. I am instructed by the Committee on Public Lands to report back, with a favorable recommendation, House bill No. 4820, authorizing the Wisconsin Central Railroad Company to straighten the line of their road.

The bill gives the consent and approval of Congress to the Wisconsin Central Railroad Company to build that portion of their road which lies between Portage City and Stevens Point, on the line adopted by the act of the Legislature of Wisconsin approved February 10, 1875, instead of the line adopted by the act of the Legislature of Wisconsin, April 9, 1866, chartering the Portage and Superior Railroad Company, and provides that no portion of the lands belonging to said grant situated south of Stevens Point, and which may be found outside of the ten-mile limits measured from the modified line of said road, shall pass to said company under its grant, but such lands shall revert to the United States and become part of the public domain, to be disposed of as other public lands, and the acceptance of the provisions of this act by said company shall be held to be a relinquishment of the same; and that this act shall not be construed as increasing said grant or as granting to said company any lands within said ten-mile limits not now belonging to said grant.

Mr. WILLARD, of Vermont. What committee is that from?

Mr. HAZELTON, of Wisconsin. From the Committee on Public Lands, and there can be no possible objection to it.

Mr. WILLARD, of Vermont. I would like to hear a brief explanation of it.

Mr. ORR. I will explain it, and then I presume there will be no objection to it. The circumstances are these: The road was compelled by former legislation to run on a circuitous route, and the land grant is on that circuitous route. The Legislature of Wisconsin has passed an act authorizing them to straighten their line, shortening the road about forty miles. The assent of Congress is required before that can be done. The subject came before our committee, and we agreed unanimously that the consent of Congress ought to be given to the straightening of the line, because it is in the interest of the company, of the State, and of the United States. The bill provides that, as the limit of the land grant was ten miles on each side of the circuitous line of the road, when the line is straightened the limit of the grant shall still be ten miles on each side of the road.

Mr. WILLARD, of Vermont. Can it by any possibility interfere with actual settlers?

Mr. ORR. No; because there are very few of them on the land.

Mr. DAWES. Does the company get the grant of land for ten miles on each side of the straightened line?

Mr. ORR. They take all the land of the old grant that falls within the ten-mile limit on the straightened line, but relinquish all that falls outside of that limit.

Mr. SAYLER, of Indiana. What is the net gain to the Government by straightening this line?

Mr. ORR. Some eight thousand acres. The bill is a proper one, and is in the interest of the Government, because the company relinquishes all the land that is included within ten miles of the straightened line of the road.

Mr. DAWES. And the company acquires no new lands?

Mr. ORR. It acquires no new lands.

Mr. TOWNSEND. This bill gives back to the General Government eight thousand acres of land.

Mr. CLYMER. I am satisfied that this bill is perfectly just. As this road was required to be built, its line ran on two sides of a triangle. This bill proposes to allow the company to run the road on the base of the triangle, by which the land grant will be reduced some eight thousand acres. It is expressly provided in the bill that it shall not be construed as making any new land grant.

Mr. BUTLER, of Massachusetts. What obliged the company to take the indirect route?

Mr. CLYMER. An act of the Legislature of Wisconsin.

Mr. E. R. HOAR. This company in the first place adopted the short line which they now ask to have authorized. Afterward that plan was changed, and it was thought best to adopt a circuitous line in order to pass certain towns. Hence the authority of Congress was obtained for that purpose. The company has now concluded that it had better construct its road upon the original straight and short line; and it asks Congress to consent to that.

Mr. CLYMER. According to the original route, it would be a distance of one hundred and fourteen miles to reach the same point which by this act can be reached in seventy miles.

Mr. HOLMAN. This bill has been a subject of conversation in this House for the last two or three years.

A MEMBER. O, no.

Mr. HOLMAN. During the last two or three years this proposition to run a straight line instead of this angular line has been occasionally made. Now, the only question of any importance in connection with the matter is this: I have never known a change to be made in the location of any grant or the route of a land-grant railroad since the time this system first came fairly into operation that did not result in a fraud upon the Government. I ask that those who are opposed to the land-grant policy, and who believe it to be evil in all its parts, will determine that, while the rights already acquired under that policy may be retained, Congress will not take a single additional step in the direction of this kind of legislation. The action in the case of the Missouri and Mississippi grant illustrates the kind of fraud which is perpetrated under this kind of legislation. In that case the original route made a bend. Then there came an act to straighten the line. Congress was assured that by this act over one hundred thousand acres of the most valuable lands would be restored to the Government of the United States. Untimately a fraud was perpetrated by the company obtaining not only the grant on the line actually constructed, but also for lands which had been apparently abandoned, which Congress had supposed were abandoned. Thus by fraudulent means during the last session of this Congress the company obtained an amount of land that Congress never intended. I trust that we shall resolve, as the policy of our legislation upon this subject, that, while the rights already acquired by these companies in various States may be continued, no change whatever in respect to those rights shall be allowed, and that whenever a forfeiture shall be incurred it shall be enforced with the utmost severity.

Mr. WARD, of Illinois. I call for the regular order.

Mr. WILLARD, of Vermont. I wish to ask the gentleman in charge of this bill whether he has any objection to changing the phraseology of the last proviso? It is in this language:

Provided further, That this shall not be construed as increasing said grant or as granting to said company any lands within said ten miles not now belonging to said grant.

Now, I suggest that this proviso be modified so as to provide that this act shall not be construed as granting to the company any lands whatever.

Mr. HAZELTON, of Wisconsin. There is no objection to that.

Mr. ORR. The object of the proviso was that no new land grant should be considered as authorized by this bill. I do not object to this amendment.

The amendment was agreed to by unanimous consent.

The motion to suspend the rules and pass the bill was agreed to; there being ayes 109, noes not counted.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Vermont [Mr. POLAND] and the gentleman from Indiana [Mr. TYNER] both seek the floor, the former upon the Arkansas question and the latter upon the post-office appropriation bill.

Mr. DAWES. There is a little matter from the Committee on Ways and Means which I would like to have taken up. It will take but a few minutes if these gentlemen will yield.

Mr. TYNER. Mr. Speaker, who is entitled to the floor?

The SPEAKER. The questions which the gentleman from Vermont and the gentleman from Indiana seek to present are both highly privileged; and the House must decide between them.

Mr. TYNER. Then I claim the floor to submit the report of the Committee on Appropriations upon the post-office appropriation bill. I want to test the sense of the House as to taking up this matter.

Mr. CESSNA. Is it in order to submit the question of consideration?

The SPEAKER. It is in order to raise that question.

Mr. CESSNA. I wish to submit, in the first place, an inquiry as to whether the bringing up of the post-office appropriation bill will necessarily deprive the gentleman from Vermont [Mr. POLAND] of the right to the floor, or whether he can be entitled to recognition after that bill has been disposed of?

Mr. TYNER. Will the Chair permit me to make a statement?

Mr. CESSNA. If the Chair answers my inquiry, as I suppose he will, I will withdraw any objection to the consideration of the business of the gentleman from Indiana.

Mr. TYNER. I ask the gentleman from Pennsylvania to withhold the question of consideration for one moment. The bill which I desire to report to the House has had a number of amendments of great importance attached to it by the Senate. The probability is that the committee of conference will be occupied some time in the consideration of the differences between the two Houses. There are some features of the bill which no gentleman in the House understands so well as I do. The corpse of my wife's brother now lies in our house to be buried to-morrow, and I wish to attend the funeral. Therefore I make an appeal to the gentleman from Pennsylvania and the members of the House that they will permit me to consider this bill now.

Mr. CESSNA. I did not of course know any of these facts; but I wish to know whether the gentleman from Indiana can be recognized?

The SPEAKER. Why not?

Mr. CESSNA. Is his matter of so high a character that he must be recognized in preference?

The SPEAKER. The Chair has recognized him already.

Mr. CESSNA. Then I have no objection.

POST-OFFICE APPROPRIATION BILL.

The SPEAKER hears no objection to the motion of the gentleman to proceed with the consideration of the amendments of the Senate to a 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.

Mr. TYNER. Before the Clerk proceeds with the reading of the amendments of the Senate, I desire to say if other gentlemen will imitate my example there will be little debate on this bill. I am perfectly willing to suspend the rules and adopt the report of the Committee on Appropriations on the amendments of the Senate to this bill, if the House will bear me out.

The Clerk proceeded with the reading of the amendments of the Senate.

The recommendation of the Committee on Appropriations that the second, third, fourth, and sixth amendments should be concurred in, and the first, fifth, seventh, eighth, ninth, tenth, eleventh, and twelfth amendments of the Senate should be non-concurred in was adopted.

The thirteenth amendment of the Senate is as follows:

Strike out the following:

That the certificate authorized to be made by section 13 of the act of June 23, 1874, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1875," may be made by any ex-member of Congress or ex-Delegate within nine months after the expiration of his term.

And insert in lieu thereof the following:

That the provisions of section 13 of the act of June 23, 1874, entitled "An act making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1875, and for other purposes," shall apply to ex-members of Congress and ex-Delegates for the period of nine months after the expiration of their terms as Members and Delegates, and postage on public documents mailed by such persons shall be as provided in said section.

The SPEAKER. The Committee on Appropriations recommend concurrence.

Mr. SPEER. I should like to know from the gentleman from Indiana in charge of this bill what action has been taken in reference to the free transmission through the mails of documents by members of Congress and Delegates.

Mr. TYNER. In reference to this amendment of the Senate, the only reason why the Senate amended the action of the House was that the House, in providing for the extension of the act of 1874, providing for the extension of the act making appropriations for sundry civil expenses of the Government, made a mistake in referring to an act which had nothing to do with this question. We have therefore recommended non-concurrence.

Mr. SPEER. What action has the committee taken in reference to the amendments of the Senate for free transmission of documents through the mails?

Mr. TYNER. The Committee on Appropriations recommend concurrence in the amendments of the Senate on that subject, with certain amendments intended to perfect the manner in which documents should be transmitted through the mails.

Mr. GARFIELD. I desire to say for one that I myself did not concur in that, and I hope the House will not concur, but I will not take any time to debate it. I wish to say for myself, however, that I oppose it, and hope we will not open the franking privilege.

Mr. TYNER. I desire to say, as a member of the Committee on Appropriations, that I do not concur with the action of the committee; but I am not here to debate any of these provisions. I will explain. If gentlemen want to put themselves upon the record they had better have a vote upon some subsequent amendment. The amendment just read by the Clerk is simply that the provision of the act of last session of this Congress which authorizes the sending of public documents at the rate of ten cents postage through the mails shall apply to outgoing members of Congress; that is, that this shall remain a law to the 1st of September succeeding the term of office.

The amendment of the Senate was concurred in.

The recommendation of the Committee on Appropriations that the fourteenth, fifteenth, and sixteenth amendments of the Senate be non-concurred in was adopted.

The Clerk read the seventeenth amendment of the Senate, as follows:

That from and after the passage of this act the CONGRESSIONAL RECORD, or any part thereof, or speeches or reports therein contained, shall be carried in the mail free of postage, under such regulations as the Postmaster-General may prescribe; and that public documents already printed for the use of either House of Congress may pass free through the mails upon the frank of any member of the present Congress until the 1st day of December, A. D. 1875.

Mr. TYNER. We have how reached matters in which the House is interested and I hope we will have order. The Committee on Appropriations recommend concurrence in the amendment of the Senate just read, with the following amendments:

The Clerk read as follows:

The committee recommend concurrence in the amendment numbered 17, with the following amendments: After the word "shall," in line 3 of said amendment, insert the words "under the written frank of a member of Congress or Delegate, to be written by himself;" and after the word "printed," in line 5 of said amendment, insert the words "or ordered to be printed;" and after the word "member," in line 7, add the words "and Delegates;" and after the word "Congress," in the same line add the words "written by himself;" and add at the end of said amendment the following words "provided that speeches reproduced and printed otherwise than in the CONGRESSIONAL RECORD and speeches delivered elsewhere than in Congress shall not be construed as public documents or be embraced in the provisions of this section."

Mr. TYNER. Now, Mr. Speaker, if the House will listen to me, I will read the section precisely as the committee propose to amend it. I can probably do it more easily than the Clerk, with the bill in my hands:

That from and after the passage of this act the CONGRESSIONAL RECORD, or any part thereof, or speeches or reports therein contained, shall, under the written frank of a member of Congress or Delegate, to be written by himself, be carried in the mail free of postage, under such regulations as the Postmaster-General may prescribe; and that public documents already printed or ordered to be printed for the use of either House of Congress may pass free through the mails upon the frank of any member or Delegate of the present Congress, written by himself, until the 1st day of December, A. D. 1875: *Provided*, That speeches reproduced from and printed otherwise than in the CONGRESSIONAL RECORD and speeches delivered elsewhere than in Congress shall not be construed as public documents, or be embraced in the provisions of this section.

Mr. GARFIELD. I hope the House will vote down this reopening of the franking privilege.

The SPEAKER *pro tempore*, (Mr. HAZELTON, of Wisconsin.) The question is upon concurring in the amendment of the Senate with the amendment recommended by the Committee on Appropriations.

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

The question being taken on ordering the yeas and nays, there were—ayes 27, noes 138; the affirmative not being one-fifth of the whole vote.

Mr. GUNCKEL. I call for tellers on the yeas and nays.

On the question of ordering tellers, there were yeas 28; not one-fifth of a quorum.

So tellers were not ordered and the yeas and nays were not ordered.

The SPEAKER. The question will be taken without calling the yeas and nays, and the Chair will order tellers. The Chair appoints the gentleman from Ohio, Mr. GARFIELD, and the gentleman from Pennsylvania, Mr. SPEER, to act as tellers.

The House divided; and the tellers reported—ayes 113, noes 65.

So the House concurred in the amendment of the Senate with the amendment recommended by the Committee on Appropriations.

Mr. GARFIELD. I move to reconsider the vote just taken.

Mr. SPEER. The gentleman did not vote with the prevailing side.

The SPEAKER. There is no record of the vote to show how the gentleman voted.

Mr. SPEER. I move to lay the motion to reconsider on the table.

Mr. WILLARD, of Vermont. And on that motion I ask the yeas and nays.

The question being taken on ordering the yeas and nays, there were—ayes 39; more than one-fifth of the last vote.

So the yeas and nays were ordered.

The question was taken; and there were—yeas 136, nays 105, not voting 46; as follows:

YEAS—Messrs. Albert, Arthur, Ashe, Averill, Banning, Barry, Beck, Begole, Bell, Biery, Bowen, Bright, Brown, Buckner, Burchard, Benjamin F. Butler, Roderick R. Butler, Cain, Caldwell, Cannon, Carpenter, Cason, Cessna, Clements, Clymer, Stephen A. Cobb, Coburn, Cook, Creamer, Crutchfield, Davis, DeWitt, Donnan, Duell, Dunnell, Durham, Eldredge, Farwell, Finck, Freeman, Giddings, Glover, Gunter, Hagans, Hamilton, Hancock, Harmer, Henry R. Harris, Harrison, Hatcher, Havens, Hays, Gerry W. Hazelton, John W. Hazelton, Hereford, Herndon, George F. Hoar, Hodges, Houghton, Howe, Hubbell, Hunter, Hunton, Hurlbut, Hynes, Kelley, Killinger, Lansing, Leach, Lewis, Lofland, Loughridge, Magee, Martin, Maynard, Alexander S. McDill, James W. McDill, Milliken, Mills, Morey, Myers, Neal, Negley, Nesmith, Niblack, Nunn, O'Brien, Orr, Packard, Packer, Isaac C. Parker, Pelham, Phillips, Pike, Thomas C. Platt, Ransier, Rapier, Read, Richmond, Robbins, William R. Roberts, Schell, Sener, Sheats, Sheldon, Sloan, Sloss, Smart, William A. Smith, Snyder, Speer, Standiford, Alexander H. Stephens, Stone, Stowell, Strait, Strawbridge, Swann, Taylor, Christopher Y. Thomas, Thompson, Thornburgh, Todd, Vance, Waddell, Wallace, Walls, White, Whitehead, Whiteley, Whitthorne, Charles G. Williams, Willie, Ephraim K. Wilson, Wolfe, and John D. Young—136.

NAYS—Messrs. Albright, Barnum, Barrere, Bass, Bland, Blount, Bradley, Bromberg, Buffinton, Bundy, Caulfield, Chittenden, Amos Clark, jr., Freeman Clarke, Clayton, Comingo, Conger, Corwin, Cotton, Cox, Crittenden, Crooke, Crossland, Crounse, Curtis, Danford, Dawes, Eames, Eden, Foster, Garfield, Gooch, Gunckel, Eugene Hale, Benjamin W. Harris, John T. Harris, Hathorn, Joseph R. Hawley, E. Rockwood Hoar, Holman, Hoskins, Kasson, Kellogg, Lamison, Lawrence, Lawson, Lowe, Lowndes, Lynch, McCrary, MacDougall, McNulta, Merriam, Monroe, Morrison, O'Neill, Orth, Page, Hosea W. Parker, Parsons, Pendleton, Perry, Phelps, Pierce, Potter, Pratt, Ray, Ellis H. Roberts, James C. Robinson, James W. Robinson, Ross, Rusk, Henry B. Sayler, Milton Sayler, Scofield, Sessions, Sherwood, Lazarus D. Shoemaker, Small, A. Herr Smith, H. Boardman Smith, John Q. Smith, Sprague, Stanard, Charles A. Stevens, St. John, Storm, Townsend, Tremain, Tyner, Waldron, Jasper D. Ward, Marcus L. Ward, Wells, Wheeler, Whitehouse, Wilber, Charles W. Willard, George Willard, William Williams, William B. Williams, James Wilson, Jeremiah M. Wilson, Woodworth, and Pierce M. B. Young—105.

NOT VOTING—Messrs. Adams, Archer, Atkins, Barber, Berry, Burleigh, Burrows, John B. Clark, jr., Clinton L. Cobb, Darrall, Dobbins, Field, Fort, Frye, Robert S. Hale, John B. Hawley, Hendee, Hyde, Kendall, Knapp, Lamar, Lamport, Luttrell, Marshall, McKee, McLean, Mitchell, Moore, Niles, James H. Platt, jr., Poland, Rainey, Randall, Sawyer, John G. Schumaker, Henry J. Scudder, Isaac W. Scudder, Shanks, George L. Smith, J. Ambler Smith, Southard, Starkweather, Sypher, Charles R. Thomas, John M. S. Williams, and Wood—46.

So the motion to reconsider was laid upon the table.

During the roll-call the following announcements were made:

Mr. HARRISON. I desire to state that my colleague, Mr. THORNBURGH, has gone home on account of sickness in his family.

Mr. MARTIN. I desire to state that my colleague, Mr. HAWLEY, is confined to his room by sickness.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, informed the House that the Senate had passed with amendments—

A bill (H. R. No. 3685) for the relief of George A. Schreiner; and

A bill (H. R. No. 4744) to punish certain larcenies and receivers of stolen goods.

The message further announced that the Senate had passed without amendment bills of the House of the following titles:

A bill (H. R. No. 78) granting a pension to Salem P. Rose, of North Adams, Massachusetts;

A bill (H. R. No. 330) granting a pension to Mrs. Penelope C. Brown, of Tennessee, widow of Stephen C. Brown, late private Company C, Eighth Tennessee Cavalry Volunteers;

A bill (H. R. No. 580) granting a pension to Rosalie C. P. Lisle;

A bill (H. R. No. 801) for the relief of L. R. Strauss, of Macon City, Missouri;

A bill (H. R. No. 1644) granting a pension to Hannah E. Currie;

A bill (H. R. No. 2685) for the relief of John Aldredge;

A bill (H. R. No. 3276) granting a pension to Davenport Downs;

A bill (H. R. No. 3688) granting a pension to William O. Madison;

A bill (H. R. No. 3698) granting a pension to William C. Davis, late private in Company B, Eleventh Tennessee Cavalry Volunteers;

A bill (H. R. No. 3703) granting a pension to Catharine Lee, widow of Jesse M. Lee, late private company B, Second Regiment Ohio Volunteers;

A bill (H. R. No. 3704) granting a pension to Mary E. Stewart;

A bill (H. R. No. 3706) granting a pension to Margaret H. Pittenger;

A bill (H. R. No. 3711) granting a pension to Martin D. Chandler;

A bill (H. R. No. 3435) to provide for the sale of the buildings and grounds known as the Detroit Arsenal, in the State of Michigan; and

A bill (H. R. No. 4853) to change the name of the pleasure yacht Dolly Varden to Clochette.

The message further announced that the Senate had agreed to the concurrent resolution of the House for the printing of the report of the Surgeon-General of the Army and the supervising-surgeon of the marine hospital service upon the cholera epidemic of 1873.

APPROVAL OF BILLS.

A message from the President, by Mr. O. E. BABCOCK, his Private Secretary, informed the House that the President had approved and signed the following bills:

An act (H. R. No. 844) to authorize the promulgation of the General Regulations for the Government of the Army;

An act (H. R. No. 677) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1876; and

An act (H. R. No. 4727) explanatory of the act passed June 20, 1874.

POST-OFFICE APPROPRIATION BILL.

The House resumed the consideration of the amendments of the Senate to the post-office appropriation bill, with the recommendations of the Committee on Appropriations thereon.

The eighteenth amendment the committee recommend be non-concurred in.

Mr. TYNER. That does not relate to franking or anything of that sort, and the House can have no interest in it.

The recommendation of the committee was agreed to.

The nineteenth amendment of the Senate was as follows:

SEC. 7. That garden seeds transmitted by the Commissioner of Agriculture, or by any member of Congress receiving seeds for distribution from said Department, together with agricultural reports emanating from that Bureau, and so transmitted, shall, under such regulations as the Postmaster-General shall prescribe, pass through the mails free of charge.

The Committee on Appropriations recommend that the amendment of the Senate be concurred in with an amendment, as follows:

After the word "Congress" insert the words "or Delegate;" and add to the section the following:

And the provisions of this section shall apply to ex-members of Congress and ex-Delegates for the period of nine months after the expiration of their terms as members and Delegates.

Mr. WILLARD, of Vermont. I call for the yeas and nays on that.

Mr. MAYNARD. Inasmuch as the Committee on Appropriations recommend some amendments to the new section added by the Senate, I ask leave to suggest a verbal amendment. The section contains these words: "Agricultural reports emanating from that Bureau." The Department of Agriculture is not a Bureau, but a Department created by law. I therefore suggest that the word "Bureau" be changed to "Department."

No objection was made, and the amendment to the amendment was agreed to.

Mr. KASSON. I would inquire whether this section, if adopted, would not authorize the Commissioner of Agriculture to send free through the mails the seeds which he himself distributes? If so, then there is another clause in this bill, if I mistake not, appropriating from thirty to sixty thousand dollars for postage for that very purpose, and it ought to be canceled if this section is adopted.

Mr. TYNER. There is no such appropriation in this bill; one can be found, however, in the legislative appropriation bill. If the appropriation be allowed to remain it will cover the correspondence of the Department independent of and outside of the transmission of agricultural reports and seeds.

Mr. SPEER. I ask the gentleman to make a brief personal explanation of the necessity and effect of the proposed amendment.

Mr. TYNER. The action of the House on the seventeenth amendment of the Senate, just adopted, provides that the CONGRESSIONAL RECORD or any part thereof, or speeches or reports therein contained, shall pass free through the mails under the franks of members and Delegates in Congress. It makes that a permanent provision of law. The next clause of that same section provides that the public documents that are already printed or hereafter may be printed for the use of Congress may pass free through the mails under the franks of members and Delegates until the 1st day of next December. That is a temporary provision of law.

Mr. MERRIAM. Does that cover the members and Delegates going out of this Congress?

Mr. TYNER. It covers the members of the present Congress until the first day of next December. That is a temporary provision of law. The purpose of the Senate in this amendment now under consideration evidently was to provide permanently for the free transmission of agricultural reports and seeds through the mails under the frank of the Commissioner of Agriculture or of members and Delegates in Congress. The House will see that its action already taken, if incorporated into law, will make permanent the practice of transmitting the CONGRESSIONAL RECORD and parts thereof free through the mails, while the provision for the transmission of other documents will be temporary until the 1st day of next December.

Mr. WILLARD, of Vermont. In other words, this is a revival of the franking privilege as regards agricultural reports and garden seeds?

Mr. TYNER. Undoubtedly so. As nearly as I can tell, without further reflection, I will say that if this bill becomes a law it will not permit the transmission free through the mails of everything ordered to be printed by Congress; it will permanently provide for the free transmission through the mails of Agricultural Reports, speeches made in Congress, and the CONGRESSIONAL RECORD, but will not include other public documents that may hereafter be ordered to be published.

Mr. SPEER. And the moment Congress ceases to authorize the publication of the Agricultural Reports the franking privilege, so far as that is concerned, will cease.

Mr. TYNER. That will be the result, if such a thing as that could ever be imagined.

Mr. WILSON, of Iowa. I want the yeas and nays on this attempt to restore the franking privilege.

Mr. SPEER. I wish to ask one question: Are or are no the Agricultural Reports already published or authorized to be published embraced in the amendment which has already been adopted by the House?

Mr. TYNER. Yes; but that amendment does not authorize the Commissioner of Agriculture to send them free through the mails. This provision now pending gives the Commissioner permission to send them free through the mails, and also makes it a permanent provision of law that Agricultural Reports and seeds may be sent free through the mails.

Mr. COBURN. Does not the Commissioner of Agriculture now send them free by mail by reason of stamps allowed to him by law?

Mr. TYNER. For informatiom on that subject I refer the gentleman to the Commissioner of Agriculture.

The SPEAKER. The question is on concurring in the Senate amendment with the amendment recommended by the Committee on Appropriations.

Mr. TYNER. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. BUNDY. I wish to offer an amendment.

The SPEAKER. No amendment is in order.

Mr. BUNDY. I am very sorry for that. I should like to offer an amendment providing that all sums paid by members of the present Congress for postage on public documents shall be refunded to the members, respectively, upon proper vouchers.

Mr. WILBER. I should like to know how many bushels of grain—rye, oats, barley, wheat, hops, &c.—are now sent through the mails every year.

The question was taken; and there were—yeas 133, nays 94, not voting 60; as follows:

YEAS—Messrs. Adams, Albert, Arthur, Ashe, Atkins, Averill, Barber, Barry, Beck, Bell, Biery, Bowen, Bright, Bromberg, Brown, Buckner, Burchard, Benjamin F. Butler, Roderick R. Butler, Cain, Caldwell, Cannon, Carpenter, Cason, Cessna, John B. Clark, jr., Clements, Clymer, Coburn, Comingo, Cook, Creamer, Crutchfield, Davis, DeWitt, Donnan, Dunnell, Durham, Eldredge, Giddings, Glover, Gunter, Hagans, Hamilton, Hancock, Harmer, Henry R. Harris, Harrison, Hatcher, Havens, Hays, Gerry W. Hazelton, Hereford, Herndon, George F. Hoar, Hodges, Houghton, Howe, Hubbell, Hunter, Hunton, Hurlbut, Hyde, Hynes, Kelley, Knapp, Leach, Lewis, Lofland, Loughridge, Magee, Martin, Maynard, McNulta, Milliken, Mills, Morey, Myers, Neal, Negley, Nesmith, Niblack, Nunn, O'Brien, O'Neill, Orr, Packard, Packer, Phillips, James H. Platt, jr., Thomas C. Platt, Ransier, Rapier, Read, Richmond, Robbins, William R. Roberts, Schell, Sessions, Shanks, Sheats, Sheldon, Sloan, Sloss, J. Ambler Smith, William A. Smith, Snyder, Southard, Speer, Standiford, Stone, Stowell, Strait, Strawbridge, Swann, Taylor, Charles R. Thomas, Christopher Y. Thomas, Todd, Vance, Waddell, Wallace, Walls, White, Whitehead, Whitehouse, Whitthorne, Charles G. Williams, John M. S. Williams, Willie, Wolfe, Wood, and John D. Young—133.

NAYS—Messrs. Albright, Archer, Barnum, Barrere, Begole, Berry, Bland, Blount, Bradley, Buffinton, Bundy, Burleigh, Chittenden, Amos Clark, jr., Freeman Clarke, Conger, Crittenden, Crooke, Crounse, Curtis, Danford, Dawes, Eames, Eden, Fort, Foster, Garfield, Gunckel, Benjamin W. Harris, John T. Harris, Hathorn, Joseph R. Hawley, E. Rockwood Hoar, Holman, Hoskins, Kasson, Kellogg, Killinger, Lawrence, Lawson, Lowe, Lynch, McCrary, MacDougall, Merriam, Monroe, Niles, Orth, Hosea W. Parker, Pendleton, Perry, Phelps, Pierce, Poland, Potter, Pratt, Rainey, Ellis H. Roberts, James C. Robinson, James W. Robinson, Ross, Henry B. Sayler, Milton Sayler, Scofield, Henry J. Scudder, Sherwood, Lazarus D. Shoemaker, Small, Smart, A. Herr Smith, H. Boardman Smith, John Q. Smith, Sprague, Stanard, Starkweather, Charles A. Stevens, Storm, Sypher, Townsend, Tremain, Tyner, Jasper D. Ward, Marcus L. Ward, Wells, Wheeler, Wilber, Charles W. Willard, George Willard, William Williams, William B. Williams, James Wilson, Jeremiah M. Wilson, Woodworth, and Pierce M. B. Young—94.

NOT VOTING—Messrs. Banning, Bass, Burrows, Caulfield, Clayton, Clinton L. Cobb, Stephen A. Cobb, Corwin, Cotton, Cox, Crossland, Darrall, Dobbins, Duell, Farwell, Field, Finck, Freeman, Frye, Gooch, Eugene Hale, Robert S. Hale, John B. Hawley, John W. Hazelton, Hendee, Kendall, Lamar, Lamison, Lamport, Lansing, Lowndes, Luttrell, Marshall, Alexander S. McDill, James W. McDill, McKee, McLean, Mitchell, Moore, Morrison, Page, Isaac C. Parker, Parsons, Pelham, Pike, Randall, Ray, Rusk, Sawyer, John G. Schumaker, Isaac W. Scudder, Sener, George L. Smith, Alexander H. Stephens, St. John, Thompson, Thornburgh, Waldron, Whiteley, and Ephraim K. Wilson—60.

So the amendment of the Senate, as amended, was concurred in.

During the roll-call the following announcements were made:

Mr. MAYNARD. My colleague, Mr. THORNBURGH, is called home by the sickness of his mother.

Mr. MARTIN. My colleague from Illinois, Mr. HAWLEY, is absent on account of sickness.

The result of the vote was announced as above stated.

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

The latter motion was agreed to.

Mr. TYNER. I move that the House request a conference with the Senate on the disagreeing votes of the two Houses.

There being no objection, it was ordered accordingly.

ORDER OF BUSINESS.

Mr. POLAND obtained the floor.

Mr. KASSON. With the permission of the getleman from Vermont, [Mr. POLAND,] I wish to dispose of a matter that can be disposed of without debate, being simply the resolutions (which are of a privileged nature) reported by the Committee on Ways and Means on the Pacific Mail investigation.

Mr. DAWES. I have been trying to bring in a privileged report, which will not take a minute.

Mr. WARD, of Illinois. I must object. We have been promised repeatedly that this Arkansas question should be considered.

Mr. HARRISON. I rise to a question of the highest privilege.

The SPEAKER. The gentleman from Vermont [Mr. POLAND] is recognized.

HON. SIMON CAMERON.

Mr. SCOFIELD. I ask the gentleman to allow me to offer a resolution which I think will command the concurrence of the House.

The SPEAKER. The resolution which the gentleman from Pennsylvania [Mr. SCOFIELD] desires to submit will be read.

The Clerk read as follows:

Whereas the House of Representatives, on the 30th day of April, 1862, adopted a resolution censuring SIMON CAMERON for certain alleged irregular proceedings as Secretary of War in the matter of purchasing military supplies at the outbreak of the rebellion; and whereas on the 26th day of the ensuing month the then President of the United States, Abraham Lincoln, in a special message to Congress, assumed for the executive department of the Government the full responsibility of the proceedings complained of, declaring in said message that he should be wanting equally in candor and in justice if he should leave the censure to rest exclusively or chiefly on Mr. CAMERON, and added that it was due to Mr. CAMERON to say that although he fully approved the proceedings, they were not moved nor suggested by him, and that not only the President but all the other heads of Departments were at least equally responsible with him for whatever error, wrong, or fault was committed in the premises: Therefore,

Resolved, That this House, as an act of personal justice to Mr. CAMERON and as a correction of its own records, hereby directs that said resolution be rescinded, and that the rescission be entered on the margin of the Journal where said resolution is recorded.

Mr. SCOFIELD. I hope there will be no objection to the passage of this resolution. The facts are all recited in the preamble. It is an act of justice long deferred and should be agreed to without hesitation or dissent.

Mr. HOLMAN. Mr. Speaker, I do not rise for the purpose of discussing this resolution. It refers to a measure of a remote period, when the magnitude of intervening events is considered. The resolution proposed to be rescinded was considered in the House of Reprentatives of the Thirty-seventh Congress, thirteen years ago, and adopted by the House. That resolution of thirteen years ago it is now proposed by the pending resolution to rescind. It is proper for me to say that the facts which were communicated to the House subsequently to the adoption of the resolution by the message of the President of the United States were in the main known to the committee of the House on the investigations of which the resolution was founded. The resolution grew out of the investigations of a special committee of the House, of which the gentleman from Massachusetts [Mr. DAWES] and myself were members. I submitted the resolution to the House. Hon. E. B. Washburne, our honored and distinguished minister to France; Governor FENTON and General Van Wyck, of New York; and Mr. Steele, of New Jersey, then members of the House, were members of that committee. It is not treating the subject or the men who then composed the House (only six members of which are members of this House) fairly or truthfully to assume that that original action was unjust or oppressive. I am not willing by the act of to-day to imply a censure of the men who thirteen years ago adopted that resolution, but I am willing to do what the members who composed that House I believe would now be moved to do after this lapse of time, if still here in this House.

For several years discussions have occurred among individual members of the House (not before the House) on the propriety of rescinding the original resolution. General CAMERON has been long in public life, and since the adoption of that resolution has through the choice of his fellow-citizens held high official relations to our public affairs; a distinguished member of the Senate of the United States, of which he is now a member; a gentleman of venerable age. The resolution and the facts on which it was predicated were incidents of that unhappy and disordered period of intestine war from which we are rapidly receding. I would not for one perpetuate the memory of the unhappy events of that period. I would blot out its animosities and smooth down its asperities and rescind its unpleasant records where justice would permit. Nor am I unmindful, sir, of the possibility of mistakes and errors having occurred in our public proceedings during that unhappy period of our history. In the midst of peace, and now happily remote from the haste and passion incident to a state of war, we may well carefully review any harsh judgments we have pronounced. Indeed, sir, we cannot afford to perpetuate the records of the asperities of the war in the civil service of our Government. We can well afford to invite and cultivate an era of good feeling in public affairs, "with malice toward none, and charity for all."

The American people in dealing with public affairs are magnanimous, and their representatives cannot afford to act in a different spirit. Therefore for one, in view of the turbulent and disordered period when this resolution was adopted, rendering a mistake the more possible; in view of the long period which has since elapsed, during all of which the gentleman whose public reputation is involved has been identified with the councils of the nation; in view, too, sir, and in deference to the wishes of the gentlemen around me, democrats and republicans, representing Pennsylvania constituencies; and because, sir, I am willing that the asperities of the war, the heart-burnings, and bitter memories, so far as may be, may fade into oblivion, I, sir, for one will not object to the adoption of this rescinding resolution.

Mr. SCOFIELD. I now yield to the gentleman from Massachusetts, and will then demand the previous question.

Mr. WARD, of Illinois. I should like to know how it is this matter goes on in this way.

Mr. SCOFIELD. It will occupy a moment.

Mr. WARD, of Illinois. I will yield for a moment. I have been put off by moments for several days.

Mr. DAWES. Mr. Speaker, I was not the author of the resolution which this resolution proposes to rescind, but I gave my vote for it upon what I felt then was a sufficient ground. I shall most cheer-

fully give my vote for the resolution offered by the gentleman from Pennsylvania, and I am glad of the opportunity just at this time and under the circumstances to do what may be in my power to remedy a possible injustice.

It is some twelve years since the resolution was passed. There are but six of us left here in this House who voted for it. Of the others who voted for it and carried it through the House by a considerable majority, many of them have not only left these scenes but all scenes here upon earth. How soon the rest of us may be called to our account we do not know, and we should not lose the opportunity afforded us now to correct an injustice to a member of the other branch who has enjoyed the confidence and honor not only of his own State but of the executive department of the Government in various official positions of trust. Therefore this opportunity the gentleman from Pennsylvania gives me now I most gladly embrace.

I also desire to say, and I entertain no doubt I speak the sentiment of those who voted with me on that occasion, that had the President of the United States communicated to the House of Representatives *before* rather than *after* the adoption of that resolution that he took the whole responsibility of these acts for which the censure was passed upon himself and his administration, and as was his wont, was ready to assume all the responsibility of those acts, the House of Representatives would not have adopted that resolution of censure, singling out one member alone of that administration for censure.

I am further free to say, looking back upon the acts themselves and measuring by the light of what did afterward transpire in the conduct of the war, the necessity that pressed upon the Executive at that moment of resorting to any means in his power and to all the means he could command, without time to judge of the responsibility of men, without knowledge of the efficiency of men charged with duties put upon them on the instant—looking on things then as they now appear, I am free to say, had the President not taken his responsibility I should have been very slow to have voted for the resolution.

But after the President did take that responsibility off the shoulders of Mr. CAMERON I have always felt that the House of Representatives did not do exactly right in singling him out for its censure. And therefore it gives me pleasure not only to vote for the resolution but to leave upon the record this statement in reference to the motives which then actuated me and the reason which moves me to vote to rescind the original resolution.

Mr. SCOFIELD. I now call the previous question.

Mr. NIBLACK. I do not desire to oppose the resolution, but I wish to ask a question before the vote is taken of the gentleman from Pennsylvania who has offered it. It is this, whether we are to regard this as a part of the series of amnesty measures which have followed as a necessary consequence the close of the war; as another olive-branch extended by one side of the House to the other?

Mr. SCOFIELD. The facts recited in the preamble show the propriety and necessity of the resolution. It is not in any sense an act of forgiveness, but a recitation of historical facts.

Mr. NIBLACK. I understand that the Senator from Pennsylvania to whom the resolution refers has been and still is very liberal in regard to granting amnesty to those who were on the other side in the war; and if I am right in looking upon this as a recognition of that liberality on his part, I feel that I ought not to oppose this resolution and will not do so.

The previous question was seconded; and under the operation thereof the preamble and resolution were adopted.

Mr. SCOFIELD moved to reconsider the vote by which the preamble and resolution were adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

AFFAIRS IN ARKANSAS.

The SPEAKER. The gentleman from Vermont [Mr. POLAND] is on the floor to call up the report of the Committee on Affairs in Arkansas.

Mr. GARFIELD. I desire to ask the gentleman from Vermont a question about the order of business. How much time does he propose to occupy with the consideration of this report?

Mr. POLAND. The chairman of the Committee on Appropriations desires to know in advance what time will be taken in the discussion of the report and resolutions from the committee. Two other members of the committee who joined in the majority report besides myself desire to address the House, the gentleman from New Jersey [Mr. SCUDDER] and the gentleman from Ohio, [Mr. SAYLER.] If the House think that time can be spared, I desire that these gentlemen shall have each an hour; and that the gentleman from Illinois, [Mr. WARD,] the minority member of the committee, and such other gentlemen as desire to speak on that side, shall have the same length of time.

I am aware that we are very near the close of the session and have a great many things to do. And although this case which is now coming before the House presents a question of great magnitude, of more importance to this country than any other that has been before Congress for very many years, I suppose that the time for debate upon it must necessarily be short. And if it is thought that we cannot afford more time than that, I suppose it may be limited to one hour on each side before the previous question is ordered. I should be very glad indeed if two hours to each side could be allowed.

Mr. GARFIELD. Allow me to make a very brief statement about the condition of the appropriation bills. There are four bills in the Senate that have not yet come back to the House to be acted upon. One, the deficiency bill, of thirty-four pages, has not as yet been considered here, and it must be sent over in time for the Senate to act upon it; and nineteen hours from now the gavel falls and Congress ends.

Several MEMBERS. Forty-three hours.

Mr. CESSNA. The gentleman has been in the line of reduction all the winter.

Mr. GARFIELD. Sitting up all night, I had lost a day. I hope the House will agree to the shortest time that can be given with reasonable justice to this case.

Mr. KASSON. Let the previous question be seconded at some fixed hour.

Mr. GARFIELD. I hope before the debate commences the House will agree to some hour when the previous question will be ordered.

Mr. SOUTHARD. I rise to a question of order. I cannot hear what arrangement is being made.

Mr. POLAND. I think the magnitude of this question ought to entitle us to the time I suggest—two hours upon each side.

Mr. SOUTHARD. I insist that the Chair shall enforce the point of order. We cannot hear the gentleman from Vermont.

The SPEAKER. The Chair cannot impart more voice to the gentleman from Vermont than nature gives.

Mr. POLAND. My voice would serve a better purpose if other gentlemen kept their voices quiet while I was using mine.

The SPEAKER. What arrangement does the gentleman propose?

Mr. POLAND. That two hours be allowed to each side, and that then the previous question be called.

Mr. TREMAIN. After the previous question shall have been ordered there will be an hour for some one. Who will be entitled to that hour?

The SPEAKER, The gentleman making the report.

Mr. TREMAIN. Then I think the time should be more equally divided.

Mr. HYNES. I understood the gentleman from Vermont to say when this report was presented that the affirmative belonged to the minority. Do I understand that he is to allow the minority to move the previous question?

Mr. POLAND. That will be answered when the time comes.

Mr. CESSNA. I suggest that four hours be allowed for the discussion, and that it be divided equally.

Mr. WILSON, of Indiana. I suggest that the previous question be considered as ordered at half past five o'clock. If it be ordered at five the House will then take a reces until half past seven, and half an hour will be lost that might otherwise be given to this discussion.

Mr. GARFIELD. I hope the hour will be fixed as early as five. I desire to have as much time as possible for the deficiency bill.

Mr. WILSON, of Indiana. I think nothing would be gained for the deficiency bill by ordering the previous question at five and taking the recess then.

Mr. TREMAIN. It should be understood that the time should be equally divided.

Mr. SPEER. It was not equally divided on the force bill.

Mr. POLAND. My desire is that on this question the time shall be equally divided.

The SPEAKER. The Chair will state the proposed arrangement: that the previous question shall be considered as operating at half past five; that under that understanding the time will be alternated on each side until that hour, and the gentleman who makes the report will do as he sees fit with the hour after the previous question is ordered.

Mr. BUTLER, of Massachusetts. Will the gentleman reporting the bill have an hour after that?

The SPEAKER. Certainly; after the previous question is ordered.

Mr. WILLARD, of Vermont. I suggest that at that hour we take a recess without further order.

The SPEAKER. The Chair hears no objection to the proposed arrangement.

Mr. HAMILTON. Yes; I object to the previous question being ordered at any time without a two-thirds vote.

Mr. POLAND. Then I give notice that I will call the previous question at half past five o'clock.

Mr. GARFIELD. I move that the rules be suspended and the proposed order made.

The question was taken; and (two-thirds voting in favor thereof) the rules were suspended and the motion was agreed to.

Mr. COX. Will the Chair now state what the order is?

The SPEAKER. At half past five o'clock the previous question will operate, and at that time the House will take a recess without further order until half past seven o'clock, and the gentleman from Vermont [Mr. POLAND] will then be entitled to the closing hour.

CHANGE OF NAME OF PORT.

Mr. BLAINE, (the Speaker,) by unanimous consent, introduced a bill (H. R. No. 4856) to change the name of the port of Nobleborough to Damariscotta; which received its several readings, and was passed.

REGENTS OF THE SMITHSONIAN INSTITUTION.

Mr. E. R. HOAR, by unanimous consent, introduced a bill (H. R. No. 4857) extending the privileges of the Library of Congress to the Regents of the Smithsonian Institution; which received its several readings, and was passed.

REPRINTING OF A BILL.

Mr. BUTLER, of Massachusetts, asked and obtained leave to have reprinted the bill (H. R. No. 2871) to reorganize the circuit courts of the United States.

TIMBER LANDS OF THE UNITED STATES.

Mr. DUNNELL, by unanimous consent, from the Committee on the Public Lands, reported a bill (H. R. No. 4859) to regulate the survey and sale of the timber lands of the United States; which was recommitted to the committee and ordered to be printed, not to be brought back by a motion to reconsider.

AFFAIRS IN ARKANSAS.

Mr. POLAND. I now yield to the gentleman from New York, [Mr. SCUDDER.]

Mr. SCUDDER, of New York. If the case before the House were not one of first impression and if there were any precedent afforded in the past history of the country, if any occasion had arisen where Congress had been called upon to set aside the constitution of a State, to remove all of its political machinery, to displace all of its officers, I should have felt less difficulty than now oppresses me in approaching the discussion of this subject. Somewhat afflicted by a malady that almost unfits me for the proper consideration of the motion, I must limit myself mainly to the work of the pioneer, to clear away the tangle and obstructions in this matter and present the ground clear and open for the examination and further action of the House. The task would be intolerably painful if it were not relieved by the cheering light that breaks upon me at every advanced step and affords the assurance of a safe and certain rest at the end.

What is this difficulty with Arkansas? Why has Congress been beset by importunities and pressed by demands? Why are recommendations heard and threats uttered? Why does a wandering supplicant sit at our doors and urge his personal claims for State honors upon our generous attention. These questions addressed to the student of political history would lead him to do what we ought to do in this case, examine this subject of Arkansas with calmness, fairness devoid of passion or of prejudice. If matters of supreme moment, not embraced in that class resting for success upon excitement, can ever be discussed in the councils of the nation without frenzied harangues and passionate appeals, this is the hour and this the occasion upon which they should be so discussed and this motion should be superlatively in the order of such discussion.

Let any one familiar with our Federal Constitution and to whom the events in Arkansas of last year up to the date of the constitutional convention should be unknown attempt with candor and intelligence to answer the questions I have just presented, and he would be struck with consternation. He would find the permission given by the Constitution to Congress or the Executive to interfere with the domestic affairs or legislation of a State limited to these conditions, namely: Where a republican form of government had been superseded by one anti-republican in form; where domestic violence of such volume that it threatened the safety of the State existed; or where an invasion of the State had been effected and the State was unable to throw out the invaders. No one of these conditions to-day exists in Arkansas; and I discuss the government of Arkansas as it is to-day, for our action is to be to-day. It is to remain a State, with its general form of government as now existing, or it is to be thrown by the action of this great representative body of the United States into a condition of comparative anarchy.

Its constitution not only vies in republican merit with that of the other States, but is far superior to many in the essential characteristics of republicanism. It has succeeded to one of signally inferior qualities. It provides for the election by the people of over two thousand officers heretofore appointed by the chief executive, thus giving to the people the power of selecting their rulers and officers, where under the prior charter they were the subjects of executive favor. If "republican form of government" has any correct definition it lies right in the line of the present state of things in the State of Arkansas. It is that form of government where the supreme power rests in the people and is exercised by representative agencies of their own selection.

In further support of the resulting, as well as the inhering virtues of the present constitution, let me say that over three hundred of the colored citizens of the State of Arkansas are to-day in possession of offices of various grades and honor, and are discharging their duties in peace and without molestation so far as I know. Of these over one hundred and sixty are justices of the peace, filling that highest of all the low offices of a judicial character; that one judicial office that confers upon the magistrate not only the power of judicial determination, but the magisterial and ministerial authority of suppressing riots and suppressing violence, a power that few appellate magistrates in any State are vested with.

In the Legislature sit eight colored members; so there is in that State to-day a larger representation of that race in whose behalf some are clamoring for this change of the form of government in Arkansas than the entire Southern States have afforded to us in this body.

Passing from the first condition recognized by the Constitution as necessary for congressional action, we may treat the others, domestic violence and invasion, as one in this case.

This age affords such numerous and superior facilities for information that no disturbance even of trival character can occur in a remote corner of the Union and fail to be known and heralded everywhere. If the social system or the political organization of Arkansas were in a state of confusion, irregularity, or anomaly, everybody who can read would know it. Capital shuns scenes of violence. The trader avoids a community where property and personal rights are insecure. The invalid will not seek the comforting airs and waters of localities echoing with cries of distress and calls for help, where murder stalks at noonday with its red right hand upraised and death chokes the sunlight with damps and gloom. But capital goes to Arkansas. The merchants of the great eastern and western cities trade with her people. The worn and wearied invalid leaves the luxurious quarters of his metropolitan home for the Hot Springs beyond Little Rock. Intercourse is free between this and all the other States of the Union. No interruption to travel exists; no sentry is posted at the borders to halt the citizens incoming or outgoing. No armed force traverses the public ways and challenges the right of the wayfarer to free passage over them. A governor fills the executive chair. A Legislature is engaged in the appropriate duties assigned it by the people through a liberal and republican constitution. The courts are open, and the oppressed are free to seek the remedies that enlightened and wholesome laws have afforded. Litigants are heard, and great questions of personal and property rights are of daily disposition. The whole machinery of government moves freely and unimpared. The civil authorities are in supreme control, and the great writ of *habeas corpus*, not yet suspended, insures the speedy relief of a citizen wrongfully arrested.

There is Arkansas as the impartial observer of to-day will acknowledge. No one will deny that this State, like every other, has instances of violence. The human passions rage as fiercely there as elsewhere. Years of disorder have left the fruits of lawlessness. Distinct races thrown within a few years from opposing political and social spheres upon a common plane have not yet reached a community of purpose either in ordinary affairs or those of the State. Personal hostilities are intensified by habits of irregular life and wild action, and terminate in appeals to individual force instead of the orderly movement of the law. Arkansas thus presents the general aspect of a frontier State; and I assert that at this juncture she presents none more offensive or more dangerous.

Sir, we are told that this condition is due to the oppressive suffocation of power; that a state of tyranny prevails in Arkansas; that the people of that State, and more especially the colored citizens of the State, fear to rise and protest against the present government. Let me call attention to the population and the disposition of the population of Arkansas. Four hundred and fifty thousand souls; 124,000 of the colored race; 30,000 of black male citizens over twenty-one years; seventy thousand odd of white citizens over twenty-one. Now, does any gentleman within this Chamber believe for one moment that a constitution begotten in fraud—as has been asserted here—that a constitution which is no constitution, but a sham, a device, and a trickery, can be imposed upon 70,000 whites and 30,000 colored citizens in these United States without the most bitter, the most prompt, and the most decisive resentment? Sir, petitions would roll up from the people in volumes to this Hall. You would hear cries of disturbance and intimidation; you would hear cries of warning such as were never listened to one year ago, when Arkansas presented the characteristics that called for the investigation here.

It is trifling with reason and with good judgment to assert that the community, the entire people of Arkansas may be held in this political bondage—may be held under the machinery of three thousand civil officers. Martial law does not exist there, armed troops are not scouring the fields and imprisoning its citizens. The people acquiesce in the law, they acquiesce in the constitution, and if the argument were that fear of this congressional committee, as has been asserted, is one of the elements that lead to quiet, where in Heaven's name existed that fear when the congressional committee, sitting in the State of Arkansas, find and report abuses—acts of violence—disturbance all through a period of six, eight, or ten preceding months? There seemed to be no fear of the committee then, and it was in the capital of the State.

Sir, the peaceful condition of Arkansas is due to the acquiescence by its citizens in its constitution and its government; and this quiet, this order, this tranquillity are counted as "anti-republican in form!"

With all this, sir, we are called upon to subvert her government and destroy her constitution, displace her judges and her officers, declare her laws void, the acts of her sheriffs trespasses; in short, crush the entire machinery of her administration and in its place put a single man—Joseph Brooks! The resolution of the minority, the message from the Chief Magistrate of the Union, recommend simply the restoration of Joseph Brooks. Where is all the rest of that vast body and material that go to make up a government? If the constitution now existing in Arkansas be as is claimed a mere fraud and sham, and no substitute or succession of the prior constitution, every officer elected under it has no more right or title to his office, nor can any act done by that officer be justified by any prin-

ciple of law, than if committed by a man in Kamschatka. A void constitution is a void everything in a State. There is nothing *de facto* about it; there is no color of title that comes under it. Every decision of a court is waste paper; every decree of a court is a violation of sense and of justice; every act of a sheriff is a trespass. If the sheriff in carrying out the judgment of the court shall have been called upon to execute a criminal, that sheriff is a murderer in cold blood in the eye of the law.

That is the condition gentlemen seek to put upon Arkansas. That is the legal status they advocate here, and that is pressed upon the attention of the nation for the purpose, as it is said, of correcting some fraudulent political operations of that State. I shall have to do with the political operations of that State directly. We are to substitute order by confusion, republican government by anarchy, to sweep away laws and rights and blot out a year of history. It stands us in hand as legislators of a great nation to pause on the verge of this work of destruction, to find good reason for it, and count its cost.

Let me now, sir, review the history of Arkansas for two or three years, and see if even there such facts are presented as may justify us under the Constitution in their proposed widespread ruin. The course of examination will lie along scenes of peculiar turbulence, calamity, and oppression; for this unhappy State less than a year ago was filled with rapine, political corruption, and general dismay.

In 1872 the republican leaders of Arkansas nominated Elisha Baxter as their candidate for governor. A portion of the party, disaffected with its managers, selected Joseph Brooks as its candidate, and the democratic party accepted this movement as its own, and Brooks became their standard-bearer. In the registration that preceded the election and at the election the most amazing frauds were committed. The report details them in part, but their extent must be left to the conjecture of those who participated or those who have joined in similar criminal attempts to destroy the fundamental practical principles of the Republic in the purity and integrity of suffrage. It is humiliating to confess that these frauds were the work of republicans. It is consoling to find that republicans to-day condemn and flout them as they deserve to be condemned and flouted. Of all the various contrivances and resorts, before the election, at the election, and after the election, by which the democratic nominee, Mr. Brooks, should be cheated out, counted out, and not returned as governor, the reports present a sufficiently abhorrent mass. If upon any fanciful sketch of constitutional authority Congress could be supposed to have power over State elections, if the interpretation of the Constitution required any quickening to lead up to such an expansion of its provisions, the absolute lack of honor or moral obligation revealed at this stage of the political history of Arkansas would afford it. Corruption and trickery mark and deface all this page. The election was general, State and national. A Legislature and State officers were to be and were elected. The constitution of the State then existing, and known as that of 1868, provided for the returns to the president of the senate.

And just here, Mr. Speaker, I will ask the Clerk to read from the constitution the provision respecting returns in cases of elections in the State of Arkansas as well as subsequent sections of the law.

The Clerk read as follows:

The returns of every election for governor, lieutenant-governor, secretary of state, treasurer, auditor, attorney-general, and superintendent of public instruction shall be sealed up and transmitted to the seat of government by the returning officers and directed to the presiding officer of the senate, who during the first week of the session shall open and publish the same in presence of the members there assembled. The person having the highest number of votes shall be declared elected; but if two or more shall have the highest and equal number of votes for the same office, one of them shall be chosen by a joint vote of both houses. Contested elections shall likewise be determined by both houses of the General Assembly in such manner as is or may hereafter be prescribed by law—*Constitution of* 1868, article 6, section 19.

SEC. 100. All contested elections of governor, except as herein provided, shall be decided by the joint vote of both houses of the General Assembly; and in such joint meeting the president of the senate shall preside.

SEC. 101. If any person contest the election of governor, he shall present his petition to the General Assembly, setting forth the points on which he will contest the same and the facts which he will prove in support of such points, and shall pray for leave to introduce his proof; and a vote shall be taken by yeas and nays, in each house, whether the prayer shall be granted.

Mr. SCUDDER, of New York. Sir, from these provisions the House will understand that the returns of votes cast at the election in November, 1872, for the State officers of Arkansas were to be returned to the president of the senate and were to be by him counted in the presence of both houses by the president of the senate. The returns made were properly made as to form and manner. They were to be counted in the presence of both houses by the president of the senate and were so counted, and upon the count Baxter was shown to have received a majority of 2,958 votes. These returns were made on the first week of the session; and as provided by the law, as well as by the constitution, this legislative body met.

My friend from Illinois and colleague upon the committee in his minority report led men to suppose he had intended to intimate that that early meeting of the Legislature of Arkansas was under military authority and military control. But my friend this morning has assured me that was not his intention. In his report it is stated that soldiers surrounded the halls and passes were required to enter. Upon the examination of the testimony it will simply appear that Mr. Hadley, the lieutenant-governor, before the installment of Elisha Baxter, had asked some soldiers to come in the capacity of policemen, for the purpose of protecting the hall against some invasion of a convention of some sort that had been suggested, but had no relation to the Legislature or its doings, and these were placed at the doors at the time of the convention of the Legislature.

Now, sir, of the votes cast at that election the majority of the committee report and find that Joseph Brooks received the majority. The evidence upon that point I shall not largely discuss, nor does it, perhaps, demand a large discussion in view of the general constitutional principles that apply to the condition of the State in its election. But I am informed since the report was made that some examinations by the Committee on Elections of this House point in the direction of a majority of four votes for Baxter. However that may be, there was just one tribunal on earth designated for the purpose of deciding upon those returns. The tribunal acted upon every return that came to them and declared Elisha Baxter elected governor of the State of Arkansas.

There, with that declaration, it should have forever ended. There everything should have ceased with reference to the governorship on the part of Joseph Brooks. All precedents throughout the country, the principles of law and the principles of construction so determine and so decide. Elisha Baxter is now installed. He is the governor of the State. In April following, under the provision the Clerk has read providing for contested elections of governor, Joseph Brooks properly filed his petition before the legislative body to contest the election of Elisha Baxter. The Legislature considered and rejected it—rejected it by a very large majority—nine only, I think, of the united body voting in the affirmative.

Now, Mr. Speaker and gentlemen, you who have been educated to the bar are aware that if there is a single well-established, fundamental principle of action in the matter of determining the right to an office: it is this, that where the constitution of a State or the statutes of a State commit to a special tribunal or a special body the determination of a particular or special question of right to an office under a contested election, and that body or tribunal acts upon the case and decides the case, it is forever concluded. There is no tribunal in the land that the law recognizes to review that decision. There is no appeal from it. There is no tribunal having co-ordinate jurisdiction. It is lodged in that one body. It is entirely exhausted with the action of that body. The right of the man is estopped and concluded, even if you had not the other principle that I have just pronounced by asserting his claims in that body, and there forever the contest for the position of governor ends, and there this should forever have ended.

There are cases—there was a case in my own State as early as 1799. The most distinguished jurist of his day, John Jay, competing with George Clinton for the position of governor of the State of New York, was deprived of his election in precisely the same manner as Joseph Brooks, if he received the majority of votes in this case, was deprived of his. The returns in the State of New York, as provided by the Legislature at that time, were to be sent by the sheriff of the county to the returning board or council of the State. Some of the returns sent by a sheriff holding over his office with no successor appointed, held to be a *de facto* sheriff, because he had been a *de jure* and a *de facto* sheriff both, were excluded and shut out by the council, and Mr. John Jay lost his election. This was right upon the eve of the adoption of the constitution. This great constitutional lawyer, this great citizen, this man who had been the framer of the first constitution of the State of New York, and who had largely participated in the framing of the Constitution that we are living under, was rejected and refused the possession of the seat of governor of the State of New York. And what did he do? Certainly every principle of construction, all of the views that obtained in the forming of the constitution were fresh in the minds of all. There was no application to Congress and no application to a court. It was held to be final, no matter how wrong. And it should have been so in this case.

But, sir, I advance one step further in the line of showing that Elisha Baxter was really the legal governor of the State of Arkansas. In the supreme court an application was made by Mr. Brooks for a *quo warranto* to determine who was entitled to hold that office. There has been some talk of some of the counsel before us about informations in the nature of *quo warrantos*, and about that being disregarded in the consideration of the question. The point was this: Mr. Brooks wanted the seat that Mr. Baxter held, and appealed to the supreme court of Arkansas for it. If the laws of Arkansas had not contained the permission to go to the Legislature in the case of contests of election, certainly the supreme court would have entertained and would have had the jurisdiction of the case. That application was denied. The court held that it had no jurisdiction. They at that time entertained some respect for an observance of the general principles of law, and declared and pronounced that no court in Arkansas had jurisdiction of the question of contest at that time.

If the first proposition I make could by possibility have anything of weakness in it, certainly the next proposition which I now make that this conclusive decision of the supreme court of the State of Arkansas forever precluded Brooks from office should be final. But, sir, there is no finality in certain attempts and efforts. There is a desire that, impelled by influences behind in part and in part by the inherent and the instinctive aspiration for position, honor, glory, or emoluments of office, or whatever it may be, fills the bosom of the

citizen for the moment which drives it to resources the imagination could never conceive.

We find next that Mr. Brooks was in a low court. The supreme court having absolute jurisdiction over all the courts, having decided his claim against him, he drops down to the very surface of judicial existence and brings action for salary in the circuit court. At the same time another State officer elected on the Baxter ticket and a State officer elected on the Brooks ticket get involved in a squabble about their offices in the same lower court. The officer elected on the Baxter ticket applies to the supreme court for a writ of prohibition. It was instantly granted, the supreme court stating that the lower court had nothing to do in the premises, had nothing to do with the question of the election of State officers, and that there was another tribunal to dispose of their contests, namely, the Legislature.

But following these two decisions comes finally what has brought us to this motion and to the consumption of this time. In this suit in the circuit court, and the time was running along, Baxter was committing acts that no man can justify, coalescing with his opponents of the opposite party in the State of Arkansas, playing the game of double-wabble. The only possible explanation that I have found of the political condition of Arkansas I find in the late message of the President of the United States to the Senate, containing certain information, and as he says "all the information in my possession not heretofore furnished relative to affairs in the State of Arkansas;" and I read only two lines. And what I read is from a letter addressed to the President May 28, 1874: and I read them without reference to any gentleman from Arkansas in this House or elsewhere; but it does furnish me with some sort of solution of the difficulties, troubles, and vices that obtain in that State:

Sir, in brief let me state a few facts in regard to matters in this State. In the first place there is not a man in the State that has as much political sense as an oyster.

You find that Baxter, elected by the republicans, is presently in the hands of the democrats; Brooks, elected by the democrats, presently in the hands of the republicans; and the republicans stood by Baxter until, in 1874, he refused to recognize or sign some railroad bill and appointed democrats to office.

All that sort of things are existing there, all sorts of departures from propriety, honesty, and probity. They are all to be found there strewed over that unfortunate State; and right upon all these troubles comes the decision of the circuit court of Arkansas, upon a demurrer to a declaration in a suit brought by Brooks for his salary, overruling the demurrer and rendering a judgment finally in favor of Mr. Brooks. Upon that Mr. Brooks, with seven unarmed men, as my colleague [Mr. WARD] says, or with seven armed men, as the Attorney-General says, enters the office of Mr. Baxter and expels him from his seat, and assumes the gubernatorial insignia and paraphernalia, and telegraphs to Washington that he is governor of the State of Arkansas, and asks for Federal assistance to secure him in his position.

Now, if the fourth section of the fourth article of the Constitution in relation to domestic violence has ever been considered, it was certainly so in the case of Luther *vs.* Borden, which is familiar to every law student, and that has decided that where domestic violence exists in a State to a degree that the State authorities feel called upon to invoke the Federal assistance, then the President, who may act by himself, or Congress acting through the President, at his request, must recognize a government, and that government recognized there is no further question about it. That is a finality.

Now Mr. Brooks, with his seven unarmed men, ejected Mr. Baxter from his room, and although Baxter, as some witnesses state, had summoned about him a body-guard of desperate young fellows, and he then telegraphed to the Chief Executive of the nation that he was governor of the State of Arkansas.

Sir, I believe that the President of the United States deserves the highest praise for his honorable and intelligent action in that case. He at once submitted the matter to the proper law department, and when the proper and becoming recognition had been made upon him recognized Elisha Baxter. Prior to his recognition of Baxter—and that is a subject which I have overlooked in the run of this discussion—under the old constitution Baxter possessed a power of appointment that few governors of the States possessed and none ever should possess. He filled certain offices with the members of his Legislature. As rapidly as he appointed and accepted their resignation—those members of the Legislature signing resignations at the time of appointments—he declared their appointments vacant, as the law authorized him to do. In September he issued a call for the election of representatives to fill vacancies created by his own act. That election was held. It is said another political bargain was struck between the two parties there, that Baxter had agreed not to call this extra Legislature. But when the emergency was upon him, when the hour of peril and great need was there, when Arkansas was in the throes of this domestic violence and disturbance, when every one doubted whether blood should not run in her streets and pour down her valleys, then Baxter telegraphed to the President, "I propose to convene my Legislature to see if they cannot keep us out of this." This is in the April before the recognition of Baxter by the President. The President's response again comes up to the standard you would look for, and says: "Any method for the peaceful settlement of this great difficulty would recommend itself to my approbation." Upon that Baxter convened his Legislature.

Just there, before I proceed to a further consideration of this question, let me note the effect of the recognition by the President. From 1870 down, all through the State of Arkansas intelligent citizens had complained of the provisions of the constitution of 1868; intelligent citizens had proposed amendments to the constitution; they had proposed constitutional conventions. I think it was in evidence before us that even Mr. Baxter had argued in behalf of a general constitutional convention. However that may be, this subject had been agitated all over the State, and a general constitutional convention was sought and prayed for, for the purpose of revising the constitution, excluding from it this terrible power of appointment to office vested in the governor.

[Here the hammer fell.]

The SPEAKER *pro tempore*, (Mr. MCCRARY.) The time of the gentleman has expired.

Mr. SAYLER, of Ohio. I will yield fifteen minutes of my time to the gentleman from New York, [Mr. SCUDDER.]

Mr. WARD, of Illinois. I do not object to the yielding, but under the arrangement the time from this on belongs to me.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. WARD] is entitled to the floor at this time if he claims it, and the arrangement proposed by the gentleman from Ohio [Mr. SAYLER] can be made only by consent. If the gentleman from Illinois does not object, the gentleman from New York [Mr. SCUDDER] will proceed for fifteen minutes.

Mr. SCUDDER, of New York. This great desire for a constitutional convention, for the purpose of the general revision of the constitution of the State, had met with some opposition on behalf of those who preferred the old constitution, and not a new one, that the provision in the constitution for its amendment, limiting the amendment to the Legislature; that the Legislature should act upon amendments once or twice, and then upon submission to the people, and approbation by the people, they would become a part of the great political charter of the State.

I am amazed to find that men of some experience and some reading still cling to that theory, that the political charter of a State, that the constitution of a State, if it contains no provisions for its own general revision and succession, must be revised and amended only by the Legislature. To any one born in the State of Massachusetts; to any one born and reared in the State of New York; to any one born in Maryland, Delaware, or any one of a dozen other States the preposterousness of this proposition would be overcome by the fact that right there before him stood precedents sanctioned by the people, sanctioned by the courts, sanctioned by the great political thinkers, and recognized all over the land through the indirect recognition of the Federal Executive.

The matter of forming a State constitution is with the people of the State. We are departing widely from the early principles and settled convictions of those who considered constitutions in the early days of the Republic. If the proposition be true that the power is inalienably vested in the people, and the other proposition be true that for the purpose of order and quiet you should proceed through legal forms to the amendment of your constitution, then comes this, that that inalienable power, so long as it is quietly exercised—so long as exercised within the limits of ordinary form—can be exercised at any time in pursuance of such forms, and these are conveniences but not restraints. I maintain that if a constitution drops from the clouds upon a great people, if a constitution had dropped from the clouds upon the State of Arkansas, and the people of Arkansas all acquiesced in it, if they favored it, if they adopted it, if they say this is our law and proceed to act under it, that great rule of limitation to disturbance of political powers will obtain, and it becomes the fundamental law.

But it is not necessary to go beyond the ordinary reasoning upon this matter. Massachusetts has done it, my State has done it, other States have done it. Then upon the agitation of this matter of the constitutional convention, Baxter having called his Legislature with the approbation of the President, that Legislature while still in session adopted a resolution providing for a convention of the people to consider a new constitution.

Now, sir, we take once more the recognition by the President. It was coupled with a long, elaborate, well reasoned opinion by the Attorney-General, which I beg leave to have printed with my remarks.

DEPARTMENT OF JUSTICE, *Washington, May* 15, 1874.

SIR: Elisha Baxter, claiming to be governor of Arkansas, having made due application for executive aid to suppress an insurrection in that State, and Joseph Brooks, claiming also to be governor of said State, having made a similar application, and these applications having been referred by you to me for an opinion as to which of these two persons is the lawful executive of the State, I have the honor to submit: That Baxter and Brooks were candidates for the office of governor at a general election held in Arkansas on the 5th day of November, 1872. Section 19 of article 6 of the constitution of the State provides that "the returns of every election for governor, lieutenant-governor, secretary of state, treasurer, auditor, attorney-general, and superintendent of public instruction shall be sealed up and transmitted to the seat of government by the returning-officers and directed to the presiding officer of the senate, who during the first week of the session shall open and publish the same in the presence of the members there assembled. The person having the highest number of votes shall be declared elected; but if two or more shall have the highest and equal number of votes for the same office, one of them shall be chosen by joint vote of both houses. Contested elections shall likewise be determined by both houses of the General Assembly in such a manner as is or may be prescribed by law."

Pursuant to this section, the votes for governor at the said election were counted, and Baxter was declared to be duly elected. Said section, as it will be noticed,

after providing for a canvass of the votes, specially declares "contested elections shall likewise be determined by both houses of the General Assembly in such manner as is or may hereafter be prescribed by law." When this constitution was adopted there was a law in the State, which continues in force, prescribing the mode in which the contest should be conducted before the General Assembly, the first section of which is as follows: "All contested elections of governor shall be decided by joint vote of both houses of the general assembly; and in such joint meeting the president of the senate shall preside." Brooks accordingly presented to the lower house of said Assembly his petition for a contest, but by the decisive vote of 63 to 9 it was rejected by that body. Subsequently the attorney-general, upon the petition of Brooks, applied to the supreme court of the State for a *quo warranto* to try the validity of Baxter's title to the office of governor, in which it was alleged that Baxter was a usurper, &c.

That court denied the application, upon the ground that the courts of the State had no right to hear and determine the question presented, because exclusive jurisdiction in such cases had been conferred upon the General Assembly by the constitution and laws of the State. Brooks then brought suit against Baxter in the Pulaski circuit court, under section 525 of the civil code of Arkansas, which reads as follows: "Whenever a person usurps an office or franchise to which he is not entitled by law, an action by proceedings at law may be instituted against him, either by the State or the party entitled to the office or franchise, to prevent the usurper from exercising the office or franchise." Brooks stated in his petition that he received more than 45,000 votes and that Baxter received less than 30,000 votes for governor at the said election, and, after declaring that Baxter had usurped the office, prays that it may be given to him by the judgment of the court, and that he may recover the sum of $2,000, the emoluments of said office withheld from him by Baxter. This presented to the court the simple question of a contest for the office of governor. Baxter demurred to this petition, on the ground that the court had no jurisdiction of the case; and afterward, on the 15th of April, the court, in the absence of the defendant's counsel, overruled the demurrer, and, without further pleading or any evidence in the case, rendered judgment for Brooks in accordance with the prayer of his petition. Brooks within a few minutes thereafter, without process to enforce the execution of said judgment and with the aid of armed men, forcibly ejected Baxter and took possession of the governor's office.

On the next day after the judgment was rendered Baxter's counsel made a motion to set it aside, alleging, among other things, as ground therefor that they were absent when the demurrer was submitted and the final judgment thereon rendered; that the judgment of the court upon overruling the demurrer should have been that the defendant answer over, instead of which a final judgment was rendered, without giving any time or opportunity to answer the complaint upon its merits; that the court assessed the damages without any jury or evidence, and finally that the court had no jurisdiction over the subject-matter of the suit; but the next day this motion was overruled by the court. Section 4, article 4, of the Constitution of the United States is as follows: "The United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive, (when the Legislature cannot be convened,) against domestic violence." When, in pursuance of this provision of the Constitution, the President is called upon by the executive of a State to protect it against domestic violence, it appears to be his duty to give the required aid, and especially when there is no doubt about the existence of the domestic violence; but where two persons, each claiming to be governor, make calls respectively upon the President under said clause of the Constitution, it of course becomes necessary for him to determine in the first place which of said persons is the constitutional governor of the State.

That section of the constitution of Arkansas heretofore cited, in my opinion, is decisive of this question as between Baxter and Brooks. According to the constitution and laws of the State, the votes for governor were counted and Baxter declared elected, and was at once duly inaugurated as governor of the State. There is great difficulty in holding that he usurped the office into which he was inducted under these circumstances. Assuming that no greater effect is to be given to the counting of the votes in presence of the General Assembly than ought to be given to a similar action by any board of canvassers, yet when it comes to decide a question of contest the General Assembly is converted by the constitution into a judicial body, and its judgment is as conclusive and final as the judgment of the supreme court of the State on any matter within its jurisdiction. Parties to such a contest plead and produce evidence according to the practice provided in such cases, and the controversy is invested with forms and effect of a judicial procedure.

When the people of the State declared in their constitution that a contest about State officers shall be determined by the General Assembly, they cannot be understood as meaning it might be determined in any circuit court of the State. To say that a contest shall be decided by decision, and then to say after the decision is made that such contest is not determined, but is as open as it ever was, is a contradiction in terms. Can it possibly be supposed the framers of this constitution, when they declared contested elections about State officers, including the governor, should be determined by the General Assembly, intended that any such contest should be just as unsettled after as it was before such determination of it? Manifestly they intended to create a special tribunal to try claims to the high offices of the State. But the tribunal is not special if the courts have concurrent jurisdiction over the subject. Brooks appears to claim that when a contest for governor is decided by the General Assembly the defeated party may treat the decision as a nullity and proceed *de novo* in the courts. This makes the constitutional provision as to the contest of no effect, and the proceedings under it an empty form.

When the house of representatives dismissed the petition of Brooks for a contest, it must be taken as a decision of that body on questions presented in the petition. But it is not of any consequence whether or not the General Assembly has in fact decided the contest, if the exclusive jurisdiction to do so is vested in that body by the constitution and laws of the State. Section 4 of article 5 of the constitution of Arkansas, like most other constitutions, declares that each house of the Assembly shall judge of the qualifications, election, and return of its members, and it has never been denied anywhere that these words confer exclusive jurisdiction. But the terms, if possible, are more comprehensive by which the constitution confers upon the Legislative Assembly jurisdiction to judge of the election of State officers.

Doubtless the makers of the constitution considered it unsafe to lodge in the hands of every circuit court of the State the power to revolutionize the executive department at will, and their will is forcibly illustrated by the case under consideration, in which a person who had been installed as governor according to the constitution and laws of the State, after an undisturbed incumbency of more than a year, is deposed by a circuit judge, and another person put in his place, upon the unsupported statement of the latter that he had received a majority of votes at the election. Looking at the constitution alone, it is perfectly clear to my mind that the courts of the State have no right to try a contest about the office of governor; but that exclusive jurisdiction over that question is vested in the General Assembly. This view is confirmed by judicial authority.

Summing up the whole discussion, the supreme court of Arkansas say, in the case of The Attorney-General *vs.* Baxter, above referred to, "Under this constitution the determination of the question as to whether the person exercising the office of governor has been duly elected or not is vested exclusively in the General Assembly of the State, and neither this nor any other State court has jurisdiction to try a suit in relation to such contest, be the mode or form what it may; whether at the suit of the attorney-general, or on the relation of a claimant through him, or by an individual alone claiming a right to the office. Such an issue should be made before the General Assembly; it is their duty to decide, and no other tribunal can determine that question. We are of opinion that this court has no jurisdiction to hear and determine a writ of *quo warranto* for the purpose of rendering a judgment of ouster against the chief executive of this State, and the right to file an information and issue a writ for that purpose is denied."

Some effort has been made to distinguish this case from that of Brooks *vs.* Baxter in the circuit court by calling the opinion a dictum; but the point presented to and decided by the supreme court was that in a contest for the office of governor the jurisdiction of the General Assembly was exclusive, which, of course, deprived one court as much as another of the power to try such a contest. There is, however, another decision made by the same court on the precise question presented in the case of Brooks *vs.* Baxter. Berry was a candidate for State auditor on the same ticket with Brooks. Wheeler, his competitor, was declared elected by the General Assembly. Berry then brought a suit, under said section 525, in the Pulaski circuit court, to recover the office. Wheeler applied to the supreme court for an order to restrain the proceedings, and that court issued a writ of prohibition forbidding the said court to proceed, on the ground that it had no jurisdiction in the case as to the question of law involved.

The cases of Berry and Brooks are exactly alike. That this circuit court should have rendered a verdict for Brooks under these circumstances is surprising, and it is not too much to say that it presents a case of judicial insubordination which deserves the reprehension of every one who does not wish to see public confidence in the certainty and good faith of judicial proceedings wholly destroyed. Chief Justice McClure, who dissented in the case of The Attorney-General *vs.* Baxter, delivered the opinion of the court in the Wheeler case, in which he uses the following language: "The majority of the court in the case of The State *vs.* Baxter, under the delusion that *quo warranto* and a contested election proceeding were convertible remedies, having one and the same object, decides that neither this nor any other State court, no matter what the form of action, has jurisdiction to try a suit in relation to a contest for the office of governor. As an abstract proposition of law, I concede the correctness of the rule, and would have assented to it if the question had been before us. The question now before this court is precisely one of contest, and nothing else. As to all matters of contested election for the offices of governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general, and superintendent of public instruction, I am of the opinion that it can only be had before the General Assembly."

He then adds in conclusion: "I think a writ of prohibition ought to go to prohibit the circuit court from entertaining jurisdiction of that portion of Berry *vs.* Wheeler that has for its object a recovery of the office." All five of the judges heard this case, and there was no dissent from these views as to the question of jurisdiction. To show how the foregoing decisions are understood in the State, I refer to a note by Hon. H. C. Caldwell, judge of the United States court for the eastern district of Arkansas, upon section 2379 of the Digest of the Statutes of the State lately examined and approved by him, which is as follows: "By the provisions of section 19 of article 4 of the constitution, the jurisdiction of the General Assembly over cases of contested election for the officers in said section enumerated is exclusive." (Attorney-General on the relation of Brooks *vs.* Baxter, MS. Op., 1873; Wheeler *vs.* Whytock, MS. Op., 1873.)

It is assumed in the argument for Brooks that the judgment of the Pulaski circuit court is binding as well upon the President as upon Baxter until it is reversed; but where there are conflicting opinions, as in this case, the President is to prefer that one which, in his opinion, is warranted by the constitution and laws of the State. The General Assembly has decided that Baxter was elected. The circuit court of Pulaski County has decided that Brooks was elected.

Taking the provision of the constitution which declares that contested elections about certain State officers, including the governor, shall be determined by the General Assembly, and that provision of the law heretofore cited which says that all contested elections of governor shall be decided by the Legislature, and the two decisions of the supreme court affirming the exclusive jurisdiction of that body over the subject, and the conclusion irresistibly follows that such judgment of the circuit court is void. A void judgment binds nobody. Said section 525, under which this judgment was rendered, must be construed with reference to the constitution and other statutes of the State, and is no doubt intended to apply to county and other inferior officers for which no provision elsewhere is made. But the constitution takes the State officers therein enumerated out of the purview of this section, and establishes a special tribunal to try these contested-election cases to which they are parties. The jurisdiction of this tribunal is exclusive. (Ohio *vs.* Grisell and Menlon, 15 Ohio, 114; Attorney-General *vs.* Garragues, 28 Pennsylvania, 9; Commonwealth *vs.* Baxter, 35 *ibid.*, 263; Commonwealth *vs.* Leech, 44 *ibid.*, 332.) Respecting the claim that Brooks received a majority of the votes at the election, it must be said that the President has no way to verify that claim. If he had it would not, in my opinion, under the circumstances of this case, be a proper subject for his consideration.

Perhaps, if everything about the election was in confusion and there had been no legal count of the votes the question of majorities might form an element of discussion; but where, as in this case, there has been a legal count of the votes, and the tribunal organized by the constitution of the State for that purpose has declared the election, the President, in my judgment, ought not to go behind that action to look into the state of the vote. Frauds may have been committed there to the prejudice of Brooks, but unhappily there are few elections where partisan zeal runs high in which the victorious party, with more or less truth, is not charged with acts of fraud. There must, however, be an end to controversy upon the subject. Somebody must be trusted to count votes and declare elections. Unconstitutional methods of filling offices cannot be resorted to because there is some real or imagined unfairness about the election. Ambitious and selfish aspirants for office generally create the disturbance about this matter, for the people are more interested in the preservation of the peace than in the political fortunes of any man. Either of the contestants with law and order is better than the other with discord and violence. I think it would be disastrous to allow the proceedings by which Brooks obtained possession of the office to be drawn into precedent. There is not a State in the Union in which they would not produce a conflict, and probably bloodshed. They cannot be upheld or justified upon any ground, and in my opinion Elisha Baxter should be recognized as the lawful executive of the State of Arkansas.

Since the foregoing was written I have received a telegraphic copy of what purports to be a decision of the supreme court of Arkansas, delivered on the 7th instant, from which it appears that the auditor of the State, upon the requisition of Brooks, drew his warrant on the treasurer for the sum of $1,000, payment of which was refused. Brooks then applied to the supreme court for a writ of *mandamus* upon the treasurer, who set up by way of defense that Brooks was not governor of the State, to which Brooks demurred, and thereupon the court say: "The only question we deem it necessary to notice is, Did the circuit court have jurisdiction to render the judgment in the case of Brooks *vs.* Baxter? We feel some delicacy about expressing an opinion upon the question propounded, but under the pleadings it has to be passed upon incidentally if not absolutely in determining whether the relator is entitled to the relief asked, for his right to the office, if established at all, is established by the circuit court of Pulaski County. We are of opinion that the circuit court had jurisdiction of the subject-matter, and its judgment appears to be regular and valid. Having arrived at these conclusions, the demurrer is overruled and the writ of *mandamus* will be awarded as prayed for."

To show the value of this decision it is proper that I should make the following statement: On the 20th of April, Brooks made a formal application to the President

for aid to suppress domestic violence, which was accompanied by a paper signed by Chief Justice McClure and Justices Searle and Stephenson, in which they stated that they recognized Brooks as governor, and to this paper also is appended the name of Page, the respondent in the above-named proceeding for *mandamus*. Page, therefore, did not refuse to pay the warrant of the auditor because he did not recognize Brooks as governor, but the object of his refusal evidently was to create such facts as were necessary to make a case for the supreme court. Accordingly the pleadings were made up by the parties, both of whom were on the same side in the controversy, and the issue so made was submitted to judges virtually pledged to give the decision wanted, and there, within the military encampment of Brooks, they hurriedly, but with delicacy, as they say, decided that he is governor, a decision in plain contravention of the constitution and laws of the State, and in direct conflict with two other recent decisions of the same court deliberately made. I refrain from comment.

More than once the Supreme Court of the United States has decided that it would not hear argument in a case made up in this way, and a decision obtained under such circumstances is not recognized as authority by any respectable tribunal. No doubt this decision will add to the complications and difficulties of the situation, but it does not affect my judgment as to the right of Baxter to the office of governor, until it is otherwise decided upon a contest made by the Legislature of the State. On the 11th instant, the General Assembly of the State was convened in extra session upon the call of Baxter, and both houses passed a joint resolution, pursuant to section 4 of article 4 of the Constitution of the United States, calling upon the President to protect the State against domestic violence. This call exhausts all the means which the people of the State have under the Constitution to invoke the aid of the Executive of the United States for their protection, and there seems to be, under the circumstances of the case, an imperative necessity for immediate action.

I have the honor to be, with great respect,

GEORGE H. WILLIAMS,
Attorney-General.

The PRESIDENT.

Upon that Mr. Brooks, as a good citizen should do, at once surrendered his authority. Now, I put it to the House that these three adjudications, the first, and I say still the final adjudication, upon all principle and all reason, made by the Legislature upon the contest; the second adjudication made by the supreme court of the State, a court of the highest jurisdiction in that State; and finally the recognition by the Executive of Mr. Baxter as governor of the State—I ask whether there should not have been forever an end to all of this discussion?

In the case of Luther *vs.* Borden this was the principle laid down; this was the proposition. That was a case growing out of the disturbances in Rhode Island, where a set of men, disaffected with the old colonial charter under which that State had been governed long prior to the Revolution down, had formed an assemblage; there was no legislative recognition of it, no legislative call for it, no one asking for it except individual citizens. Their convention met and formed a constitution. The people elected officers and undertook to put a government in motion; but the other government remained there in active existence, vitalized all the time through. Upon the appeal then by Govenor King to President Tyler assistance was promised by the Federal Government. Later came up this case of Luther *vs.* Borden, growing out of it. The parallel of facts between the case of Rhode Island and the case of Arkansas is in some respects singularly striking. Martial law existed in both. In both the citizens were assaulted, beaten, some slain, some driven from the State, some seized and imprisoned and afterward tried, convicted, and incarcerated. The question raised in the case was whether the Government had a right in its recognition to make the choice of one of the two powers in that State; and that was forever settled by the enunciation of this principle, that the political power of a State, the government of a State, must address itself directly for recognition to the great political department of the United States. And here it was either the President or Congress—the President through Congress or Congress at the instance of the President—no matter which. But it was decided that such recognition is absolutely final, and that no court should afterward enter upon the consideration of the propriety of the decision. It was final.

Now I beg to read an extract from the message of President Tyler on this subject, attributed to that able expounder of constitutional law, Mr. Webster. If the minority resolution should pass here, there is no barrier set to the extent of the power of this Congress over the domestic affairs of a State. If we can sit here and, after the determining of a disputed question as to who is governor by the State tribunals, the State Legislature, and the Executive, reverse all that, we can run away down to the fundamental condition of the election in the State. We can decide who are the registers; we can decide whether the polls were properly opened; we can decide whether the ballots were properly printed. In fact we do just this: we assert our right to become the law-makers of the State; for with the control of the election you have the control of the laws.

President Tyler in this message, which I believe is universally attributed to Mr. Webster, dwells upon this very point, and after repudiating the idea that anything in the way of a defect in the constitution of a government or the general condition of the State government could at all influence him in deciding upon his action, says:

> I also with equal strength resist the idea that it falls within the executive competency to decide in controversies of the nature of that which existed in Rhode Island on which side is the majority of the people or as to the extent of the rights of a mere numerical majority.
>
> For the Executive to assume such a power would be to assume a power of the most dangerous character. Under such assumptions the States of this Union would have no security for peace or tranquillity, but might be converted into mere instruments of Executive will. Actuated by selfish purposes, he might become the great agitator, fomenting assaults upon the State constitutions, and declaring the majority of to-day to be the minority of to-morrow, and the minority in its turn the majority, before whose decrees the established order in the State should be subverted. Revolution, civil commotion, and bloodshed would be inevitable consequences.
>
> The provision in the Constitution intended for the security of the States would then be turned into the instrument of their destruction. The President would become in fact the real constitution-maker for the States, and all power would be vested in his hands.

So here the assertion of this authority on our part would vest all power in our hands.

Now, sir, as to the constitutional convention of Arkansas, there is not sufficient time allowed me to discuss it; but it will doubtless be fully covered by the argument of my colleague on the committee. The constitutional convention was called. There were some irregularities in the matter, some irregularities about registration. I hardly have them sufficiently at my command to state them accurately, and I dismiss them from the consideration of the higher argument with no sort of apprehension that in the mind of any person legally or judicially trained these smaller arguments can affect the main question.

The main question, sir, is that gentlemen must consider whether we have a right to pass into the borders of a State and put our forces at work upon their State elections. That is the point.

I have asserted the present constitution of Arkansas is entirely republican in form. My excellent and beloved friend, whose regard for the colored men almost carries him away from the fine intellectuality he possesses, will coincide with me that the constitution itself is in form republican. I further assert that the government itself is republican; in other words, the machinery, the governor, the subordinate officers, the judicial department, the declaration of rights, all of these things are republican. It came from that constitutional convention.

It is said the constitutional convention engaged in some legislation. No principle can be more accurate than this. No constitutional convention, viewed in the light of principles which now obtain in the construction, disposition, and working of constitutional conventions, has any business with legislation or individuals. It concerns itself with the loftier principles of government. It commits great rules to the people through their representative agents, the legislators. If any legislation was done by the convention, it was of course illegal. But where is the relief for that? Where is the committee, where is the organization of Congress that provides for any consideration of illegality of that kind? Would it go to the Judiciary Committee? How will you enforce your decrees in a State? Will you send your Army there because there chances to be in the constitutional convention illegal action? O, no, Mr. Speaker, that is for the court. That is the province of the judicial forum. That tribunal has charge of it and there it belongs. Everybody knows it and everybody will admit it reasoning it down.

[Here the hammer fell.]

Mr. DONNAN. I ask unanimous consent to make a report from the Committee on Printing.

Objection was made.

Mr. WARD, of Illinois. Mr. Speaker, in the time to which I am limited for the discussion of this question it is impossible to go over the whole subject in such a way as it deserves and is necessary to a complete understanding of the whole case. Indeed, I find myself in the difficult situation of hardly knowing where to begin. There is so much rushing upon me when I remember what has been transpiring in the State of Arkansas, what has been going on there in the last year or two, that it is difficult to know where to commence. But I begin by stating that my friend from New York [Mr. SCUDDER] who has preceded me, in his well-delivered and well-considered speech, fails up to this moment, in my judgment, to appreciate the real ground upon which this whole proceeding is based; and his argument, when it comes to be applied to the facts existing in this case, can have no weight with one who really desires permanency in government and liberty for the people.

This whole affair in Arkansas, commencing with the election of Baxter, is a stupendous fraud. I know there were things done, prompted by republicans, at which I revolt and for which I have no words sufficiently strong in which to express my condemnation. I feel indignant to think anybody in any State should so little appreciate the blessings of the institutions he enjoys as to fail at any time to discharge properly important duties of State as becomes an honest man who fully appreciates the sacred rights of citizenship. Baxter was never elected governor. The majority as well as the minority of the committee are unanimous in that. Having found himself in possession of his office by fraud, ambitious, jealous, vain, as is proven by repeated testimony, weak and corrupt—and I do not use terms worse than those which were used by the witnesses—he sought to perpetuate his power. He knew the people, and that, no matter who had assumed the position of governor, ascertaining that fraud had been committed, they would create about his ears such a racket that to sustain himself in his position was a difficult task. My friend speaks as if I had attempted to mislead him about the way the Legislature of July, 1873, convened. If he had been in Arkansas or if he had read the testimony he would find I have not stated it as strong as it is, as the following extract proves:

LITTLE ROCK, ARKANSAS, *July* 23, 1874.

D. P. UPHAM sworn and examined.

By Mr. RICE:

Question. State your residence.

Answer. I reside in Little Rock.

Q. Were you in command of the militia of this State at the time of the assembling of the Legislature on the 6th of January, 1873?
A. I was.
Q. You had been for some time before?
A. For five years.
Q. State whether the State-house was under your charge as commander of the militia at the time and for a few days previous to the assembling of the Legislature.
A. Yes.

Thus it was convened within the military lines of the major-general of militia, who does not enlist men for the purpose of doing police duty, as intimated by my friend who has preceded me.

When the Legislature convened then and there, it appears—and I believe it is fully sustained by the evidence—a corrupt contract or conspiracy, whatever you choose to call it, was entered into on the part of Baxter and others, who had been parties and beneficiary parties to the frauds by which he had been elected. An agreement was entered into that they would hold possession of the State of Arkansas, and they took hold of it, and up to this time have held possession of the State of Arkansas. It is true there have been some peculiar "flops," some strange transpositions of places. But the same men who conspired then at the convening of that Legislature hold control of the State of Arkansas now. The Legislature convened. Many of its members had never been elected, and had been counted in by the same frauds as those by which Baxter had been declared elected. That this is the case is not controverted anywhere. No man doubts it who examines the evidence, much less those who had the opportunity of going to Arkansas and seeing how things are managed there. When the Legislature convened it appears from the testimony—and I wish I had time to read it—it appears even from that portion of the testimony which is to be found in the report, that I have had the honor to submit as the views of the minority, and it fully sustains the position, that a conspiracy was entered into by Baxter and his friends in the Legislature to support him and keep possession of the State. The committee on elections in the Legislature was made up of men whose seats were contested, and there was an agreement entered into between them, a corrupt agreement that no contest should succeed in the Legislature against the men who held the seats.

It went further. There were mutterings among the people about the conspiracy and the frauds that had been perpetrated, and he was induced to look about elsewhere to see how he could sustain himself in his position; and he thereupon contracted with those same men and agreed with them that in case of a contest being made by Brooks they should see that he should hold his seat, as they had contracted to keep each other in their seats, and he on his part agreed to do certain other things for them, among which, as shown by the testimony, was this, that if he handed over the State to them he was to be Senator.

I regret that I have not time to read the testimony. The Legislature, as we have seen, convened. A petition for a contest was presented. It was rejected without being read. A few days after it was rejected some forty members—I believe five senators and thirty-three representatives—were appointed to office by Governor Baxter, and went home with commissions in their pockets.

Such a conspiracy, such bribery, such corruption for the purpose of perverting justice, I hope have never been presented in any other State on the earth. Then, following the appointment of these men from the Legislature, vacancies occurred, as it was claimed, and a special election was called; and the gentleman from New York [Mr. SCUDDER] has failed to touch the real point, to which I shall endeavor to direct the attention of the House. A special election was called and a new registration illegally ordered by Baxter, without authority of law, as I could show if I had time to discuss it. At that election he promised those who were republicans and had been his friends that under no circumstances would he convene the new Legislature, though every man, woman, and child in the State should petition him to do so. It resulted that the republican voters of Arkansas concluded not to take part in the election, and they did not; and the vacancies were filled by men almost all of whom were partisans of Baxter's, and who became, as it appeared afterward, his willing tools.

Time ran on. Questions arose in the courts, as has been stated by the gentleman who preceded me in this discussion. I wish I had time to examine the proposition he laid down with reference to these courts; and I ask gentlemen before they act on this question to have the kindness to examine carefully the two reports which have been submitted, for I believe that from the majority report itself I could defend every proposition which I maintain here as well as I can by the facts set forth in my report.

The question of jurisdiction has been discussed here. The circuit court of Pulaski County, which the gentleman talked of as being a low court, was really a court of superior jurisdiction. It answered to the circuit courts of most States and to the supreme court of the State of New York, as I understand the organization of the courts in that State, having jurisdiction in nearly all matters and over almost everything. There had been created in Pulaski County a criminal court, to which a portion of the criminal business was directed. But it was really a court of general jurisdiction, having a right to determine these matters, and that, too, in the particular way in which they were determined, without being interfered with as it was interfered with, without being awed as it was awed, without being overthrown as it was overthrown.

I have not time to follow the history of this litigation. It is enough to say that there were several decisions. And if I had time I could demonstrate to any bench of judges, to any jury, to any number of lawyers, or to any community of citizens, that the opinion of the Supreme Court in the *quo warranto* case in no way destroyed the right of Pulaski circuit court to decide the case presented to it. And the gentleman from New York [Mr. SCUDDER] is too good a lawyer, if he understands the case, to deny it. But I hold, with all respect for his judgment, that he does not well comprehend the case.

Now, Mr. Speaker, following on from that point, and this decision having been rendered, what further transpired? This man Baxter called about him a band of the most depraved characters. He declared, and the testimony on that point was uncontradicted, that they were men who would fire upon and disperse the supreme court if necessary. Read the evidence and see whether the statement I make is true, for I have not time to read it myself. I can only make the statement, but you will find that I am correct. That legislature having been elected in the way I have stated, these proceedings in the court followed.

Now, at the time when the special Legislature convened, what do we find? I refer to its action for the purpose of showing what high-toned gentlemen controlled the affairs of the State, the patriotism which actuated them, and the amount of credit it is entitled to. I must refer, I find, to some of the evidence. When the special Legislature convened it was within the military lines of Baxter. There were two State military lines. Brooks was in possession of the State-house and of all the archives and records of the State, and this other concern was over in another place. Now, when the Legislature met on the first day it failed to get a quorum. I must take time to read something about its history:

In violation of his promise and of his "policy," as often stated, and before he had been recognized by the President, on the 22d of April, 1874, Baxter issued his proclamation as governor, convening the Legislature in extraordinary session on the 11th of May, 1874, and *fifteen* members of the house and *four* members of the senate that were elected in November of 1872, and that were in the General Assembly that adjourned on the 25th of April, 1873, met at a place other than the capitol building, (the usual place of meeting,) and within the closed military lines of Baxter, where no man or member of the General Assembly could enter without a pass from one of his military officers, on the 11th day of May, 1874; and said *fifteen* members of the house and *four* members of the senate, not being a quorum in either branch of the General Assembly, instead of sending for absent members and adjourning from day to day as the constitution requires, admitted twenty-seven persons in the house and *ten* in the senate to fill vacancies that did not occur by *death* or *resignation* "during a recess of the General Assembly," and that had never been declared to exist *by the General Assembly*, and at the time the Legislature was convened in extraordinary session by Baxter there was a quorum of each house in existence, about whose right to seats in the General Assembly there was no question; but by the recognition of *twenty-seven* persons as members in the house, and by the recognition of *ten* persons as members in the senate, who were not entitled to seats, each house, on the 13th day of May, 1874, declared itself organized, and so notified Baxter.

The gentleman from New York has spoken in glowing terms of the suspension of the *habeas corpus*. God bless me, why did he not tell in the discussion of this matter that during the extraordinary session of that Legislature among its first acts was a general law passed suspending the action of all the courts of Arkansas, denying their jurisdiction, destroying every tribunal to which the citizens could appeal; and they remained suspended down to the adoption of that constitution which he lauds, and which the majority of the committee approve.

Sir, articles of impeachment were presented in bulk, printed upon blanks, without a particle of testimony or anybody being notified, or anybody told that such articles of impeachment were pending. There were articles of impeachment against judges of the supreme court and State officers and other officers down so far as sheriffs, and the machinery of the government was thus taken possession of by fraud and force of the worst kind and handed over to the tools of Baxter in order to make way for the constitution which received the praise of my friend who preceded me.

Now, following this commenced a reign of terror intended to secure the result of the change of the constitution, and here is where I base my opposition to it. I will not give my approval to a result attained by any such means. The militia of the State was disbanded and then reorganized. Commissions were taken away from men who had been in the Union Army, and then commissions were issued only to those who had either identified themselves with the rebellion as soldiers or as sympathizers, more or less bitter. Sir, if I had time I could read that which would shock anybody, that in a free land like this such things could transpire. Sheriffs, clerks, and other officers were turned out of office. I will read a few names to show what condition of things existed there.

Here they are: The sheriff of Pulaski County, and of nearly half a dozen counties, the superintendent of the penitentiary, the clerks of the courts, were simply notified by Baxter to get up and get out at the point of the bayonet. That is all there was of it. In that way they took possession of Arkansas to pave the way for the state of affairs which produced a constitution which the gentleman from New York [Mr. SCUDDER] says is republican in form and so much to be upheld and praised.

Take these facts. First, that was not legal legislation which called the convention, and that is established by proof; and then tell me how

there is to be a legal expression of the opinion of the people of Arkansas under a void law? Next, during the time this process was going on there was no court to which the citizens could appeal. Then add to it that there were armed bands of marauders all over the State threatening the colored people of Arkansas with all sorts of punishments and inflictions if they attempted to resist the movement for a new constitution. And in all Arkansas few men dared to lift a voice in opposition to a movement which is called a movement of the people in favor of a change of the constitution of that State.

I want the House to bear in mind what is the distinction between this case and others. Here was a case of political intimidation and political persecution above that which exists almost anywhere else. Let me show gentlemen what transpired. I have evidence here of the beauties of the condition of Arkansas during the period of this legislative action to modify the constitution. Here is a notice served upon one man who, I believe was a witness before us, signed with the old insignia of the Ku-Klux, threatening him with death and murder. That is the way with this whole thing, and shows the monstrous purpose of it.

The Legislature, in the act calling a convention, ignored the provision of the constitution which secured the secrecy of the ballot, and ordered the ballots of every man to be numbered, and colored men were notified by threatening letters that if they voted in a certain way they should suffer for it. They were notified that their ballots were numbered and known, and if they voted for any but a democratic candidate, or anything but a call of the constitutional convention they had better go West or say their last prayer.

I ask attention to other facts which I have collected, showing the condition of society in Arkansas during those days.

Mr. POLAND. Does the gentleman refer to anything in the testimony?

Mr. WARD, of Illinois, I have full proof of this.

Mr. POLAND. Was it testified to?

Mr. WARD, of Illinois. The fact that threatening notices were sent to persons was testified to; but the notices themselves I did not obtain until afterward. I have not stated anything that was given in evidence except what was actually testified to. If I refer to anything which is not actually stated in the testimony, I propose to have it certified to from such creditable quarters that it will be entitled to the utmost consideration. I call attention to some of the threatening notices which were sent, as follows:

K. K. K.

JOHN AIKEN: Beware! Beware! All niggers are warned. The ballots are all numbered, and he who votes against the constitution can say his prayers in haste. Go with us and all is well.

Fair warning.

By order of—

W. L.

SAM BOLAND: Beware! Beware! Beware! This is a white man's government, and niggers must not work against it. We are organized, and give you one more chance to go with us; but you must not work against the new constitution or vote against it. Our judges will have every man's number and keep his name, and he will pay the penalty.

K. K. K. LEAGER.

LITTLE ROCK, ARK., *February* 19, 1875.

DEAR GENERAL: I inclose herewith two notices which were received, one by John Aiken, a leading colored man residing on Surrounded Hill, and well known to you, I presume, and the other by Sam Boland, of De Vall's Bluff, just prior to the late election for the ratification of the new constitution. They were intended, I presume, to explain themselves.

I have the names of several others, in various counties, who received similar notices previous to said election, but will not allow their names to be used from fear of the consequences. This Ku-Klux, or White League, is now called State militia, and thereby becomes legalized under the present administration, which accounts for the absence of any Ku-Klux or White League in Arkansas at the present time.

Very truly, &c.,

D. P. UPHAM.

And I call attention to some of the outrages that were committed and the evidence upon which the statements are based. Some of these matters were partially testified to before the committee, and they transpired during the time this constitution was germinating, taking root, or being hatched. It is as follows:

August, 1874.—Two colored men in Perry County, Arkansas, Anderson and his companion, were seized one night at the house of the widowed mother of one of these parties, taken out to the brush to be whipped and where the rods were cut and prepared. They attempted to escape. Anderson succeeded, but the son of the widow woman was shot to death, and his bleeding, lifeless body laid upon the door-step of his mother's cabin.

August, 1874.—A member of one of the militia companies supporting Governor Brooks at the State-house last April and May, for no offense but that his mule jostled the horse of the white Ku-Klux on the road, was taken out and beaten six hundred lashes with the stirrup-leather from one of the saddles. In a half dead condition he was carried home by the colored people of the neighborhood, and afterward recovered.

September, 1874.—An old colored man named Perry, who had participated in the Brooks-Baxter war, remonstrating against the invasion and destruction of his melon-patch by some of the "young men who cannot be restrained," but who were too indolent to cultivate their own melons, was by these young men in Lonoke Township, twelve or fourteen miles from Little Rock, taken out and whipped most brutally and in accordance with the "good old customs" before the war.

November, 1874.—A colored man named Williams, in Ashley Township, twelve miles from Little Rock, was deliberately shot and mortally wounded in the midst of a social gathering by a Garland militia captain named Johnson. Williams had charged the Ku-Klux with stuffing the ballot-boxes at the so-called election upon the constitution.

January, 1875.—A colored man in Little Rock was shot mortally by Deputy Sheriff Parsell, one of Garland's militiamen, after he had been arrested. This is the same Parsell who, a few days before, had shot and killed Henry Thomas under the pretense that he attempted to escape, and for which a coroner's jury exonerated him as having committed the deed in the performance of duty.

January, 1875.—John J. Gibbins, who commanded a Brooks company at the State-house in April and May, 1874, from Perry County, had felt compelled to leave his home and seek, as he supposed, some degree of safety at Little Rock, where one night his door was fired into by a party concealed by the darkness.

February 5, 1875.—At Wild-Cat landing, about thirty miles below Little Rock, a worthy colored man named Magness was shot to death by a desperado from Richwood's. Having a new six-shooter, he proceeded to *try it* by firing at Magness who was adjusting his saddle at the time.

January 24, 1875.—At Waldron, in Scott County, N. A. Floyd, of Waldron, formerly sheriff of that county, and J. H. McClure, formerly sheriff of Sebastian County, were fired upon from an ambush or breast-work of cotton bales while they were on their way home at night from the store of Mr. Floyd. Both are prominent republicans in that section of the State.

This was most clearly the outcropping of the spirit of intense murderous hatred toward republicans and republican institutions on the part of a certain class of people. We do not contend that this spirit is shared by the majority of our political opponents, at least in this part of the State. But, as usual in such cases, the large majority is inert, passive, while the small minority is active, reckless, and does all the mischief.

OUTRAGES BY THE GARLAND MILITIA AND BANDITTI OF ARKANSAS.

January 14, 1875.—One Thomas Parsell, one of Garland's militia, claiming to act as a deputy sheriff, and accompanied by three others fully armed, went after dark to a cabin in the eastern portion of Little Rock and shot a colored man named Henry Thomas, formerly a Union soldier. Parsell had been a confederate, and was exonorated by a coroner's jury under the usual plea that he had arrested Thomas and that he attempted to escape, and also that he shot to scare him without intending to hit him.

Early in February, 1875.—Two militia officers attempted to assassinate ex-State Senator Mallory and William McQueen, supposing the latter to be State Senator Haycock, at Medford station, on the Pine Bluff and New Orleans Railroad. Mallory and Haycock are republicans.

In January—Several colored men in Eagle township, Pulaski County, were fired at and driven from their homes by some militia under one Pennington.

The Little Rock Republican of February 16 publishes the following:

We have before us a letter from Phillips County giving the details of another most dastardly murder committed in that county on the 16th of last month, of which we have seen no public notice. The letter says: "On the 16th of January Noah Clark attached Moore's cotton; Moore took his corn home; at night Clark got Jesse Clopton and four other white men and went to Moore's house; they called him out, telling him they had an attachment for him; when he came to the door the men all fired on him, and his wife, who was standing in the door, was killed. The parties were taken to Helena after the inquest, at which it was proved that they did the killing, and released on bond." These are the facts as stated by Mr. Hill, the party who held the inquest. What is the meaning of this?

PACKING THE GRAND JURY.

By the testimony taken before the committee while in Little Rock it was shown that one Ned Abrams, a colored man, while fastened upon an old mule and in charge of a deputy sheriff, named Beatty, and some twelve or fifteen armed militia, was brutally murdered last August under the pretense that he was attempting to escape. The testimony was very plain and satisfactory that there could have been no such attempt made by the prisoner, and this was corroborated by the evidence of the justice of the peace who acted as coroner in holding the inquest. He directed the constable to summon for witnesses parties who heard the firing, but who were a mile or more distant from the scene of the murder, instead of summoning and examing Beatty and his gang of militia who did the shooting. In January the Garland legislature passed an act for a special sitting of the circuit court in Little Rock. This court had criminal jurisdiction as well as civil, and it was thought necessary that the grand jury should consider and examine into Beatty's conduct at the time of the killing of Ned Abrams. Beatty himself, as I am informed, was the deputy who summoned the members of the grand jury promiscuously from citizens of the city. In a county having one thousand republican majority not a solitary republican was summoned by Beatty as a grand juryman, but sixteen democrats and supporters of the Garland movement were brought into court to constitute the special grand inquest for the county. This grand jury exonerated Beatty, as having performed his duty in shooting the poor prisoner fastened upon a mule and escorted by enough militia to make the idea of his attempted escape preposterous and absurd. This is the grand jury which has been finding indictments for crimes innumerable against republicans, and constituted as that grand jury was, with their hearts full of malice and threatening vengeance as they went, nothing better could have been anticipated from that direction.

CAMPBELL, PULASKI COUNTY,
February 15, 1875.

Editor Little Rock Republican:

On the 3d instant Wilshire telegraphed, "Send the glad tidings to our anxious people," and on the 5th a messenger appeared at Wild Cat landing prepared to fulfill the injunction of the illustrious Wilshire. The "tidings" were manifested in the shape of a new six-shooter and the victim a worthy colored man, well-known in this region, by the name of Magness. The desperado who committed the foul and fiendish deed came from Richwoods, and refused to give his name. After prowling around the landing for a short time he avowed the intention of "trying his pistol," and proceeded to do so by shooting the person referred to, who was adjusting his saddle at the time. Thus, without a moment's warning, was an innocent, law-abiding citizen hurled from time to eternity and for no other reason than that his skin happened to be darker and his heart purer than that of the foul wretch who committed the deed. Now, Mr. Editor, if this is "peace and quiet" give us terrorism. Let the Juggernaut of southern outrage and proscription roll on, claiming its victims as usual. The thirst for innocent blood is insatiable, and the more it manifests itself the sooner will retribution come, and woe unto him then whose house is built upon the sand.

JUSTICE.

LITTLE ROCK, *February*, 1875—12.20 p. m.

Hon. J. D. WARD,
United States House of Representatives:

Jefferson Davis here; two days' close consultation with leading democrats.

E. N. HILL.

FEBRUARY 25, 1875.

Mr. WARD:

Hon. Jefferson Davis, of confederate fame, has been in town for the past two days in secret conclave with leading rebels. He says he came here to inspect the Kellogg lead mines. That is what he says.

To-day twenty Ku-Klux rode into Moark and ordered a man by the name of Lewis to leave town. Also ordered a man by the name of Dan Morris, yard-master Cairo and Fulton Railroad, to discharge a colored woman that was at his house at work for his wife, or they would *visit* him and cook his *goose*. They *were all masked*.

EDWARD WHEELER.

It seems to me I need not go a great way to satisfy everybody that one of the positions I take is incontrovertible: that the Legislature which called the so-called constitutional convention was an illegal body, as I have shown. And yet I did not quite show it, for I got somewhat led off in my argument.

It appears in the evidence that this man Garland, who to-day is governor of Arkansas if this affair is to stand, for the purpose of getting men into the Legislature, certified that certain men had been elected, and appended to the list the ordinary official list. His certificate is as follows:

To the Speaker of the House of Representatives:

I herewith transmit a true and correct list of the members of the Legislature elected to the lower house of the Legislature at a special election held on the 4th of November, 1873, as appears from the returns on file in my office.

JAMES M. JOHNSON,
Secretary of State,
By A. H. GARLAND,
Deputy Secretary of State.

He was examined before the committee in reference to what those returns were, and he states:

Question. Were you in possession of any of the records of the secretary of state's office?

Answer. Yes; they were handed to me by Mr. Johnson, the secretary of state, and Mr. Strong, his deputy, before they left for Washington City.

Q. Did you have before you any official list from the secretary of state's office as to the election of members of the Legislature at the time you made this certificate?

A. None at all. In answer to your question as to having any records, I had some records.

Q. Had you the returns from the election officers?

A. No, sir. I had no records at all in reference to the election of these men. In regard to your first question, I supposed you meant the general records of the office. I had some records of the office, but nothing in regard to the election of these men. I had nothing at all from the office referring to it.

By Mr. HOWARD:

Q. State how, as deputy secretary of state, you did make that list.

A. I made it from the old roll and from the proclamation of Governor Baxter, calling the special elections, and from the returns as published by the newspapers, the Little Rock Gazette and Little Rock Republican. The list was not made from papers on file in the office, but from papers in my possession as deputy secretary of state. Those papers gave me the information on the subject. All of those members who came to take their seats were sworn in. The records were then in the State-house, which was in possession of Brooks's forces.

In that certificate he certifies he had, although he *swears* he had no evidence upon which to base it. And to-day he enjoys his part of the benefits of this great conspiracy by being governor of the State of Arkansas, while Baxter, as is fully proved, is to receive his consideration by being elected to the Senate of the United States in place of one of the present Senators from Arkansas.

Mr. POLAND. Did Baxter so testify?

Mr. WARD, of Illinois. Baxter did not so testify himself, but it is so testified, and was not disputed. The gentleman will remember that Mr. Harrington, the personal friend of Baxter, so stated in his testimony. He says, "These things are well known in Arkansas; they are not disputed."

Now, if I needed to go further, Mr. Speaker, I could refer to an authority which at least the gentlemen on the other side cannot well dispute. I have the report signed by the several gentlemen of the majority, in which they assert some very good things and come to very strange conclusions. They tell the truth about a great many things; in fact, I have no doubt that they intended to tell the truth as they understood it all the while, as I certainly do; but they come to conclusions with which I cannot concur and state propositions which overtop all law so completely, that by reference to them a complete refutation of their conclusions follows. Speaking of the action of the convention when it convened they say:

The objection against the action of the convention goes much deeper than to the action of the Legislature.

Now what was this action of the convention? Even the Legislature, which did have legislative power, did not provide any new means for the purpose of taking a vote upon the adoption of a new constitution. It did take measures for calling a convention but not for the adoption of the constitution. The convention when it got together assumed that which it is not admitted to have even by the gentleman from New York [Mr. SCUDDER] or the chairman of the committee, or any respectable attorney anywhere. It assumed the power to legislate. It went to work, itself an illegal body, called together by an illegal Legislature in contravention of a constitution—it went to work and arrogated a power which is not conceded to exist in any constitutional convention anywhere by any authority. It passed a law creating new sets of officers to hold elections, providing new methods of ballot, prescribing in effect new qualifications for electors, by doing away with the requirements of registration and in other respects changing the law materially. It thus provided in order that its grand scheme of overthrowing a government might not possibly be defeated. The whole people were then bound hand and foot, without a court in the State to which a citizen could apply for redress, without any authority at all to which anybody could appeal, unless he was the partisan of Baxter; for even the militia had been disorganized and reorganized with Baxter's tools at its head.

This was the condition of things when that transpired. And then, in order to insure the success of the conspiracy, they provided the officers that I have described, and, more than that, provided the body which should declare the result.

The election, therefore, by which the constitution was submitted to ratification was an election without the pale of law. The convention had been called without the pale of law and without its sanction; and if there had been no conspiracy, if there had been no fraud, which vitiates all proceedings and which did exist in this case, I declare here upon the authority of the majority report itself, backed up and sustained by authorities too numerous for me in my limited time to mention, that the whole thing was without foundation in law, illegal, and void, from beginning to end.

Mr. Speaker, do I need before gentlemen here, so many of whom are lawyers, to prove the plain proposition decided over and over again that the efficacy of an election depends upon its being held in accordance with law. Nowhere in all the precedents that have been presented have many of the conditions existed which prevail here in Arkansas. Although there have been irregularities, although there have been conventions called in defiance of the provisions of an existing constitution for its own amendment, which I concede, I deny that in the case of any of the precedents which have been established and maintained has a constitution been adopted by a people in the way in which this was adopted, at an election provided for as this was.

Back of that, Mr. Speaker, (and here comes in the duty of Congress to look to it,) outside of these legal propositions there was underlying and permeating the case in every part a vein of fraud, violence, and terrorism which makes it impossible, it seems to me, for this representative body to say that a constitution changed in that way is one that should be recognized, indorsed, and sustained. I wish I had the eloquence and the logic to-day to lift this case out of the rut into which it has fallen and make the representatives of the American people see it as it is.

This is one of the first great steps in the purpose of these men who have overthrown Arkansas to return to the condition of things which you and I and the American people have declared shall not exist in this country. If I had time I could follow it up by showing to you that the Legislature convened under this new constitution has gone to work and done that which Congress would not have permitted to be done, and which, had it been done when it was re-admitted into the Union, it would never have been readmitted.

I know the majority report speaks pleasantly about a surplusage of loyalty in the old constitution of 1868, but what has since happened shows they are disloyal to the core, and that they aim at a purpose which we, in our legislative capacity here, having knowledge of it, cannot approve. They have done many things which indicate their purpose to go back to the condition I have already indicated, which the American people say they shall not do.

Where do you find the authority to see to this? Is there any gentleman on the democratic side of the House or anywhere else who will tell me a government which originated in fraud and conspiracy, which is to-day upheld by fraud and violence, which was born and grew up in corruption and crime all the way, is a government republican in form such as the requirement of the Constitution says shall be guaranteed by the United States to every State? Take the election upon the constitution itself, and what is presented? More gigantic frauds in that election were committed than in any anterior period in the history of that State. Take the circumstances surrounding it, take the history and the figures in reference to the State, take the census and the proportion of voters to inhabitants, and you can come to no other result than that the election itself was a part of the grand machinery of fraud by which the Government was to be overthrown and destroyed.

Now, then, gentlemen say we must let it alone. What are the consequences of letting it alone? There is to be no stability to government, no rights to minorities left. An election may happen to-morrow in any other State, and on the principle of this Arkansas case, the minority, by force and fraud, as Baxter did, may get possession of the machinery of the government, or, without possession of the machinery of the government, may declare they will not stand by the constitution the people have made, and overturn a State, call a convention, (even though it be a mob,) create its own machinery for the purpose of declaring the result, and what is determined upon by the mob be the constitution. That is exactly in Arkansas what is the result and the doctrine which will be incorporated into American law if the precedent there established is permitted to stand.

I feel myself so hurried that I do not know I make myself clear.

What is to follow? The question is, what shall we do? I will tell you what. You never saw a thief whose conviction was sure, but he quailed. Let this Congress pronounce what I think ought to be pronounced, and there will be peace in Arkansas. The gentlemen in possession will yield as peacefully and quietly as children when they are caught in something they had no business to be caught in. They feel themselves they have no right there. Mr. Speaker, how many minutes have I left?

The SPEAKER. The gentleman has twelve minutes remaining.

Mr. WARD, of Illinois. I have promised to yield a portion of my time to the gentleman from Massachusetts, [Mr. BUTLER,] but I do not see him here.

Now, Mr. Speaker, the report of the chairman of the committee speaks of the condition in Arkansas, and says everybody is about as peaceful as they ever have been and therefore it ought to be left alone. But I wish every man upon this floor could understand how much that means, how much even it guarantees to anybody. I have here evidence, which any gentleman is at liberty to examine, of men under oath, but which I do not expect to make a part of my speech, showing the most enormous destruction of life, assaults of man upon man, murders, and violence, enough to shock anybody. Here is the record of it. Much of it is the certified records of courts; the other portion of it certified to in one way or another.

A MEMBER. Is it contained in the report of the committee?

Mr. WARD, of Illinois. No; it is not in the testimony we have taken.

I have secured it since and have a right to use it in my argument. If any man desires to read it I will be glad to let him do so. It shows an aggregate of 1,160 cases of murder and attempts to murder since reconstruction in that State, with a population of only 450,000. Now, that is the kind of peace which the gentleman says is such that we ought not to disturb it.

The report of the majority says that it is as peaceful as at any other time in its history. But I am acting and working, and if I were a praying man I would be praying, for the time to come when a better and a brighter peace than any it has ever enjoyed should prevail in Arkansas. But now it is not peace there. I read from an article in a magazine of recent date. Speaking of the destruction of human life, it says:

This inhuman butchery was not confined to any one locality or single State, but extended with lesser or greater severity over every State recently in rebellion against the Federal Union.

In corroboration of the terrible reality of this statement, we have transferred to the following page a tabulated statement of the murders and assaults with intent to kill in one State alone during the years of reconstruction. Here we have in Arkansas, in a population by census in 1870 of 122,160 blacks and 362,115 whites, *seven hundred and eighty-nine murders and three hundred and eighty assaults with intent to kill!* This deplorable revelation is probably without a parallel in the history of civilization. Certainly the reader will search in vain over the civilized world for its counterpart, except in the adjoining States of Louisiana, Texas, and Alabama, in some of which the number of murders will, it is claimed, be numerically in excess of those committed in Arkansas. We have published the tabulated returns from the latter State only, for the reason that they have been collected with care by the committee appointed for that purpose at the Chattanooga convention of the 13th of October last, and come to us in official and reliable form.

A glance at the table will show the reader that the number of murders and attempts to *murder in Arkansas alone amount, in the aggregate, to eleven hundred and sixty-nine.*

Of these murders and assaults with intent to kill, one thousand and fifty-two were committed by democrats and one hundred and seventeen by republicans. This statement is verified by court-record evidence, and where that could not be obtained the facts come from responsible witnesses, who testify on their personal knowledge. Now, it will be remembered that the so-called "independent" and the democratic press have persisted in charging that republicans were and are the murderers in the disaffected States, and that the democratic element is peaceful and lamb-like throughout the entire South. But here are the facts: There are nine democratic aggressors to one republican. Let assertions go for what they are worth. The official record is here presented for serious contemplation.

But there is another aspect of this black catalogue of crime which the reader will do well to note. *Of those by whom these murders and crimes were committed one thousand and seventy-eight are whites and only eighty-two are blacks.* In this we have a positive and direct refutation of the charges made by democrats and the democratic agents of the Associated Press that the blacks are invariably the aggressors. We most earnestly commend the attention of the public to these statements and to other facts unfolded in the tabulated report. No argument is required; no comments necessary from us. Let the public read and ponder.

Turn now to another feature in this awful revelation of crime. *The victims are eight hundred and sixty-five republicans and three hundred and four democrats, or nearly three to one.* It is proved, too, that in three-fourths of the cases in which democrats were made to suffer they were themselves the aggressors, and were murdered or beaten by their opponents in self-defense. The figures in the table embrace the period from the commencement of reconstruction down to the close of Baxter's administration. The results are deplorable.

But I deny that it meets the legal propositions which I have stated concerning the danger of the precedent which I claim this creates when the gentlemen argue that the condition of Arkansas is such as to justify us in overlooking irregularities of such an enormous character as we find have occurred there.

Another reason I find in his own words, or in the words of the report of the majority, which admits on this point all that I claim:

The committee believe that in Arkansas the mass of the people on both sides are inclined to peace and good government and to allow all the enjoyment of their legal rights.

I do not take issue with that at all. I am happy to say I believe on both sides there are many good men in Arkansas, many inclined to peace and good government, who would do what is best if they could do it, and put an end to the existing condition of things there if they had the power.

But there is a class of men the outgrowth of the former state of society.

And that must have been the time the gentleman referred to when he said the State is now as peaceful as it used to be, because these are—

The outgrowth of the former state of society, "who delight in disturbing and depriving the colored people and northern people of their rights."

I think that to be true with severe emphasis, and it was established before the committee by incontrovertible proofs. These are the "young men who cannot be restrained." And that is what I claim. There is a class of men who cannot be restrained because they are there to-day in control of the government. To a great and wide extent they dictate its policy, declare its officers, and manage its affairs. And it is a government which has been concerned in fraud, as I have said, and is an outgrowth of all sorts of wrong; and if it has yielded such results as are admitted and claimed by a majority of the committee themselves, I declare for my part that I cannot consent to see such a condition of things prevail longer there without such interposition as the Congress of the United States has the right to make.

Now, what is asked? Suppose the plan to be adopted which I have asked. I have not in the resolution which I have submitted declared war against the people of Arkansas. I ask Congress to declare the exact facts and resolve what the members of the majority of the committee say and everybody says, that Joseph Brooks has been elected governor by the people of Arkansas under the constitution of 1868, under which Arkansas was readmitted into the Union, and which has not been abrogated or destroyed by the illegal, violent, and unjust proceedings which are described in the testimony and to which I have referred in my remarks.

I am asked whether the constitution of 1868 did not prescribe the only qualification of voters with reference to registration and ballot. Clearly it did. Every provision of it was violated both by the illegal Legislature which called the convention and by the convention itself.

I had agreed as I have before stated to yield a portion of my time to the gentleman from Massachusetts, [Mr. BUTLER.] He is not now in his seat and there is so much in this case that one scarcely knows where to leave off. I had arranged to leave off about here and I do not care to commence again, as when I have once commenced I may not be able to stop when I wish to. But I desire to impress one more thought upon Congress in this matter. I have no interest in it; everybody knows that and I do not need to state it. I have no purpose to do that which would be unjust to anybody; I seek only to discharge my duty. I certainly feel that I can say, with as much truth as any man living, that when the war was over I was ready to forget and receive back in full fellowship all men in all parts of the country. But there were principles for which during the war I labored for in my way, and which we all struggled for, and which I am not willing to surrender. It was not for mere territorial extension that we battled.

I know that the soldiers of my State never would have gone down to struggle in the South if they had thought that the war merely meant the extension of our lines to the Mexican border. No, sir; what I insisted, and what our soldiers insisted on, was the equal rights of citizens of all classes, of whatever condition, of whatever color, in all parts of the country. Those rights are not enjoyed in Arkansas. The report of the majority tells you it is not so, and I tell you it is not so. The evidence shows it. And I declare here that I believe from the evidence that the purpose of these bad men who control the State of Arkansas is to restore the condition of things which will practically re-enslave the negro. They believe they were robbed of his services by the war, and they have not in good faith accepted the results; and for one I am not willing the fruits of our great struggle shall be practically destroyed in every State where there exists a combination of bad men "who cannot be restrained," such as the majority report states exists in Arkansas, where men of bad character, men of violence and deeds of blood, conspire for the purpose of overthrowing the regular government of the State in which they live.

A government where such things prevail is not republican in form and ought to be rebuked.

Mr. Speaker, whatever time I may have remaining I yield to the gentleman from Massachusetts, [Mr. BUTLER.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, informed the House that the Senate insisted upon its amendments to 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, disagreed to by the House; disagreed to the amendments of the House to other amendments of the Senate, and agreed to the conference asked by the House, and had appointed Mr. WEST, Mr. FERRY of Michigan, and Mr. DAVIS to be conferees on the part of the Senate.

AFFAIRS IN ARKANSAS.

The House resumed the consideration of the report of the Select Committee on Affairs in Arkansas.

Mr. BUTLER, of Massachusetts. How much time remains?

The SPEAKER *pro tempore*. Three minutes.

Mr. BUTLER, of Massachusetts. I do not care to occupy three minutes.

Mr. WARD, of Illinois. I had promised to yield to other gentlemen, and to one who desired to ask leave to print an argument on this question, but as those gentlemen are not here I will surrender the floor now to the gentleman from Ohio [Mr. SAYLER] who is to follow me, and will endeavor to yield three minutes to that gentleman at some other time.

Mr. SAYLER, of Ohio. Mr. Speaker, I approach the discussion of the matter now before the House with a full sense of its gravity and importance. It is no ordinary political question now pending for decision, and by no means a question that should be determined by mere considerations of party policy or by party prejudice and passion. It is a far-reaching question, involving the fundamental principles of our American system and affecting the right of the people of a great and sovereign State of the Federal Union to make their own laws and to have them interpreted, applied, and executed by officers of their own choice. It is a question that forces upon the House directly the decision whether the government of a State which the people have almost unanimously adopted, in accordance with all law and precedent, and which is administered to the satisfaction of very nearly the entire body, with peace and quietness, shall be permitted to stand, or whether it shall be overthrown and destroyed and a government obnoxious to the people forced upon them by Federal arms and sustained by military power. I bespeak for this question, therefore, a fair and deliberate consideration, and shall endeavor to discuss it, not as a partisan, but as one who loves his country and seeks to do justice in his public acts.

The facts in this case, Mr. Speaker, are so fully and distinctly set forth in the report of the committee that I shall not repeat them, except so far as may be necessary for the purpose of the argument I propose to present.

On the 27th day of May, 1874, a select committee was appointed to inquire into the disturbed condition of governmental affairs in the State of Arkansas, and all the facts relating thereto and the causes thereof, and whether said State has now a government republican in form, the officers of which are duly elected, and as now organized ought to be recognized by the Government of the United States.

At the time of the passage of this resolution two different men, Joseph Brooks and Elisha Baxter, each claimed to be the lawful governor of the State of Arkansas; each had surrounded himself with a military force and appealed to arms in vindication of his cause; and each had applied to the President of the United States for aid. The Legislature, then assembled in extraordinary session, under the call of Elisha Baxter as governor, had also passed a joint resolution applying to the President to protect the State against domestic violence, and the President had issued his proclamation on the 15th day of the same month recognizing Mr. Baxter as the lawful executive of the State and commanding the insurgents to disperse and submit themselves to the lawful authority of said executive.

I propose to inquire, first, into the propriety of this recognition of Mr. Baxter on the part of the President, and what right or power to interfere beyond this exists either in Congress or in the executive department of the General Government. Mr. Brooks and Mr. Baxter had been opposing candidates for the office of governor at an election held on the 5th day of November, 1872, in accordance with the provisions of the constitution of 1868, adopted by the people of Arkansas under the reconstruction acts of Congress. Mr. Baxter was the candidate of the republican party and Mr. Brooks of what was known as the reform or liberal party, the democrats having no distinct candidate of their own, but generally supporting Mr. Brooks. In accordance with the provisions of the constitution referred to above, the returns of this election were sealed and transmitted to the seat of government by the returning officers and directed to the presiding officer of the senate, which assembled in January, 1873, and who during the first week of the session thereof opened and published the same in the presence of the members then assembled. The result of these returns of the election for governor was declared to be, for Mr. Baxter, 41,684, and for Mr. Brooks, 38,726; whereupon the president of the senate announced that Mr. Baxter was duly elected governor of the State of Arkansas. The oath of office was administered to him by Chief-Justice McClure, and he entered upon the discharge of the duties of the office and was fully recognized as governor by the Legislature of the State. He continued to discharge the duties of his office without question until the 19th day of the following April, after the Legislature had been in session three and a half months, and within six days of the adjournment thereof, when Mr. Brooks filed his petition, in accordance with the constitution and laws of the State, to contest the election of Mr. Baxter as governor, and praying for leave to introduce proof.

The provision of the constitution of 1868 in this behalf is as follows:

Contested elections shall be determined by both houses of the General Assembly in such manner as is or may hereafter be prescribed by law.

And the provision of the law in this behalf is:

SEC. 100. All contested elections of governor, except as herein provided, shall be decided by the joint vote of both houses of the General Assembly.

SEC. 101. If any person contest the election of governor, he shall present his petition to the General Assembly, setting forth the points on which he will contest the same and the facts which he will prove in support of such points, and shall pray for leave to introduce his proof; and a vote shall be taken by yeas and nays in each house whether the prayer shall be granted.

The petition thus filed by Mr. Brooks, upon a motion that he shall have leave to introduce his proof, was rejected by the house of representatives by a vote of 53 yeas to 9 nays, notwithstanding the fact that thirty-six members of that body had been elected upon the ticket with Mr. Brooks and were identified with the party of which he was the candidate.

It is somewhat remarkable that the filing of this petition should have been so long delayed, and equally so that the vote should have been so nearly unanimous in support of Mr. Baxter and against Mr. Brooks. That Mr. Brooks had strong grounds on which to contest the election of Mr. Baxter there can be no reasonable doubt. The testimony abounds in a detail of most disgraceful frauds upon the rights of the people and upon the rights of Mr. Brooks as one of their candidates. These frauds are the more fully developed, because those who had been the friends and partisans of Mr. Baxter, and by whom these frauds had been committed, had become his enemies, and came before the committee as willing witnesses, unblushingly divulging the rascalities and outrages of which they themselves had been the perpetrators, and by which they themselves, in one way and an other, in high station and low station, hoped to profit.

The entire election machinery of the State—and it was perhaps as unfairly constructed by the constitution of 1868 as that of any State could possibly be—had been in the hands of the republican party, whose candidate Mr. Baxter was. The governor had appointed the registrars, and the registrars had appointed the judges and clerks of election in the various voting precincts; and it is in many instances charged, by those who themselves had been the actors, that registration was refused to large numbers, that large numbers properly registered were stricken from the rolls, that others were not allowed to vote, that the ballot-boxes were stuffed, and that the returns were tampered with. The democrats and conservatives of Arkansas certainly had great reason to complain, for, as the report of the committee well states—

The whole proceeding by many of those having official charge of the registration voting, and returning the votes is characterized by the grossest unfairness and dishonesty, and instead of an honest effort to ascertain the will of the voters, they endeavored by every possible means to secure the ascendency of their own party friends.

As a matter of justice to Mr. Baxter, however, I am compelled to assert that the testimony is singularly free from any evidence connecting him personally with these frauds. He seems to have been then, as he proved himself afterward, an honester and truer man than some of his supporters supposed him to be.

I have no disposition whatever to palliate or excuse these frauds, and the committee has had no disposition to conceal them in their report. I denounce them as a gross outrage upon the rights of the people of the State and upon the rights of Mr. Brooks, and as an everlasting shame and disgrace to the men who themselves perpetrated them, or caused them to be perpetrated by others. I must say, however, that one's sympathy with Mr. Brooks is very much diminished by his present evident alliance with the very men whom he charges with having cheated him out of his office, and through whom he most persistently seeks to perpetrate a greater outrage upon the people than was perpetrated upon himself—

Resolved to ruin or to rule the State—

by his alliance with the very men for whom he had so great affection, that he is said to have declared publicly during the campaign if the people "would only elect him governor he would fill the penitentiary so full of them that their legs would stick out of the windows."

But suppose these statements of frauds are all true, and suppose everything is true that is charged even by the bitterest enemies of the Baxter administration, what case does it present for the interference either of Congress or the President? It is after all but a case of contested election, and not at all different in its essential character from other cases of that kind. Mr. Brooks is not the only man that was ever counted out in a contest for governor; he is not the only man who, by the frauds of those managing the elections, has been cheated out of his just rights. Arkansas is not the only State in which these things have been done. Frauds have been perpetrated in other States, and in other States cases of contested election have arisen. But that Congress has any power to interfere in such cases is too absurd a proposition for grave argument. Congress has no powers except under the Constitution of the United States. These powers are enumerated in the eighth section of the first article thereof, and it will not be pretended by any one that the right to determine the result of a State election is found among them. The proposition that any such right exists, and especially if there be added to it the right to enforce such determination by military power, would be utterly subversive of our whole system of government, and an utter annihilation of all the constitutional rights of the States. I do not believe that in this instance the representatives here assembled, under political pressure of whatever kind, will establish a precedent so fatal and pernicious.

Each State provides for itself a tribunal before which cases of this kind shall be determined. By the constitution of Arkansas, adopted in 1868, as I have already quoted it, and in which respect it resembles the constitutions of most of the other States of the Federal Union, the Legislature had been vested with complete and final authority in the premises; and the Legislature having acted under this authority, their decision, whether right or wrong, is binding upon the State and upon the United States as well as upon the parties to the contest, and cannot be called in question by the Federal Congress or the Executive, nor is it even subject to judicial review by the courts of the State. This latter proposition has often been held by the courts, and is as well established as any other principle:

Contested elections, like all other controversies, must be submitted to the determination of some competent tribunal, and, satisfactory or not, right or wrong, the

decision must be sustained or there can be no end to controversy and no settled government. It is far more important to the people that the executive power should be unquestionable than that any particular person should wield it.

This is a summary of the whole question made by Mr. Cooley, the author of the able work on constitutional limitations.

When on the 19th day of April, 1873, Mr. Brooks filed his petition in the lower house of the General Assembly of Arkansas, contesting the election of Mr. Baxter, he acted entirely in accordance with the constitution and laws of the State. This was the manner of making the contest specifically prescribed by the constitution and by statute. The adjudication then made was final and the mode of it exclusive. This adjudication once made, the courts of Arkansas could neither interfere with nor review. The books are full of authorities to this effect, and I know of none to the contrary. In The State *vs.* Marlow, 15 Ohio State Reports, 134, it was held that—

A specific mode of contesting elections having been provided by statute, according to the requirements of the constitution, that mode alone can be resorted to in exclusion of the common-law mode of inquiring by proceedings in *quo warranto*. The statute which gives the special remedy and prescribes the mode of its exercise binds the State as well as individuals.

So, too, in 28 Pennsylvania State, 9, The Attorney-General *vs.* Garragues, and elsewhere in the decisions of that State, it was held—

That when there are two claimants under the same election for the same office which only one of them can have, it constitutes a case of contested election, which is to be tried in the mode specially provided for in such cases, and not by the ordinary forms of judicial process.

I need not refer to other cases. The doctrine is well established, and has become part of the ordinary teaching of the text-books, that where jurisdiction is specially conferred by the Constitution and laws of a State upon other tribunals, and the mode of its exercise prescribed, it cannot be differently exercised by a proceeding in *quo warranto*, as at common law, nor by the supreme court and district courts under a more general ground of jurisdiction in *quo warranto*. But in this case we are not without the decision of the supreme court of the State of Arkansas itself. Mr. Brooks was not satisfied with the decision of the Legislature in the manner prescribed by the constitution and laws of his State, but determined, against all precedent and all law, to push his case through the courts. Accordingly, after the adjournment of the Legislature, on the 2d day of June of the same year, he procured the presentation of a motion for a writ of *quo warranto* to the supreme court of the State by the attorney-general upon his relation. The filing of this motion was resisted, and after extended argument was, on the 4th day of June, denied by the court, though the written opinion was not filed until the 29th day of September. The refusal of the permission to file the petition for the writ was based upon the ground I have already suggested as general in such cases, that there was no jurisdiction in the court. To use the very clear and concise language of the judge who delivered the opinion:

Under this constitution the determination of the question as to whether the person exercising the office of governor has been duly elected or not, is vested exclusively in the General Assembly of the State, and neither this nor any other State court has jurisdiction to try a suit in relation to such contest, be the motle or form what it may, whether at the suit of the attorney-general or on the relation of a claimant through him, or by an individual alone claiming a right to the office. Such issue should be made before the General Assembly; it is their duty to decide, and no other tribunal can determine that question. We are of the opinion that this court has no jurisdiction to hear and determine a writ of *quo warranto* for the purpose of rendering a judgment of ouster against the chief executive of this State, and the right to file the information and issue a writ for that purpose is denied.

To this opinion Judge McClure dissented.

It has been charged that the judgment in this case was extorted from the court by threats and intimidation of the governor and by the presence of armed men; but the facts in the testimony not only do not show this to have been true, but affirmatively show that the charge is entirely without foundation. More than that, the decision is in entire accord with all the decisions of the courts of other States upon similar questions, and there is no allusion to any intimidation whatever in the long and elaborate dissenting opinion of Judge McClure. There was no necessity for the court to take any action if they were apprehensive of any interference with the dignified and independent discharge of their high prerogative. They might have remained silent. Furthermore, the testimony of Judge Gregg expressly disclaims any impression made by military interference.

The judgment of the court referred to above is elaborately discussed and fully sustained by the Attorney-General of the United States in his opinion addressed to the President on the 15th day of May, 1874, and shortly after it was rendered it was affirmed in the case of Wheeler *vs.* Whytock, known as the "prohibition case." On the 1st day of October, 1873, Stephen Wheeler filed a petition in the supreme court of the State of Arkansas for a writ of prohibition against the circuit judge, John Whytock, commanding him to refrain from considering further a case for the recovery of the office of auditor of the State. This case grew out of the same election as the case of Brooks against Baxter, and the facts were identical. The supreme court affirmed in direct terms the decision given in the case Brooks against Baxter and granted the writ, all the judges concurring in the reasoning upon this point. Even Chief Justice McClure, who had dissented in the former opinion, uses the following language:

As to all matters of contested election for the offices of governor, lieutenant-governor, secretary of state, auditor, treasurer, attorney-general, and superintendent of public instruction, I am of the opinion that it can only be had before the General Assembly. I do not believe the Legislature intended to give the circuit court jurisdiction of contested elections, which, by the constitution, were cognizable only before that body. The right to an office comes from the people, and they have the unquestioned power to determine and prescribe the terms upon which it may be enjoyed. When the office of auditor was created, the people declared, as they had an unquestionable right to do, that a contest for it should only be made before the Legislature. To hold that the circuit court has no jurisdiction is not denying the plaintiff in the court below a remedy, nor is he in any manner deprived of a constitutional right.

And Judges Searle and Stephenson, in the same case, use the following language:

The office of auditor being one of those enumerated in the constitution in connection with that of governor, as one the contest for which shall be determined by the General Assembly, we are clearly of opinion that this case falls within the rules of decision laid down in the case cited above. It is true there exists in the case of the governor a statutory mode of procedure relative to such contest, but it is idle to insist that because the Legislature has failed to provide the mode by which the right to the other offices, mentioned in section 19 of article 6 of the constitution, that this neglect on the part of the Legislature can vest the courts with jurisdiction to determine such a contest. If that body had ever desired to do so, and had in terms enacted a law conferring upon the courts of the State the jurisdiction to try and determine such cases, it would have been wholly unwarranted by the organic law, and must, necessarily, have been so decided. The trial of the right to these offices is, in terms, enjoined upon another department of government, and must be exercised by it; and the attempt to impose the duty upon the courts would be as much a violation of the constitution as a failure to perform it altogether.

These two opinions are direct and conclusive of the whole subject-matter. Under the decisions of the Supreme Court of the United States (2 Peters, 492; 1 Wallace, 175) they are binding upon the legal tribunals of the State and upon all the legal tribunals of the country, and even upon the Supreme Court of the United States itself, and were so recognized by the Attorney-General in his elaborate opinion to the President referred to before. In Arkansas they were acquiesced in by all parties in the State. A case that had previously been brought by the Attorney-General in the Pulaski circuit court, under section 525 of the Arkansas code, was promptly dismissed. All parties regarded the question as settled. Even the republican State central committee issued an address on the 8th day of October, 1873, congratulating the people on this settlement of all vexed questions, and using the following words:

By the decision to which reference has been made it is distinctly held that the determination of the question whether a person exercising the office of governor has been duly elected or not, is vested exclusively in the General Assembly of the State, and that neither the supreme nor any other State court has jurisdiction to try a suit in relation to such contest, be the mode or form what it may, whether at the suit of the attorney-general, or on the relation of a claimant through him, or by an individual alone claiming a right to the office. This decision was promptly followed by the dismissal of the suit brought in the circuit court of Pulaski County by the State of Arkansas against Elisha Baxter, and now at last we can congratulate the people of the State upon the undoubted termination of this gubernatorial warfare. The Legislature has acted in the premises; its decision is final; and Governor Baxter's tenure of the office he holds is fixed and irrevocable. The action of the supreme court and the Legislature settles all vexed questions calculated to disturb the peace of the State; and Governor Baxter, reflecting the policy of the republican party, to secure peace, quiet, and order, seized upon this, the first opportunity presented since the organization of the State government, to muster out the entire militia force of the State.

No well-disposed citizen, whatever his political faith may be, can fail to indorse and commend this action of the governor. It attests the good faith and high purposes of the republican party on all questions affecting the interests of the people, and is an earnest of the efforts that Governor Baxter and the republican party are making to bring the State of Arkansas to as high a condition of peace, law, and order as is enjoyed by the most favored State in the Union.

All citizens are therefore called upon to preserve peace in their respective localities. Let no man be jeopardized in property or life. Let the expression of opinion on matters of public concern be free and unrestrained, and the laws vigorously and impartially enforced.

This address is signed by POWELL CLAYTON as chairman, and by STEPHEN W. DORSEY as one of the members of the committee, now and then Senators of the United States from the State of Arkansas.

But Mr. Brooks was still not satisfied, notwithstanding the direct decision of this contest by the General Assembly of the State and notwithstanding the explicit decision of the supreme court that neither it nor any other court of the State had jurisdiction in the case; and on the 16th day of June he entered a suit for the office of governor and the emoluments thereof in the Pulaski County circuit court, under the following provisions of the code of Arkansas:

Whenever a person usurps an office or franchise to which he is not entitled by law, an action by proceedings at law may be instituted against him by the State or the party entitled to the office or franchise, to prevent the usurper from exercising the office or franchise. (Code of Practice, 525.)

To this action, on the 8th day of October, 1873, and after the filing of the written opinion of the supreme court in the case of Brooks against Baxter, a demurrer was interposed. This demurrer was not considered until six months afterward, and the case was allowed to sleep until on the 15th day of April, 1874, in the absence of Baxter and his counsel, at a time when the bar generally understood that no business during the week would be taken up, after a similar case brought by the attorney-general before the same court had been dismissed, and in utter and reckless disregard of the decision of the supreme court, upon the pretense of the submission of the demurrer, this judge of a mere circuit court, whose judgments are subject to review and bound by the decisions of the supreme court, overruled the demurrer to the jurisdiction, and immediately rendered judgment of ouster against Baxter, and declared that the contestant, Brooks, was entitled to the office of governor of Arkansas. This, too, upon the determination of the technicality of the jurisdiction, without testimony heard on the question of the contest for the office of the chief executive of the State; this, too, in direct violation of the laws of Arkansas, that upon the determination of the demurrer "the

party demurring may answer or reply;" this, too, after the decision of the supreme court upon the same question, and between the same parties, the *quo warranto* case having been at the relation of Brooks. And this action was taken under the pleadings filed in the case upon the ground that Baxter had usurped the office which he held.

Whatever may be the facts with regard to the election of 1872, whatever frauds may have been perpetrated, and however clearly it might subsequently be shown that at that election Brooks received a higher number of votes than Baxter, yet Baxter can in no possible legal sense be regarded as a usurper. He held his office under all the forms of law. A usurper is one who seizes an office without right or holds it without color of title.

Of this action of the circuit judge the Attorney-General well says:

That this circuit court should have rendered a judgment for Brooks under these circumstances is surprising, and it is not too much to say that it presents a case of judicial insubordination which deserves the reprehension of every one who does not wish to see public confidence in the certainty and good faith of judicial proceedings wholly destroyed.

It is well enough to add here that even in this very case relied on by Brooks as establishing his right to the office of governor, taken from the Pulaski circuit court on *certiorari* to quash the judgment declaring Brooks governor of Arkansas, the supreme court of that State has recently decided that this circuit court had no jurisdiction over the subject-matter nor of any of its incidents, and that its proceedings and judgment were void, and that the judgment must be quashed. Yet upon this decision thus rendered by the circuit court, and claiming that the judgment executed itself, Mr. Brooks, in April, 1874, immediately proceeded to the State-house, and unlawfully and with force ejected Mr. Baxter, and took possession of the office and records. Then it was that the two parties surrounded themselves with armed forces; then it was that those terrible scenes of violence and bloodshed began which have disgraced the State; and then it was that the two parties made their application to the President for relief against domestic violence.

Matters remained in this condition until the 11th day of May, 1874, when the Legislature, convened in extraordinary session under the proclamation of Governor Baxter, recognized him as governor, and passed a joint resolution calling upon the President for protection; and accordingly, on the 15th day of the same month, the President issued his proclamation recognizing Baxter as the lawful governor and commanding the insurgents to disperse. That proclamation is in the following words:

By the President of the United States of America.

A PROCLAMATION.

Whereas certain turbulent and disorderly persons, pretending that Elisha Baxter, the present executive of Arkansas, was not elected, have combined together with force and arms to resist his authority as such executive, and other authorities of said State; and whereas said Elisha Baxter has been declared duly elected by the General Assembly of said State, as provided in the constitution thereof, and has for a long period been exercising the functions of said office into which he was inducted according to the constitution and laws of said State, and ought by its citizens to be considered as the lawful executive thereof; and whereas it is provided in the Constitution of the United States that the United States shall protect every State in the Union, on application of the Legislature, or of the executive when the Legislature cannot be convened, against domestic violence; and whereas said Elisha Baxter, under section 4 of article 4 of the Constitution of the United States, and the laws passed in pursuance thereof, has heretofore made application to me to protect said State and the citizens thereof against domestic violence; and whereas the General Assembly of said State was convened in extra session at the capital thereof on the 11th instant, pursuant to a call made by said Elisha Baxter, and both houses thereof have passed a joint resolution also applying to me to protect the State against domestic violence; and whereas it is provided in the laws of the United States that in all cases of insurrection in any State, or of obstruction to the laws thereof, it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the executive when the Legislature cannot be convened, to employ such part of the land and naval forces as shall be judged necessary for the purpose of suppressing such insurrection or causing the laws to be duly executed; and whereas it is required that whenever it may be necessary, in the judgment of the President, to use the military force for the purpose aforesaid, he shall forthwith by proclamation command such insurgents to disperse and retire peaceably to their respective homes within a limited time:

Now, therefore, I, Ulysses S. Grant, President of the United States, do hereby make proclamation and command all turbulent and disorderly persons to disperse and retire peaceably to their respective abodes within ten days from this date, and hereafter to submit themselves to the lawful authority of said executive and the other constituted authorities of said State; and I invoke the aid and co-operation of all good citizens thereof to uphold law and preserve public peace.

In witness whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, this 15th day of May, in the year of our Lord 1874, and of the Independence of the United States the ninety-eighth.

U. S. GRANT.

By the President:
HAMILTON FISH,
Secretary of State.

That the President was entirely right in the position taken by him in this proclamation there can be no reasonable doubt. Baxter had been declared elected by the presiding officer of the senate, and had been inducted into office in all due and legal form. He had been recognized as governor by the Legislature of the State, which had submitted to him all its enactments for approval or rejection. He was likewise recognized as governor by all the other officers of the State, and the subordinate officers in the State and in the counties were discharging their duties under commissions received from him. He had been recognized as governor by the supreme court of the State, and with general consent and acquiescence he had discharged all the functions of that office for a period of sixteen or seventeen months. Under these circumstances, that he was not a usurper but governor *de facto* there can be no possible question. I cannot conceive of a stronger case. Acting under this high color of authority his acts are valid and binding upon all, even though in point of fact he may not have received the highest number of votes at the election. (The people *vs.* Cook, 14 Barbour, 259; Ohio *vs.* Jacobs, 17 O. R., 151; Trustees of Vernon *vs.* Hills, 6 Cowen, 23.) This would simply present a case of contest to be decided by the State authorities, and until it is so decided adversely to him by a proper tribunal he remains the true and lawful executive of the State.

That decision as we have already seen in this case had been made. The Legislature of the State had solemnly passed upon the question in accordance with the constitution and laws, and from that date and at the time of his recognition by the President Mr. Baxter was not only *de facto* but *de jure* governor of Arkansas. It was not the duty of the President and it is not within the power of Congress to decide the contest between Brooks and Baxter upon its original merits. Neither the one nor the other has in any way been constituted a tribunal for that purpose. The President could do nothing as Congress can do nothing but recognize the existing *status*. Baxter had been declared elected, had for a long time discharged the duties of the office, had been sustained in the contest before the Legislature, whose decision was recognized as final and conclusive by the supreme court, and the President could not do otherwise nor could Congress do otherwise than recognize him as governor, notwithstanding the decision of an inferior court and which was also void for want of jurisdiction. The President was so advised at the time by the Attorney-General of the United States, who stated explicitly in his opinion that—

When the people of a State declare in their constitution that a contest by State officers shall be determined by the General Assembly, they cannot be understood as meaning it might be determined in any circuit court of the State. To say that a contest shall be decided by a decision, and then to say after the decision is made that such contest is not determined, but is open as it ever was, is a contradiction in terms. Brooks appears to claim that when a contest for Governor is decided by the General Assembly, the defeated party may treat the decision as a nullity and proceed *de novo* in the courts. This makes the constitutional provision as to the contest of no effect, and the proceedings under it an empty form. When the house of representatives dismissed the petition of Brooks for a contest, it must be taken as a decision of that body on the questions presented in the petition. Doubtless the makers of the constitution considered it unsafe to lodge in the hands of every circuit court in the State the power to revolutionize the executive department at will; and their wisdom is forcibly illustrated by the case under consideration, in which a person who had been installed as governor according to the constitution and laws of the State, after an undisturbed incumbency of more than a year, is deposed by a circuit judge, and another person put in his place upon the unsupported statement of the latter that he had received a majority of votes at the election. Looking at the constitution alone it appears perfectly clear to my mind that the courts of the State have no right to try a contest about the office of governor, but that exclusive jurisdiction over that question is vested in the General Assembly. This view is confirmed by judicial authority. (See opinion of Attorney-General, Executive Document No. 51.)

I cannot close this part of my argument, sustaining the action of the President and showing the validity of Mr. Baxter's title to the office of governor, without quoting the peculiarly apposite words of one who stands deservedly high in the councils of the republican party, and who upon another occasion and referring to another matter "presented the consideration that this question involved a great fundamental principle vital to the existence of our Government, which was, "that where a question arose under a State law or under a State constitution, it was to be decided by the State tribunals; and that the decision of the tribunals of the State upon questions arising under their own laws was binding not only upon the people of the State but upon the Government of the United States; that this was the necessary result from our form of government; and that any alleged irregularity, or, if you please, fraud in a State election in the election of a governor or of a State Legislature was cognizable and was determinable by the tribunals of the State, and when the State tribunals had passed upon such questions their decision was binding upon the Government of the United States; and that if the Government of the United States assumed to go behind the decision of the State tribunals to examine into the questions arising in a State election under State laws, if it assumed the right to set aside a State government because of alleged frauds or irregularities in a State election, the assumption of such power was the end of the State governments, and placed every State government in this Union at the will and caprice of the Government of the United States, and that State governments thereafter would exist only by sufferance."

Such, Mr. Speaker, was the condition of affairs in Arkansas up to the time of the appointment of the committee, and such are the grounds justifying the action of the President in his recognition of Mr. Baxter as the lawful governor of the State.

I come now to consider important events which have occurred since that time in that State, and which have resulted in the adoption of a new fundamental law, the election of new officers, and the establishment of a general condition of peace and harmony throughout the State.

At the extraordinary session of the General Assembly of the State which met, as before stated, on the 11th day of May, 1874, there was passed an act providing for a convention of the people of the State of Arkansas to frame a new constitution, and providing for the submission of the question of its adoption to a vote of the people. This election was held on the 30th day of June, 1874, and resulted in a vote of 80,259 for the convention and 8,607 against the convention, being a majority of 71,652. The delegates who were

elected at the same time met in convention at the city of Little Rock on the 14th day of July following, and proceeded to frame a new constitution for the State, which was submitted to a vote of the people on the 13th day of October, 1874, and ratified by a vote of 78,697 in its favor to a vote of 24,807 against it, being a majority for the new constitution of 53,890. At this same election were also chosen all the officers provided for under the new constitution, and including the State, district, county, and township officers, and members of the General Assembly. A. H. Garland was the conservative candidate for the office of governor, and received a vote of 76,453. To him there was no opposing candidate. The other candidates on the same ticket received about the same number of votes. The Legislature chosen at this time assembled at Little Rock on the 11th day of November, 1874, when Mr. Garland was duly inaugurated as governor, and all the State, circuit, county, and township officers, chosen at the same election, entered upon the discharge of their duties. All the former officers gave way peaceably to those who were thus chosen under the new constitution with the single exception of Volney V. Smith, who had been elected lieutenant-governor on the same ticket with Mr. Baxter in 1872, and who at the time of the retirement of Mr. Baxter and the inauguration of Mr. Garland, issued a proclamation calling upon the people to support and obey him as governor. He also made an appeal to the President for military power to enforce his pretensions, to which appeal no attention seems to have been paid. Friends who urged him to this foolish course seem all to have deserted him; no one has appeared before the committee in advocacy of his claims; no one pretends that he has any claims, and his unwise and absurd assumption of right seems to have fallen into merited contempt.

There can be no pretense raised from the facts in the case that the call for the constitutional convention was not made, and the constitution as framed by that convention adopted, and the officers provided for under it chosen, not only by a very large majority of the vote cast, but by a very large majority of the legal voters of the State. There is no pretense, indeed, of unfairness in either of these elections, or that the announced result is not substantially correct. The only objection urged to the election adopting the new constitution and choosing the officers provided for under it was that the formerly existing registration and registration and election officers had been set aside and new ones created. Whatever may be said of the propriety or impropriety of this change of registration and election officers, yet those who served as such officers at this election were certainly officers *de facto*, and as such all acts done by them were good and valid. Acting under this color of authority their acts were binding, even though we may admit the most extreme position of the other side, that in point of law and right they were no such officers. It is not disputed that both of these elections were a fair and full expression of the will of the voters, and, consequently, the technical objection to the character of the election officers, under all the decisions of our courts, falls to the ground. (See 8 New York, 67; 11 O. S. R., 511; 6 Cowen, 23; 12 O. S. R., 16.)

But deeper and more important objections were urged to the validity of the new constitution and of the State government organized under it. It is claimed, in the first place, that Governor Baxter at the time of issuing the call for the convention which framed the constitution of 1874 was neither *de jure* nor *de facto* governor of the State, and consequently that no rightful and lawful authority existed in him to issue such call. This objection has been fully answered in the preceding portion of my argument, in which I have shown that he was in the highest sense governor *de facto et de jure*, not only exercising all the duties of the office of governor and declared to be such by the solemn adjudication of the General Assembly of the State, but also recognized as such by the President of the United States.

It is also claimed that the Legislature itself, which convened on he 11th day of May, 1874, and passed the act providing for the submission to the people of the question of calling a convention to revise the constitution, was not a lawful body, and consequently that its proceedings were void. The objection more particularly urged against it is the fact that subsequent to the election in 1872 and during and subsequent to the session held in 1873 between forty and fifty of its members had been appointed by the governor to executive offices and their places filled at a special election held on the 4th day of November, 1873.

It is not disputed that the governor under the constitution had entire authority to make these appointments. Indeed, this large appointing power vested by the constitution of 1868 in the chief executive was one of its most glaring defects, and one which the people had long desired to have remedied. It is not disputed that the appointments were made, and that the offices were accepted by these several members, nor that the persons accepting them were ineligible under the constitution to have a seat in either branch of the General Assembly. It is not disputed that in case of a vacancy occurring in either house it is made the duty of the governor, under the laws of Arkansas, to issue a writ of election to fill these vacancies. It is indeed urged that there was no evidence of the election of the members who appeared to fill vacancies. This objection is based upon the assumption that, Mr. Brooks having seized the archives of the State and retained them in his possession, no sufficient data could be reached to determine who had been elected. It is a sufficient answer to this that the secretary of state, in accordance with the law, made out the lists of elected members, and returned them to each house, giving the members thus returned a *prima facie* right to their seats, and which lists, upon comparison with the records in the office of the secretary of state subsequently recovered, are found to be entirely correct. The members thus chosen at the special election appeared at the extraordinary session, presented their credentials, and were admitted to seats in the upper and lower houses respectively. The constitution of Arkansas then in force, like the constitutions of all the other States, provided that "each house should determine the rules of its proceedings, and judge of the qualifications, election, and returns of its members." No contest arose as to the seat of any one of the newly-elected members, and of the former members who had accepted other offices no one appeared to assert his right to a seat in the Legislature. This, under all law and all the usages of all the States, was final and conclusive of the whole matter.

There is no evidence whatever and no claim made of fraud at the election of these new members. The election seems to have gone pretty much by default, no one supposing at the time that the Legislature would be convened in extraordinary session.

It is also urged against the validity of the acts passed at this extraordinary session that the Legislature met within the military lines of Governor Baxter. This was indeed true during the early part of the session. But there is no evidence of any attempt being made to control the action of the Legislature by the military power, nor to interfere in any way with the attendance of the members. I cannot do better than quote the words of the report:

> As to the fact of the existence of martial law, and that the Legislature met within Baxter's lines the committee have to say that although these circumstances cannot be considered as favorable to wise and careful legislation, still as no attempt appears to have been made to prevent the attendance of members, or to control in any way their action by military force, they do not consider these facts sufficient to deprive the acts of that Legislature of the ordinary force of such action.

There was no other body of men in Arkansas claiming to be the Legislature of the State except that body chosen at the election of 1872, which first assembled in January, 1873, and subsequently in extraordinary session in May, 1874. There was no contest between rival Legislatures to decide. This was the only body claiming to act in that capacity. All attempts to question the validity of its acts seem puerile and absurd, and no such attempt has been made as to any other one of its acts, except the single one of the submission to the people of the State of the question whether they would revise their fundamental law. Its members passed laws which were signed by the governor, construed by the courts, and obeyed by the people. They elected a United States Senator, who was received without question, and now occupies a seat in that body equally with the Senators from Ohio or the Senators from Massachusetts. There is a general and continuous recognition of it as the Legislature of Arkansas. It discharged all the functions of such a body, and its right to do so was never otherwise called in question. No power can now examine its organization or question the validity of its action.

There can be no question, therefore, as to the validity of the act of Mr. Baxter as governor of the State of Arkansas, calling the extraordinary session of the Legislature in March, 1874, and there can be no question as to the validity of the act of that Legislature submitting the matter of the formation of a new constitution to a vote of the people.

I come now to consider what might be regarded as the most important objection to the validity of the constitution framed by the convention organized in the manner I have indicated, were that question a new one, and had it not already been settled by the decisions of the courts and the usages of the States for a period of more than a half century.

It is objected that the constitution of the State could neither be altered, amended, nor revised, except in the manner expressly prescribed in the then existing constitution, and that consequently the mode adopted for its revision in this instance was revolutionary and void. Article 13 of the constitution of 1868 provides that "amendments to this constitution may be proposed in either house of the General Assembly, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment shall be entered on their journals, with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election, and shall be published as provided by law for three months previous to the time of making such choice. If in the General Assembly so next chosen as aforesaid such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the people, in such manner and at such time as the General Assembly shall provide. And if the people shall approve and ratify such amendment or amendments by a majority of the electors qualified to vote for the members of the General Assembly voting thereon, such amendment or amendments shall become a part of the constitution of this State." This constitution is silent as to any other method of amendment, alteration, or revision; and it is claimed by the enemies of the new constitution that no other method could therefore be adopted, on the principle of the maxim *expressio unius est exclusio alterius*. But the courts have always held that this maxim is not applicable to the provisions of a constitution, and applies rather to deeds and contracts between private individuals.

Sovereign rights cannot be disposed of in this way. The will of the people cannot be thus hampered in an instrument of limitations. It is contrary to the whole theory of the American system of government. The specific mode set forth in the Constitution for its amendment is permissive merely, and not mandatory or exclusive. A reasonable construction of the thirteenth article would be that it was intended to be confined to changes which are simple or formal, of small importance and few in number, and that it was not intended as a method for a general revision, or even as a method for effecting single, important, and radical changes in the fundamental law of the State. Notwithstanding the presence of a specific mode of amendment in the constitution of any State, the power is still inherent in the people to amend and revise it, through the medium of a constitutional convention. That this power exists and abides with the people of any State, without an express affirmation of it in their fundamental law, is a principle as well established by the decisions of the courts and the law and usages of the country as any other principle of our Government. Indeed, it is a fundamental principle. Says Mr. Webster:

> The people are the source of all political power.

Says Mr. Justice McLean:

> The theory of our political system is that the ultimate sovereignty is in the people, from whom springs all legitimate authority. (1 McLean, 347.)

And again:

> The States are equal, inasmuch as each has by its own voluntary will established its own government and has the power to alter it. This is the principle upon which State governments are established, and consequently they all stand upon an equal footing. They have the same basis, have been framed according to the will of the people, and may be changed at their discretion. (1 McLean, 348.)

The same principle is directly affirmed in the first section of the bill of rights of the constitution of Arkansas of 1868, in these words:

> All political power is inherent in the people. Government is instituted for the protection, security, and benefit of the people, and they have the right to alter or reform the same whenever the public good may require it.

It being impossible, however, for the people to meet in one place and act without organization, and this power to alter and reform their government being inherent, the question arises, how can they act to this end? To this I answer that the method adopted by the usage of the States almost from the beginning of the Government is that of the constitutional convention, convoked and assembled by the call of the people through the agency of the Legislature.

Says Mr. Webster again:

> When in the course of events it becomes necessary to ascertain the will of the people on a new exigency or a new state of things or of opinion, the legislative power provides for that ascertainment by an ordinary act of legislation.

Mr. Cooley, in his able work on Constitutional Limitations, (page 30,) lays down these two propositions as settled principles of American constitutional law:

> 1. In the original States and all others subsequently admitted to the Union the power to amend or revise their constitutions resides in the great body of the people as an organized body-politic, who, being vested with ultimate sovereignty and the source of all State authority, have power to control and alter the law which they have made at their will. But the people in the legal sense must be understood to be those who by the existing constitution are clothed with political rights, and who while that instrument remains will be the sole organization through which the will of the body politic can be expressed.
> 2. But the will of the people to this end can only be expressed in legitimate modes by which such a body-politic can act, and which must either be prescribed by the constitution whose revision or amendment is sought, or by an act of the legislative department of the State, which alone would be authorized to speak for the people upon this subject and to point out a mode for the expression of their will in the absence of any provision for amendment or revision contained in the constitution itself.

It is not necessary to stop here to discuss two very interesting questions that might arise, to wit, the effect of an absolute prohibition against alteration or amendment save in the manner prescribed by the constitution itself, and the validity of an alteration which has been sanctioned by the people after a fair and orderly submission provided by the legislative power without any other form or ceremony whatever, even though the fundamental law has prescribed a different mode by which amendments may be made and which has not been followed. Very eminent authority maintains the power of the people as against either prohibition or direction. The questions do not arise in this case and therefore need not be discussed; but we are emphatic that the people, convoked by the legislative authority of the existing government, have the inherent power, through the agency of the constitutional convention, to alter or reform their constitution, even though that constitution not only does not specifically give the power and does provide a specific manner in which amendments to it may be made.

Twenty-five conventions in the several States of Georgia, South Carolina, New Hampshire, New York, Connecticut, Massachusetts, Rhode Island, Virginia, North Carolina, Pennsylvania, New Jersey, Missouri, and Indiana, under the general legislative power of these States, without the special authorization of their constitutions, have been called by the people between the years 1789 and 1850, and how many have been so called in these and other States during the last quarter of a century I know not, but do know that it has become a well established and settled usage. Mr. Jameson, in his elaborate work on The Constitutional Convention, in a complete and most satisfactory discussion of this subject, lays down these two distinct and general principles:

> 1. That whenever a constitution needs a general revision a convention is indispensably necessary; and if there is contained in the constitution no provision for such a body, the calling of one is, in my judgment, directly within the scope of the ordinary legislative power.
> 2. That were it not a proper exercise of legislative power, the usurpation has been so often committed with the general acquiescence that it is now too late to question it as such. It must be laid down as among the established prerogatives of our General Assemblies that, the constitution being silent, whenever they deem it expedient they may call conventions to revise the fundamental law.

The convention which assembled in July, 1874, to revise the constitution of Arkansas was called by a large majority of the people of the State, upon the question being regularly and formally submitted by the Legislature thereof, in accordance with all former precedents and the established usage of the country, and is therefore not only not revolutionary, as claimed in the minority report, but is in the highest sense constitutional; and the constitution framed by that convention and adopted by the people of the State government organized under it are as legitimate and well established as those of Illinois or New York. And Mr. Garland, who under this constitution was chosen by the people, is as regularly and legitimately the governor of the State, and as much entitled to recognition as such, as any other chief executive of any other State.

As to certain irregularities complained of in the matter of registration and of registration and election officers, and of the mode provided for the submission of this constitution to the vote of the people in the instrument itself, I can only say that they are of very slight importance of themselves, and inasmuch as it is not only not shown that they did interfere with the popular will, but inasmuch as it is positively shown that the general and almost universal will of the people has in this whole matter been effected, they do not deserve that I should stop to discuss them, and they certainly would constitute most extraordinary grounds on which to overturn and revolutionize an established State government.

It only remains to speak briefly of the constitution itself, which was adopted as the fundamental law of the State by the people of Arkansas on the 13th day of October, 1874. That in many respects it is an improvement on the constitution of 1868, I think no one who will examine the two instruments will pretend to deny. It has diminished the former number of officials, it has taken away the large appointing power before existing in the executive, and has imposed restraints as to the imposition of taxation of the greatest importance to the people. That it is republican in form, and that in this respect it fully meets the requirements of the Constitution that "the United States shall guarantee to every State in this Union a republican form of government," is beyond all controversy or question.

Some of the professions of loyalty contained in the old constitution may not be found in the new, but, as the report made in this matter states, "the substance has been retained." There is certainly nothing in it either monarchical or aristocratic; and the authority of the United States in this guarantee, as Mr. Madison says in No. 43 of the Federalist, "extends no further than to a guarantee of a republican form of government, which supposes a pre-existing government of the form which is to be guaranteed. As long, therefore, as the existing republican forms are continued by the States, they are guaranteed by the Federal Constitution. Whenever the States may choose to substitute other republican forms, they have the right to do so and to claim the Federal guarantee for the latter. The only restriction imposed on them is that they shall not exchange republican for antirepublican constitutions, a restriction which it is presumed will hardly be considered a grievance." That this constitution meets in this respect every requirement of the Federal Government and that it does not conflict with the limitations made by the Constitution of the United States and the power of the people to amend or revise their constitutions, as I have said before, is so plain upon its face that no one pretends to question it.

Mr. Speaker, if I have accomplished what I proposed to myself in this discussion, I have shown that the merits of the original contest between Mr. Brooks and Mr. Baxter are not subject to decision by Congress or the Executive, but must be determined by the proper State tribunal; that this contest has been so decided by the General Assembly of the State of Arkansas, which decision has been affirmed by its supreme court; that Mr. Baxter was both *de facto* and *de jure* governor of the State, and, therefore, properly recognized as such by the President; that he had a full and complete right as governor to issue the call for an extraordinary session of the General Assembly, and that that body was the duly elected and lawful Legislature of the State, being also the only body claiming authority as such, and had a full and complete right to submit to the people the question of a new constitution; that the convention to frame such an instrument was called and acted in accordance with law and usage; and that the constitution framed by them being ratified by the people became their proper and legitimate fundamental law as much so as the constitution of any other State, and consequently that the officers elected under it by the people are fully and completely entitled to recognition as such.

Moved by what process of reasoning, therefore, or influenced by what considerations, the President should have sought to reverse his opinion, and should have reached the conclusion suggested in his message to the Senate of February last, I certainly am at a loss to conjecture.

Under this constitution and the officers chosen by the people in accordance therewith, the blessings of peace and good government have been restored to Arkansas, and anarchy, lawlessness, and bloodshed have become things of the past. The people are contented and at peace, because they feel that they are living under their own laws executed by officers of their own choice. This, Mr. Speaker, is, in my judgment, the only key to the difficulties existing in connection with the reconstructed States of the South. The people who live in these States must be trusted, and they must be permitted to govern themselves. Harmony can never be restored by arms and hostile legislation. We should seek to elevate these people and not to debase them, to cultivate their high instincts and manly pride and not to humiliate them, to make them in the broadest sense freemen and not slaves. Then shall these States be restored to peace, and prosperity return to them and to us.

What constitutes a State?
Not high-rais'd battlement or labor'd mound,
Thick wall or moated gate;
Not cities proud with spires and turrets crown'd;
Not bays and broad-arm'd ports,
Where, laughing at the storm, rich navies ride;
Not starr'd and spangled courts,
Where low-brow'd baseness wafts perfume to pride.
No; MEN, high-minded men,
With powers as far above dull brutes endued,
In forest, brake, or den,
As beasts excel cold rocks and brambles rude;
Men, who their duties know,
But know their rights, and knowing dare maintain,
Prevent the long-aim'd blow,
And crush the tyrant while they rend the chain;
These constitute a State.

Sir William Jones.

Mr. TREMAIN. Mr. Speaker, it is conceded on all hands that wrongs of the most atrocious character have been perpetrated in the State of Arkansas which have resulted in setting up the paper called the constitution of that State and in the election of Garland said to be governor of Arkansas. Those wrongs were marked by bribery, corruption, intimidation, and force, by a reign of terror, and by trampling under foot all the provisions of the constitution and laws of that State that were intended to secure to the electors of that State the enjoyment of the elective franchise, the most valuable privilege of American citizens. If the facts upon which I base this statement were not fully authenticated by the reports which lie on our table, it would not be credited that in any civilized community in the nineteenth century, and among a people that acknowledge, or claim to acknowledge, the restraints of constitutions and laws, such a deplorable state of public affairs could have existed as has been exhibited in that unfortunate and unhappy State during the last two or three years. The simple question presented to this House is whether these wrongs, which have culminated in the present constitution and in establishing Garland as governor of the State, are wrongs without remedy in any court or before any tribunal on earth. If, in this House of Representatives, the people of this State can obtain no relief, no relief can be obtained anywhere. The question therefore presented to this House for determination in my judgment involves not merely the rights of majorities and minorities, but it involves the continuation of constitutional law; it involves the preservation of the dearest rights of the people; it involves the very perpetuity of republican government itself within the States that compose the American Union.

I think the majority and minority reports agree upon every material fact that is necessary to guide this House to an intelligent determination of the questions of constitutional power that are involved. Every member upon this floor is bound by his oath to decide whether any relief can be granted, and it is our duty to determine this question on our own official responsibility. We all have great respect for the gentlemen composing the majority of the committee who have given us their views upon this subject. But when they agree altogether with the minority upon questions of fact, we ought not to be embarrassed in our examination as to whether they are right in their conclusion, that no redress can be obtained for the people of Arkansas by the fact that their opinion is adverse to it. Indeed, the majority of the committee themselves, in the report presented, when they have found the facts, and that fairly and correctly, seem to relieve us from finding shelter behind their opinion, by stating that it is clearly a question of law to determine, because they state as follows:

Your committee have gone over the entire facts in this case with tedious minuteness, and, we believe, with perfect fairness, to the end that our conclusions, if not justified by the facts and not satisfactory to the House, may be easily corrected, and the right determination reached.

What, then, are the questions of fact upon which their conclusions are predicated? These conclusions may be drawn both from the majority and minority reports, and I ask the attention of the House while I state the facts concerning which there is no controversy and no dispute anywhere, as they are gathered from the reports of the committee.

1. In November, 1872, an election was held in Arkansas for governor and other State officers, and the result as appeared by the returns was, for Elisha Baxter, 41,684 votes, and for Joseph Brooks, 38,726 votes; whereupon the presiding officer of the senate opened the returns in the presence of the members of the Legislature, and declared, as the result, that Baxter was elected.

2. In truth and in fact, upon a fair and honest return and count of the votes actually given at the election, Brooks was elected governor, and of right ought to have been so declared. In this conclusion the committee, embracing three republicans and two democrats, is unanimous.

But by a manipulation of the returns, by fraud and falsehood, Baxter, upon a *prima facie* case appearing upon false returns, was declared by the presiding officer of the senate as the governor of the State, when in truth and fact Brooks was elected, and, if he had been allowed to hold the office as he ought to have done, would have held that office to the 1st of January 1877.

3. The Legislature assembled in January, 1873, and being clothed with full power by the constitution and laws to determine a contested election for governor, Brooks presented a petition to the lower house to be allowed to contest the election; but his petition on motion was rejected without any investigation upon the merits. The majority of the committee say that the unanimity of the vote rejecting the petition without a hearing "can hardly be accounted for except upon the supposition that there was some connection between this vote and the appointment soon after by Baxter of more than forty members of this Legislature to various offices in the State."

The argument upon the other side is that because they refused to hear the case without investigation, and this refusal was pronounced by a bribed Legislature, such refusal becomes a conclusive judgment that binds this House and binds the people of this country.

4. Relying upon the statute of Arkansas, which conferred upon the circuit courts full power to hear and determine actions in the nature of a *quo warranto* to determine the title to any office, Brooks commenced an action against Baxter in the circuit court of the county of Pulaski to obtain possession of the office of governor, which he alleged had been usurped by Baxter, and such proceedings were had therein that on the 15th of April, 1874, the circuit court pronounced a judgment in favor of Brooks, who immediately took the oath of office, and thereafter claimed to be governor *de facto* as he was beyond all controversy governor *de jure*.

That is the suit brought in the superior court that we have heard spoken of as a suit to recover his salary. It was a suit brought in the highest court of original jurisdiction in the State to determine his right to office, in which a judgment was obtained in favor of Brooks.

5. Each party thereupon assumed to be governor and was supported by a large body of armed followers, and the President, being appealed to by both parties, and having no power to take testimony or to go behind the certificate of election, did on the 15th day of May, 1874, recognize Baxter as the governor *de facto*, and he was supported by a large body of armed followers. The President, being compelled to act promptly to protect the State from domestic violence, and having no power, as we have, to take testimony and to go behind the certificate of the officers, recognized Baxter as the governor *de facto*.

6. On the 24th of April, 1874, Baxter issued his proclamation for a special session of the Legislature to be held on the 11th of May, 1874, and a body called the Legislature assembled at this special session, and assumed to pass an act submitting to the people the question of calling a constitutional convention to form a new constitution.

Now mark, this is the commencement of the proceedings to destroy the title of Brooks, because Baxter, who initiated these proceedings, knew that he was a usurper, and found it necessary to set in motion some machinery by which the will of the majority of the people of that State could be trampled under foot. And I will be able to prove to gentlemen of fairness and impartiality that every step which resulted in the establishment of the new constitution and the inauguration of Garland has been utterly unconstitutional and void from beginning to end, and that is substantially admitted by the majority of the committee.

7. On the 16th of May when this act was passed there was not a quorum of either branch of the Legislature present, unless the members are included who had been chosen or who were claimed to have been elected at a special election ordered by Baxter to fill legislative vacancies, and which had been held November 4, 1873.

8. In the spring of 1873 Baxter appointed between forty and fifty members of the Legislature, soon after the adjournment, to various offices in the State, and such appointment was made by him the ground, as stated in his proclamation, for ordering an election to fill the vacancies caused by such appointment. The only conditions, however, under the laws of Arkansas where the governor was authorized to act for the purpose of issuing a writ of election to fill such vacancy is contained in the statutes of that State, and, as will be seen, they do not embrace cases where members had accepted offices which were repugnant to or inconsistent with the duties of their offices as such members, much less where they had been merely appointed, which was the only ground stated in the proclamation. Death, resignation, or vacancies occasioned during the session, and notified to the governor by the presiding officer, were the only events which authorized the governor to order special elections.

9. These are the statutes of Arkansas:

SECTION 1. When any member elected to either house of the General Assembly shall resign in the recess thereof, he shall address and transmit his resignation in writing to the governor; and when any such member shall resign during any session, he shall address his resignation to the presiding officer of the house of which he is a member, which resignation shall be entered upon the journals; in which case, and in all cases of vacancies happening or being declared, during any session of the General Assembly, by death, expulsion, or otherwise, the presiding

officer of the house in which such vacancy shall happen shall immediately notify the governor thereof, who shall immediately issue a writ of election to fill such vacancy.

SEC. 2. Whenever the governor shall receive any resignation or notice of vacancy, or when he shall be satisfied of the death of any member of either house during the recess the reof, he shall, without delay, issue a writ of election to fill such vacancy.

9. The republicans did not as a general rule make any nominations for this special election or participate therein.

10. Prior to this special election Baxter, having no authority whatever, ordered new registrations in all the counties where the elections were to be held, and new boards were appointed under his order, superseding the existing board which had been created under the statutes of Arkansas pursuant to the directions of the existing constitution of 1868.

It is entirely clear that the governor had no power whatever to appoint such board, and that the registration made by them was wholly unconstitutional and void.

11. The certificate of the election of members claimed to have been chosen at this special election was made up, not from any official returns, but from information and newspaper reports by A. H. Garland, deputy secretary of state, who is the same Garland now acting as governor of the State.

12. The so-called Legislature of 1874 assembled within the military lines of Baxter, and while martial law, as it had been declared by him, prevailed in Pulaski County, where the capitol was situated. And no man was allowed to go into the Legislature unless he came through these lines with the permission of the military commander.

13. The judges of the election held to determine the question whether a constitutional convention should be held were appointed under the act of the Legislature, which was in direct conflict with the registry laws and the constitution, or, as the majority of the committee express it, "It is plainly an evasion of the requirement of registration at this particular election." The powers of the judges of elections were as follows:

As the electors present themselves at the polls to vote, the judges of election shall pass upon their qualifications, whereupon the clerks of election shall register their names on the poll-books, if qualified, and such registration by said clerks shall be sufficient registration in conformity to the constitution of this State, and then their votes shall be taken.

14. The constitution of 1868 provided "that in all elections by the people the electors shall vote by ballot; the secrecy of the ballot shall be preserved inviolate, and the General Assembly shall provide suitable laws for the purpose." The act of the Legislature calling this convention provided as follows: "The electors shall be numbered, and the number of each elector marked on his ballot by one of the judges when deposited." So that every man voted with the badge upon him, that he might be visited with the vengeance of the party that have shown by their conduct that there was no safety for anybody who stood in their way.

15. The same bogus or rump Legislature preferred articles of impeachment against the judges and all the State officers, except some who resigned to escape impeachment, and passed a law suspending all officers under impeachment from official service while impeachment proceedings were pending. Although Baxter had appointed judges in their places, they would not trust those judges, but tied up their hands in all the courts of the State so that there should be no interruption or interference with the contemplated revolution under the form of a constitional convention. On the 28th of May, 1874, the Legislature passed an act providing that no court in the State should entertain any proceedings to arrest, determine, or try the validity of the elections which they were proceeding to hold. The Legislature would not even trust the judges Baxter had himself put in, because they knew that there was not a court in christendom that would not decide just as the supreme court of Pennsylvania decided in a recent case, when a convention undertook to appoint judges of elections in the city of Philadelphia. The court in that case restrained their proceedings, saying that the convention had no such power. No court would have refused to do that; and to guard against it, this rump Legislature passed a law fettering the power of all the judges in all the courts in that State.

16. The election under this law was held June 30, 1874; and the vote having been declared in favor of the convention, such convention was held July 14, 1874; and although such convention was not clothed with any legislative power and could not be vested with such power, which, as the majority report concedes, belonged under the existing constitution exclusively to the Legislature, yet that convention proceeded to establish a machinery for holding an election upon the ratification of the constitution which it framed. It provided for numbering the votes and voters, dispensing with the secrecy of the ballot. It provided a board of election judges; it provided a board of registration of its own, wholly ignoring the existing registration officers and election officers and existing registration laws enacted under the express mandate of the constitution.

17. The vote upon the ratification of the constitution was taken on the 13th of October, 1874. In September the republican State convention had been held and resolutions and an address adopted advising all republicans not to participate in the election. But how was the vote returned? There were 78,697 for the constitution and 24,807 votes against it, being a total vote of 103,504, or about 40,000 more votes than were cast at the subsequent congressional election, in which both parties participated, but which was conducted in the presence of supervisors appointed in pursuance of the act of Congress, and at which both parties strained their utmost to get out every voter in the State. The return upon the adoption of the constitution shows about the same excess over any preceding election in which both parties had voted.

18. At the same election A. H. Garland, the late deputy Secretary of State, whose extraordinary certificate has been mentioned, was declared elected governor under the schedule attached to the constitution, whereupon Volney Smith, who had been-declared elected lieutenant-governor with Baxter in 1872, issued a proclamation declaring the proceedings to establish the new constitution illegal, treating the retirement of Baxter in favor of Garland as an abandonment of the office and calling upon the people to support him. But a reward being offered for his apprehension, and officers being sent in pursuit of him, he fled from the State. That there has been no acquiescence in the Garland election or in the adoption of the new constitution appears from a statement in the majority report on page 14, where they say that it would have been at the peril of his life for Brooks or anybody else to assert his title under that constitution to the office. Therefore the people have not acquiesced.

19. They also violated the fundamental conditions upon which Arkansas was admitted to representation. The new constitution changes the qualifications of voters by a provision which is not prospective in its operations, although the act of Congress contained a provision against any such change.

20. The old constitution contained a provision declaring the supremacy of the Union and condemning the doctrine of secession, which was struck out in the new constitution. A surplus of loyalty, the majority of the committee say! I say, that these are indications of the disloyal and treasonable character of the men who framed the new constitution, which we are told this Congress has no power to set aside.

21. A reign of terror existed throughout the State during the entire period while the proceedings to form the new constitution were in progress. The testimony will be found abundantly sufficient to support the following conclusions stated in the minority report:

If banditti or a mob of armed men may take possession of a State, depose its officers, arrest its judges, close its courts, intimidate its people through violence and murder, provide its own way of holding and its own officers to hold elections, and its own officers to declare the result, and the fruits of such defiance of all law are binding upon the people of such State and upon Congress, then the present pretended government of Arkansas is legitimate, and must be recognized as such, but not otherwise.

And I have not stated it too strong, for those who will read the extracts I have given from the mass of evidence taken by the committee must be satisfied there was a reign of terror throughout Arkansas during the period in which the so-called Garland government was being formed and set in motion, entirely inconsistent with a full and fair expression of the will of the people on that subject.

The capital city was overrun with the drunken and lawless "governor's guard," which assaulted private citizens, abused and beat negroes, searched and rummaged private houses and private offices, and threatened everybody who opposed Baxter with arrest, imprisonment, or exile from the State.

At and about Pine Bluff, King White, a drunken, reckless man, proclaimed martial law, and arrested and imprisoned the leading men without shadow of cause; and then they were offered freedom on condition that they would support the movement for a new constitution.

North of the capital, in Conway and Faulkner Counties, Jeff K. Jones, upon whose head Baxter himself had set a price as upon an outlaw, for the murders he had committed, had a gang of desperate men committing murders, arson, and violent acts of all kinds upon Union and Brooks men; and Baxter knew of these things and made no attempt to restrain them or to arrest the murderer Jones.

In Hot Springs and Perry Counties like unlawful violent acts occurred. Men in office were impeached without cause or notice, and ejected by military power; property of private citizens was taken illegally and without compensation to the owners.

The judges of the supreme court were arrested by armed force, subjected to insults and abuse, concealed, and finally spirited away to be assassinated if an attempt should be made for their rescue or they attempt to escape.

False charges were made against obnoxious men, and the arrests made thereon were intended for and used to cover cold-blooded and cruel murder, as in the case of the colored man Ned Abes.

Mounted bands of desperate men roamed the country, to awe and intimidate the colored people, even at their barbecues and jubilations.

Men high in command of the so-called militia, and at the head and in presence of a strong force of their own men, threatened quiet and peaceable citizens with death by hanging, as in the case of General Churchill at the barbecue on the 3d of July last.

Baxter himself was daily muttering his curses, and, surrounded by his troops, selected because they were desperate and would fire on the supreme court constantly, uttered his profane threats to arrest and hang or drive from the State the last Brooks man.

And this was the quiet which gave a "fair election"—this the condition of the people when their government was overthrown and a new one set up.

Is there no remedy for these unparalleled outrages and wrongs? There is none in the courts. Gentlemen say, "You must go to the courts." Why, sir, this question came before the Supreme Court of the United States in the case of Luther *vs.* Borden, where an attempt was made in Rhode Island to hold a convention without the form of law, under which Dorr was claimed to be elected governor. In that case, which is reported in 7 Howard, the court use this language:

Indeed, we do not see how the question could be tried and judicially decided in a State court. Judicial power presupposes an established government capable of enacting laws and enforcing their execution and of appointing judges to expound and administer them. The acceptance of the judicial office is a recognition of the authority of the government from which it is derived. And if the authority of that government is annulled and overthrown the power of its courts and other officers is annulled with it. And if a State court should enter upon the inquiry proposed in this case and should come to the conclusion that the government under which it acted had been put aside and displaced by an opposing government, it would cease to be a court and be incapable of pronouncing a judicial decision upon the question it undertook to try. If it decides at all as a court it necessarily affirms

the existence and authority of the government under which it is exercising judicial power.

Moreover, the Constitution of the United States, as far as it has provided for an emergency of this kind and authorized the General Government to interfere in the domestic concerns of a State, has treated the subject as political in its nature and placed the power in the hands of that Department.

The fourth article of the Constitution of the United States provides that the United States shall guarantee to every State in the Union a republican form of government and shall protect each of them against invasion; and on the application of the Legislature, or of the Executive, (when the Legislature cannot be convened,) against domestic violence.

Under this article of the Constitution it rests with Congress to decide what government is the established one in a State; for, as the United States guarantee to each State a republican government, Congress must necessarily decide what government is established in the State before it can determine whether it is republican or not. And when the Senators and Representatives of a State are admitted into the councils of the Union the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority, and its decision is binding on every other department of the Government and could not be questioned in a judicial tribunal. It is true that the contest in this case did not last long enough to bring the matter to this issue; and as no Senators or Representatives were elected under the authority of the government of which Mr. Dorr was the head, Congress was not called upon to decide the controversy. Yet the right to decide is placed there, and not in the courts.

So, too, as relates to the clause in the above-mentioned article of the Constitution providing for cases of domestic violence. It rested with Congress, too, to determine upon the means proper to be adopted to fulfill this guarantee. They might, if they had deemed it most advisable to do so, have placed it in the power of a court to decide when the contingency had happened which required the Federal Government to interfere. But Congress thought otherwise, and no doubt wisely; and by the act of February 28, 1795, provided that "in case of an insurrection in any State against the government thereof it shall be lawful for the President of the United States, on application of the Legislature of such State, or of the executive (when the Legislature cannot be convened) to call forth such number of the militia of any other State or States as may be applied for, as he may judge sufficient to suppress such insurrection."

By this act the power of deciding whether the exigency had arisen upon which the Government of the United States is bound to interfere is given to the President. He is to act upon the application of the Legislature or of the executive, and consequently he must determine what body of men constitute the Legislature and who is the governor before he can act. The fact that both parties claim the right to the government cannot alter the case, for both cannot be entitled to it. If there is an armed conflict like the one of which we are speaking, it is a case of domestic violence, and one of the parties must be in insurrection against the lawful government; and the President must of necessity decide which is the government, and which party is unlawfully arrayed against it, before he can perform the duty imposed upon him by the act of Congress.

It thus appears that the State courts are incompetent to try the question whether the constitution under which the judge sat upon the bench is or is not the constitution of the State. They have sworn to support that constitution, and to go into the courts of Arkansas, when the present judges came in under that constitution, would be a beautiful illustration of judicial impartiality. This case shows that the courts cannot decide against the validity of the constitution under which they hold title to the very offices of which they are discharging the duties upon the bench. You might as well expect a fair trial from that jury that tried a fellow for stealing pork. When he was acquitted his lawyer asked him how it happened that in the face of such clear testimony the jury had decided in his favor. He replied, "Eleven of the jurors had part of the bacon."

The judges have the bacon. They are enjoying the plunder, and yet gentlemen say you must go to the courts of Arkansas to obtain justice.

Now, the next question is, have we the power to determine the question presented to us. This very case, in the opinion of Judge Taney, (which I have quoted,) says the whole question is a political one; that where there are two governors claiming title, or two Legislatures claiming title, it is for the President and for Congress to settle the question. We are the tribunal. When the President is called upon to act, upon the application of the governor, if there is no Legislature, or if the Legislature is in session, he is bound, say the courts, to find out who is the governor and which is the Legislature. At the last election the republicans of the State of Arkansas treated the new constitution as illegal and void and elected members of the Legislature. There they are, two governors, two Legislatures, two sets of officers. Somebody must determine that question. The President refers it to us. We have decided a similar question yesterday in regard to Louisiana. The resolution under which this committee was appointed assumes power and jurisdiction over the subject. The resolution of the majority assumes our power over the subject. They say we shall not only not interfere, but they advise the President not to interfere. That is the substance of it. Everything is so peaceful, so lovely, so quiet, it is proposed that neither this House nor the President nor anybody else should disturb the blessed state of things which exists in Arkansas.

Therefore we all agree that this is the place, and this is the tribunal clothed with power under the Constitution to determine who is governor and which is the lawful Legislature.

But we have the argument *ab inconvenienti*—the horrors of a revolution, disturbing the government—pressed upon our attention. There is no foundation for it in fact. The moment a decree goes forth that the old constitution is in force the old officers will take their places and a new Legislature will come into power. There is no such thing as running away with stolen plunder and covering this all over with their new constitution, saying we have now got it beyond the reach of the great constables of the land, the House of Representatives, which is in pursuit of these spoliators and plunderers for the purpose of having the majority of the people of that State allowed that right which belongs to them, of having a republican government.

Is that a republican government where the vote and voice of the majority are trampled under foot, where a State constitution built up in fraud and conspiracy, wrong and injustice, is to take the place of the constitution established by the people, and officers thrust upon the people are to take the place of those men confessedly elected by a majority of the people? I denounce every step in this system of measures resulting in the adoption of that new constitution as absolutely void; and unless we can declare it, there is no power anywhere to declare it null and void.

I maintain that Baxter was neither governor *de facto* nor *de jure* April 27, 1874, when he called the special session of the Legislature which assumed to authorize the proceeding for a constitutional convention, as he had been removed by judgment of ouster on the 15th of that month. He was not governor *de jure*, we all admit, because he was a minority governor. On the 15th of that month judgment was pronounced against him in the Pulaski circuit court. Brooks had taken the oath of office, and had gone and got possession of the office as far as it was possible to do in consequence of the armed force which surrounded Baxter. Did not this proceeding make him governor *de facto*? What makes a man governor *de facto*? The judgment of a court of competent jurisdiction is the highest evidence. The moment a party comes with that judgment it sets aside the certificate of election. The statute of Arkansas is copied from the code of New York providing that after obtaining judgment and upon taking the oath of office, although the time prescribed by the general statute may have gone by, he shall take possession of the office. If that does not make him governor *de facto*, what does? The judgment of a court is final and conclusive until reversed. The State treasurer, one Page, refused to recognize the warrant of Brooks, and the whole case went to the supreme court, and that court decided in favor of Brooks. The court held that the judgment of the Pulaski circuit court being the judgment of a superior court of general original jurisdiction, was final and conclusive until reversed, and ordered a *mandamus* against Page.

We heard something said about the decision of the supreme court the other way. There never was any. By the manipulations of the Federal judge, who was the friend of Baxter, when a decision was given, refusing to allow a *quo warranto* to issue, on the motion of the attorney-general, the court decided, it is said, that the circuit court had no power whatever to allow the issue of that writ. They afterward got what is called the "fly-leaf" opinion, saying the court had no power to determine the question. It was an extra-judicial remark, binding nobody. Subsequently the judgment in the circuit court, on the application of Mr. Brooks, was decided by the supreme court to be final and decisive.

But it is said this judgment was reversed. When? After the committee went to Little Rock last summer. And by this new court, under the new constitution, the chief justice of which was an ex-rebel, as we learn, who had been the counsel of Baxter in all his proceedings. An argument based upon this decision is to be regarded, because it was made by the court under the new constitution. The question we are considering is whether Baxter was governor in 1874, when he issued his proclamation.

The second proposition, which I maintain, is that the body which passed the law for a constitutional convention was not a Legislature in law or in fact. A special election was held to fill vacancies which was wholly unconstitutional and void. No election can be held except in pursuance of law. If a man had voted a hundred times at that election there was no power to punish him. If he had sworn falsely he could not be punished for perjury. That state of things existed at every election held in reference to this pretended constitution. It existed at the election which was held to decide whether or not a convention should be called.

The governor had no more power to order this special election than any other State officer. We have seen that the statute gave him no power to order any election except in two cases, and the present case was not one of them. The Legislature, when it passed this pretended law submitting the question of electing delegates to the convention to the people, had far less than a quorum in either branch, unless these members elected at this illegal special election were included. Four old members in the senate and fifteen in the house, being less than one-half a quorum in each body, met; and, instead of adjourning or ordering a call of the house, this rump of a legislature proceeded to admit the men who had been chosen at Baxter's special election, and thus the quorum was obtained. The acts of such a body were wholly illegal and void.

The next proposition which I maintain is that the law, so called, which provided for electing members of the convention was unconstitutional and void because it was in conflict with the constitution, both in dispensing with the secret ballot and in dispensing as to that election with the registration law existing in the State and required by the constitution.

That such a statute was void was held in Indiana by the supreme court. Within the last ten days a similar decision has been pronounced in Illinois. I will append to the report of my remarks the opinion of the court. The importance of the secrecy of the ballot is self-evident. I will quote the opinion of Judge Denio, an eminent democratic jurist of New York, on this point:

I have already alluded to the policy of the law providing for a secret ballot. The right to vote in this manner has usually been considered an important and

valuable safeguard of the independence of the humble citizen against the influence which wealth and station may be supposed to exercise. This object would be accomplished but very imperfectly if the privacy supposed to be secured was limited to the moment of depositing the ballot. The spirit of the system requires that the elector should be secured then and at all times thereafter against reproach or animadversion or any other prejudice on account of having voted according to his own unbiased judgment; and that security is made to consist in shutting up within the privacy of his own mind all knowledge of the manner in which he has bestowed his suffrage.

Judge Cooley, in his work on Constitutional Limitations, says:

The mode of voting in this country at all general elections is almost universally by ballot. The distinguishing feature of this mode of voting is that every voter is thus enabled to secure and preserve the most complete and inviolable secrecy in regard to the persons for whom he votes, and thus escape the influences which, under the system of oral suffrage, may be brought to bear upon him, with a view to overbear and intimidate, and thus prevent the real expression of public sentiment.

The next proposition I maintain is that the election upon the ratification of the constitution was void. No statute had been passed providing for such election. The convention assumed to provide for such election, but all legislative power was vested in the Legislature. Authorities in great numbers might be cited to show that the convention possessed no legislative power. It follows that this election was void. Besides this objection, this convention also ignored the secret ballot. It provided for marking the ballot. It also provided for its own election officers. It provided for its own registration; all in direct conflict with the existing constitution. We have thus seen that all the pretended elections which resulted in this constitution were absolutely void. The result of such an election proves nothing. There was no liability resting upon the electors; none on the pretended election officers. If a voter voted who was an illegal voter, he was not liable to punishment. If the pretended officer made a false return, he was exposed to no penalty. Every voter might get a directory and vote under as many names as he could find with entire impunity. Convicts, infants, aliens, non-residents, married women, all might vote, and then the judges in their returns might duplicate the number of votes actually cast, and no criminal liability would follow. No one was authorized to administer an oath to the voter, and no indictment for perjury would lie for false swearing.

It is therefore impossible to know, as this majority report assumes, that a majority of the voters of Arkansas are in favor of the new constitution. All good citizens must be presumed to know that the election upon the question of ratification was wholly unconstitutional, and hence that no rights could be affected by their failure to vote. As the courts have repeatedly held, there is no possible mode known in a free government of determining the views of a majority except at an election held pursuant to law, where the qualified voters alone can vote and the purity of the ballot-box is protected by legal sanction. In Arkansas nothing of this kind was done. The pretended elections were a mockery, a delusion, and a solemn farce.

There are two other objections which may be mentioned. The schedule attached to the constitution provided for the election of a governor and other officers, and declared that the election should occur in October, when the question of ratification was submitted, and that the persons elected should hold their offices for a certain time. The election was made absolute and not in any manner dependent upon the adoption or rejection of the constitution. This is Mr. Garland's title to the office of governor, and of course it is wholly illegal and void.

Another objection which has been urged is that the constitution of 1868 provided a mode for its own amendment, and this excluded all other modes. I do not rely upon this objection. In New York we are living under a constitution, adopted in 1846, in a mode different from that provided for in the constitution of 1822, but then our constitution was framed first by delegates, who were elected under an act of an unquestioned Legislature, held in accordance with existing law where all the usual safeguards obtained and all the constitutional qualifications of electors were preserved, and then was notified at an election held by virtue of an express statute, providing election officers and all the other necessary safeguards. How widely different were these proceedings from those held in Arkansas.

But I turn away from this shameful and sickening record. The history of the country affords no parallel to these revolutionary and illegal proceedings.

But, say the majority of the committee, all is now peaceful in Arkansas. On the next page the kind of peace is indicated in the statement that if Brooks would attempt to assert his unquestioned title by legal means, it would be at the peril of his life! O, blessed peace! It is like the "order that reigned at Warsaw!" It is like the peace of New Orleans after the revolution of last September. It is like the peace of the house at Catskill which was recently entered in the day-time by a band of robbers, who tied and gagged the inmates and robbed the house. These peace-makers are now in State prison, but in Arkansas they are holding high office, and the State is bound hand and foot lying helpless at their feet, and the Ku-Klux and white-leaguers are enrolled in the State militia and aiding in preserving the peace of the State!

Mr. Speaker, there are two great issues which, I regret to say, have assumed a political character, the one relating to the condition of the people in Arkansas and the other Southern States which were lately in rebellion, and the other relating to the financial questions growing out of the public debt and the condition of the currency which resulted from the late war. These questions are now pending before the people, and will enter largely into the next presidential election. Whenever any measure relating to these issues has been introduced during this session by the responsible majority of this House, it has incurred the united hostility of the democratic party. Their claim has been that the republican party has been condemned by the people, and as the democratic party was soon coming into power, no measure introduced into this Congress by the republicans which bore upon these issues should be entitled to favor or even to respectful consideration. Acting upon this theory, the civil-rights bill, the bill to restore specie payments, the recommendations of the President relating to Louisiana, to Arkansas, and every measure intended to secure peace, order, and good government at the South, or to protect white and black republicans in that part of the Union in the enjoyment of their civil and political rights, have been resisted by means wholly unprecedented in the past history of congressional legislation.

Amid the acknowledged difficulties which surround the country growing out of the southern difficulties and the financial questions, it is truly painful to discover that no aid will be afforded in solving these difficulties by our friends on the other side of this Hall. My able and distinguished colleague from New York [Mr. COX] I remember earnestly deprecated and protested against any discussion or agitation of the financial question. As if to add insult to injury, he cruelly proclaimed on this floor that the pending measure was "the dying groan of a dying party." I cannot suppose that a Representative so shrewd and sagacious as my colleague generally is could have intended by that allusion to a "dying party" to refer to the inflationists, for he would not thus slap in the face a very large and powerful portion of his political associates, not only in this House, but also among the members-elect of the incoming Congress. He must have therefore alluded to the republican party.

My colleague knows how it is himself, that a party may seem to be dying for a great many years, and then experience an extraordinary and almost miraculous resurrection. If, however, the republican party is really and truly dying, why will not our friends of the opposition, like true patriots, come to the rescue of a bleeding country? The country is holding its breath in eager expectation, waiting for the development of that wisdom which will save the nation. Must it continue to wait for twelve long months? Can we not be favored with at least some partial installments of that statesmanship which will burst forth in effulgent splendor and glory, with the advent of the Forty-fourth Congress? The only remedy they suggest for this terrible condition of affairs at the South is this: withdraw the troops and allow murder and violence to prevail with impunity.

Since the recent elections we have been constantly assured that the democratic party was able and willing to save the nation and relieve it from all its embarrassments and troubles. The big guns have been fired; the bonfires and illuminations have been blazing away all over the land; the newspapers have been filled with screaming eagles; the democratic cocks have been crowing vigorously; the plebian and the patrician cocks, the common country cocks, and the blue-blooded, aristocratic, congressional cocks without regard to race, color, or a previous condition of fourteen years' servitude, all have been crowing lustily.

The beautiful and rose-colored pictures of the political situation which have been presented to our view since the recent elections by the democratic painters and orators have excited our profound admiration. As Paul Pry says, "I hope I don't intrude" when I venture to congratulate my democratic friends upon the brilliant and attractive prospects before them.

There never were such splendid opportunities presented to a political party for obtaining and holding permanently the power with which it has been intrusted as are now offered to the democratic party, dependent only upon a single condition. That condition is that now and hereafter they shall perform all the promises and pledges which they made when out of power, and that they shall answer the expectations of all those who have contributed to their present election. If the party will do this, the first and most important duty will be to rekindle or help to rekindle the fires in the furnaces throughout the country; to put the forges once more into full blast; to set in motion the mills, factories, and machine-shops now idle; to open investments for the capital now unemployed in our commercial centers; to furnish remunerative employment to the multitude of laborers seeking work; to put an end to the prevailing distrust, commercial embarrassment, and stagnation of business following the great panic of 1873, and to restore confidence, activity, and enterprise in all the pursuits of trade, business, and commerce.

In the second place, they must repeal, or help others to repeal, the pledge given in 1869 that the debt of the nation, wherever it is not otherwise expressed in the bond, shall be paid in coin or its equivalent; also they should at once provide, or help to provide, for the issue of $1,700,000,000 in irredeemable legal-tender notes which the public creditors must accept or receive nothing for their bonds and other obligations. This will immediately relieve the people from all necessity for raising any money hereafter to pay either the principal or interest upon the public debt. In addition to this, Congress should authorize the issue of some four or five hundred millions more of such legal-tender notes, to form a currency in place of the national-bank notes now in circulation.

It is true some little difficulty may be experienced at first from the trifling circumstance that this involves a violation of all the pledges given by the nation to the public creditors during the war; but now that the integrity of the nation has been secured, the rights of creditors must be subordinated to the dictates of self-interest, for charity always begins at home, and the nation which provideth not for its own household is worse than an infidel. It is very true that this action will involve the nation in some little trouble, because it amounts to repudiation; but then, with such marvelous resources and wealth as we possess, what do we care for that? "Let every one take care of himself," as the jackass said when he danced among the chickens.

Should any troublesome objector suggest that such legislation would amount to a confiscation of all Government obligations, unsettle all values, and produce universal bankruptcy, disaster, and ruin, and thus injure the democratic party, he must be silenced at once by the unanswerable argument that it is the bounden duty of the party to fulfill at the earliest moment the pledges upon which the people have placed the power in its hands. The democratic platforms adopted in the State conventions of Ohio, Indiana, Tennessee, and Missouri demand that the proposed measures shall be adopted, and that ends the discussion.

The western and southern democracy having been now satisfied, the next thing in order will be to conciliate the democracy of New York, New Jersey, and New England, who demand a speedy return to specie payments, the ready convertibility of the paper dollar into gold and silver, and a return to rock bottom by putting an end to all further inflations of the currency. These same unreasonable people prate sometimes, too, about the duty of maintaining the public credit and upholding the national honor.

The democratic Representatives from the Eastern and Middle States are not so unreasonable, however, as may be supposed. They have learned that the star of empire is moving westward. They will find themselves in a hopeless and helpless minority at the democratic caucus next winter. They are true patriots. They are not so visionary as to present any factious obstacles to the policy which will secure the next President and bring into fat offices the starved and hungry patriots who have been browsing on the commons for the last fourteen years.

It is believed that they can be easily appeased by a clause in the proposed inflation law declaring that on the 4th of March, 1877, specie payments shall be deemed resumed, and the paper dollar shall be considered as good as gold. They will then be able to show to their constituents that good old principle of equity jurisprudence that whatever ought to be done shall be considered as done. If any democratic voter shall fail to be satisfied by the explanation, he can easily be convinced by a resort to that unanswerable dogma of the democratic financial policy that "the way to resume is to resume."

In this way the seemingly conflicting opinions of the eastern and western democracy will be easily reconciled. There is no solvent for perplexing problems in statesmanship so powerful as a lively sense of favors to come.

This little bit of problem on the currency and financial question having been happily disposed of, the democracy will now be ready for other fields of legislation. The difficulty with the party has been that for the last fifteen years its capacity for wise and efficient management has been restricted within very narrow and limited boundaries, and therefore it has appeared to a disadvantage. It was owing to this impediment that it made such a sorry figure in the city of New York. This was the reason why in that wealthy and powerful municipality the debt of the city has rolled up under democratic control to the sum of $140,000,000. It was owing to this cause that every vestige of local self-government in that oppressed city was crushed out by democratic legislation and more than imperial power was vested in a cabal of democratic chieftains. This was the reason why in that city scandal, reproach, and lasting disgrace have been inflicted upon self-government and upon democratic institutions throughout the world.

It was owing to this same difficulty that when the democratic party acquired power in the State of New York in 1870 it made such a miserable exhibit of its ability. Then it created a deficiency of six or eight million dollars during one winter, it broke into the sinking fund and squandered $6,000,000, lavished the public moneys in sectarian appropriations, authorized the creation of municipal and other public debts, doubled all the expenses of the State, and was finally thrust from power at the earliest opportunity; but all this was because it had so narrow a field for the display of its administrative ability. Now it will be able to maneuver on a broader theater, and as its leaders enter this Hall during the Forty-fourth Congress they may exultingly exclaim—

> No pent up Utica contracts our powers,
> The boundless continent is ours.

The national debt having been paid off by the agency of a huge Government rag-mill, with paper, ink, and pictures of democratic financiers, the work of legislation will be very simple and easily performed. Democratic office-holders will hereafter serve without pay, being more than compensated by the patriotic consciousness that they have performed their duty. Specie payments being now postponed for at least fifty years, everybody can have all the money and more than he wants. The money will be like Colonel Mulberry Sellers's famous eye-water, which had "millions in it." He was to sell a bottle to every one of the four hundred millions of people in Asia, and the more they had the more they would want!

Every laborer will have plenty of work. To be sure the paper money he receives for wages will not be worth anything, but then as there will be no taxes to pay he will not require much. If his money will not buy clothing or flour or educate his children, let the Government step in and compel the merchant to supply these things, the farmer to distribute his products among the poor and needy, and the teachers to instruct the children free gratis for nothing. These will have no right to murmur, because they will be living in a millennial age, when all debts will be abolished, taxes annihilated, and the democracy restored to power!

Permanent and solid peace also will be restored to the South; black and white men shall all be satisfied. For the Africans who have voted for the democracy there shall be civil-rights bills, abundant facilities for education, and full protection for all their rights; for the white men, the hundreds of millions of southern claims which have been knocking for allowance at the doors of Congress until "hope deferred has made the heart sick" shall be at once allowed and paid.

The brain becomes bewildered at the contemplation of all the rivers made navigable, the railroads compelled to carry passengers and freight for reasonable rates, public and private wrongs rectified, and the activity and prosperity which will follow when the democratic promises shall be performed and the expectations created by its return to power shall be fully realized. Neither pen nor tongue can do justice to this glorious theme.

Seriously, however, I will add a few words of unsolicited advice. Let the leaders of the democratic party avoid the fatal error of assuming that the people have intended to reverse the verdicts which they have repeatedly and deliberately pronounced during the last decade. Let them therefore take their stand upon the last three great amendments of the Constitution, and resolve that no part thereof shall be disturbed. Let them determine to treat the newly-emancipated freedmen as entitled to equal civil and political rights with white citizens. Let them use their power in the Southern States to secure to every citizen the full and free enjoyment and expression at the polls, and in every other proper way, of their political opinions. Let them bring about the dissolution of all secret associations banded together for the purpose of securing the success of their political views by armed force or by any other illegal means. Let them act upon the assumption that the people desire no backward steps to be taken, but that they will be conciliated by allowing these beneficent and advanced doctrines of republicanism and human rights which have been proclaimed and sanctioned by the nation in its recent struggles to become absorbed and to form a part of the legal and constitutional system which protects the American citizen.

Then let these same democratic leaders cast aside those obsolete and condemned notions which have so long weighed down their party and obstructed its progress. Let them enter in truth and in fact as well as in theory upon a new departure.

Then let them sternly resolve to bring the country back at the earliest possible moment to the hard-money specie-paying doctrines of Benton and of Jackson. Let them determine to prevent at all hazards any further expansion of the currency. Let them resolve to redeem without unnecessary delay the legal-tender circulation of the country, and to make the paper dollar equal in value to the gold and silver dollar. Let them exorcise the evil spirits of inflation, and adopt substantially as the basis of their legislative action upon the financial question the platform of the New York democratic State convention.

The people have finally decided in favor of the Jacksonian doctrine that the Union is perpetual and must be maintained in opposition to the antagonistic heresy that the States may secede and destroy the Union at will. Accepting this decision as a finality, let the democratic party resolve to maintain at any cost the credit, the honor, and the plighted faith of the nation by utterly crushing out the abominable and pestilential sentiment of repudiation in any and every one of its protean forms. This will require resolution and courage. It is only by pursuing this course that any reasonable hope can be entertained of retaining the support of that large class of independent electors who hold the balance of power, and who are resolved to secure good government upon sound and honest principles.

Let the democratic party also resolve to uphold the supremacy of the General Government in all matters within the sphere of its jurisdiction as well as to sustain the States in the full enjoyment of their independence within their appropriate and constitutional boundaries. Let them guard the Treasury with sleepless vigilance against those numerous and insidious claims which under a thousand specious disguises will be presented to Congress for allowance and payment.

Let them promote economy and reform in the expenses of government and crush out all jobs and schemes of plunder. Let them render powerless for mischief those vigilant plunderers who have brought so much discredit upon the name of democracy and who are now ready to plunge their arms into the public Treasury up to the shoulders.

These are a few of the duties that will devolve upon the party which the people have recently intrusted with power. They seem plain and simple, but they will tax the ability of the party to its uttermost capacity. They must be faithfully discharged, or all expectation of

a continuance in power may as well be speedily dismissed. If these elementary and essential conditions are not sacredly and faithfully observed, then Ichabod will soon be written upon the walls of the democratic tabernacle.

We call, then, upon our friends on the other side of this Chamber to carry out now these great principles. Great light should not be hid under a bushel, but should be placed upon the highest pinnacle. If they refuse to do this now, there is danger that this ostrich-like policy will not prove to be either politic or successful.

There is one small cloud visible in the sky; one grinning skeleton sits at the feast. Before the next presidential election comes off full opportunity will be given for the fulfillment of these ante-election promises made by the now jubilant democracy. The long session of the next Congress will develop the statesmanship of the incoming party. They can no longer content themselves with grumbling or with mere negative opposition. They must show their hands; they must unfold their policy and their purposes; they must take their share of affirmative measures for relief. Woe be unto them if they fail to meet the promises made and the expectations created. No matter how inconsistent these may be nor how impossible of fulfillment; if they fail, better for them that they had remained in a minority. In case of failure, no shadows of Cæsarism or clamors about a third term will ever disturb their peace, for they never will enter upon even the first term! Then that little cloud now no bigger than a man's hand will cover the sky. Rather than fail, it had been better that a mill-stone were hung around their necks and their party cast into the sea; for an offended people will at the next presidential election indignantly hurl them from power, and the places which will soon know them will know them no more during the life-time of the present generation.

In the progress of our debates in the House during the present session honorable gentlemen have expressed their opinions freely concerning the condition or necessities of the republican party. Thus my worthy colleague from New York, [Mr. Cox,] with whom it is barely possible that the wish was father to the thought, alluded to the party as a "dying party," emitting its "dying groans."

It may be after all that the republican party is not in a dying condition, and that the ordinary processes of nature will be sufficient for its restoration without a resort to novel and untried experiments. It may be that the symptoms which honorable gentlemen have erroneously supposed were indications of approaching dissolution are only the signs of that healthful repose which sometimes precedes the advent of new and unprecedented health, vigor, efficiency, and power. He who should pronounce a funeral oration over the body of such a sleeper might be overwhelmed with confusion and ridicule.

Bright and beautiful doubtless are the visions of hope and expectation which are floating in the imaginations of our friends on the other side of the Chamber. These include the White House at one end of the avenue, this Capitol at the other end, Cabinet officers, foreign ministers, and all that numerous and goodly list of dazzling prizes to be found in the Blue Books in our desks, and which have recently acquired such new and unusual interest for the opposition. Prominent among the means by which these splendid results are to be achieved was the revolution under forms of law whereby the rights of the people were trampled under foot effected by the democratic party in Arkansas.

It is within the range, however, of possibilities that these are only the shadowy phantoms which dance through the brains of dreamy and visionary enthusiasts. These golden castles in the air may after all come to naught.

"There 's many a slip
'Twixt the cup and the lip."

Dreams do not always indicate correctly coming events, nor do they constitute the safest and best materials for the construction of political edifices.

True it is that a recent stroke of political success has been achieved by our opponents quite as surprising to them in its magnitude as to the rest of the world. But it was born of the miseries and trials, the pains and sufferings, of a people passing through one of those seasons of commercial adversity and pecuniary difficulties which do occur in our country at rare intervals without fault on the part of the administration. The only wonder in this instance is not that it has occurred at all, but that it had not sooner followed the termination of one of the most gigantic and devastating wars known in the world's history. The party which rises when the country sinks, and sinks as the country flourishes, may not possibly, in a country like ours, count upon a single victory as a certain test of a long and permanent lease of power.

If the republican party shall display anything like the pluck, tenacity, and resolution which have been exhibited by the democratic party during adversity, that person is not yet born who will witness its dissolution or hear its dying groans. Its action upon the Arkansas case will be awaited with great interest, as reflecting some light upon its disposition to grapple with the difficulties which surround the country in a bold, honest, and statesman-like manner. In 1840 the democratic party was swept from power in this country by a popular revolution which was apparently more decisive than the recent elections. The victorious whigs then claimed that the result was due to the popular dissatisfaction with the measures of the administration, prominent among which was the sub-treasury system with which Mr. Van Buren's administration was identified. In truth, however, the real cause of the defeat of the administration then as now was the hard times which succeeded the panics and convulsions to which the trade, business, and commerce of the country had been subjected. The democratic party adhered firmly to its principles, and was soon restored to power again with the return of prosperity. The independent treasury system, with its bonds, oaths, and severe system of criminal responsibility for all public officers intrusted with the care, custody, and disbursement of public moneys, and with its divorce of the Government from banks as its fiscal agents, remained in force and has continued down to this day.

If the republican party shall be so far driven from its moorings by its temporary reverses as to abandon any of those cherished principles which have constituted its glory and its strength; if it shall refuse to carry out those great doctrines of civil and political equality to the success of which it stands honorably pledged before the country; if it shall abandon the cardinal and sacred precept that all citizens, without regard to color or creed, in every part of this Union, shall be protected in the enjoyment and free exercise of their political rights and privileges, including the inestimable right of suffrage, by all the power of this Government, then, indeed, will it deserve the prediction pronounced by the ancient patriarch Jacob upon his first-born son Reuben, "Unstable as water, thou shalt not excel."

But it is not probable that it will adopt a course of conduct so plainly suicidal and unwise. Neither prudence nor wisdom would justify any large investments on the results of recent elections, or the counting with very great confidence chickens that are not yet hatched. Such reverses may serve to impress upon the party in power the duty of self-examination, amendment, purification, and improvement, and thus prove to be blessings in disguise. The chastening rod which the people have applied may increase the devotion of the party to its fundamental and cherished creed. It may be led to strike off all burdens which are calculated to retard its onward and upward progress. The return of national prosperity may speedily put a different aspect upon political affairs. The experience of the people of Wisconsin, who, after a short trial hurled from power the democratic party, may prove to be the experience of the whole people of the country. The recent counteraction in Wisconsin was a repetition of the results which in 1862 and 1863 occurred in New York, Pennsylvania, and Ohio.

"Wherefore let him that thinketh he standeth take heed lest he fall." The republican party is not composed of such perishable elements as to be annihilated by the adverse results of one single campaign. At the hazard of antagonizing the views of eminent political doctors on this floor, I will venture the opinion that the republican party is neither dead nor dying, but that on the contrary it will continue in the future as in the past to hold possession of political power in this country. Called into existence in its origin upon one single great issue, involving the moral sense of the nation, its duties and its power increased until it was compelled to become both the sentinel and the guardian of the unity and integrity of the country against the perils of dissension and war. Cherishing with sacred regard the great truths of freedom and equality which constitute the corner-stone, of our Government, it has steadily labored to give practical success to these doctrines and thereby to strengthen the foundations of the Republic.

Unparalleled success has rewarded its labors. Errors it has committed, but yet the work which it has already accomplished will continue to exist so long as our free institutions shall be perpetuated. It has been strengthened by the sacrifices and trials and cemented by the precious blood of the nation's noblest sons. It represents to-day the aspirations, the hopes, and the political faith of more than twenty millions of free people, who are animated by the purest patriotism and the strongest convictions of duty. When such a party dies, it is not until its work is fully accomplished, (and that work now is only just begun,) or until proving false to its own principles another and a better party shall appear and take its place.

On hearing gentlemen on this floor speak flippantly of this party as being either in a dying or in a dangerous situation, I am induced to suspect one of two explanations: Either they have an intense desire that such a condition should exist, and hence they are led to draw on their imagination for their facts, or they have some patent medicine which they desire to prescribe, and for the purpose of persuading the friends of the patient to adopt it, they misrepresent, perhaps innocently, the diagnosis of the case. Whatever may be the explanation for the erroneous opinion, the fact that it is entirely erroneous cannot be controverted. The recent check has already produced the most auspicious results. The ranks of the republican party are rapidly closing up; unanimity and harmony are everywhere prevailing; judicious counsels are heard and heeded; and its members are preparing to march forward hand in hand, and shoulder to shoulder, with sure and certain but with prudent and careful steps to the return of specie payments, and to the protection of all American citizens in every part of the country.

Gentlemen of the opposition now so jubilant wholly fail to appreciate the height and the depth, the length and the breadth, of the love which millions of the voters in this country entertain for the cherished principles of the republican party. Let them continue to indulge in their vain delusions. They may wake up some fine morn-

ing in the near future to learn that their dreams are at an end, the music has ceased, the banquet hall is deserted, the airy castles are dissolved, and the dying party has been changed into a triumphant and victorious army, while scattered throughout the tents of their sleeping foe may be gathered up these inscriptions:

The best laid plans of mice and men
Gang aft agley,
And leave behind but grief and pain
For promised joy.

If a stranger had entered this Hall during the present session and observed the conduct of the democratic Representatives, he would never have imagined that they belonged to a victorious party. They have been so timid, so reticent, that they would seem to be more like men moving in the dark along pitfalls and upon the edges of dangerous precipices. I have often been impelled to address them in the language of the good old hymn:

What is it that casts you down?
What is this that grieves you?
Speak, and let the worst be known;
For speaking may relieve you.

This Arkansas case comes before this House free from any controverted question of fact. In other Southern States the charges of intimidation, force, and criminal outrages are to some extent denied, but here we have a case free from any such dispute. All the facts of the case are established and found by the unanimous report of the committee; and these reveal a history of lawlessness, oppression, injustice, and wrong such as has never occurred in time of peace in any country since the dawn of creation. Sustain the report of the majority, and this House decides that the greatest political wrongs may be committed, whereby the people of a State may become bound hand and foot and their constitution be overthrown by lawless violence, and yet there is no remedy for such wrongs. It will hold that a constitution of a State is no better than a cobhouse. And yet I know that the democratic party, now as on other questions, will vote as a unit in this House in favor of sustaining the wrongful acts of their political associates. And I regret to add that I fear they will find too many allies on this side of the chamber, among men of amiable disposition, who hate the wrongs that are revealed but are not willing to strike the blow which, while it brings relief, may cause some disturbance, the extent of which, however, I am persuaded is greatly exaggerated in their minds.

And now I dismiss this Arkansas case. I know the odds I am encountering in opposing a report sanctioned by four out of five members, when the four embrace two leading republicans. I know the timid fears which restrain men from declaring the truth without regard to the consequences.

I shall cast my vote in favor of the minority report if I stand alone; and I have no fear that time and events will not fully vindicate my action. I regard the events in Arkansas as indicating that disease prevailing throughout the States lately in rebellion which, unless checked or cured, I fear will prove fatal to my country.

May the precedent to be established by this House not result in the overthrow of all the reconstructed governments throughout these States? May it not be followed by the destruction of all the work of reconstruction by the nullification of the three great amendments of the Constitution, and by placing the emancipated freedmen in a condition worse, more perilous and disastrous than that of African slavery?

In conclusion, I protest against the conclusion of the majority of the committee. I protest against the revolutionary and lawless proceedings of Arkansas which have resulted in the election of her present governor and the setting up of her present constitution. I protest against them on behalf of the majority of the people of that State, who elected Brooks governor; I protest in the name of the four millions of people whom I represent on this floor; I protest in the name of honesty and fair play, in the name of justice and constitutional law.

The following is the opinion of Judge Rogers, of Illinois, referred to in the foregoing speech:

The declaration in this case alleges that on the 4th of November, 1873, at a general election of State and county officers, the plaintiff, being a citizen of and entitled to vote in the first ward of the city of Chicago, delivered to the defendants, who were the judges of election, a legal ballot, and requested them to put it into the ballot-box without marking any number on it, and forbade them doing so; but, notwithstanding his request, objection, and protest, the defendants did mark on the outside of said ballot a number corresponding with the number then and there placed opposite his name on the poll-list, and deposited it so numbered in the ballot-box, by reason whereof it became possible for any person at and after the regular count of the ballots cast at said election to ascertain for whom of the candidates for the several offices the plaintiff had voted, whereby the secrecy of the ballot was violated and he was damaged in his constitutional privileges and franchises.

On the trial a jury was waived and the case was submitted to the court for trial upon the facts as set forth in the declaration, the parties agreeing that they were substantially true.

The statute of elections expressly requires each ticket or ballot to be numbered with a number corresponding with that of the voter on the poll-list, and in doing so in this case the judges of election were justified, unless that requirement of the law is invalid by reason of its conflict with section 2 of article 7 of the constitution of the State, which provides that "all votes shall be by ballot."

If the ballot implies complete and inviolable secrecy, and was so understood by the framers of our constitution when they adopted and used the term, then it is clear that the statute making it the duty of the judges of the election to number the ticket with a number corresponding with that of the voter on the poll-list is unconstitutional and void, inasmuch as it affords a certain means of exposing the vote and depriving the voter of the security and protection of the secret ballot. For the judges of the election in the canvass of the votes upon the closing of the polls are required by the same statute to open and read the tickets in the presence of the clerk, and have only to ascertain the number of a voter on the poll-list and find the ticket with the corresponding number to see for whom the citizen has voted; and then all the ballots, after being read and counted, are to be strung upon a thread, enveloped, sealed up, and returned to the county clerk, by whom the ballots are to be kept for six months, subject to being opened and "referred to by witnesses" in case of a contested election.

Thus, it is seen, the election law requires the identification of every man's ballot, and expressly provides for exposing it to the public. The legislative construction of the constitutional provision, "all votes shall be by ballot," is, that such a vote is not necessarily secret. This is more clearly shown by looking at the action of the Legislature in prescribing the manner of determining a contest for the office of governor or other executive officer. The constitution (section 4 of article 5) provides that such a contest shall be determined by both houses of the General Assembly "by joint ballot, in such manner as may be prescribed by law." Here the ballot is provided for, and the General Assembly, acting under this power and constitutional requirement, has prescribed that, in a contested election of governor, &c., a joint committee shall be appointed which must report the facts, and then a day is to be fixed by a joint resolution for the meeting of the two houses to decide upon the same, "in which decision the yeas and nays shall be taken and entered upon the journal." Here we have another legislative construction of the ballot—joint ballot, and that is, that it is not to be secret, but must be open and public—by yeas and nays entered upon the journal, that all may see and know how the members voted. This, however, has not long been the construction. For the statute requiring the ballot to be numbered and subject to examination, and consequent exposure of the votes of electors, was first enacted in 1861, while the constitutional requirement that "all votes shall be given by ballot" was made in 1848. Before the adoption of the constitution of 1848 all votes in Illinois were given *viva voce*. Such was the provision in the constitution of 1818, and it continued for thirty years. When the convention of 1848 made the change, it did it by using the term ballot—"all votes shall be given by ballot." Neither the constitution of 1848 nor that of 1870 defines the word "ballot," nor prescribes the manner of casting a vote other than by the use of the word ballot. We must then look to its primary meaning and its history to determine whether it implies a secret vote.

Lexicographers define it as a "ball used for voting," "a ticket or written vote given in lieu of a ballot." Anciently the common mode of voting was by casting white and black balls (sometimes pebbles and beans) into a box or urn. This manner of deciding a question, voting upon a proposition, or for or against a particular person, was common in Greece and Rome. Yet in the former—especially in Athens—it does not appear to have been, in fact and seems not to have been, secret; while in Rome it was so designed, and Cicero, we are told, spoke of it at one time as being all that remained of former liberty, while Pliny objected to it as affording a screen to corruption. (See New American Cyclopedia, volume 2, page 540, "Ballot.")

Balls are now used in voting in many societies and organizations, open and secret, and in all, so far as I know, the casting of the balls—the ballot—is intended to be strictly and inviolably secret. In a large majority of the States the ballot is used, not balls but tickets or written votes. The history of the ballot, tradition was and the common understanding of the people justify the conclusion that the term, used in the constitution of our State as designating a mode of voting that is secret and intended to secure to the voter that independence and freedom of action which it is thought should be enjoyed by all citizens in a State recognizing suffrage as the right of all male adult citizens, and pretending to be based on the free and unbiased will of the people. Such has been the construction and judgment of courts in several States having the same constitutional provision as that of Illinois.

The precise question involved in this case arose upon a similar statute and constitutional provision in Indiana, and the supreme court of that State decided the statute requiring the ballot to be numbered with the number of the voter on the poll-list to be unconstitutional and void. (See Williams *vs.* Stein, 38 Indiana; 5 Chicago Legal News, 530, and authorities there cited.)

That the mode of voting by secret ballot has all the advantages claimed for it may well be doubted. It is subject to fraudulent uses by men skilled in the arts of the ballot-box stuffer and in furnishing tickets to the uneducated voter. But corruption will exist in popular elections whatever mode of voting may be adopted while suffrage is the right of the ignorant and the wicked, and as long as the ward bummers and vicious repeaters are supported and courted by the demagogue and professional office-seeker. It exists where the open *viva voce* vote is required, and it reeks in States which boast of the freedom and equality of elections, where the secret ballot is required. The advantage of the ballot is more in the case and convenience with which the election can be dispatched than in the supposed freedom from improper influences which is claimed for it.

But I am satisfied that the ballot does imply secrecy, and that it was so understood and intended by those who incorporated the term in the constitution. Each elector is entitled, therefore, to have his vote kept secret. The Legislature had no power to deprive him of this constitutional right by providing means of exposing his vote to the public, and I must declare the act void.

Finding for plaintiff ten dollars damages.

Mr. TREMAIN. I enter a motion to substitute the minority report for that of the majority.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, informed the House that the Senate had passed, with amendments, in which the concurrence of the House was requested, the bill (H. R. No. 3341) to equalize the bounties of soldiers who served during the late war for the Union.

WITHDRAWAL OF PAPERS.

By unanimous consent, leave was given to withdraw papers from the files of the House in the following cases:

Mr. PLATT, of Virginia: In the case of Martha J. Jameson.
Mr. COBB, of Kansas: In the case of W. A. Rankin.
Mr. SPRAGUE: In the case of A. W. McCarty.
Mr. LOWE: In the case of C. J. Sands.
Mr. WILLIAMS, of Indiana: In the case of John Campbell.
Mr. DONNAN: In the case of General B. S. Roberts.
Mr. DE WITT: In the case of Peter M. Halwick.
Mr. BUTLER, of Massachusetts: In the case of Mrs. Emma Horton.
Mr. YOUNG, of Kentucky: In the case of A. W. Blair.
Mr. CONGER: In the case of George Wright.
Mr. McCRARY: In the case of Captain Thomas Haggett.
Mr. LAMISON: In the case of Joanna May Paige.
Mr. HOLMAN: In the case of Mrs. Mary L. Woolsey.
Mr. CHIPMAN: In the case of J. H. Merrill; also in the case of Thomas Malone.

Mr. O'BRIEN: In the case of J. Dowling.

Mr. ATKINS: In the case of Meade W. Bledsoe and George W. Harris.

Mr. SMITH, of Virginia: In the case of Will A. Short.

Mr. LANSING: In the case of John McHary.

Mr. ARCHER: In the case of W. M. Wood; also in the case of Stark & Co.

Mr. MYERS: In the case of Joseph Nock.

Mr. LOWE: In the case of H. Inman There.

LEAVE TO PRINT.

Mr. DAVIS, by unanimous consent, obtained leave to print remarks on the subject of Federal intervention in the States. (See Appendix.)

Mr. SMALL, by unanimous consent, obtained leave to print remarks on cheap transportation. (See Appendix.)

Mr. SMITH, of New York, by unanimous consent, obtained leave to print remarks on the election of President and Vice-President. (See Appendix.)

Mr. HARRISON, by unanimous consent, obtained leave to print remarks on the election of President and Vice-President. (See Appendix.)

Mr. CARPENTER, by unanimous consent, obtained leave to print some remarks on House bill No. 4745. (See Appendix.)

Mr. RICHMOND, by unanimous consent, obtained leave to print some remarks on the proper policy of the Government in its dealings with the South. (See Appendix.)

Mr. RAINEY, by unanimous consent, obtained leave to print some remarks on the Freedman's Bank. (See Appendix.)

LEAVE OF ABSENCE.

Mr. FRYE, of Maine, by unanimous consent, obtained leave of absence for the remainder of the session.

And then, pursuant to the order of the House, (at five o'clock p. m.,) the House took a recess until half past seven o'clock.

EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock, Mr. MCCRARY occupying the chair as Speaker *pro tempore*.

AFFAIRS IN ARKANSAS.

The SPEAKER *pro tempore*. The House resumes the consideration of the report of the Select Committee on Affairs in Arkansas, and the gentleman from Vermont [Mr. POLAND] is entitled to the floor.

Mr. POLAND. I have promised to yield to the gentleman from Texas [Mr. HANCOCK] to have some Senate amendments concurred in to a bill in relation to the employés of the House, and I will not yield to anybody else.

PAY OF EMPLOYÉS OF THE HOUSE.

On motion of Mr. HANCOCK, by unanimous consent, the amendments of the Senate to the bill (H. R. No. 4730) providing for the payment of certain employés of the House, were read and concurred in as follows:

In line 10 strike out "six" and insert seven," so that it will read; "for pay of seven folders," instead of six folders.

In line 13 strike out "$3,400" and insert "$3,966.66."

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

The latter motion was agreed to.

AFFAIRS IN ARKANSAS.

Mr. POLAND. I yield for a moment to the gentleman from Alabama, [Mr. WHITE,] who desires permission to print some remarks.

Mr. WHITE asked and obtained permission to print in the CONGRESSIONAL RECORD, as part of the debate, some remarks in relation to the pending question. (See Appendix.)

Mr. POLAND. Mr. Speaker, I regret that so important and so grave a question as is presented in this case should have fallen to the lot of one so feeble as I am to discuss. And I regret more that it should have fallen upon me to do it in the condition of physical exhaustion I am now in. I ask the patient attention of the members of the House to the remarks that I may have to make upon this subject, although they may not be entertaining, and they will not be methodical, as I have made no preparation for a set speech. But I do trust to be able to throw some light upon this question, and to give some information to gentlemen in relation to what is and will be the proper discharge of their duty in relation to this matter. I shall not be able, sir, to equal the fervid rhapsody of my friend from Illinois, [Mr. WARD.] I never was gifted in that direction, and whatever gift of the kind I ever had has been dissipated by the frosts of time. I was never able, sir, to become eloquent like my friend from New York [Mr. TREMAIN] over a plea in abatement, but in relation to the substantial matters, to the principles upon which this case rests, I think I have given them thought and study enough to be able to afford some information to the judgment of men who have examined it less than I have.

I shall discuss this question, sir, in a somewhat different manner from any of the gentlemen who have gone before, because I do not regard the question of the election of 1872 as at all vital here. Whether Brooks was elected or Baxter was elected in 1872 is not the turning point in this case at all. The real question is whether there is anything in relation to the history of and manner of the adoption of the constitution under which the government of Arkansas now is proceeding, and proceeding peaceably and prosperously, that calls upon Congress or any department of the National Government to step in and wipe out a State constitution and a government peaceably organized under it. The committee have reported that at this election of 1872 Joseph Brooks, one of the candidates, a candidate who was supported by the democrats and Greeley republicans, (the man that so commends himself now to my political friends,) received a majority of the legal votes that were cast, and that Mr. Baxter, who was the regular candidate of the republican party, of what was known in Arkansas as the Clayton party, the regular republican organization, at whose head stood Senator POWELL CLAYTON, and next in command Chief Justice McClure, sometimes designated by the profane and unprofessional man as "Poker Jack," was not elected. These gentlemen and those connected with them were the very men who concocted and designed and carried out this fraud that they have dinned in the ears of every republican member of this House.

Sir, great sympathy is manifested for them, and a good many men have come to me and said that their hearts were almost broken with the wrongs of these people, and that although they could not see any way in which to aid them, they almost thought it their duty to overthrow the constitution, to overturn the principles of the government, because these men were cruelly abused by the fraud in the election of 1872. Sir, these are the very men who hatched the conspiracy and carried it out to its completion and fulfillment.

Sir, I remember the other night that in the discussion on another question my friend from Indiana, [Mr. COBURN,] in a very dramatic way, said to us that the lawful and exiled governor of Arkanas had been stalking like a ghost in our midst for the whole winter. What ghosts accompanied him? Who has marched by his side in his gyrations about this Hall? Why the very men who defrauded him out of his election, the very men who cheated in every possible way, who stuffed ballot-boxes, who figured with the returns, who prevented their being sent in, who kept out the vote of three whole counties and the vote of forty or fifty townships in other counties.

These are the men who come here appealing to republican sympathy to help them. Now, gentlemen, those of you who are going to decide this question on party considerations to help the republican party, I beg you to bear this in mind; I do not think it has influenced my judgment upon this question at all; I have not intended that it should. But to those gentlemen who have such tender republican consciences that they feel bound, for the good of the party and for their party friends, to go almost any length, I beg you to look at those party friends. While one of these eminent gentlemen, who has been here in our midst, stalking like a ghost says the gentlemen from Indiana—and perhaps I ought to take pride in saying that he is a gentleman who originally went from my State; it seems he was the special and trusted friend of Baxter; he was the very man who was elected by this Legislature that they say was not a Legislature, that they say was a Legislature got up by fraud and conspiracy, and was never elected—if you happen to look into this matter, you will see that Mr. Senator DORSEY was elected Senator of the United States by this very Legislature. And by a singular coincidence the same ten men who voted against him were the same ten men who voted in favor of allowing Baxter to petition the Legislature. There are some strange coincidences when you look into the history of this case.

Although there were thirty-six men in that house who were elected upon the same ticket with Brooks, yet when he came to petition that Legislature to allow him to make a contest, only nine men could be found to vote even to allow him to make a contest. And when Senator DORSEY'S election came off before that Legislature he received all the votes of that house except ten, and the very same ten who had voted in favor of Brooks.

Now, I am not going to argue the question whether it belonged to the Legislature to decide this question. I have no doubt that under the constitution and laws of Arkansas it was strictly a question for the Legislature to decide and not for the courts; and they decided in the way they did. They refused to allow him to have a hearing at all. That was the only decision they made. I do not think very much of that decision. But I say, and I say so in the report of the majority of the committee which was drawn by me, that if Congress deemed it their duty to go back into that subject and the election of 1872 and who was elected, that was a question of no moment with us; that this decision of the Legislature, made as it was, should be regarded as conclusive by nobody. While gentlemen upon the other side are arguing so stoutly against this decision of the Legislature, they say they have a solemn judgment in favor of this Mr. Joseph Brooks.

Now, I propose to look at that for a moment; not for the purpose of determining whether it has any binding force, because I do not regard that as a question of the slightest consideration, but to see how very honestly the thing was done. This Mr. Brooks made two applications to the supreme court, or rather one of them was made by the attorney-general in his name—the State of Arkansas, by Joseph Brooks, relator. That supreme court did solemnly decide that the question belonged to the Legislature to decide and not to the court.

"Now," said the gentleman from New York, "they never made any such decision; that point was interpolated into their decision by the

United States district judge." I can only answer that by saying that it is utterly untrue. The decision of the court as written out by the judge who delivered the opinion is put fairly and squarely upon the same ground. But when he came to show it to Judge Caldwell, the United States district judge, he told him that the thing could be stated much more tersely and in better language, and he wrote in about six lines the substance of the whole decision which occupied three or four printed pages, and the judge attached that to his opinion. To be sure, it did state the point very much better than it was stated by the judge; but it stated it no differently, except that the judge had used a great many awkward and improper words to express his opinion.

Then there was another decision of the supreme court. A man who was elected auditor, or claimed to be elected auditor, on the same ticket with Mr. Brooks, brought suit in this same circuit court, before this same Judge Whytock, and the application was made to the supreme court for a writ of prohibition commanding Judge Whytock not to entertain jurisdiction of that case.

And that same immaculate supreme court, presided over by this great judicial luminary that I alluded to before, in both these cases solemnly decided that it was a question that belonged to the Legislature alone, and that no court whatever had any jurisdiction over it. After the decision of the supreme court had been made in this case brought by Brooks against Baxter, which was pending before Judge Whytock, one morning, in the absence of Baxter's counsel, the judge pronounced judgment upon a demurrer that had been filed, and there was undoubtedly a prearranged understanding, because Brooks was there present and marched out of the court-house with some good strong men with him, who went as straight as their legs could carry them to the governor's office and led this Governor Baxter out by the ear.

And this is a solemn judgment of a court of supreme jurisdiction, says the gentleman from New York, [Mr. TREMAIN,] this learned lawyer, and ought to be respected in all places and all countries and all times as foreclosing and adjudicating this case, so that that question never can be inquired into. I do not think, Mr. Speaker, that this decision of the Legislature is entitled to any respect, and this decision of Mr Circuit Justice Whytock is entitled to a great deal less.

But, as I said in the outstart, it is a matter of no very great consideration with me whether Baxter or Brooks was elected in the fall of 1872, because if this Government, or any department of this Government, is going down into that State with its troops to wipe out this new constitution, it is a matter of very little account whether Joseph Brooks is set up as the figure-head by the soldiers or whether it is Elisha Baxter. If the question is to be decided in that way, and the National Government, or any department of it, is to assume that power, it is a matter of no consideration with me, it is a matter of no consideration to the people of Arkansas, whether Joseph Brooks is placed at the head or Elisha Baxter. It will be a government that will be upheld by United States bayonets, and just so long as there are enough of them to uphold it it will stand; the moment they are withdrawn it will vanish like dew in the morning.

The ground that the committee take in reference to the matter is that the constitution has been legally superseded, has given place in a legal way and by machinery sufficiently legal to make it stand as valid, to the constitution of 1874. Not a revolution, not a usurpation, but as peaceful a change from one constitution to another as ever took place in Massachusetts, or Vermont, or New York, or Pennsylvania, or any other State.

Now I will proceed to answer the objections that have been raised to the validity of that constitution. I apprehend, Mr. Speaker, that in this country we do not call the formation of a new constitution a revolution; we do not call it an overthrow of the government. The constitution is part of the law of the State; to be sure not a law that the Legislature can touch, but a law that the people can change; and when they change their constitution, in whole or in part, it is no more a revolution of the government than when they change any of their laws.

Mr. BUTLER, of Massachusetts. Allow me to ask you a question. From all the investigations you made as chairman of the committee, have you now any doubt in your mind that Brooks was elected legally by the majority of the votes duly cast in Arkansas at the time when he was candidate for governor?

Mr. POLAND. The committee have so reported. It is true, Mr. Speaker, all the evidence we had upon that subject was evidence given by one side, but we thought, although the evidence was all of a general character, it was sufficient to establish the fact that Brooks received the most votes and was fraudulently cheated out of the office by the friends of Baxter. I have since learned that in the evidence before the Committee on Elections in contests for seats in Congress, the members of which were elected at the same time, a very different state of facts was disclosed. But so far as the evidence was before our committee, it satisfied us that in the election of 1872 Brooks did receive a majority of votes and ought to have been counted in as governor.

Mr. BUTLER, of Massachusetts. You so believe?

Mr. POLAND. We have so reported.

Mr. BUTLER, of Massachusetts. You so believe?

Mr. POLAND. Yes, sir; I so believe. If I had not so believed I should not have said so in my report, for I am not in the habit of reporting any facts I do not believe.

Now, sir, to begin with, the gentleman from Illinois [Mr. WARD] says this Legislature was fraudulent and wrong from the outset. It did appear when that Legislature was assembled, consisting of eighty-two members, there was ten majority of Baxter men—thirty-six exactly of Brooks men and forty-six of Baxter men—that there were a good many contestants on both sides. The Baxter men contested the seats of the Brooks men and the Brooks men contested the seats of the Baxter men, and there was some evidence tending to show these various contestants got together and agreed they were the best men to fill the places on both sides, and mutually agreed none of the contestants should be successful. The Committee on Elections was appointed by the Speaker of the House, who, as my friend has said, had himself his seat contested. It so happened that presiding officer was at that time one of the very men who entered into these same schemes these other gentlemen did, and adhered, I believe, steadfastly to the same side these gentlemen do now. But the committee on elections made a report to the house, and these contested cases all were decided upon the ground of want of notice—that no legal notice had been given in any one of the cases.

Now, Mr. Speaker, precisely how it is we are to take it upon us here, without any knowledge of the facts in either of these cases, to decide any one of these men was not legally elected to the Legislature, is beyond my comprehension of our duty and power.

That Legislature went on. It assembled and legally organized, sat from some time about the 1st of January until some time in April, and during that time, as I have said already, elected a United States Senator, who is now holding his seat. During that session a quarrel sprang up between Baxter and the men who had cheated him in. There are a great many versions of how that took place. The democrats, the men who became friendly with him, their version is that these same men wanted to carry on the swindling practices they had carried on under that State administration for years, and they had so dissatisfied the people that a portion of the republicans had gone over to Brooks. They expected, with Baxter as governor, they would be able to go on and carry out still greater schemes of fraud than they had perpetrated upon the people of the State before, but Baxter interfered and refused to be a party to it. He refused to aid in carrying it out. That is the theory of one side. The theory on the other side was stated by the gentleman from Illinois [Mr. WARD] that he was afraid by some legal means his title to the office of governor would be brought into question and he might have to maintain himself by force of arms, and he wanted to gather about him the party who were the best fighters. I believe that is the theory of the other side. Whichever way it is, whichever one may be true, or whether one is partly true and the other partly true, a quarrel did grow up between Baxter and those who elected, or rather counted him in.

Gentlemen, if you will look into the evidence you will find that in the fall of 1873 the State republican committee, at the head of which was Senator POWELL CLAYTON, issued an address to the people, saying, now the supreme court had made its decision which settled the question of Baxter's right, everything was going on peaceably and lovely. And both of these Senators, Senator CLAYTON and Senator DORSEY, were at the pains to append to that address by the republican State committee a statement, signed by them individually, saying they had the utmost confidence in the integrity and republicanism of Governor Baxter.

But still, according to my friend from Illinois [Mr. WARD] and my friend from New York [Mr. TREMAIN] everything had been wrong and rotten before that; that in the winter prior to that Baxter had gone over to the democrats, and they were hatching up all sorts of schemes of rebellion, of fraud, and were plotting then a revolution, which, says my friend, they afterward successfully carried out.

Now let me say to you, Mr. Speaker, and to my friends, this question about a new constitution in Arkansas was no new thing. By the constitution of Arkansas the appointing power was vested in the governor of every officer in the State, from chief justice of the supreme court down to the township officers. They want a constitution that is republican in form, says my friend from Illinois, [Mr. WARD.] What sort of republicanism in form is it to have a constitution that puts the appointing power of every officer in the State, great and small, takes it away from the people, and puts it in the hand of the governor? How does it operate? Why, sir, Arkansas is as good an illustration as we shall ever get, probably. One of these gentlemen has taken pains to tell you that out of eighty-two members of the House forty and odd of them were appointed by Governor Baxter to various State offices after the Legislature had adjourned and they had voted Brooks out. Is it any wonder that the people of Arkansas wanted a different constitution?

Why, sir, this Rev. Governor Joseph Brooks had been the great apostle of a new constitution. He had gone through the State in that campaign of 1872 like a fiery cross. He was denouncing CLAYTON and DORSEY and all of them, and telling the people if they would elect him governor he would fill the jail so full of them that their legs would stick out of the windows.

Mr. HYNES. Will the gentleman allow me——

Mr. POLAND. I cannot be interrupted.

Mr. HYNES. To correct a statement.

Mr. POLAND. I cannot be corrected. No, sir.

Now, sir, these gentlemen argue as if this question of a new constitution was a new thing, a new revelation, that dawned all at once under the lead of Baxter and the democrats. Why, the very party, the very men that Brooks led were the great apostles in favor of a new constitution. They had been denouncing the old one all through the campaign of 1872.

Mr. HYNES. I deny that. Having made the canvass myself with Governor Brooks, I am able to say that that was not once discussed in the canvass.

Mr. POLAND. There were other defects in the constitution which I have not time to name.

Mr. BUTLER, of Massachusetts, (interrupting.) I understood the time was to be equally divided. The gentleman from Vermont has spoken one-half of the closing hour.

Mr. POLAND. The Speaker distinctly announced that the hour belonged to me.

Mr. BUTLER, of Massachusetts. Undoubtedly; but I supposed you would divide it. So each of the previous hours belonged to the man who got it, and he divided it.

Mr. POLAND. I have an example on that subject which I intend to follow.

Mr. BUTLER, of Massachusetts. No example where I made an agreement to divide with others.

Mr. POLAND. That is not the case here.

So I say, Mr. Speaker, that this question of a new constitution was one that had been in agitation ever since this constitution which is complained of had been in force. There were very great defects in it, one of which was this appointing power; because I believe, although we had no evidence of any agreement between any member of the Legislature and Governor Baxter that he should vote against Brooks, and for that receive an office, yet those two things came in such juxtaposition that I believed it then and I believe it now. I do not stand here to justify Baxter. I have not any too good an opinion of him. But I have got as good an opinion of him as I have of some other gentlemen who stalk like ghosts in our midst.

This Legislature adjourned in April, and these appointments were made very soon after the Legislature dissolved; and the next fall Governor Baxter ordered a special election to fill the vacancies. Well, they say there was something defective about the registration. Now, the reason he gave—it might not be a good legal reason—but the reason he gave was that, by the constitution of Arkansas, everybody who was concerned in the rebellion was disfranchised. But in 1873 the Legislature had passed amendments to the constitution which enfranchised these people. There were probably twenty thousand men who had become legal voters by the effect of this enfranchisement who were not entitled to vote unless they were registered. So, whether Governor Baxter violated the law in ordering a new registration for these men or whether he did not, he certainly had very good reason—good reason in fact, I am not speaking of legal reasons—for having that new registration.

Now there is some fault found about that election. But, Mr. Speaker, there is not one word of evidence in this whole case, there never was a pretense but that every single one of these men was legally elected. The republicans said: "We did not try to elect anybody; we did not run any candidate; we relied upon Baxter's promise that he would not call that Legislature again together at all;" and they did not suppose he would. There is not the slightest evidence—these men having been elected in November—that Baxter ever had an idea of calling this Legislature together or ever would, had it not been for this snap judgment which this Rev. Mr. Brooks obtained and then set up another governor's shop by his side. And when he did call it together he called it together by the assent and advice of the President of the United States. It is a pretty thing, therefore, for gentlemen to get up here and say that the calling of that Legislature together was a fraud upon the people of Arkansas and a fraud upon the republican party. You just look at the executive document that the President sent in last spring, and you will find that when Baxter suggested calling the Legislature together it met the cordial approval of the President of the United States, and is the President of the United States or anybody else now to stand up and say that it was a fraud to call that Legislature together?

But, says the gentleman from New York, [Mr. TREMAIN,] these elections were illegal because vacancies had not been properly declared. The constitution of the State says that a man who is appointed and a man who holds certain State officers is not eligible to sit in the Legislature. The vacancies really existed. Suppose that in order to be perfectly regular the Legislature should have declared the vacancies and given formal notice of them to the governor; is a State government to be overturned because they did not? Why, the argument of my friend from New York reminds me of a story that I used to hear as long ago as when I was a law student, of a justice of the peace before whom a pettifogger appeared and set up sixteen pleas in abatement, and the justice said that not one of them amounted to anything; that there was so many of them that he thought the writ ought to abate.

Well, this Legislature met in accordance with the advice of the President of the United States. Governor Baxter sent out his proclamation convening that Legislature, and they did meet. There are a variety of quibbles about that. They say that if the men newly elected were legally elected there was not a quorum of the old members to receive them, and therefore they could not get in. But in some way they did get in; they were there. And there is another plea in abatement. They say that although the constitution of Arkansas makes the secretary of state the proper certifying officer of the returns of members he had not proper evidence before him, that he took it from the newspaper reports. Suppose he did? If he gave a legal certificate must not there be some evidence that the men were not elected? Did any man appear in the Legislature to contest the seat of any one, or to contest his right to be there?

Mr. BUTLER, of Massachusetts. Allow me a question right here.

Mr. POLAND. No; I cannot be interrupted. I will take care to meet all the points. The gentleman from Illinois [Mr. WARD] said that there were old members of that Legislature who could not get in. There is not a word in the testimony to show any such thing. On the contrary, it is claimed that the members who were Brooks men were brought in by fraud; that it took several days to get a quorum, and it is asserted that the Baxter men resorted to all sorts of devices to get the Brooks men in. Instead of there being any exclusion, or that anybody was kept out, they undertook to show that fraud was resorted to to get men in, and that is all the evidence of improper conduct on the part of anybody in reference to the Legislature. But there was a legal quorum of that Legislature got together. It may be that they came in at the wrong door. It may be that there were a variety of these irregularities that would have subjected the thing to a plea in abatement. I cannot deny that. But the constitution and laws of the State of Arkansas, like the Constitution of the United States and of all the States, provides that their Legislature shall be the judge of the returns and qualifications of their members. If nobody appears before that tribunal to question the right of members to sit there, I take it that it is not to be questioned anywhere else. That Legislature, it is stated, met under martial law.

It is true that when Brooks obtained his judgment and turned Baxter out of his room in the State-house, he gathered all his armed forces there and there were two rival armies, two or three thousand troops on a side; but as soon as President Grant recognized Baxter as governor, (a most sensible and wise decision and one that our committee endeavored to follow to its legitimate results,) just so soon as that decision was announced the troops were dispersed and went home and there was no more martial law and there were no more military lines; and then this Legislature passed the act calling the constitutional convention.

Now, a great point has been made that where the constitution contained a mode for its amendment, no other mode was admissible. But that has been abandoned. It is laid down now by Mr. Jamieson, the only writer upon this subject, that in a case of that sort, where there is a mode of amendment pointed out by the constitution, it is perfectly legitimate for the Legislature to pass an act submitting to the people the question whether they will have a constitutional convention. It is not irregular in the slightest degree; it has been done by a majority of the States of this Union. If this government in Arkansas is to be wiped out, then the governments in New York, and in Massachusetts, and in Illinois are to be wiped out also.

But they say that there were irregularities in the manner of submitting this constitution; that this constitutional convention, instead of taking the machinery that was already provided, undertook to make machinery of their own. That has been done ever and ever so many times in this country; formerly it was the established practice. If I had time enough I should like to have the Clerk read a volume or two of the speeches of my friend from Massachusetts, made in the constitutional convention of Massachusetts, claiming for that convention altogether broader powers than were exercised by this constitutional convention in Arkansas. The convention provided the machinery that everybody supposed was legal.

Why, sir, in Pennsylvania, in the very case which has been cited here, the constitutional convention containing some of the most eminent lawyers in the whole country, supposed they had the right to do this same thing. The supreme court of the State said it was irregular. But the people down in Arkansas had not become so learned or wise but what they supposed the constitutional convention could frame the machinery for submitting the constitution to the people.

When this question was submitted to the people whether they would have the constitutional convention or not, 80,000 of them against 8,000 voted that there should be a constitutional convention. And when they had framed that constitution and submitted it to the people to be voted upon, they ratified it by a vote of 78,000 to 24,000. Mr. Garland was nominated for governor, with a full ticket of State officers, and received between 76,000 and 77,000 votes, and no votes were given against them. All officers of the government, Governor Baxter and the men who held subordinate offices under him, yielded up their positions quietly to their successors under the new constitution. There was but one government in the State before; there has been but one government in the State since.

Everything has been going on as quietly and peaceably since that time as, and more so than, it ever was before in the State of Arkansas. Since Garland came in as governor of that State it is just as peaceable and quiet as the State of Massachusetts. Not a single instance has been shown of violence since the calling of this constitutional convention except that there was one Ned Abe killed. The whole circumstances show that he had nothing to do with politics in any manner or form, nor had politics anything to do with his being killed.

When my brother WARD was down there taking testimony in July, I believe, a fellow snatched a pitcher of ice-water away from his boy and struck him with his shoe, and my colleague deemed it an important fact to be placed in evidence. But I was down there in November, and I am happy to say on this floor and in the presence of this House and of this Union that the boy was alive and well then.

There is not a particle of evidence, not a scintilla of evidence in this case, that there was a single fraudulent vote cast at either of these elections. There is not a particle of evidence that any single man offered to vote or wanted to vote who did not have an opportunity to do so. But, says my friend from Illinois, the air was full of terror, there was a great cloud of terror resting over the whole State of Arkansas and everybody was under it.

Mr. WARD, of Illinois. You thought so then.

Mr. POLAND. Why, sir, it is the purest piece of fancy that was ever invented; not a particle of truth in it. I know my friend from Illinois is a man of vivid imagination. He easily brings himself to believe anything that he wants to believe. But, as a sober matter-of-fact man, I say that there is not one word of truth in it.

Now what are we asked to do? Here is one government; there is not a vestige, not a shadow of any other government in Arkansas except what we have here. Whatever there is of any government in Arkansas in opposition to the Garland government, we have right with us. It is at present with us as the poor were with the disciples. We are asked to say to the President that he is to wipe out this constitution, and all the officers from governor down to township officers; the whole thing is to be overthrown and he is to send his Army down there and set up a government.

Mr. BUTLER, of Massachusetts. Or let up a government.

Mr. POLAND. Have we any right to do this? I am not going into any disquisition about the respective powers of this Government. I am one of those who believe that in the sphere of the National Government, with those national concerns that have been intrusted to the National Government, the National Government is supreme; it can reach every man. I believe nothing in this old fallacy about this being a partnership of States. The National Government, to the extent of the powers intrusted to it, is a government over every man in this Union, and it may reach every man personally and individually.

Upon the other hand, within that range of powers reserved to the States (and this includes all the range of local government) there power is just as supreme, just as clearly beyond the interference of the National Government as that of the government of Great Britain or of France. And if this nation is to remain intact as a nation, this wise balance of power that our forefathers established must be preserved. We went through a great war to preserve the national life, the national authority, the national power. That is complete and perfect. But it is just as indispensable to the life of this nation, to its perpetuity, that we preserve intact and inviolate the power that has been reserved to the States as that the national life should be preserved. Why, sir, already we cover half the continent of North America; and if we hold together it will not be very many years before we shall probably possess all or nearly all of it. How can this National Government take care of the domestic concerns of the people—their local government? If everything is to be centralized, if everything is to be brought under the hammer of the National Government, so that whenever we please we can put down a State constitution or a State government, farewell to the existence of this nation.

I know the strength of party feeling. I am a party man myself. I never pretended to love my political opponents as well as my political friends. I could always make myself believe they were better men; that they acted upon better principles. But I never could carry my party attachment so far as to be willing to overturn the Government to accommodate my political friends; and certainly if there were any of them that I ever knew that I wanted to do it for, I do not think I should select the particular individuals that are concerned in this case.

I know perfectly well the appeal that has been made to every individual member upon this floor. I have not sat here for the last two months without seeing these ghosts that have been mentioned stalking about this House. I have not failed to hear and see what has been going on. How far these things have influenced the partisan judgments of members I do not know; it is not for me to say; the result of this vote will determine that. But I do appeal to gentlemen upon this floor to look at the consequences of doing what they are asked to do. If men are only actuated by party and partisan motives, then I feel that I can appeal to them. If there is anybody on this floor who is actuated by a baser motive, I do not appeal to him. To any man whose judgment can be influenced by a consideration lower and baser than mere partisan affection and party affiliation, I have no appeal to make. Such men have no right here.

Mr. Speaker, this is undoubtedly the last public political act I shall ever be called upon to perform. After a public life of somewhat unusual length I am about to retire to private life, never again, I presume, to occupy a public position. I never expected to be called upon to confront so monstrous a doctrine as is advanced here. I never supposed that if I lived to the age of Methuselah it would ever be my duty to combat so monstrous, so dangerous a doctrine as that which this House is called upon to establish in this case. But the occasion has arisen. It has fallen to my lot, feeble advocate as I am, to make my protest at least against this doctrine. I am actuated by no other feeling than regard for the welfare of my country and a desire for its future prosperity. I have the same stake in the country that the people generally have. I have children and grandchildren, who I hope are hereafter to inherit their share in this country, and I desire it preserved for their sakes.

For myself, I am influenced by no wish to win a personal or party triumph in this matter. If there had been any reasonable and fair ground upon which I could have obliged party friends, I should have been as delighted to do it as anybody. But I could not go to any such length as we were called upon to go. Therefore, although I have been charged in a variety of quarters with making a pretty long advance and stride toward the democratic party, yet if I never get any nearer to it than trying to preserve inviolate the Constitution, I do not think I shall ever reach that much to be desired goal.

The SPEAKER. The time allowed for debate has now expired.

Mr. WARD, of Illinois. I desire to ask that the gentleman from Florida [Mr. WALLS] have leave to print in the RECORD a speech on this subject.

There was no objection. (See Appendix.)

The SPEAKER. The Clerk will read the resolution of the committee, and also that of the gentleman from Illinois, [Mr. WARD.]

Mr. HYNES. Mr. Speaker, I do not want this case to go off upon a misstatement of its facts, nor determined upon a misapprehension of the principles which it involves, as it certainly would if the judgment of the House were made up from the speeches of the gentlemen from New York, Ohio, and Vermont, [Messrs. SCUDDER, SAYLER, and POLAND,] of the majority of the committee. In listening to the speeches of the first two named, I found it impossible to reconcile them with the report which they have joined in making to this House over their signatures, as the major portions of their speeches were occupied in an effort to controvert what they concede in their report—the better right of Brooks than Baxter or Smith to the office of governor of Arkansas. See page 14 of the majority report, where they say:

> The claim of Smith to the office of governor appears to be subordinate to that of Baxter, *and both to the better right of Brooks.*

But I not only have their own authority for disposing of their arguments here to-day insisting upon the better right of Baxter, without further comment, but I have also the authority of the chairman, [Mr. POLAND,] who dismisses all the State adjudications, whether by the Legislature or the courts, as unworthy of any consideration whatever, and agrees with them in their report as to "the better right of Brooks."

Were it not for the character of speech to which we have been treated by the gentleman from Vermont, [Mr. POLAND,] I should be satisfied with making a few arguments in response to the speeches which have been made upon the other side, correcting their misapprehension of important facts, and presenting as best I may in my feeble way the true issues of this controversy. But the gentleman has seen fit, instead of elucidating and discussing the vast principles at stake, to address himself chiefly to characterization and personal obloquy based upon gross misrepresentations, gratuitous and wholly outside the record, and distinguished by the spleen and acrimony which ever characterize the proselyte in a cause. That this should have been deemed necessary and seemly by the chairman of the committee, whose usual manner is so "childlike and bland," has no doubt surprised the expectations of many, but it is no more remarkable than the fact that the distinguished gentleman should have drawn his conclusions from things not in the evidence, but from things outside of it; from light received not in the investigation of the case, but since the investigation was closed. Yes, Mr. Speaker, even since the arguments before the committee were closed. For that he has about-faced in his conclusions as to the facts, the law, and the public policy in this matter is a fact within my personal knowledge and known to a dozen persons now in this city.

In justice to the history of this important case and for the information of those who may confine their inquiry regarding it to the discussion here, I shall, before attempting any argument, give a brief summary of the facts of its history. Brooks and Baxter were the rival candidates in 1872 for the office of governor of Arkansas of rival factions of republicans. The contest was a local one, and to secure the support of the "liberal republicans," "conservatives," and "democrats" the electoral ticket was pledged to the support of Mr Greeley. The "conservative democratic" convention met and made no nominations, but adopted the "reform republican" or Brooks platform and adjourned, with the understanding that they were to support the Brooks ticket, after a severe contest in the convention and triumph over the Bourbon democracy, who were in favor of Mr. Greeley but opposed to Mr. Brooks. But this democratic minority never loyally submitted nor supported the action or purpose of their convention. They intrigued with the supporters of Baxter, as will be seen by the testimony of Judge McClure, Smithee, editor of the democratic paper, and General Newton, afterward Baxter's general-in-chief, meeting acting Governor Hadley at the residence of Judge McClure for the purpose of effecting some arrangement mutually agreeable.

Mr. Brooks was nominated in May, the democratic convention was held in June, and on the 1st of October, months after, these democratic politicians had reached such an understanding with the promi-

nent supporters of Baxter that they brought out, through the machinery of three persons calling themselves the "liberal republican executive committee," what was known as the Hunter ticket, for the purpose of dividing the supporters of Mr. Brooks, and thereby securing the election of Baxter. Nearly all the prominent supporters of Baxter in his late war with Governor Brooks, and who are the present prominent supporters of the Garland government, appeared then in a card, urging the support of the Hunter ticket.

I state these facts to show that these Little Rock democratic politicians were early and constant in the conspiracy to prevent the accession of Mr. Brooks to power. But the masses of the people were devoted more to the cause of reform than to any set of politicians, and they stood by the reform ticket, indignantly denouncing the Hunter movement as base treachery to their cause. To the lasting credit of the people let it stand that they refused to follow such treacherous leaders or confirm their vile trading of political opportunities, and responded to the action of the Gazette and the Little Rock politicians by burning the former upon the public squares in various towns and cities and denouncing the action of the latter as a corrupt betrayal. The Hunter Bourbon ticket lived but eight days before the wrathful indignation of the masses, when it ducked its head beneath the popular flood and was seen no more.

But the Bourbon coterie had shown their hand, and it had been seen with the assassin's dagger in it for the reform movement, and while from the first they did not believe their personal and political advancement were identical with the success of that movement, after this attempt upon its life under no circumstances could they now afford to have it win. Thus feeling assured of the sympathy of the Bourbon leaders, the supporters of Baxter felt encouraged to commit all kinds of frauds to secure the defeat of Brooks. But with all the frauds in registration and election, covering thousands of votes, the returns showed Mr. Brooks elected. But by further fraud and conspiracy between those whose duty it was to return the vote of the election and those whose duty it was to receive and count the returns and certify the result, only a partial count of the returns was made, by which a false result favorable to Baxter was shown; and all this not by any discretion vested by law in any of these officers returning or canvassing, but arbitrarily and fraudulently in direct violation of the constitution and laws of the State.

Upon this pretense Baxter was put through the forms of inauguration into the office of governor, and recognized by a Legislature thirty-five members of which in both houses of the General Assembly held their seats in defiance of the constitution by the same arbitrary and shameless violations of law which secured the result for Baxter.

In this manner was this outrageous usurpation of Baxter originally inaugurated. Time will not permit me to go into its details: how returns from some counties were suppressed in the office of the secretary of state; how the original returns were sent back to several counties because they showed Mr. Brooks's election, and false and fraudulent returns ordered to be substituted in their place and which were finally counted in their stead; how copies of the fraudulent returns were *borrowed* for some counties for the occasion of the count, and so on to the end of the chapter. It would be interesting to trace the combination and identity of interest between Baxter and the thirty-five fraudulent members of the Legislature in sustaining the outrage by which they were together inducted into office, and show how it was contrived; to dwell upon the incident of Baxter's interview with Martin and his affectionate pressure of Martin's hand when told how the false could be substituted for the true returns from Randolph County; Baxter's computation of the count necessary for his inauguration, as shown by the testimony of Colonel Hill. All this, and a variety of other details equally interesting which I have not time even to mention, will greatly illuminate the mind of any member who will read the testimony as to how a government may be instituted against the will of a large majority of the voters and without the knowledge or sanction of the constitution or laws of the State.

Now the time had come when Baxter's success depended upon the influence of his Bourbon allies. Two-thirds of the duly elected members of the Legislature when the time came for them to meet were to ignore the Baxter usurpation and recognize Governor Brooks, and thus make a case for Federal action under the guarantee section, which they thought would probably eventuate in the recognition of Governor Brooks. They negotiated through Smithee, the editor of the Gazette, as shown by the testimony of Smithee and others, that in consideration of certificates of election to be issued by Baxter to Colonels Gause and GUNTER, the democratic candidates for Congress in the first and third districts, they would induce a sufficient number of the democratic members of the Legislature to go into the Baxter legislature to give it a quorum of duly elected members and break a quorum of the Brooks legislature. Accordingly seventeen of them entered the Baxter legislature.

Whether Baxter ever promised to issue the certificates to Gause and GUNTER, or whether the statement was a mere ruse of the Bourbon politicians to secure the co-operation of those members who were friends of those gentlemen, with nothing more in it, I am not able to say. Smithee swears he did so promise, but if he did, he never fulfilled his part of the trade. But the intrigue proved successful so far as the main purpose of the Bourbons was concerned, which was the defeat of the Brooks or reform movement; their anxiety for which we can the better understand when we bear in mind that they already bore the relation of would-be assassins to that movement. Thus by corruption, chicanery, and treachery the Bourbon politicians of Little Rock, in collusion with Baxter and by the betrayal and desertion of a number of the democratic members of the Legislature, the people were defeated at that time in their effort to secure the government of their election, and prevented from making the issue then before the only tribunal left to them which could afford a peaceable remedy—the Government of the United States. That such a remedy could be found for such a case I cannot stop in the midst of this epitome to argue.

It was before this Legislature, whose majority was thus made up of thirty-five men who held by the same title of usurpation as Baxter himself, and seventeen or twenty democrats who betrayed the reform cause and deserted to Baxter, that Brooks was invited to contest his right. For months the farce of going before usurpers and political traders for the vindication of constitutional government and popular elections was apparent. But at length, when the unholy alliance seemed dissolved and the rogues appeared to have fallen out among themselves, he was persuaded to present his petition to the Legislature, setting up the facts of his election and Baxter's usurpation, and asking that he be permitted to prove them. But the power of patronage and the selfish, unprincipled influence of the Bourbon politicians were more potent in controlling their action than the great equities of his case or their oaths to support the constitution, which gave him the right of trial there, and they refused him his constitutional right to contest; his right to a trial of his cause—even the poor right to be heard. Of this the committee say in their report:

> The singular unanimity of this vote can hardly be accounted for except upon the supposition that there was some connection between this vote and the appointment soon after by Baxter of more than forty members of this Legislature to various offices in the State.

And yet this is what the gentleman from New York [Mr. SCUDDER] and the gentleman from Ohio [Mr. SAYLER] urge upon us as a final adjudication by the proper tribunal of the State, which concludes everybody on the subject—Mr. Brooks, the State herself, and the United States. Here, again, I leave them to reconcile their speeches with their report and with the opinion of their chairman, who treats this "adjudication" as not worth consideration.

Having thus bribed the legislative tribunal and supplemented and supported usurpation by bribery and corruption, we are somewhat prepared for the measures which he adopted when the State herself sought her remedy by *quo warranto* in the supreme court. Without dwelling upon many interesting features of that proceeding showing his willingness to corrupt the court, as shown by the testimony, sufficient for this narration that he garrisoned the State-house in which the court was held with the most desperate spirits of the democracy, men who, as he told Major Harrington, were willing to resist the process of the court and shoot down its officers and be glad of an opportunity. The understanding was given out that if this decision were adverse to his claims he should proclaim martial law and arrest the court. By his own testimony he had a proclamation of martial law in his pocket ready to fulminate in case the court should assume jurisdiction of the case. Is it surprising under these circumstances that the court should deny the attorney-general leave to file a motion for a writ? For that was all that was decided in that case; and months afterward the opinion was filed as a "put-up job," if you will allow the expression, to meet his further requirements in this case, signed by one of the three old judges and two new judges, whose right to sit upon the case grew out of the same fraud and usurpation on which Baxter's own title rested. The gentlemen on the other side quote this "decision" by the supreme court in support of Baxter's claim, as though it were worthy of any consideration at our hands.

Next came the adjudication of the circuit court, which decided that Mr. Brooks was the lawful governor and upon which he took possession of the office and was recognized by all the officers of the State, (except the secretary,) including all the courts.

Although this was the only adjudication of the case ever had, I deem it unnecessary to discuss the force of this decision, as the committee agree in their report, page 5—

> Should Congress conclude that the National Government has a duty to perform to the people of Arkansas in guaranteeing them a republican form of government, and in performing that duty it becomes important to know who was elected governor in 1872, they would hardly feel estopped from finding the truth on account of any adjudication it has received.

Taking this, in connection with the "better right of Brooks" on which the committee agree, it would be supererogation on my part to go further to establish the "better right of Brooks" to the office of governor if the government of which he is the legitimate head has not been superseded by the Garland government.

Let me then briefly give the remaining facts of this case and how it comes to be here. The success of Mr. Brooks in finally gaining the position to which he had been so overwhelmingly elected was hailed with gratulation by the best elements of both parties throughout Arkansas. But the Bourbon democracy rebelled and forced Baxter to resistance. The State capitol became a military camp. Both sides applied to the President for recognition. While matters thus stood this House inquired of the President about it. He sent in all the information he had upon the subject, and the House referred it to the Judiciary Committee. But while it was under consideration there the situation in Arkansas became threatening; the direst conse-

quences were imminent; and the President was forced by this imperative situation to decide the case *prima facie* before Congress had time to inquire into its merits, and he recognized Baxter. But, Mr. Speaker, while humanity and order required the prompt decision of the *prima facie* case by the President, justice and the spirit of the Constitution required that the Government of the United States should discharge its full duty by inquiring into and deciding the case upon its merits. Accordingly the Judiciary Committee, to which the matter had been referred, reported a resolution to the House, which was adopted May 27, 1874, twelve days after the President's proclamation recognizing Baxter, appointing a committee of five to inquire into the full merits of the question and report to Congress.

I have thus far summarized the facts up to this point in the history of the case as shown by the testimony taken before the committee, and as to the merits of the case up to this point the committee are unanimous in their report, if not in their speeches, on the "better right of Brooks" to the office of governor.

But, Mr. Speaker, what next do they find and report? It is what follows that presents to us a constitutional issue of the greatest magnitude, and one on which our most illustrious statesmen, I am glad to find, whether North or South, have been all upon one side.

The Bourbon Baxterites, knowing that their title would not stand investigation, and borrowing a lesson from the plunderer who burns to the ground the house which he has robbed in order to destroy the evidence of his theft, conceived the idea of destroying the constitution and tearing down the whole structure of the government and erecting upon its ruins a brand-new revolutionary government in its stead, which programme has been consummated in the Garland establishment.

When Brooks took possession of the State-house in April, 1874, it was during the vacation of the Legislature, each house organized and having a quorum. A few days after he was ousted of his office Baxter issued a call for the Legislature to assemble in extraordinary session on the 11th of May. There was at the time two allegiances, in fact, one allegiance to Baxter, the other to Brooks. A full senate consisted of twenty-six senators and a full house of eighty-two members, fourteen senators constituting a quorum of the senate and forty-two members a quorum of the house. Of the quorums existing of both houses at the time, not more than nine senators and twenty-four members, I believe, ever appeared at the extraordinary session, the others refusing to recognize Baxter's call or declining to sit within his military camp by the favor of his pass.

But in order that we may understand how Baxter supplied the deficiency of his rump legislature and made up a quorum in numbers if not in members, we shall have to go back some months prior to this occasion. In harmony with his unbridled career of usurpation he assumed to declare over forty vacancies in both houses of the Legislature. To show the character of this usurpation let me cite two instances in the senate. He declared the seat of Mr. HODGES, who had been elected to Congress, vacant months before he took his seat in this body, and without any resignation or color of authority for so doing. He declared the seat of Senator Caraloff vacant on the ground that he had removed from his district, because he had accepted a clerkship in one of the Federal Departments, when everybody knows that a clerkship in one of these Departments does not necessarily disturb a citizen's political residence, and when we know as a matter of fact that many of them go home to their respective States at every election to vote.

But without dwelling upon this usurpation so dangerous and repugnant to representative government—the assumption of authority by the executive to declare who are and who are not members of the Legislature—let me proceed to show the utter lawlessness with which he followed it up. He ordered a new election to fill those vacancies. The law provided for special elections to fill vacancies. If vacancies existed they must be filled according to law. The election laws of the State provided for the appointment of judges of election before each *general* election, and provided further:

SEC. 6. The judges of election appointed as aforesaid shall continue to be judges of *all elections* within their respective election districts *until the next general election.*

SEC. 7. If the county court shall fail to fix a place at which elections are to be held in any election district, or the board of registration fails to appoint judges of election, or those appointed fail to act, it shall be the duty of the sheriff to fix a place for holding the elections, and the voters, when assembled, may appoint the judges.

So that it will be seen that the terms of office of the judges of election were fixed by law, and as much beyond the reach of the governor as those of any officer of the State. And what class of officers was it more important to have beyond executive control? But, in keeping with his customary usurpation, which now had become his rule of action, he set aside the election laws of the State, ignored the officers and machinery of elections by law existing, and set up machinery and officers of his own creation. Such an election was of course ignored by the people, not more than 10 per cent. of them participating, the republicans disregarding it altogether. Indeed in several of the counties in which the election had been ordered no votes were cast or returned at all. Into no legislative body in the world, I venture to say, having the slightest regard for its character and law, would such claimants be admitted as members. Indeed none of them seems to have expected any such result, for not one of them had possessed himself of any credentials whatever. With this crop of usurpation did Baxter supply the deficiency in his rump legislature and eke out in numbers what he lacked in members to make a quorum.

And here let me correct a mistake into which the committee have fallen by getting our statutes confused, lest it may mislead the House as it has the committee into a vital error. On page 9 of their report they say:

The new members in both houses were admitted on the certificate of the secretary of state to a list furnished by him to each house, which appeared to be the *prima facie* evidence to a right to a seat by the law of the State. The new members were admitted to seats and sworn without a question, and no other persons appeared to claim the seats occupied by them.

The list of the secretary of state was *not* "the *prima facie* evidence of a right to a seat by the law of the State," nor any evidence at all of the right to fill a vacancy in an organized Legislature. The list of the secretary of state of Arkansas is analogous to the list of the Clerk of this House upon its organization. It is *prima facie* evidence of the right to a seat in this House until it is organized, and to partici pate in its organization when we first assemble. But who ever heard of it being introduced as the credential of anybody to fill a vacancy after the House had been organized! But a few weeks ago we saw the gentleman from Illinois [Mr. FARWELL] present the credentials of his colleague [Mr. CAULFIELD] to fill a vacancy, not in the form of a roll from the Clerk, but a certificate of election from the proper officer of his State. The law of Arkansas is as follows:

SEC. 54. It shall be the duty of the secretary of state, on the *first* day of each *regular session* of the General Assembly, to lay before each house a list of the members elected agreeably to the returns.

But when they came together in extraordinary session the secretary of state and his list had no more to do with the filling of vacancies in the Legislature than the Clerk of this House and his list had when we assembled for the second session on the first Monday in December last, when we had a number of vacancies in our body. I might say, if it would not disturb his dignity, that it had no more to do with the Legislature than the gentleman from Vermont and his wash-list would have. The *prima facie* evidence for such a case would be found under the following section of the statute:

SEC. 43. It shall be the duty of the clerk of the county court to furnish each person elected a member of the house of representatives in the General Assembly from his county a certificate of election under his official seal.

This certificate none of them had. They were taken in by the twenty-four members of the house and the nine members of the senate of Baxter's following without any credentials whatever, and without a particle of evidence, *prima facie* or other, that they had any right there; and in point of fact, as I have shown, they had no more legal right to seats in the Legislature than any other citizens of Arkansas.

Nor is it candid in the committee to report that "the new members were admitted to seats without question" when the evidence shows that there were none present to "admit" or "question" them except the supporters and co-operators in Baxter's usurpation. But, say the committee, with equal candor, "No other persons appeared to claim the seats occupied by them." Certainly not, if vacancies existed which had not been legally filled; and where vacancies did not exist the rightful members would not recognize the authority of Baxter who called it or the validity of the body thus convened, and hence were they uncontested as the committee must know from the testimony.

But, say the committee, because the constitution makes each house of the General Assembly the judge of "the qualifications, election, and returns of its members" they therefore "regard all questions made as to the validity of the election of the new members and the regularity of the organization as covered and concluded by the action of the Legislature itself." This would certainly be true if twenty-four members constituted the house of representatives and nine senators constituted the senate of the Arkansas Legislature, or if such number of members belonging to each house can combine with enough other persons to constitute the number of a quorum who are not certified elected by anybody, bearing no credentials from anybody, and having no right from any election to a seat in either body, can call itself a Legislature. But as nobody would insist upon either of these propositions, therefore nobody will hold, in the light of these facts, that the Legislature of Arkansas ever said or did anything regarding this matter, or that the Legislature of Arkansas ever met in extraordinary session at all.

This body, known as "Baxter's extraordinary," assembled under martial law, sat under martial law, and adjourned leaving martial law in force. Conscious of its own usurpation, as well as Baxter's, they commenced their distinguished career by impeaching the judges of the various courts by the batch, from the supreme court down, all who would not join in their usurpation or bow to it without taking any evidence or asking for any, and then assuming the power to suspend their functions, adjourned without giving them trial. This was "Baxter's extraordinary," which passed the act for the constitutional convention, of which the committee say, on page 11 of their report, "It is plainly an evasion of the constitutional requirement of registration," a destruction of the constitutional requirement of "the secrecy of the ballot;" and, say they:

If this question was raised before a judicial tribunal to determine the validity of the act in a suit between private parties, *it would necessarily have to be decided unconstitutional.*

So fully were they conscious of the unmitigated usurpation and lawlessness of their course, that they took pains to admonish even the courts of their own procurement in no manner to test their proceedings or anything which might flow from them by the touch-stone of the constitution or law. But on this subject I will let the committee speak for me. I read from page 12 of their report:

The house of representatives preferred articles of impeachment against the judges of the supreme court and other State officers, (except some who resigned to escape impeachment,) and also passed a law suspending all officers under impeachment from official service while impeachment proceedings were pending. Governor Baxter thereupon filled the places of judges and State officials by *ad interim* appointments. This judiciary might have been supposed to be reasonably safe, but the Legislature, on the 28th of May, 1874, passed an act, the first section of which provides "that all judges of this State are prohibited from issuing any writ or process whatever, or taking any action, or assuming any jurisdiction in, or about, or in connection with, the election provided for in the act to which this is supplementary and amendatory, except in so far as may be necessary for the preservation of peace and order and to secure the holding of such election: *Provided, however*, That the provisions of this section shall not be construed so as to amend, or in anywise impair, the jurisdiction of criminal and circuit courts, as specified in the act to which this is supplementary and amendatory.

This act effectually closed the door to all remedies by judicial action to restrain proceedings under and in the manner provided by the Legislature and by the convention. Nothing can, therefore, be claimed in their favor on the ground of acquiescence or waiver of anything irregular or illegal by not attempting to stop it or by allowing it to proceed.

In this manner was brought forth what they were pleased to call a "constitutional convention." This in turn followed up the revolutionary programme, passed its own election laws, appointed its own election officers—under which its work was submitted to the people—and followed the example of "Baxter's extraordinary" in ignoring the constitutional requirements of registration and a secret ballot. To these proceedings and the election under them, by which it is claimed the Garland government has been elected and the new constitution adopted, the committee say: "Any objection would lie that would be available against the act of the Legislature." "But," say they, "the objection against this action of the convention goes much deeper than to the action of the Legislature," for "this convention had no legislative power whatever."

The committee continue on pages 13 and 14 of their report:

Although there has been great diversity of opinion and practice by such conventions formerly, we think it must now be regarded as settled that no legislative power is inherent in such conventions, and none can be delegated to them by the Legislature. (Jameson on Constitutional Conventions, 387; Wells *et al. vs.* Election Commissioners—Pennsylvania case.)

The convention might doubtless have fixed a time for the election, and made any other mere regulations in regard to it, but if they submitted it to the people for ratification they should have done it under the existing law, and to be conducted by the existing officers of the law.

There was an existing registration, there were existing officers of registration and election, and the convention had no power to displace them and provide others.

In the Pennsylvania case above cited, the convention provided for a new board of election officers in the city of Philadelphia to superintend the election. On application to the supreme court, they enjoined the new officers, and unanimously decided that the convention had no power to create them, and that the election must be conducted by the officers provided by law.

This case seems exactly to apply to the action of the convention in this case, and if application could have been made to a proper court, the same result would have been reached in the same way.

We have then, Mr. Speaker, the following cardinal points of unanimous agreement among the committee, in their reports, upon which to base our discussion of the principles, which they present:

First. The election and "better right of Brooks" to the office of governor of Arkansas; and that we are not estopped by any adjudication which that question has received from so declaring, if we conclude that Garland is not the governor.

Second. That the act providing for a constitutional convention and the election under it were in conflict with the constitution, and therefore void and of no legal effect.

Third. That the election for the Garland government and the new constitution was without constitutional or even legislative warrant, but on the contrary unknown to and in violation of alike the constitution and laws of the State.

Fourth. That the people and authorities were cut off from all legal recourse and remedy in the State by the inhibition or suppression of the courts.

Fifth. That nothing can be claimed in favor of those proceedings "on the ground of acquiescence, or waiver of any illegality, by not attempting to stop it or by allowing it to proceed," and that no one could have tested the question "without great danger to his life, and therefore ought not to be treated as having surrendered any right by acquiescence." (Majority report, pages 12, 14.)

I have already exposed the mistake of the committee arising from a confusion of our statutes as to the organization of "Baxter's extraordinary legislature," and what constituted evidence of a right to a seat in the General Assembly, *prima facie* or other, and have shown, I think, conclusively, that "Baxter's extraordinary" is no more entitled to consideration as a Legislature than his body-guard of militia.

What have we got, then, to confront the right of Brooks? "Baxter's extraordinary," a body without authority, orders an election outside of and unknown to the constitution or laws of the State, and in a manner in conflict with them, for a convention which assembles. This convention in its turn orders an election for a new government and submits a new constitution for adoption at said election, it is agreed, without constitutional or even legislative warrant or authority, but in conflict with the explicit requirements of the constitutional and statutory law of the State, and all without participation by the supporters of the Brooks government but ignored by them as void. On this election the Garland government is inaugurated. This is its title deed, this its claim.

If the committee believe as they report that this convention could exercise no legislative power whatever, how do they discover that the Garland government was elected? Could their proclamation for an election and the rules and officers which they appointed for its management have any more force or effect than the same emanating from a political convention? For the committee say one has as much legislative power as the other—none at all. Hence there could have been no election for a government under those circumstances on the 13th of October last; there was no election for a government and there was no government elected on that day in law. I ask, under what law was it elected? The committee answer me, under no law. Under which constitution, the old or the new? Under neither. Certainly not under the old, and as surely not under the new; because the election for the Garland government took place on the 13th of October while the old constitution was the unquestioned law of the State, and two weeks before the new constitution became the law according to its own provisions. And I call attention to the fact that this election was not even made contingent upon the adoption of the new constitution, but was ordered in the exercise of that plenary power which was claimed by the convention and which they held to be supreme, above all law; that they were a law unto themselves—unto the government and the people of the State; indeed that they were the people, as it were, gathered together in one place and the embodiment of all sovereign power unrestrained by constitution or laws, and whose mandate was sufficient warrant for anything. This being the case, it was not deemed necessary to make the Garland government contingent upon the adoption of the new constitution; indeed they were not so much after a new constitution as they were after a new government. So we should have had the new Garland government whether the new constitution had been returned defeated or adopted; for Garland had it all to himself, just as Dorr had in Rhode Island—no one having run against him—the republicans ignoring the proceedings as void.

Suppose the convention had simply ordered the election and not submitted or framed any constitution, or had submitted it at some subsequent time, what right would the persons elected at such election have acquired to the offices for which they were candidates? Precisely the same right which the Garland government acquired at the election held on the 13th of October—held under neither constitution and under no law but such law as the convention could give, which the committee agree was no law at all.

That I may not be thought to be overstating the principle upon which the Arkansas convention acted and on which this Garland government rests, let me give two or three illustrative facts which will make it clear. Acting upon this conception of its powers, one of the first acts of the convention was the assumption of power to appropriate to its own use the school fund of the State, which the constitution held sacred to school purposes. They abolished by order of the convention the constitutional office of lieutenant-governor and also the constitutional office of superintendent of public instruction. Of course, if they could thus wipe out, not by amendments to the constitution, but by their simple fiat, constitutional offices, they had the same power to create them to the extent of a full new government, and select them by popular election or elect them themselves, as they might choose.

Here, then, is the principle on which this new government rests: a claim based upon an uncontested popular election, held without any authority of law, but in defiance of the constitution and laws of the State, upon the authority of a convention created in precisely the same way. It is for us to say here and now, as the highest tribunal in the land to which the question can be presented, whether this is our theory of government; whether this principle is to be accepted or rejected from our American system; whether a majority of the male adults constitute the sovereign State, or whether it is all the people acting under constitutional warrant through the modes and channels which they have agreed upon for their government, and bound to act within the restraints of their constitution and laws.

The correct determination of this question, Mr. Speaker, involving as it does the most vital and important principles—as I believe the great conservative force—of our system of government, in harmony with the Constitution and in consonance with the spirit of our American institutions, is of far greater moment to the country than the possession of the offices by any set of persons, and transcending in its results all personal or party consequences, or any consideration whatever transitory in its character. In this spirit I hope and believe I have approached this case, and shall cast my vote with a full sense of our solemn responsibility.

But, Mr. Speaker, this doctrine of the Arkansas convention and of the Garland government is not new in this country. If it were either new or local, we might contemplate it without alarm. It was asserted in 1786, by the Shay rebellion in Massachusetts and by two-thirds of the people of Rhode Island in the Dorr movement of 1842. It has been advocated by jurists like Judge Wilson, it has been enthusiastically urged by no less a statesman than George M. Dallas, and I judge it is not without the respectable support, to some extent at least, of the majority of this committee, although their speeches rather concealed than presented the issue in this case.

Justice Wilson, like the honest man that he was, goes squarely to the logical conclusion of this principle, and declares that—

A *revolution* principle certainly is and certainly should be taught as a principle of the Constitution of the United States and of every State in the Union.

George M. Dallas, in a letter to the Pennsylvania convention on the subject of its powers, thus glories in its unbridled sovereignty:

A convention is the provided machinery of peaceful revolution. It is the civilized substitute for intestine war, the American mode of carrying out the will of the majority, the unalienable and indefeasible right to alter, reform, or abolish their government in such manner as they may think proper. When ours shall assemble, it will possess, within the territory of Pennsylvania, every attribute of absolute sovereignty except such as may have been yielded and are embodied in the Constitution of the United States. What may it not do? It may reorganize our entire system of social existence, terminating and proscribing what is deemed injurious and establishing what is preferred. It might make our penal code as bloody as that of Draco; it might withdraw the charters of the cities; it might supersede a standing judiciary by a scheme of occasional arbitration and umpirage; it might prohibit particular professions or trades; it might permanently suspend the writ of *habeas corpus* and take from us the trial by jury. These are fearful matters, of which intelligent and virtuous freemen can never be guilty.

Such is the theory with which we are confronted in this case; on this doctrine did the Arkansas convention proceed, and upon it is the Garland government erected. Upon the same principle the Dorrites acted in Rhode Island. They called a constitutional convention by an overwhelming majority of the people. This convention submitted a constitution, which was adopted by an increased majority of the people and declared in force. Under this constitution the Dorr government was elected through regulations and machinery provided by the convention, and undertook to set itself up against the charter government of Governor King. The Dorrites of that day, like the Garlandites of this day, were not without their supporters and defenders. In that case, as in this, a majority of the committee of this House reported in their favor, although the House never passed upon the report. Angry speeches were made in the Senate by zealous democrats in behalf of Dorr; a great Tammany meeting was held in New York, and all condemnatory of President Tyler, who had early thrown the weight and authority of the United States on the side of Governor King and constitutional government for the suppression of the Dorr government or Dorr rebellion.

Public sentiment ran very much then as it runs to-day, not only in Rhode Island, but throughout the country. But public sentiment, Mr. Speaker, seldom stops to think about constitutional questions, the balances or powers of government. It concerns itself more with ends than means, and hence the wild danger of this doctrine, and the necessity of the great conservative principle for which I am contending as vital to the stability and security of constitutional government, ay, to the very foundations of society itself. For without government society cannot exist, and without this principle restraining the majority, free government is but the crystallization of chance, to dissolve again at the first impulse, and recrystallize who knows when or how.

President Tyler in the Rhode Island case, as President Grant in the Arkansas case, had to brave the animadversions of the democratic press and democratic orators for the vindication of this principle and the discharge of his high responsibility, sustained and advised, however, by a Cabinet headed by Mr. Webster. From a speech of Henry Clay, delivered in the fall of 1842 at Lexington, Kentucky, after indorsing the action of the President in the Rhode Island case, I learn the following:

The leading presses of the democratic party at Washington, Albany, New York, and Richmond, and elsewhere, came out in support of the Dorr party, encouraging them in their work of rebellion and treason. And when matters had got to a crisis, and the two parties were preparing for a civil war and every hour it was expected to blaze out, a great Tammany meeting was held in the city of New York, headed by the leading men of the party * * * with a perfect knowledge that the military power of the Union was to be employed, if necessary, to suppress the insurrection; and, notwithstanding, they passed resolutions tending to awe the President and to countenance and cheer the treason.

Thus you see what Clay thought of this doctrine of the Dorrites and the Garlandites. He denounces it as "treason," "insurrection," and "rebellion." Hear him discuss the principle itself in this same speech and whither it would necessarily lead us:

How is this right of the people to abolish an existing government and to set up a new one to be practically exercised? Who are *the people* that are to tear up the whole fabric of human society whenever and as often as caprice or passion may prompt them? When all the arrangements and ordinances of existing and organized society are prostrated and subverted, as must be supposed in such a lawless and irregular movement as that in Rhode Island, the established privileges and distinctions between the sexes, between the colors, between the ages, between natives and foreigners, between the sane and insane, and between the innocent and the guilty convict—all the offspring of positive institutions—are cast down and abolished, and society is thrown into one heterogeneous and unregulated mass. And is it contended that the major part of this Babel congregation is invested with the right to build up at its pleasure a new government? That as often and whenever society can be drummed up and thrown into such a shapeless mass, the major part of it may establish another and another new government in endless succession? Why, this would overturn all social organization; make revolution—the extreme and last resort of an oppressed people—the commonest occurrence of human life, and the standing order of the day. *How such a principle would operate in a certain section of the Union with a peculiar population you will readily perceive.*

Why, Mr. Speaker, so far is this from being the American principle of government, that it was the very danger which this doctrine threatened that led to the adoption of the Federal Constitution. The Shay rebellion broke out in Massachusetts asserting this communistic principle. They talked about community of property, voted taxes unnecessary burdens, the courts intolerable grievances, the legal profession a nuisance, and demanded the abolition of the Senate and a general revision of the government in accordance with these notions. George Ticknor Curtis, (good democratic authority,) in his history of the Constitution, says:

It was but a short time before that the people of this country had shed their blood to obtain constitutions of their own choice and making. Now they seemed as ready to overturn them as they had once been to extort from tyranny the power of creating and erecting them in its place. It was manifest that to achieve the independence of a country is but half of the great undertaking of liberty; that after freedom there must come security, order, the wise disposal of power, and great institutions, on which society may repose in safety.

So thoroughly was Washington and the country impressed with this new danger that it was expected he would have to leave his retirement at Mount Vernon and take an active part in the support of order in Massachusetts. He wrote to Henry Lee, in Congress, October 31, 1786:

You talk, my good sir, of employing influence to appease the present tumults in Massachusetts. I know not where that influence is to be found, or, if attainable, that it would be a proper remedy for the disorders. *Influence* is not *government*. Let us have a government by which our lives, liberties, and properties will be secured, or let us know the worst at once.

It was because impressed by this situation, and alarmed at the danger threatened by this revolutionary doctrine, that Washington threw the whole weight of his influence in favor of the Federal Constitution, and went himself into the convention to frame it, feeling the absolute necessity for a general government with powers and strength enough to maintain constitutional government in the States.

That such was the purpose of the framers of the Constitution we gather also from Mr. Madison in the Federalist, No. 43, where he argues—

Why may not illicit combinations for purposes of violence be formed as well by the *majority of a State*, especially a small State, as by a majority of a county or a district of the same State? And if the authority of the State ought in the latter case to protect the local magistracy, ought not the Federal authority in the former to support the State authority?

So we see that Madison did not think that a majority was the State. Indeed, in defining a "faction" he says it may be "a *majority* or minority of the whole, who are united and actuated by some common impulse of passion or interest adverse to the rights of other citizens or to the permanent and aggregate interest of the community," and adds:

To secure the public good and private rights against the danger of such a faction, and at the same time to preserve the spirit and form of popular government, is then the great object to which our inquiries are directed. Let me add that it is the great desideratum by which alone this form of government can be rescued from the opprobrium under which it has so long labored, and be recommended to the esteem and adoption of mankind.

How thoroughly Madison was convinced of the supreme importance of this constitutional principle to the foundations of free government and social order we learn from No. 51 of the Federalist, where he discusses this question at considerable length. I give one sentence to show the current of his argument:

In a society under the forms of which the stronger faction can readily unite and oppress the weaker, anarchy may as truly be said to reign as in a state of nature where the weaker individual is not secured against the violence of the stronger.

Thus we learn from the framers and founders of our institutions the spirit, the reasons, and principles of their establishment. American liberty is liberty regulated by law, and majorities are as subject to it as individuals. There are many things which majorities may lawfully do; but they can do them only because the law of the *whole people* permits them to do them. They can elect their government at stated times and in a stated manner, and can change their laws by the modes already prescribed. But whence is this right of the majority derived? From the organization and law of our government. They have no more right outside of that law to rule the minority than a strong man has to rule a weak one. Their right is derived from the civil compact defined and limited by the Constitution and laws; and any act outside or in conflict with the terms of that compact is purely revolutionary and without authority or lawful effect. That such is the American theory of government we are taught not only by its founders, as I have shown, but also by its most distinguished expounders, however widely they may have differed on other questions of government. Calhoun in his letter to Hon. William Smith, of Rhode Island, after discussing the difference between the natural state in which every man is sole master of his own actions and the political state in which he becomes a member of the body-politic or state, says of the latter:

It is in this state, and this only, that majorities and minorities are known or have as such any rights. Whatever rights they possess are political rights—the whole class of which are acquired and are called conventional; that is, rights derived from agreement or compact. How absurd, then, is it to suppose the right of a majority to alter or abolish the Constitution is a natural right! * * * *

The right of altering or changing constitutions is a conventional right belonging to the body-politic and subject to be regulated by it.

But my democratic friend from Ohio [Mr. SAYLER] flies in the face of this high priest of democracy with the declaration that—

Sovereign rights cannot be disposed of in this way. The will of the people can not be thus hampered in an instrument of limitations. It is contrary to the whole theory of the American system of government.

Why, sir, the very opposite is the American theory as I have shown. Mr. Webster, in discussing this very point, says that—

It is one principle of the American system that the people limit their governments, national and State—

And another—

equally important that they *limit themselves*. They set bounds to their own power. They have chosen to secure the institutions which they establish against the sudden impulses of mere majorities. All our institutions teem with instances of this. It was their great conservative principle in constituting forms of government that they should secure what they had established against hasty changes by simple majorities.

Nor does my friend need to urge, as though there were any one to dispute it, that "the people are the source of all political power." What he needs to establish is that a majority are the people, and that the right of the majority to govern proceeds from the consent of the majority and not from the "consent of the governed."

Why, sir, Mr. Calhoun, after announcing the doctrine of constitutional limitations which I have just quoted, continues:

I am far from denying that the people are the source of all power, and that their authority is paramount over all. But when political, and not natural rights are the subject, the people, as has been stated, are regarded as constituting a body-politic or state, and not merely as so many individuals. *It is only when so regarded that they possess any political rights.*

And so, Mr. Speaker, it is in this character—as all these eminent expounders of our system of government agree, and as reason and reflection must approve—that the people are contemplated as sovereign, capable of altering or changing their constitutions and governments at will, that is by their legal, political will. Mr. Webster agrees with Calhoun that this is the true idea of a state. It begins in suffrage, he says, and of that suffrage he adds, as a "great principle of the American system," that—

Its qualifications shall be prescribed by previous law; the time and place of its exercise shall be prescribed by previous law; the manner of its exercise, under whose supervision, (*always sworn officers of the law,*) is to be prescribed.

And in speaking of the limitations which the people have imposed on themselves as to whom they may elect, &c., he continues:

They have also limited themselves to certain prescribed forms for the conduct of elections. They must vote at a particular place, at a particular time, and under particular conditions, or not at all. It is in these modes that we are to ascertain the will of the American people; and our Constitution and laws know no other mode.

So, Mr. Speaker, these two great expounders of the Constitution, each recognized as foremost by the section from which he hailed, and differing as widely as the poles on other questions, are agreed and emphatic in supporting my position here. With Washington, Madison, Clay, Webster, Calhoun, and a whole galaxy of founders and teachers of American republicanism; with reason and experience, all admonishing us of the absolute necessity of this principle as the foundation of social order, the only sure basis on which free institutions can find any permanence or security, and as Madison puts it, "by which alone this form of government can be rescued from opprobrium and recommended to the esteem and adoption of mankind"—for it is the only rein which can restrain liberty from running into anarchy—can any member here, appreciating the gravity of this issue, hesitate for which principle he shall cast his vote? I apprehend not, Mr. Speaker, and I have no fears for the issue if gentlemen shall understand what they are doing. Here, sir, we have two governments, one confessedly elected and representing the constitution and laws, the authority of the whole people—the State; the other representing a popular movement outside and in contravention of the constitution and laws of the State, its claim resting upon the right of the revolutionary principle. Which shall we recognize as the *State?* Which principle shall we assert as the law of the American system? Mr. Webster says:

The Constitution does not proceed upon the *ground* of revolution; it does not proceed upon any *right* of revolution.

So say all the high authorities I have quoted; so held the supreme court of Rhode Island in the Dorr case, and so held the Supreme Court of the United States in the case of Luther *vs.* Borden growing out of it. So said the President of the United States in 1842 when he decided the law of this country, the law of the American system, against Dorr and the revolutionary doctrine; against the roar of the democratic press and the demands of the party politicians of the democratic party; against the resolutions of the great Tammany meeting in New York City; against the votes of two-thirds of the people of Rhode Island. And, sir, there is not a citizen of that State to-day who is not grateful that it was so decided against them, and who does not attribute to that decision the stability of the government and the order of society in Rhode Island.

But, Mr. Speaker, there is a difference between the Dorr movement in Rhode Island and the Garland movement in Arkansas, and that difference is all in favor of the former. They are alike in that both are popular movements, unknown to the constitution and law, in contravention of the authority of the State, and revolutionary in character.

But, sir, the Dorr movement was the culmination of years of agitation for a liberal reform for the extension of suffrage and political privilege. The Arkansas movement was the sudden expedient of revolution, not for reforming the law but to get possession of the government, and has curtailed the suffrage and narrowed political privilege. A convention to revise the constitution had never been moved in the Legislature nor called for by any party or other convention of the people, State, district, or county.

The gentleman from Vermont declared in his speech that Mr. Brooks had gone all through the State in the canvass of 1872 the great apostle of a new constitution. If I may borrow phraseology from the gentleman, I will pronounce that statement "untrue, not a particle of truth in it." I was on the ticket with Mr. Brooks in that race for the seat which I occupy here for the State at large, and made the canvass with him, and am therefore able to say that it was never once discussed in that canvass, nor was it even suggested in any of the platforms. I asked the gentleman to allow me to correct him when he made that statement, but it did not answer his purpose to be corrected, and he declined.

But, sir, this is not the only difference. The Rhode Island movement was conducted in peace and order and made no man afraid. In Arkansas it was inaugurated in the midst of turbulence and disorder and marked by the closing of the courts, the imprisonment of its opponents, and the reign of martial law. Governor King, regardful of his oath of office and his obligation to the *State*, surrendered not his trust but defended it against the revolution, calling upon the President of the United States to sustain him, which he did. Baxter, who should have done the same, forgetful of his oath and faithless to his trust, conspired with the revolution, organized and armed the State militia that should defend, from the revolutionists who would tear down the State, and, having placed her enemies on guard, surrendered his trust to Garland and placed the revolution in power over the prostrate form of the State.

Suppose, Mr. Speaker, that Governor King had organized his militia from the Dorrites, and so had become the commander-in-chief of the enemies instead of the defenders of the State, and had corruptly vacated his office of governor and commander-in-chief in favor of Dorr, and the law-abiding people of Rhode Island and the deputy governor had protested and called upon the United States to defend and maintain the *State* against the double danger of executive treason and revolution; does anybody suppose that the duty of the General Government in the premises to the *State* of Rhode Island would have been changed or any different from what it was? Or will somebody hold that the treason and faithlessness of the governor would have cured the title of the revolution and stood like a sacred shield between it and the Federal guarantee? Yet this is the Arkansas case with the exception of the fact that the governor who did this was a usurper himself.

I have not deemed it necessary, Mr. Speaker, to question the vote for the Garland constitution and government, because for the principles involved and for which I am contending it makes no difference whether that vote was honest or fraudulent. But I must say regarding it that I was somewhat surprised to hear the gentleman from Vermont declare with an air of triumph that there was not a word of evidence impeaching it. He showed singular forgetfulness for a mind like his when he neglected to add that he peremptorily refused to take a word of evidence on the subject, and declined to go into that question, on the ground that the issue in this case would be determined before they reached the question of that vote. Nor did it answer his purpose to state to the House that at the congressional election three weeks afterward, *conducted in the presence of United States supervisors*, with both parties in the field and a hot contest in three out of four of the districts, the vote of both parties was less by forty thousand than the vote returned by the convention machinery at the Garland election, with only one ticket in the field, without contest, and without canvass.

But, Mr. Speaker, the committee say that they do not see what the United States, what Congress, can do about all this in the absence of domestic violence. Why, sir, on the Hot Springs road in our State, during the past year, a number of men, four, I believe, stopped thirty persons traveling in stages to that healthful resort. They ordered the thirty to raise their hands in the air, and while in that position disarmed them and rifled their pockets of such valuables as they had. When they had possessed themselves of the property they talked to them most pleasantly. There was no violence; there rarely is, Mr. Speaker, in such a case, for the plundered do not wish to lose more than their property by suicidal resistance. Yet the law did not think that that fact aided or confirmed the robbers' title to the property.

The committee are unanimous in saying that there has been no acquiescence on the part of the State authorities, and that they could not have tried titles with the revolution without great danger to their lives. But, sir, is the monstrous doctrine to be maintained that nothing but blood can open the treasury of Federal powers; that to secure the Federal guarantee a State must order throat cutting to commence; that she must come with arms in her hands or she cannot be heard; that it takes powder and ball to make a case before this tribunal; and this in our enlightened day, when it is sought that arbitration may take the place of war? Why, sir, to state it is to refute it, the doctrine is so abhorrent to every idea of civilized government. No government is organized upon the idea that its powers of protection cannot be exercised until the injury has been done nor after it has been consummated. The power to protect involves the power to prevent and the power to restore, whether it be the protection of an individual or of a State. It was in this spirit that the guarantee section was placed in the Constitution. We see that from the letter of Washington which I have already quoted, from the writings of Madison, Webster, and others of like weight and authority. Calhoun, in the letter already referred to, discussing the first of the guarantees, says:

I hold that, according to its true construction, its object is the reverse of that of protection against domestic violence, and that instead of being intended to pro-

tect the *governments* of the States, it is intended to protect each *State* against its government, or, more strictly, against the ambition or usurpation of its rulers. That the objects of the Constitution, to which the guarantees refer, and liberty more especially, may be endangered or destroyed by rulers will not be denied. But, if admitted, it follows as a consequence that it must be embraced in the guarantees.

So we see that even though the Government itself, that is, the rulers in power, should conspire with treason, revolution, or other usurpation to subvert the *State*, it would still be within the power and duty of the United States to exercise the guarantee and protect and maintain the *State*, and that without domestic violence or even the application of the authorities of the State; because, says he, "it would be a perfect absurdity to expect such rulers to make application on behalf of the State for protection against themselves."

Mr. Charles O'Connor, the most eminent lawyer to-day in the democratic party, says that where the President has acted in a case like this, and discovers afterward that he has acted erroneously, he has the power to review his former decision in the light of his additional information, and reverse it if it shall seem to have been in error. Surely, sir, the interposition of that reversal is not to depend upon domestic violence. The Supreme Court of the United States say on this point:

Undoubtedly, if the President in exercising this power shall fall into error, it would be in the power of Congress to apply the proper remedy.

But, sir, would their power to apply it depend upon the existence of domestic violence at the time in the State? No, sir; the fathers placed that power here, that every State and the people of every State may have a peaceable remedy for usurpation, and protection against revolution; that we may know no ways but the ways of peace and no government but a government of law; not a government of the *majority*, but a government of the *people;* not for the greatest good of the greatest number, but, as the distinguished gentleman from Georgia [Mr. STEPHENS] has expressed it on this floor, the greatest good of all. That the power and duty is with us to decide this question we are told by the Supreme Court in the case which I have before cited. In discussing the guarantee section when it is called into exercise where there are two governments presented for recognition, protection, or action of any kind, they say:

Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For as the United States guarantees to each State a republican government, Congress most necessarily decide what government is established in the State before it can determine whether it is republican or not.

"The right to decide is placed there," say the court. The established government; established how? Established by law, of course, not by usurpation or revolution. Nor are we left without distinguished democratic advice *how* we should decide as between these two governments. Mr. Calhoun again, in discussing a hypothetical case—such a case as we have presented here, where the government of a popular movement, constructed outside of the law, in a manner unknown to the law, sets up its authority against that of the old constitutional State government—says:

It would be the duty of the Federal Government to grant protection to the old instead of the new; and on its application to put down those who might attempt to subvert it under the authority of the new.

And adds, that if he were President he would enforce the guarantee and protect it to the extent of the authority vested in him by the Constitution and laws.

But, say the committee, the new *constitution* is republican in form. In answer to that I cannot do better than to suppose a case which the gentleman from Vermont [Mr. POLAND] put to a citizen of my State while he was at Little Rock, when asked how that would change the case, if at all. My distinguished friend, availing himself of the privilege of a Yankee, answered by asking the Arkansasan: Suppose he (Mr. POLAND) should frame a constitution in his library, better in every respect than the present constitution of Vermont, and should submit it to the people of his State for adoption, appointing a day and designating the persons to take the sense of the people on it, and a large majority of the people should be reported in favor of it, would it be then the constitution of Vermont? It would undoubtedly be republican in form; and would be just as much the constitution of Vermont as the new constitution is the constitution of Arkansas.

But, Mr. Speaker, I cannot in this limited opportunity do more than present the leading points in this case, without dwelling upon many interesting and instructive features which it presents. I should like to have time to show up the character of Baxter's administration which received such hearty support from the Bourbon democracy of Arkansas, securing for him the nomination for governor as their first choice. I could cite a hundred things that would satisfy this House that it was at once the most corrupt, selfish, and impotent administration that has within my knowledge ever cursed a State of this Union, marked by bribery, fraud, malfeasance, misfeasance, peculation, usurpation, and treason, which shames the name of government and tends to the utter demoralization of popular institutions. I should like to show all these attributes which distinguished this administration which has enshrined itself in the affectionate approbation of Arkansas Bourbons, to show this House that the revolution was not for reform but for office; that it was not to relieve the people of any grievance which could not be reached by legislation, but to advance the interests of a coterie of selfish politicians. I might open the eyes of this House to the animus of this movement, to its moral character, by holding up the record of some whom it has honored with preferment—if such thing can be honor—covered all over with the leprosy of corruption, honeycombed with fraud, and reeking with public plunder. But, sir, all this I must pass by and close what I have to say.

Here then, Mr. Speaker, is the issue presented to us between two governments—one the government of the *State* unquestionably elected by the people, resting its title upon the constitution and laws and represented by Governor Brooks. The other, represented by Mr. Garland, born of an unauthorized popular movement outside of all law, reached through a long series of usurpations, intimidation, and fraud. Which government shall we recognize? I protest in the name of the peace and order of Arkansas against any evasion of the question. We want it settled here and now, and settled definitely. You are called upon by the President of the United States to say which of these principles he shall understand from Congress is the foundation principle of American institutions. Are our methods of government constitutional or are they revolutionary? Is the security of established institutions and law a delusion and a snare, or does American liberty and government mean the liberty and power of the majority? Or shall we hold that majorities have no powers to govern except such as the minority have agreed with them to have in their common constitution? Are the conservative guarantees of written constitutions mere myths, or do they furnish a barrier against the passion or caprice of faction be it large or small, in or out of power?

It is the old, old issue, Mr. Speaker, between the constitutional and the revolutionary principle; between the majesty of the law and the absolute, unrestrained power of numbers. Either of these doctrines is a political heresy under our system. Which is true, and which is false? Never in the history of this Government has statesman or soldier been called upon to discharge a more solemn duty than this question imposes on us. Our present Executive, rising to the statesman's view of it, and full of the sense of his high responsibility, has told us what he thinks. He sees the precipice on which we stand if the revolutionary doctrine is to be the theory of our government, and warns us in time.

Say here and now, Mr. Speaker, that all political power is *inherent* and not conventional; in other words, that it is purely natural and unlimited by constitution or law, and you say that a man has the same political power the day before that he has the day after he becomes twenty-one years of age. Inherent rights are natural rights, or rights which inhere in the *nature* of a person, innate and inseparable from it, and not vested by the law as a man becomes vested with the right to vote when he attains the age of twenty-one. And announce further by the recognition of the doctrine asserted in this case that *all political power is inherent in the majority*, and I warn you gentlemen of the East and of the West that you are living upon the precarious crust of a volcano. Tell it to the trades unions and the labor associations; preach it to the starving miners of Pennsylvania, who cry for food at the doors of stately mansions of proud millionaires whose untold wealth is secured to them only by conventional law; teach it to the pinched poverty of your city slums, that shivers and dies in the shadow of profligate luxury protected by law; let it be known to the drivers on your carriages, the workmen in your shops, the laborers in your fields, the delvers in your mines, that the *inherent power of the majority* is the fundamental law of the land, and then, gentlemen, prepare to welcome the commune for your government.

As the minority report to this House in the Rhode Island case warned the country, should this theory become the law, "the wildest theories of the insanest period of the revolutionary frenzy of France lead not to consequences more detestable and abhorrent." Once countenance this doctrine—arm discontent with the potency of a right to do as it wills, and the destinies of this country are easily predicted: First civil confusion; internal discord; paralysis of industrial effort; warring and contending faction; reason, order, and justice banished; the will of the multitude the direction of government and the law of society—all running the inevitable course to the end of established despotism. We may thus become the last (happily not the first) who find a refuge from the wild confusion of anarchy in the quiet of absolute rule.

Which shall be our law, Mr. Speaker: the "*inherent power of the majority*," or the will of the *whole* people acting through their Constitution and laws? Have we a government of laws, or are we but organized anarchy? Do the pillars of our institutions rest upon the granite of binding and paramount law, or are they built upon the earthquake? Let us answer by our votes here and now. One of these doctrines was planted by the fathers to last all time, and we are sworn to protect it; the other is a noisome weed, which has grown up beside it. And O, Mr. Speaker, when we do decide, let us be sure that we pluck up the dangerous weed, and not the wholesome plant, hung with such glorious memories and which has cost so much of blood and treasure to secure.

The SPEAKER. The Clerk will read the resolution reported by the committee.

The Clerk read as follows:

Resolved, That the report of the Select Committee on the condition of Affairs in the State of Arkansas be accepted; and in the judgment of this House no interference with the existing government in that State by any department of the Goverment of the United States is advisable.

The SPEAKER. The gentleman from Illinois [Mr. WARD] moves to substitute for that the following, which the Clerk will read.

The Clerk read as follows:

Resolved, That Joseph Brooks, having been by the people of Arkansas elected to the office of governor of said State under the constitution of 1868, for the period of four years, ending in January, 1877, and said constitution never having been legally overturned or abrogated, and being still in force, he is the lawful governor of said State of Arkansas.

The SPEAKER. As gentlemen have expressed some dissatisfaction with the ruling of the Chair he will only say that if the motion for a suspension of the rules could be made by the gentleman from Arkansas in order to permit him to speak on this question, a suspension of the rules would be in order to allow the same privilege to every other member in the House.

Mr. BUTLER, of Massachusetts. Why not, if the House desires it?

The SPEAKER. Simply because the House does not wish to commit an absurdity after having seconded the previous question and ordered the main question. It would put it in the power of one man to detain the House here until noon on Thursday next by moving to suspend the rules that each member of the House should have the right to speak. It would of course be the greatest absurdity.

Mr. POLAND. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. TODD. I desired to discuss this question, but being cut off by the order of the House I ask leave to print as part of the debates the remarks which I have prepared.

There was no objection, and it was ordered accordingly.

The SPEAKER. The question now recurs on the resolution moved as a substitute by the gentleman from Illinois, [Mr. WARD.]

The question was taken; and it was decided in the negative—yeas 79, nays 152, not voting 56; as follows:

YEAS—Messrs. Barry, Bass, Begole, Biery, Benjamin F. Butler, Roderick R. Butler, Cain, Carpenter, Cason, Cessna, Conger, Crooke, Curtis, Darrall, Donnan, Dunnell, Field, Fort, Harmer, Hathorn, Hays, Gerry W. Hazelton, John W. Hazelton, Hodges, Houghton, Howe, Hurlbut, Hyde, Hynes, Lawson, Lewis, Lofland, Lowe, Lynch, Martin, Maynard, Alexander S. McDill, MacDougall, McNulta, Moore, Myers, Negley, O'Neill, Orth, Packard, Isaac C. Parker, Pelham, Phillips, Thomas C. Platt, Pratt, Rapier, Rusk, Sawyer, Scofield, Sessions, Shanks, Sheats, Sheldon, Sherwood, Sloan, Smart, A. Herr Smith, Snyder, Sprague, Stowell, Sypher, Taylor, Todd, Townsend, Tremain, Tyner, Wallace, Walls, Jasper D. Ward, White, Wilber, William Williams, and James Wilson—79.

NAYS—Messrs. Adams, Albert, Archer, Arthur, Ashe, Atkins, Averill, Banning, Barnum, Barrere, Beck, Bell, Berry, Bland, Blount, Bowen, Bradley, Bright, Bromberg, Brown, Buckner, Burchard, Burleigh, Caldwell, Cannon, Caulfield, Chittenden, Amos Clark, jr., John B. Clark, jr., Freeman Clarke, Clayton, Clements, Clymer, Stephen A. Cobb, Comingo, Cook, Cotton, Cox, Crittenden, Crossland, Crounse, Danford, Davis, Dawes, DeWitt, Durham, Eames, Eden, Eldredge, Finck, Garfield, Giddings, Glover, Gunckel, Gunter, Eugene Hale, Hamilton, Hancock, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hatcher, Havens, Joseph R. Hawley, Hereford, E. Rockwood Hoar, George F. Hoar, Holman, Hoskins, Hubbell, Hunton, Kasson, Kellogg, Killinger, Knapp, Lawrence, Loughridge, Lowndes, Luttrell, Magee, Marshall, McCrary, James W. McDill, McLean, Merriam, Milliken, Mills, Monroe, Morrison, Neal, Nesmith, Niblack, O'Brien, Orr, Packer, Hosea W. Parker, Perry, Pierce, Poland, Potter, Randall, Ransier, Ray, Read, Richmond, Robbins, Ellis H. Roberts, William R. Roberts, James C. Robinson, James W. Robinson, Ross, Henry B. Sayler, Milton Sayler, Schell, Henry J. Scudder, Sener, Lazarus D. Shoemaker, Sloss, H. Boardman Smith, John Q. Smith, William A. Smith, Southard, Speer, Stanard, Standiford, Starkweather, Alexander H. Stephens, Charles A. Stevens, Stone, Storm, Strait, Charles R. Thomas, Christopher Y. Thomas, Thompson, Vance, Marcus L. Ward, Wells, Wheeler, Whitehead, Whitehouse, Whiteley, Whitthorne, Charles W. Willard, George Willard, Charles G. Williams, William B. Williams, Willie, Ephraim K. Wilson, Wolfe, Wood, Woodworth, and John D. Young—153.

NOT VOTING—Messrs. Albright, Barber, Buffinton, Bundy, Burrows, Clinton L. Cobb, Coburn, Corwin, Creamer, Crutchfield, Dobbins, Duell, Farwell, Foster, Freeman, Frye, Gooch, Hagans, Robert S. Hale, John B. Hawley, Hendee, Herndon, Hunter, Kelley, Kendall, Lamar, Lamison, Lamport, Lansing, Leach, McKee, Mitchell, Morey, Niles, Nunn, Page, Parsons, Pendleton, Phelps, Pike, James H. Platt, jr., Rainey, John G. Schumaker, Isaac W. Scudder, Small, George L. Smith, J. Ambler Smith, St. John, Strawbridge, Swann, Thornburgh, Waddell, Waldron, John M. S. Williams, Jeremiah M. Wilson, and Pierce M. B. Young—55.

So the amendment was rejected.

During the vote,

Mr. FOSTER stated that he was paired with Mr. BURROWS, who would vote in the affirmative, while he would vote in the negative.

Mr. ALBRIGHT stated that he was paired with Mr. LAMAR, who would vote in the negative, while he would vote in the affirmative.

Mr. FORT stated that his colleague, Mr. HAWLEY, was detained from the House by sickness.

Mr. CONGER stated that his colleague, Mr. WALDRON, was detained at home by sickness.

Mr. DAWES stated that his colleague, Mr. GOOCH, was detained at home by sickness in his family; and that the condition of health of his other colleague, Mr. BUFFINTON, was such as to prevent his being present.

Mr. WARD, of New Jersey, stated that his colleague, Mr. SCUDDER, had been called home by sickness in his family.

The vote was then announced as above recorded.

Mr. POLAND moved to reconsider the vote by which the substitute was rejected; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. BUTLER, of Massachusetts. I desire to submit this proposition to the House——

Several MEMBERS. Regular order!

The SPEAKER. The question now recurs on agreeing to the resolution reported by the committee.

Mr. TODD demanded the yeas and nays.

The yeas and nays were ordered.

Mr. MAYNARD. I move to lay the resolution on the table.

Mr. BUTLER, of Massachusetts. That is it; lay it on the table.

Mr. SHANKS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 94, nays 147, not voting 46; as follows:

YEAS—Messrs. Albright, Barber, Barry, Bass, Begole, Biery, Benjamin F. Butler, Roderick R. Butler, Cain, Carpenter, Cason, Cessna, Clayton, Clements, Coburn, Conger, Crutchfield, Curtis, Darrall, Donnan, Dunnell, Field, Fort, Hagans, Harmer, Hathorn, Havens, Hays, Gerry W. Hazelton, John W. Hazelton, Hodges, Hoskins, Houghton, Howe, Hunter, Hurlbut, Hyde, Hynes, Kelley, Lawson, Lewis, Lofland, Lowe, Lynch, Martin, Maynard, MacDougall, McKee, McNulta, Moore, Myers, Negley, O'Neill, Orth, Packard, Packer, Page, Isaac C. Parker, Pelham, Phillips, James H. Platt, jr., Thomas C. Platt, Pratt, Rapier, Ray, Rusk, Sawyer, Scofield, Sessions, Shanks, Sheats, Sheldon, Sherwood, Sloan, Small, Smart, A. Herr Smith, Snyder, Sprague, Stowell, Sypher, Taylor, Todd, Townsend, Tremain, Tyner, Wallace, Walls, Jasper D. Ward, White, Wilber, Charles G. Williams, William Williams, and James Wilson—94.

NAYS—Messrs. Adams, Albert, Archer, Arthur, Ashe, Atkins, Averill, Banning, Barnum, Barrere, Beck, Bell, Berry, Bland, Blount, Bowen, Bradley, Bright, Bromberg, Brown, Buckner, Burchard, Burleigh, Caldwell, Cannon, Caulfield, Chittenden, Amos Clark, jr., John B. Clark, jr., Freeman Clarke, Clymer, Stephen A. Cobb, Comingo, Cook, Cotton, Cox, Crittenden, Crooke, Crossland, Crounse, Danford, Davis, Dawes, DeWitt, Dobbins, Durham, Eames, Eden, Eldredge, Finck, Garfield, Giddings, Glover, Gunter, Eugene Hale, Hamilton, Hancock, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hatcher, Joseph R. Hawley, Hereford, E. Rockwood Hoar, George F. Hoar, Holman, Hubbell, Hunton, Kasson, Kellogg, Killinger, Knapp, Lamar, Lawrence, Lowndes, Luttrell, Magee, Marshall, McCrary, James W. McDill, McLean, Merriam, Milliken, Mills, Monroe, Morrison, Neal, Nesmith, Niblack, O'Brien, Orr, Hosea W. Parker, Pendleton, Perry, Phelps, Pierce, Poland, Potter, Randall, Read, Robbins, Ellis H. Roberts, William R. Roberts, James C. Robinson, James W. Robinson, Ross, Henry B. Sayler, Milton Sayler, Schell, Henry J. Scudder, Sener, Lazarus D. Shoemaker, Sloss, H. Boardman Smith, John Q. Smith, William A. Smith, Southard, Speer, Standard, Standiford, Starkweather, Alexander H. Stephens, Charles A. Stevens, Stone, Storm, Strait, Charles R. Thomas, Thompson, Vance, Marcus L. Ward, Wells, Wheeler, Whitehead, Whitehouse, Whiteley, Whitthorne, Charles W. Willard, George Willard, William B. Williams, Willie, Ephraim K. Wilson, Jeremiah M. Wilson, Wolfe, Wood, John D. Young, and Pierce M. B. Young—147.

NOT VOTING—Messrs. Buffinton, Bundy, Burrows, Clinton L. Cobb, Corwin, Creamer, Duell, Farwell, Foster, Freeman, Frye, Gooch, Gunckel, Robert S. Hale, John B. Hawley, Hendee, Herndon, Kendall, Lamison, Lamport, Lansing, Leach, Loughridge, Alexander S. McDill, Mitchell, Morey, Niles, Nunn, Parsons, Pike, Rainey, Ransier, Richmond, John G. Schumaker, Isaac W. Scudder, George L. Smith, J. Ambler Smith, St. John, Strawbridge, Swann, Christopher Y. Thomas, Thornburgh, Waddell, Waldron, John M. S. Williams, and Woodworth—46.

So the House refused to lay the resolution on the table.

During the call of the roll the following announcements were made:

Mr. FOSTER. I am paired with the gentleman from Michigan, Mr. BURROWS. If he were here on this question he would vote "ay," and I would vote "no."

Mr. ASHE. My colleague, Mr. WADDELL, is confined to his room by sickness.

The result of the vote was then announced as above recorded.

MESSAGE FROM THE SENATE.

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

The message further announced that the Senate had passed without amendment the bill (H. R. No. 4829) for the relief of the Willow Springs Distilling Company of Omaha, Nebraska.

The message further announced that the Senate had passed the bill (S. No. 1144) to prevent cruelty to animals in the District of Columbia; in which the concurrence of the House was requested.

The message also announced that the Senate had adopted a resolution, in which the concurrence of the House was requested, authorizing the Joint Committee on Enrolled Bills to correct a clerical error in the enrollment of the bill (S. No. 420) to amend the act entitled "An act for the restoration to homestead entry and to market of certain lands in Michigan," approved June 10, 1872, and for other purposes.

AFFAIRS IN ARKANSAS.

The SPEAKER. The question recurs on agreeing to the resolution reported by the majority of the Committee on Arkansas Affairs.

Mr. CESSNA. I would suggest that as we have just had a test-vote the taking of the yeas and nays which have been ordered on agreeing to the resolution may be dispensed with by unanimous consent.

Mr. TODD. I object.

Mr. BUTLER, of Massachusetts. I move to reconsider the vote by which the yeas and nays were ordered.

Mr. MAYNARD. I hope not. Let us have the yeas and nays.

The question being put on the motion of Mr. BUTLER, of Massachusetts to reconsider the vote ordering the yeas and nays; it was not agreed to.

The question was taken, on agreeing to the resolution reported by the committee, and there were—yeas 150, nays 81, not voting 56; as follows:

YEAS—Messrs. Adams, Albert, Archer, Arthur, Ashe, Atkins, Averill, Banning, Barnum, Barrere, Beck, Bell, Berry, Bland, Blount, Bowen, Bradley, Bright, Bromberg, Brown, Buckner, Burchard, Burleigh, Caldwell, Caulfield, Chittenden, Amos Clark, jr., John B. Clark, jr., Freeman Clarke, Clymer, Stephen A. Cobb, Comingo, Cook, Cotton, Cox, Creamer, Crittenden, Crooke, Crossland, Crounse,

Danford, Davis, Dawes, DeWitt, Dobbins, Durham, Eames, Eden, Eldredge, Finck, Freeman, Garfield, Giddings, Glover, Gunckel, Gunter, Eugene Hale, Hamilton, Hancock, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hatcher, Joseph R. Hawley, Hereford, Herndon, E. Rockwood Hoar, George F. Hoar, Holman, Hubbell, Hunton, Kasson, Kellogg, Killinger, Knapp, Lamar, Lawrence, Lofland, Lowndes, Luttrell, Magee, Marshall, McCrary, Alexander S. McDill, James W. McDill, McLean, Merriam, Milliken, Mills, Monroe, Morrison, Neal, Nesmith, Niblack, O'Brien, Orr, Hosea W. Parker, Pendleton, Perry, Phelps, Pierce, Poland, Potter, Randall, Read, Robbins, Ellis H. Roberts, William R. Roberts, James C. Robinson, James W. Robinson, Ross, Henry B. Sayler, Milton Sayler, Schell, Henry J. Scudder, Sener, Lazarus D. Shoemaker, Sloss, H. Boardman Smith, William A. Smith, Southard, Speer, Stanard, Standiford, Alexander H. Stephens, Charles A. Stevens, Stone, Storm, Strait, Charles R. Thomas, Thompson, Vance, Marcus L. Ward, Wells, Wheeler, Whitehead, Whitehouse, Whiteley, Whitthorne, Charles W. Willard, George Willard, William B. Williams, Willie, Ephraim K. Wilson, Jeremiah M. Wilson, Wolfe, Wood, John D. Young, and Pierce M. B. Young—150.

NAYS—Messrs. Albright, Barry, Bass, Begole, Biery, Roderick R. Butler, Carpenter, Cessna, Coburn, Conger, Crutchfield, Curtis, Darrall, Donnan, Dunnell, Field, Fort, Harmer, Hathorn, Havens, Hays, Gerry W. Hazelton, John W. Hazelton, Hodges, Hoskins, Houghton, Howe, Hunter, Hurlbut, Hyde, Hynes, Kelley, Lawson, Lewis, Lowe, Lynch, Martin, Maynard, MacDougall, McKee, McNulta, Moore, Myers, Nunn, O'Neill, Orth, Packard, Packer, Page, Isaac C. Parker, Pelham, Phillips, James H. Platt, jr., Thomas C. Platt, Rusk, Sawyer, Scofield, Sessions, Shanks, Sheats, Sheldon, Sherwood, Sloan, Small, Smart, A. Herr Smith, Sprague, Stowell, Sypher, Taylor, Todd, Townsend, Tremain, Tyner, Wallace, Walls, Jasper D. Ward, White, Wilber, William Williams, and James Wilson—81.

NOT VOTING—Messrs. Barber, Buffinton, Bundy, Burrows, Benjamin F. Butler, Cain, Cannon, Cason, Clayton, Clements, Clinton L. Cobb, Corwin, Duell, Farwell, Foster, Frye, Gooch, Hagans, Robert S. Hale, John B. Hawley, Hendee, Kendall, Lamison, Lamport, Lansing, Leach, Loughridge, Mitchell, Morey, Negley, Niles, Parsons, Pike, Pratt, Rainey, Ransier, Rapier, Ray, Richmond, John G. Schumaker, Isaac W. Scudder, George L. Smith, J. Ambler Smith, John Q. Smith, Snyder, Starkweather, St. John, Strawbridge, Swann, Christopher Y. Thomas, Thornburgh, Waddell, Waldron, Charles G. Williams, John M. S. Williams, and Woodworth—56.

So the resolution was agreed to.

During the roll-call the following announcements were made:

Mr. FOSTER. On this question I am paired with Mr. BURROWS, of Michigan. If he were here he would vote "no," and I should vote "ay."

Mr. WHEELER. I desire to state that my colleague, Mr. HALE, if present would vote "ay."

The result of the vote was then announced as above recorded.

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

The latter motion was agreed to.

FREDERICK T. GRANT.

Mr. EAMES. I ask unanimous consent to report from the Committee on Patents a bill 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.

The bill, which was read, authorizes and directs the Commissioner of Patents to examine the application for an extension of the patent granted to Frederick T. Grant, May 29, 1860, No. 28470, and if in his judgment the said application should be allowed, to sign the certificate of extension of the same as if the time limited in the sixty-third section of the act of July 8, 1870, had not expired, provided the Commissioner shall act upon the case within ninety days, and provided that no person shall be held liable for the infringement of said pattent, if extended, for making or using said invention since the expiration of the original patent and prior to the date of the extension.

Mr. W. R. ROBERTS. Does not that require unanimous consent?

The SPEAKER. The gentleman from Rhode Island asks leave to report it from the Committee on Patents.

Mr. W. R. ROBERTS. For what purpose?

Mr. EAMES. This bill is reported by direction of the Committee on Patents, and has the unanimous recommendation of that committee. The letters-patent expired on the 29th day of May, 1874. An application to the Commissioner of Patents for an extension made in due time was acted upon favorably, but the notice to the agent of the petitioner, who resided in Portland, was not given until the 26th day of May, and was not received in time to forward the final fee of fifty dollars before the patent expired. It was sent to the Commissioner in a few days after the patent expired, and the Commissioner now has the fee. The bill authorizes the Commissioner to extend the patent with the same effect as if the fee had been paid before the patent expired.

Mr. POTTER. I call for the reading of the report.

Mr. MYERS. It is not a congressional extension of a patent and there can be no objection to it.

The Clerk commenced to read the report.

Mr. W. R. ROBERTS. I believe I was the only objector, and I withdraw the objection.

No further objection being made the bill (H. R. No. 4858) received its several readings, and was passed.

WESTERN DISTRICT OF ARKANSAS.

Mr. SENER. I desire to report back from the Committee on Expenses in the Department of Justice the bill (H. R. No. 3621) to abolish the western district of Arkansas, and for other purposes, with the amendments of the Senate thereto, and I ask a non-concurrence in the amendments, and that a conference be asked on the disagreeing votes of the two houses thereon, and upon that motion I call the previous question. The committee has a right to report on it at any time.

Mr. BUTLER, of Massachusetts. I move to suspend the rules and pass the motion which I send to the Clerk's desk.

Mr. SENER. No, sir; the gentleman cannot make that motion, for I have leave to report at any time.

The SPEAKER. But the gentleman can be taken off of his feet at any time by a motion to suspend the rules.

Mr. SENER. I move then to suspend the rules and adopt my motion.

Mr. BUTLER, of Massachusetts. What is it about?

Mr. SENER. The western district of Arkansas.

Mr. BUTLER, of Massachusetts. The bill is so amended that the marshal may call out the military down here.

Mr. SPEER. It is a very important bill and ought to be passed.

Mr. SENER. I object to debate. It merely carries out the action of the House heretofore.

The motion to suspend the rules was seconded.

The question recurred upon the motion to suspend the rules; and being put, on a division there were—ayes 91, noes 46; no quorum voting.

Tellers were ordered; and Mr. BUTLER, of Massachusetts, and Mr. SENER were appointed.

The House divided; and the tellers reported—ayes 97, noes 83.

Mr. SENER. I demand the yeas and nays so that the House and the country may know who is opposed to this measure.

Mr. BUTLER, of Massachusetts. I move that the bill be referred to the Committee on the Judiciary.

The SPEAKER. That motion is not in order pending a motion to suspend the rules.

The yeas and nays were ordered, there being on a division—ayes 29, noes 101.

Mr. ELDRIDGE. I ask that the bill be reported with the amendments.

Mr. BUTLER, of Massachusetts. The judge is gone, you drove him out.

Mr. SPEER. You were with us last session.

Mr. BUTLER, of Massachusetts. I know I was, but the judge has resigned, and I made him clear out. You have a copperhead judge there and you want to keep him, but I do not.

Mr. SENER. I ask that the House bill be read in full, and then the Senate amendments.

Mr. GARFIELD. I object.

The SPEAKER. The amendments of the Senate will then be read.

The Senate amendments were read.

Mr. SPEER. I desire to make a parliamentary inquiry. It is, what is the question now submitted to the House?

The SPEAKER. The gentleman from Virginia [Mr. SENER] moves to suspend the rules so that the disagreeing votes on this bill of the House and the Senate may be sent to a committee of conference.

Mr. SHANKS. I desire to say that if this bill shall pass there are people who will have to go from five to six hundred miles to attend court.

Mr. SENER. Not at all; the courts are not abolished.

Mr. SHANKS. I know exactly what I say; they will have to travel from five to six hundred miles to attend court.

Mr. SPEER. If the House shall not suspend the rules for this purpose what will be the effect?

The SPEAKER. There will be no effect.

Mr. SPEER. Will not the bill be lost?

The SPEAKER. The bill will not be passed at this time.

The question was taken on the motion to suspend the rules; and there were—yeas 85, nays 132, not voting 70; as follows:

YEAS—Messrs. Adams, Archer, Arthur, Ashe, Atkins, Barnum, Beck, Bell, Berry, Bland, Blount, Bowen, Bright, Bromberg, Brown, Buckner, Caldwell, Cannon, Caulfield, Amos Clark, jr., John B. Clark, jr., Clymer, Comingo, Cook, Cox, Creamer, Crittenden, Crossland, DeWitt, Eden, Eldredge, Finck, Fort, Giddings, Glover, Gunter, Hamilton, Henry R. Harris, John T. Harris, Hatcher, Hereford, Herndon, E. Rockwood Hoar, Holman, Hunton, Kasson, Lamar, Loughridge, Luttrell, Magee, McCrary, McLean, Milliken, Mills, Morrison, Neal, Nesmith, Niblack, O'Brien, Hosea W. Parker, Perry, Phillips, Randall, Read, Robbins, William R. Roberts, Milton Sayler, Sener, Sloss, H. Boardman Smith, Southard, Speer, Standiford, St. John, Stone, Vance, Wells, Whitehouse, Whitthorne, Charles W. Willard, Willie, Ephraim K. Wilson, James Wilson, John D. Young, and Pierce M. B. Young—85.

NAYS—Messrs. Albert, Albright, Averill, Barber, Barrere, Barry, Bass, Begole, Biery, Bradley, Burchard, Burleigh, Benjamin F. Butler, Cain, Carpenter, Cason, Cessna, Clayton, Clements, Clinton L. Cobb, Stephen A. Cobb, Conger, Corwin, Cotton, Crooke, Crutchfield, Curtis, Danford, Dawes, Dobbins, Donnan, Dunnell, Eames, Farwell, Field, Foster, Garfield, Gunckel, Hagans, Harmer, Benjamin W. Harris, Harrison, Hathorn, Havens, Joseph R. Hawley, Hays, Gerry W. Hazelton, John W. Hazelton, Hodges, Hoskins, Houghton, Howe, Hubbell, Hunter, Hurlbut, Hyde, Hynes, Kelley, Lawrence, Lawson, Lewis, Lofland, Lowe, Lowndes, Lynch, Martin, Maynard, Alexander S. McDill, James W. McDill, MacDougall, McNulta, Merriam, Moore, Morey, Myers, Negley, O'Neill, Orr, Orth, Packard, Page, Isaac C. Parker, Parsons, Pelham, Pendleton, Pierce, James H. Platt, jr., Thomas C. Platt, Ransier, Rapier, Ray, Richmond, Ellis H. Roberts, James W. Robinson, Ross, Rusk, Henry B. Sayler, Scofield, Sessions, Shanks, Sheats, Sheldon, Sherwood, Lazarus D. Shoemaker, Sloan, Small, Smart, A. Herr Smith, George L. Smith, William A. Smith, Snyder, Sprague, Stanard, Charles A. Stevens, Stowell, Strait, Sypher, Charles R. Thomas, Todd, Townsend, Tremain, Walls, Jasper D. Ward, Marcus L. Ward, White, Whiteley, Wilber, Charles G. Williams, John M. S. Williams, William Williams, Jeremiah M. Wilson, and Woodworth—132.

NOT VOTING—Messrs. Banning, Buffinton, Bundy, Burrows, Roderick R. Butler, Chittenden, Freeman Clarke, Coburn, Crounse, Darrall, Davis, Duell, Durham, Freeman, Frye, Gooch, Eugene Hale, Robert S. Hale, Hancock, John B. Hawley, Hendee, George F. Hoar, Kellogg, Kendall, Killinger, Knapp, Lamison, Lamport, Lansing, Leach, Marshall, McKee, Mitchell, Monroe, Niles, Nunn, Packer, Phelps, Pike, Poland, Potter, Pratt, Rainey, James C. Robinson, Sawyer, Schell, John G.

Schumaker, Henry J. Scudder, Isaac W. Scudder, J. Ambler Smith, John Q. Smith, Starkweather, Alexander H. Stephens, Storm, Strawbridge, Swann, Taylor, Christopher Y. Thomas, Thompson, Thornburgh, Tyner, Waddell, Waldron, Wallace, Wheeler, Whitehead, George Willard, William B. Williams, Wolfe, and Wood—70.

So the rules were not suspended.

ENROLLED BILLS SIGNED.

Mr. PENDLETON, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 78) granting a pension to Salem P. Rose, of North Adams, Massachusetts;

An act (H. R. No. 330) granting a pension to Mrs. Penelope C. Brown, of Tennessee, widow of Stephen C. Brown, late a private of Company C, Eighth Tennessee Cavalry Volunteers;

An act (H. R. No. 580) granting a pension to Rosalie C. P. Lisle;

An act (H. R. No. 801) for the relief of L. R. Strauss, of Macon City, Missouri;

An act (H. R. No. 1644) granting a pension to Hannah E. Currie;

An act (H. R. No. 2685) for the relief of John Aldredge;

An act (H. R. No. 3276) granting a pension to Davenport Downs;

An act (H. R. No. 3435) to provide for the sale of the building and grounds known as the Detroit arsenal, in the State of Michigan;

An act (H. R. No. 3688) granting a pension to William O. Madison;

An act (H. R. No. 3698) granting a pension to William C. Davis, a private in Company B, Eleventh Tennesse Cavalry Volunteers;

An act (H. R. No. 3703) granting a pension to Catharine Lee, widow of Jesse M. Lee, a private in Company B, Second Regiment Ohio Volunteers;

An act (H. R. No. 3704) granting a pension to Mary E. Stewart;

An act (H. R. No. 3706) granting a pension to Margaret H. Pittenger;

An act (H. R. No. 3711) granting a pension to Martin D. Chandler;

An act (H. R. No. 4141) to make East Pascagoula, in the State of Mississippi, a port of delivery in the district of Pearl River; and

An act (H. R. No. 4853) to change the name of the pleasure-yacht Dolly Varden to Clochette.

Mr. DARRALL, from the same committee, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 2093) for the relief of General Samuel W. Crawford, and to fix the rank and pay of retired officers of the Army;

An act (H. R. No. 4441) making appropriations for the support of the Military Academy for the year ending June 30, 1876; and

An act (H. R. No. 4734) to establish certain post-roads.

ORDER OF BUSINESS.

The SPEAKER. The gentleman from Massachusetts [Mr. BUTLER] desires to make a proposition relative to going to the Speaker's table after the deficiency bill is disposed of.

Mr. RANDALL. I hope the gentleman will not press that now. Let us proceed with the deficiency bill. It is the only appropriation not yet acted on, and it must pass to-night. If it be not immediately taken up its consideration will run into the middle of the night.

Mr. KASSON. I must ask to be permitted to call up the report of the Committee on Ways and Means upon the Pacific Mail investigation. I wish to say in this connection that no member of the committee proposes to engage in debate; therefore it is hoped that the report will be disposed of immediately and by a *viva voce* vote.

Mr. GARFIELD. I cannot yield; I must try the sense of the House on my motion.

The SPEAKER. The Chair will allow the gentleman from Massachusetts to have his proposition read, for this reason: The Chair is continually asked by members to allow specific bills to be taken from the Speaker's table. There are a great many upon it; and gentlemen who have served in the House heretofore know that at the close of the session it is not the habit of the Chair to allow bills to be picked out. He cannot sit in judgment upon the relative merit of bills. The Chair does not know, of course, what mode the House may adopt; but some mode must be adopted to put all bills upon the Speaker's table on an equality.

Mr. BUTLER, of Massachusetts. There never has been such an accumulation of bills upon the Speaker's table.

Mr. RANDALL. I suggest that the gentleman from Massachusetts defer his proposition until the morning.

Mr. GARFIELD. Let it be read now, so that it can go into the RECORD.

The Clerk read as follows:

That the rules be so suspended that the House shall proceed to business on the Speaker's table; the civil-rights bill of the Senate to be taken therefrom and referred to the Committee on the Judiciary, not to be brought back on a motion to reconsider; all the remaining bills on the Speaker's table be considered under a five-minute debate *pro* and *con*, subject to all points of order; and upon a point of order being sustained, a motion to suspend the rules and pass the bill may be made.

Mr. COX and Mr. RANDALL objected.

Mr. GARFIELD. Let this be considered as a notice that the gentleman from Massachusetts will offer this proposition.

The SPEAKER. The Chair understands that the purpose is to have this order operate after the deficiency bill is disposed of.

Mr. BUTLER, of Massachusetts. I am content with that.

Mr. COX. I must still object. Some of the worst bills ever introduced in this House are now on that table.

Mr. BUTLER, of Massachusetts. Some gentlemen want me to press the proposition now. I will try it upon a standing vote on suspension of the rules.

Mr. RANDALL. I desire to suggest a modification of the order proposed by the gentleman from Massachusetts.

Mr. COX. I object to any modification.

Mr. BUTLER, of Massachusetts. I move to suspend the rules. Let the sense of the House be tried by a standing vote; if the proposition cannot secure two-thirds of the House, I will not press it.

Mr. RANDALL. I shall call for the yeas and nays.

Mr. ELDREDGE. Before the vote is taken let me ask what particular bills there are upon the Speaker's table that ought not to receive our consideration?

Mr. HOLMAN. There are certainly several in particular.

Mr. ELDREDGE. There are bills upon the Speaker's table that we have been during this entire Congress maturing. Why should we not consider some of them?

Mr. RANDALL. If the gentleman puts that question to me I will answer it.

Mr. ELDREDGE. I am not putting it to the gentleman in particular.

Mr. RANDALL. I am the one who objected.

Mr. ELDREDGE. There are some bills on the Speaker's table that certainly ought to be passed.

Mr. HOLMAN. I will not object to the usual practice at this stage of the session of going to the Speaker's table and passing such bills as are not objected to.

The SPEAKER. The Chair thinks there is some misapprehension in regard to the effect of this order. If adopted, any bill making an appropriation of money or property will be subject to the point of order.

Mr. SPEER. It seems to me the proposed order may work disadvantageously in this way: there are some bills on the Speaker's table that ought to be passed, and can be passed under a suspension of the rules.

The SPEAKER. Every bill will have its opportunity when it is reached.

Mr. SPEER. But the reservation of points of order will defeat such bills and send them over entirely.

The SPEAKER. Either the gentleman from Pennsylvania or the Chair does not understand the effect of the proposition. The Chair will endeavor to explain the proposition as he understands it. Suppose a bill, when reached, is liable to the point of order that it contains an appropriation of money or property, then such a bill must receive a two-thirds vote or it cannot pass.

Mr. RANDALL. Some bills that are not liable to a point of order ought not to pass. Therefore I suggest that we proceed to the Speaker's table in this mode——

Mr. COX. I object.

Mr. RANDALL. Not until you hear me, I hope. I propose that we proceed to take up bills upon the Speaker's table; that when not objected to they shall be passed, and that when objected to they shall be subject to a two-thirds vote in their order, one after another, as they are reached.

Several MEMBERS. O, no; that would not be fair.

The SPEAKER. As many as are in favor of the proposition will say "ay."

Mr. RANDALL. I move to modify it.

The SPEAKER. It cannot be modified. By the sound the Chair does not think two-thirds have voted in the affirmative.

Mr. RANDALL. I demand a division.

The House divided; and there were ayes 81, noes not counted.

The SPEAKER. Evidently two-thirds have not voted in the affirmative.

Mr. GARFIELD. I move to suspend the rules, to go into the Committee of the Whole on the deficiency appropriation bill.

Mr. KASSON. I appeal to the gentleman to let me have a vote on the Pacific Mail resolutions. They will be disposed of without debate. The House ought not to adjourn without acting on the resolutions.

Mr. DAWES. If the House would hear the resolutions I do not think there will be any objection to voting on them.

Mr. GARFIELD. If the gentleman will put the resolutions to a vote at once I will yield for that purpose.

Mr. KASSON. I propose to do it.

Mr. ELDREDGE. I move to suspend the rules in order to go to the business on the Speaker's table and consider such bills to which there may be no objection.

Mr. POTTER. That has been already voted down.

Mr. KASSON. I move to suspend the rules and pass the resolutions in reference to the Pacific Mail subsidy.

Mr. ELDREDGE. What becomes of my motion?

The SPEAKER. The gentleman from Iowa has the floor.

Mr. ELDREDGE. I moved to suspend the rules, which takes the gentleman from Iowa off the floor.

The SPEAKER. The gentleman from Iowa himself is making the motion to suspend the rules.

Mr. ELDREDGE. He proposed to bring forward his resolution by unanimous consent, and I moved to suspend the rules before he did.

The SPEAKER. The gentleman from Wisconsin was not recog-

nized, and he has to be recognized before he can move to suspend the rules.

Mr. ELDREDGE. I understand we cannot make a privileged motion unless the Chair says so.

THE ADJUTANT-GENERAL'S DEPARTMENT.

Mr. MACDOUGALL. I rise to make a privileged report, which I ask the Clerk to read. I insist on its being made at this time.

Mr. KASSON. Just wait a moment.

Mr. MACDOUGALL. No; I have been put off already a good many times.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on House bill 3912, to reduce and fix the Adjutant-General's Department of the Army, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the bill of the House, and agree to the same.

C. D. MACDOUGALL,
W. G. DONNAN,
J. W. NESMITH,
Managers on the part of the House.

JOHN A. LOGAN,
GEO. E. SPENCER,
M. W. RANSOM,
Managers on the part of the Senate.

Mr. MACDOUGALL. I move the adoption of the report.

The motion was agreed to.

Mr. MACDOUGALL moved to reconsider the vote by which the conference report was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. GARFIELD. Mr. Speaker, I do not yield to the gentleman from Iowa [Mr. KASSON] to move to suspend the rules and pass the resolutions. I said I would yield if the House was brought to a vote without delay.

Mr. KASSON. I insist on my right to make the report.

Mr. GARFIELD. I insist on my right to go into Committee of the Whole on the deficiency bill.

Mr. KASSON. The motion has been put to the House.

The SPEAKER. If the gentleman from Ohio yielded under misapprehension he has the right to correct it. He had moved to suspend the rules to go into Committee of the Whole on the deficiency bill, and yielded to the gentleman from Iowa to ask unanimous consent.

Mr. GARFIELD. I cannot yield.

Mr. ELDREDGE. I desire to know if a request for unanimous consent takes precedence of the motion to suspend the rules?

The SPEAKER. It does not.

Mr. ELDREDGE. I have made my motion to suspend the rules.

The SPEAKER. There is a motion to suspend the rules pending.

Mr. O'BRIEN. I think unanimous consent ought to be given to the gentleman from Iowa. Does the gentleman from Ohio decline to yield?

Mr. GARFIELD. I do.

The SPEAKER. Then the Chair will submit the question on the motion to suspend the rules to go into Committee of the Whole.

Mr. GARFIELD. I move that all general debate in Committee of the Whole on the deficiency bill be limited to one minute.

The motion was agreed to.

The motion to go into Committee of the Whole on the deficiency bill was adopted.

POST-ROADS.

The SPEAKER. The bill (H. R. No. 4734) to establish certain post-roads has come from the Senate with amendments embracing other post-roads, containing no general legislation whatever, and if there be no objection the bill will be taken up and the amendments of the Senate concurred in.

There was no objection, and the amendments of the Senate were concurred in.

A. G. BATCHELDER ET AL.

Mr. SAYLER, of Indiana, by unanimous consent, from the Committee on Patents, reported adversely on the memorial of A. G. Batchelder and Mrs. Alsie M. Thompson, widow of Lafayette F. Thompson, deceased, for the extension of a patent for an improvement in railroad-car brakes; and the same was ordered to lie on the table, and the accompanying report was ordered to be printed, and also to be printed in the CONGRESSIONAL RECORD.

The report is as follows:

To the House of Representatives:

Your committee, to whom was referred the memorial of A. G. Batchelder and Mrs. Alsie M. Thompson, widow of Lafayette F. Thompson, asking for the extension for the term of seven years of a patent for "an improvement in railroad-car brakes," reports as follows, to wit:

Said invention was patented on the 6th day of July, 1852, the patent for which being issued in the name of Henry Tanner, as assignee, pursuant to an arrangement made with said Tanner prior to that date by said Batchelder and Thompson, deceased, the alleged inventors of said improvement. In July, 1866, said patent was extended by the Commissioner of Patents for the term of seven years, for the benefit of said Batchelder and the widow and children of the said Thompson, deceased.

You committee do not consider it necessary to follow said patent through its many transfers, by assignment, in whole or in part, during its existence. It has met with persistent litigation from the first, which has greatly retarded and reduced remuneration to the inventors and owners thereof. The said inventors, however, have received and secured to them not less than $50,000 from said invention, while the public has paid a very large amount therefor, the approximate amount of which your committee is not satisfactorily informed. Not long since a decree was entered in the United States circuit court in the city of Chicago, Judge Drummond presiding, in favor of said patent, measuring the damage to said patent for its infringement at $455 per car per annum, on which said patent or any infringing patent is used. What further steps have been taken in relation to said decree your committee is not informed. Not less than ten thousand cars in the United States have said patent, or some patent claimed to be infringing patents of said patent, attached. On the basis of said decree the measure of damages for a single year in the United States amounts to the enormous sum of $4,550,000, and in seven years to more than $31,000,000. The United States does not undertake that any inventor shall receive any given sum of money for a given invention, but does undertake to give to inventors the opportunity to reap a reward from their inventions. In this case the patent has been in existence for twenty-one years. Said device has been open to public use since the 6th day of July, 1873, the date of the expiration of said patent. Many manufacturers, corporations, and other persons have engaged in the manufacture and use of said device since said expiration, investing a large amount of capital therein. The device has gone into almost universal use. Every condition of any reasonable character has been complied with by the Government, and the parties owning the patent have an immense fund of damages for infringement of said patent out of which to secure an ample remuneration for said invention, provided said invention is a valid one. If said invention should be invalid, it ought not to be thrust further upon the public by an act of Congress.

In any and every view of the memorial your committee are of the opinion that its prayer ought not to be granted, and therefore recommend that the memorial do lie on the table.

WESTERN DISTRICT OF NORTH CAROLINA.

Mr. SPEER, by unanimous consent, from the Committee on Expenditures in the Department of Justice, submitted a report in regard to expenditures in the western district of North Carolina, concluding with the following resolution; which was read and agreed to:

Resolved, That the Committee on Expenditures in the Department of Justice be discharged from the further consideration of the resolution directing them to inquire into the expenditures of the public funds in the western district of North Carolina since its organization in 1872.

The report was ordered to be printed and to lie on the table.

HENRY MEYUELL.

Mr. MARTIN, by unanimous consent, from the Committee on Invalid Pensions, reported adversely on the petition of Henry Meyuell; and the same was laid upon the table, and the accompanying report ordered to be printed.

CORRECTION OF ENROLLED BILLS.

On motion of Mr. BRADLEY, by unanimous consent, the following Senate resolution was taken from the Speaker's table and concurred in:

Resolved by the Senate, (the House of Representatives concurring,) That the Joint Committee on Enrolled Bills be authorized in examining, the enrollment of the bill (S. No. 420) to amend the act entitled "An act for the restoration to homestead entry and to market of certain lands in Michigan," approved June 10, 1872, and for other purposes, to correct a clerical error discovered in the bill after its passage, by inserting in section 2, line 3, after the word "section" and before the word "four," the word "twenty;" so that the third line of that section will read: "range 2 east, and section 24 in township 47 north."

DISTRICT RECORDER OF DEEDS.

Mr. THOMPSON, by unanimous consent, from the Committee on the District of Columbia, reported a bill (H. R. No. 4859) authorizing the recorder of deeds for the District of Columbia to appoint a deputy recorder, and legalizing the previous acts of such acting deputy; also providing for the payment of expenses incident to his office; which was read a first and second time.

The bill was read. It directs the recorder of deeds for the District of Columbia to appoint a deputy recorder, who shall be empowered to perform the several functions of the recorder in case of his absence on account of sickness or other necessary causes.

The second section legalizes and approves all acts and functions heretofore performed or exercised by George Schayer in the capacity of acting deputy recorder as if he had been previously appointed and authorized as such deputy by law; provided that the act shall not affect cases already adjudicated.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was according read the third time, and passed.

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

The latter motion was agreed to.

LOUIS HEINLEY.

The SPEAKER. The gentleman from Pennsylvania [Mr. SMITH] asks unanimous consent to introduce for present consideration a bill heretofore passed granting a pension to Louis Heinley. The name was mispelled so that the pensioner could not get the benefit of it. The President sent the bill back, and this is a bill to correct that error.

There was no objection.

Mr. SMITH accordingly introduced a bill (H. R. No. 4860) granting a pension to Louis Heinley; which was read three times and passed.

FILING CLAIMS FOR ADDITIONAL BOUNTY.

Mr. COBURN. I desire to report a bill from the Committee on Military Affairs to extend the time for filing claims for additional bounties. The time has expired in which claims could be filed. The extension has been made once before. The bill does not give one cent more. The time for filing claims is merely extended.

Mr. GARFIELD. I must object. I cannot yield any further.

Mr. COBURN. I wish to have it understood that the gentleman from Ohio [Mr. GARFIELD] objects to a bill for filing claims for additional bounties, which could be passed by the House in one minute.

ENROLLED BILLS SIGNED.

Mr. HARRIS, of Georgia, 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:

An act (H. R. 4730) providing for the payment of certain employés of the House of Representatives; and

An act (H. R. 4856) to change the name of the port of Nobleborough to Damariscotta.

DEFICIENCY APPROPRIATION BILL.

The House then resolved itself into Committee of the Whole on the state of the Union, (Mr. HAZELTON, of Wisconsin, in the chair,) and proceeded to consider the bill (H. R. No. 4851) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal years ending June 30, 1875, and prior years, and for other purposes.

Mr. GARFIELD. I ask unanimous consent to dispense with the first formal reading of the bill.

Mr. HOLMAN. The bill is quite short. I hope it will be read.

Mr. GARFIELD. I ask the gentleman not to insist on his objection. It is a bill of thirty-four pages.

Mr. HOLMAN. I withdraw the objection.

The first reading of the bill was dispensed with.

Mr. GARFIELD. In the minute allowed for debate, I will state that if gentlemen will send for Report No. 270 they will find there a full collection of all documents on which the bill is based. It is a document of fifty pages. I desire to call the attention of the Committee of the Whole to the fact that the Committee on Appropriations has inaugurated what I think is a wise arrangement in regard to these bills, of printing all the various departmental documents that come to us asking for appropriations in any bill; so that all the members of the House may have before them the same data on which the committee proceeded.

I ask now that the Clerk proceed with the reading of the bill by paragraphs for amendment.

Mr. PELHAM. I object to dispensing with the first reading of the bill.

The CHAIRMAN. The first reading has been dispensed with by unanimous consent.

The Clerk proceeded to read the bill, and read as follows:

For reporting proceedings and debates of the Senate to the close of the current fiscal year, $8,125.

Mr. CANNON, of Illinois. I offer the following amendment to come in at the close of the section:

To make up deficiency for Capitol police for the fiscal year ending June 30, 1875, as follows: For one captain, $88; for three lieutenants, $200 each, $600; for twenty-seven privates, $184 each, $4,968; and three privates in charge of the Botanical Garden, $184 each, $552; making, in all, $6,208.

Mr. CANNON, of Illinois. By the act of May 2, 1828, the presiding officers of the two Houses were authorized to fix the compensation of the police of the Capitol, (4 Statutes at Large, 266.) By virtue of that authority the pay of the captain was fixed at $1,740; private, $1,100. By act of April 23, 1854, 20 per cent. "upon their present pay" was added thereto, (10 Statutes at Large, 266.) By the act of July 28, 1866, 20 per cent. upon their present pay is allowed, (14 Statutes at Large, 323.) The effect of the proposed amendment is simply to appropriate a sum sufficient to pay the compensation now due under existing laws, the appropriation at the last session of Congress being that amount less than they are entitled to.

I have a statement here in reference to this subject which I will send to the Clerk's desk, if any gentleman desires it to be read, but as no gentleman calls for the reading, it need not be read. I apprehend it will not be disputed that these men have not been paid the amount due them by law. The act of March 3, 1873, increased their pay 15 per cent., and by the act of January 20, 1874, the act of March 3, 1873, was repealed, thus providing that the pay of the Capitol police should be the same as it was before the act of March 3, 1873, was passed.

Sir, I would be as unwilling to appropriate money for any other officers of the Government, as to fail to pay these employés the amount to which they are fairly entitled under the law. If they get too much, then repeal the law; but so long as the law remains, let us pay them what they are entitled to.

The amendment was agreed to.

The Clerk read as follows:

HOUSE OF REPRESENTATIVES.

To enable the Clerk of the House of Representatives to pay counsel fees in the cases of J. B. Stewart *vs.* James G. Blaine, J. B. Stewart *vs.* N. G. Ordway, and the *habeas corpus* case of R. B. Irwin, namely: to William E. Chandler and A. J. Bentley, $1,500; Samuel Shellabarger, $1,000; George P. Fisher, $1,000; and J. O. Clephane, court stenographer, for reporting, $271.50; in all, $3,771.50; the same to be disbursed under the direction of the Committee on Accounts, and to be added to the miscellaneous item of the contingent fund of the House.

Mr. DONNAN. I offer the following amendment, to come in immediately after that paragraph:

To enable the Clerk of the House of Representatives to pay the temporary clerks to committees their full compensation from January 20, 1874, to the 1st day of April, 1875, under a resolution of the House of Representatives of December 9, 1875, $6,000, or so much thereof as may be necessary.

The amount to be paid to the temporary clerks to committees is determined not by law but by resolution at the commencement of each Congress. At the commencement of the present Congress temporary clerks were authorized by a resolution of the House to be employed at such compensation as was paid to the clerks of these committees in the last Congress. That pay was $5.52 per day until the repeal of the law. It is claimed that 15 per cent. should be deducted from the pay of these clerks to committees; but these clerks were employed under a resolution of the House alone, and the repeal of the law does not affect them for the reason that they do not stand on any law but on a resolution of the House, and so long as that resolution remains unrepealed their pay is just as specified. This House at the present Congress has agreed to pay them $5.52 a day.

Mr. HALE, of Maine. I desire to ask the gentleman from Iowa a question. Does this proposed amendment restore these clerks to the same pay that the increased-salary bill gave them before its repeal?

Mr. DONNAN. It proposes to pay the clerks precisely what we agreed to pay them on the 9th of December last.

Mr. HALE, of Maine. I will put the question in another form. We passed a bill increasing our salaries and those of certain officers of the Government. We afterward repealed that bill, thereby reducing those salaries. Does this bill put the salary of these employés where the salary bill put them?

Mr. DONNAN. I have no doubt it is. The bill repealing the salary act provided that the pay of officers, &c., should be as fixed by the law at the time the salary act was passed. The resolution by which these clerks were employed was passed by this House subsequent to that time, and stands as the contract under which we employed them on the 9th of December, 1873.

Mr. GARFIELD. The Committee on Appropriations are opposed to this.

Mr. HALE, of Maine. All the rest of us had our pay cut down.

Mr. MAYNARD. I would like to ask the gentleman whether this puts our clerks at a less rate than they were entitled to receive by the salary law?

Mr. DONNAN. My opinion is that they are still less than that, though I cannot answer the gentleman definitely.

Mr. GARFIELD. This amendment restores their pay to the rate which was repealed.

Mr. HOLMAN. I understand the point now. It is proposed to pay these clerks just what they would have received if we had not repealed the law of March 3, 1873.

Mr. GARFIELD. Yes; and let us vote it down.

Mr. HOLMAN. I desire to say a word on that point, and probably for the last time that I shall speak upon this bill. I do not think this is an act of good faith. When the eye of the public was right square upon us and there could be no dodging, we did not hesitate to repeal all of the act of March 3, 1873, which we had the power to repeal. There was not a gentleman who came into this House who was not returned here upon the pledge of its repeal.

Mr. MACDOUGALL. O, yes there was.

Mr. HOLMAN. I never heard of a man defending that act before the people. I do not regard this increase proposed here as required by good faith. The amount involved, to be sure, is very little. Yet the people are demanding a reduction of the expenses of the Government and not an increase of them. And how the gentleman from Iowa, [Mr. DONNAN,] who I know cheerfully voted for the repeal of the act of March 3, 1873, can come forward here now and move a restoration of any of the salaries increased by that act is something more than I can account for. The gentleman generally acts with the utmost degree of fairness, and I do not think he can stand upon this proposition.

Mr. DONNAN. I stand upon the position which I take upon this amendment.

The CHAIRMAN. No further debate is in order.

The question was taken on the amendment of Mr. DONNAN; and upon a division there were—ayes 30, noes 23; no quorum voting.

Mr. GARFIELD. I shall be obliged to call for tellers. This proposition takes one set of clerks, and makes them a specialty in preference to the rest.

Tellers were ordered; and Mr. GARFIELD and Mr. DONNAN were appointed.

The committee again divided; and the tellers reported that there were ayes 74, noes not counted.

So the amendment was agreed to.

Mr. GARFIELD. I give notice that I will call the yeas and nays on this amendment in the House, for it is thoroughly outrageous.

The Clerk read the following:

For salary of the assistant postmaster of the House for the current fiscal year, $288.

Mr. CRITTENDEN. I move to amend by inserting after the paragraph just read the following:

To enable the Clerk of the House to pay the clerk of the Committee on Invalid Pensions one month's extra compensation, $180.

Mr. RANDALL. He ought to have it; that is right.

The amendment was agreed to.

Mr. PRATT. I move to insert after the amendment just adopted the following:

For salary of the seven messengers of the post-office of the House of Representatives for the current fiscal year, $228 each.

Mr. GARFIELD. I rise to a point of order on that amendment. The law of last year fixes the salary of these post-office messengers, and this is an increase beyond the amount fixed by that law.

Mr. SESSIONS. The rule allows that precisely.

The CHAIRMAN. The Chair overrules the point of order.

Mr. PRATT. I notice that the Committee on Appropriations report a deficiency of $228 for the assistant postmaster of the House of Representatives. By the same rule these messengers in the post-office are entitled to the same increase. Either this increase ought to be allowed as proposed in the amendment I have offered or the provision for the assistant postmaster of the House should be stricken out. By the law of last year these messengers are allowed $1,500 each. Before that time, if I am correct in my information, they received $1,728 each. My amendment is a proposition to restore to them the salary they were entitled to by the law, precisely as the paragraph last read provides for restoring to the assistant postmaster of the House his salary. I think it is just, for I cannot see the justice of allowing a salary to an officer and then refusing to appropriate the necessary amount of money to pay him. I hope the committee will adopt the amendment.

Mr. STORM. I desire to say this in regard to these clerks in the post-office: For several years they complained of the amount of salary paid them. There were two classes; one class of $1,600 and another of say $1,200 each. It was shown here in debate that those of the lower class were doing just the same kind of service as those of the higher class, and that in this way there was an injustice. After full discussion a compromise was agreed upon; and I trust that we shall not now attempt to restore the salaries of those whose pay was reduced at that time, unless we reduce the pay of those whose salaries were then raised. It was a fair compromise in regard to the different clerks in the post-office. To restore those who were reduced and say nothing about those who were raised at that time would be unjust. I do not say whether the pay of the assistants should have been raised or not; but this case only shows the mistake we make in attempting to raise any man's salary, because at once it is made the lever by which to raise everybody else's pay to the same point.

Mr. GARFIELD. I wish to say but a single word on this question. Last year, after full consideration in the Committee on Appropriations and in the House, the pay of these two classes of employés in the post-office of the House was adjusted, a portion of them being raised, the others slightly reduced so as not to appropriate a larger sum in the whole than was appropriated before. The general understanding in the House was that the law as then fixed was to be a permanent arrangement in that respect. The proposition now is to raise the salaries which were then reduced without bringing down those that were then increased. The effect of this would be to permanently increase the total amount appropriated beyond anything we have ever had in that office. Of course, if this is done, it breaks down all possible efforts ever to adjust salaries; for we may expect all reductions to come back again in the form of deficiencies. I hope that the amendment will not be agreed to.

The amendment was not agreed to.

The Clerk read as follows:

For folding documents, including pay of folders in the folding-rooms and materials, $6,200.

Mr. BURCHARD. I move to amend by striking out "6" and inserting "16" so as to make the appropriation $16,200. I wish to call the attention of the chairman of the Committee on Appropriations to the fact stated to me by the superintendent of the folding-room that the amount here proposed to be appropriated will not be sufficient, provided the Senate should concur in the resolution of the House to print the Agricultural Report, which I have no doubt will be done. In the last year and the previous year those reports were not printed, and not folded for the use of the House.

Mr. GARFIELD. This appropriation was made on a letter from the Clerk of the House. I am disposed myself to believe that there is more need of increased force in the folders' room under the Doorkeeper than in perhaps any other place. I think there ought to be an additional sum appropriated for that folding-room. But if the amendment prevails, it ought to be in the form of an additional appropriation of $10,000 for the folding-room under the Doorkeeper.

Mr. BURCHARD. I have no objection to modifying my amendment in that form.

The amendment of Mr. BURCHARD, as modified, was read, as follows:

And $10,000 for the folding-room under the Doorkeeper.

The amendment was agreed to.

The Clerk read as follows:

To the miscellaneous item of the contingent fund, $10,000.

Mr. PARKER, of Missouri. I move to amend by inserting after the clause just read the following:

For salary due FRANK MOREY as a member of the House of Representatives in the Forty-first Congress, $3,000.

Mr. SPEER. On this amendment I raise the point of order that there is no law authorizing any such payment.

Mr. PARKER, of Missouri. In reply to the gentleman I state that the rules were so suspended as to make this proposition in order.

The CHAIRMAN. Can the gentleman refer to the order of the House on that point?

Mr. PARKER, of Missouri. Yes, sir. On the 19th of February this resolution was offered:

Resolved, That the Committee on Appropriations be directed to ascertain whether there is rightfully due to any member of the Forty-first Congress from Louisiana any part of his salary as such member; and, if so, it shall be in order for such committee to report as part of the deficiency appropriation bill, such appropriation as shall be found due on such salaries.

Then upon the motion of the gentleman from Indiana [Mr. HOLMAN] the proposition was so modified as to make in order any amendment covering the subject-matter of the resolution.

The CHAIRMAN. That is broad enough.

Mr. SPEER. I desire to hear some explanation from the gentleman.

Mr. PARKER, of Missouri. With the permission of the Committee of the Whole I desire to make a statement in reference to this case, and if gentlemen will indulge me I cannot present the case better than by following the presentation of it which has been made by another gentleman.

It will be recollected by the House that Mr. MOREY claims this compensation by virtue of his election to the Forty-first Congress; and if gentlemen will turn to the resolution of the House, to be found in the seventy-ninth volume of the Globe, page 4019, they will find that Mr. MOREY was paid as a contestant for a seat in the Forty-first Congress the sum of $3,000.

The presentation I allude to was as follows:

By a close vote the House decided that no valid election of any one had been held in their districts, and the seats were declared vacant, and a new election was ordered; which was held, and both were duly elected in November, 1870, and both were awarded their seats in December, 1870, and served to the end of that Congress.

By volume 82, page 66, you will see that when the House came to act upon the pay of these men as members of the Forty-first Congress they did not allow them for the full Congress, but allowed that less the $4,000 and the $3,000 above named, which they had received as expenses of contest.

The questions which this application present are, therefore, not mere questions of equitable discretion addressed to the conscience of the House, though in this view the claim is vindicated by the whole history of the House. But while the claim is thus supported in equity, it is also vindicated by law, constitutional and statutory, which is not liable to be set aside by the action of either House alone.

I state the proposition of law on which I base this claim (in addition to its equities) as follows:

1. The Constitution, for wisest reasons—reasons disclosed by the constitutional debate—and by the use of the most unmistakable words, took away from each House the power to fix, change, add to, subtract from, or withhold any part of the compensation of members, which was done in these words, (article 1, section 6:) "The Senators and Representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the Treasury of the United States."

Mr. SPEER. From what is the gentleman reading?

Mr. PARKER, of Missouri. From a brief which I adopt as my argument in this case, because it is a better statement than I could make.

2. This requirement of the Constitution having been complied with, and such compensation of the Forty-first Congress being then fixed by law, the sole possible question left to be decided in disposing of this application is whether, according to the true interpretation of such law, so fixing such salary, these members have received their full statutory salary.

In other words, the question is what is the time at which the salary or "compensation" of the member begins, as "ascertained by law," (for the Constitution will not suffer the House to ascertain it,) who is elected after the term begins to which he was elected? Does the law make the salary begin from date of election or from date of the beginning of the term, or from date of vacancy where the election is to fill a vacancy?

These questions have often been answered by the law committee and other committees of the House, and nearly uniformly answered in accordance with our claim here made.

I need not cite you to the scores of precedents by which this law has been uniformly construed to make the salary begin from the first of the term——

The CHAIRMAN. The gentleman's time has expired.

Mr. PARKER, of Missouri. I would be glad if the committee would permit me to present one or two remarks further.

Mr. SPEER. I do not object.

Mr. PARKER, of Missouri. Let me read further:

I need not cite you to the scores of precedents by which this law has been uniformly construed to make the salary begin from the first of the term, and not from the date of election, where the election is for a full term, and where to fill a vacancy from the date of the vacancy.

This case, Mr. Chairman, is precisely analagous to the case of General Young, of Georgia, who was elected about the same time to the same Congress. The House declared he was not entitled to his seat. He went back and was elected by the people of his district and was admitted on that election, but the House afterward decided he was entitled to it from the commencement of that Congress. Nevertheless, he had been paid the amount of the expenses of his contest. The law was settled by the Judiciary Committee of the House in that case; and if the House will bear with me, as this question is of some importance, I will read further from the document from which I have already quoted:

In the case of Mr. Young, of Georgia, (see 84 Globe, pages 1924-1926,) it will be found that the eminent law committee of the House and the House itself sustain the exact doctrine on which this claim of the Louisiana members rests. In that case they, "after an investigation long and painful," reached the conclusion reported in their resolution. That resolution paid Young in full for the entire Congress, though, precisely as in the present case, he had (1) claimed a seat in the Forty-first Congress in virtue of a former election; (2) was declared not so entitled, and his seat was declared vacant; (3) was elected by a new election, November, 1870, long after the term began, and (4) took his seat late in the Congress.

Judge Peters and General BUTLER rightly state the law and practice on page

1925, vol. 84, Peters, in these words: "According to the precedents,—almost invariable, I believe—if a man is elected to Congress, although it is after a part of the term of Congress has passed, he receives compensation for the whole Congress." * * * "Mr. Young has been twice elected," (just as Morey.) "He was here all last session. He holds two commissions," &c., &c. So of these Louisiana members; they were here during the whole Forty-first Congress.

General BUTLER says: "This question was referred not by our wish to the Committee on the Judiciary, and we found the law to be that a man was entitled to his salary from the time there was a vacancy in his district."

Suppose in this case Mr. MOREY went back, and instead of being elected Mr. Smith or some other was elected; does any gentleman believe in this House, if Mr. Smith had come here, he would not have got his pay for the entire Congress?

[Here the hammer fell.]

Mr. O'BRIEN. Will the gentleman from Missouri accept an amendment to pay members of the Fortieth Congress who were admitted to have been elected and who have never received a single dollar?

Mr. PARKER, of Missouri. I have no objection to the gentleman offering that as an amendment when this amendment is adopted.

Mr. SPEER. Mr. Chairman, I feel as all members on this floor must feel in cases of this kind, involving compensation to gentlemen with whom we have been associating for years. It is personally unpleasant to oppose a proposition of this kind, but this amendment of the gentleman from Missouri is so devoid of every semblance of justice that in my opinion it is my duty and the duty of every man here to protect the Treasury against such attempts to take out this amount.

What are the facts? Mr. MOREY and Mr. SYPHER (because an amendment will follow this one to pay Mr. SYPHER three or four thousand dollars) were elected in November, 1870, to serve in the Forty-first Congress until the end of that session. They came from the State of Louisiana here in December and sat during the months of December, January, and February, and that Congress expired on the 4th of March. They then rendered service for three months. One of them drew $7,000 and mileage and $4,000 for expenses, making $11,000 and mileage, the mileage amounting to ten or fifteen hundred dollars; I do not know the exact amount. The other drew $7,000 for service for three months and $3,000 for election expenses, making $10,000 and mileage. So they have both been paid actually twelve or thirteen thousand dollars for three months' service.

Now, what is the proposition? That the Forty-third Congress in the last hours of its existence, both gentleman having been members of the Forty-second Congress, and having failed to get such a proposition through that Congress, shall pay them $3,000 additional, one three and the other four thousand dollars; or, in other words, that we shall pay them for twenty-one months as members of Congress, when they were only elected four months before the Congress expired and served only three.

Mr. PARKER, of Missouri. I will ask the gentleman a question with his permission.

Mr. SPEER. Certainly.

Mr. PARKER, of Missouri. I ask the gentleman whether the same rule of which he complains does not apply as well to Mr. COX, of New York?

Mr. SPEER. I cannot say. That rule may have been adopted by the House; but it was never justly applied to any man, democrat or republican. And in the last Congress, when an attempt of the kind was made to pay Mr. WHITELEY, of Georgia, and one or two others, and it passed the House, I fought it to the last moment. I yielded only because I was compelled to yield to superior numbers.

No number of precedents can justify a wrong of this kind. And I say frankly to the gentleman from Missouri that no such proposition shall pass this Congress without a quorum in the Hall. I cannot consent to it, Mr. Chairman. I have no personal feeling toward these gentlemen, but I feel they should not permit such a proposition as this to be submitted to the House when for three months' service—while for all that appears they were engaged at home the rest of the time in their legitimate business, perhaps both of them filling other public offices; I do not know how that is—for three months' service they each received from the Treasury twelve or thirteen thousand dollars. They should not ask this additional compensation. They never earned it. And we as trustees of the people's money have no right to vote it to any man, friend or foe. There is no law, there is no justice, there is no merit in this case.

The House which knew all the facts, which passed on the rights of these gentlemen to their seats, declined to pay them. And now, nearly five years afterward, almost at midnight in the expiring hours of our session, with the Hall thin, the members here having but little personal acquaintance with the facts, we are asked to take six or seven thousand dollars out of the public Treasury and pay it to these gentlemen. I say that only a quorum shall do that public wrong; and I shall resist it to the last.

Mr. LOUGHRIDGE. I move to strike out the last word.

It may appear somewhat ungracious for any gentlemen to rise here to make an objection to paying an amount of money to a colleague on the floor. But I have endeavored as far as I could to look into this question fairly and candidly, and I do not think it would be right to pay this money. I will read the resolution passed by the House on the 12th of December, 1870. It was offered by Mr. DAWES, of Massachusetts. It seems that these two gentlemen had contested their seats here and the House had decided that neither of them had been elected; and they went back and were elected. They came back at the beginning of the December session, 1870. The question of their pay came up. I read from the Journal.

Mr. DAWES submitted the following resolutions; which were read, considered, and agreed to, namely:

Resolved, That the Sergeant-at-Arms be directed to pay Hon. J. HALE SYPHER and Hon. FRANK MOREY, Representatives from the State of Louisiana, their salaries and mileage from the beginning of this Congress, whenever they shall refund to the contingent fund of the House the amount paid to them respectively as contestants under the resolution of the House of June 2, 1870, which amount so refunded the Clerk of the House is hereby directed to deposit in the Treasury of the United States to the credit of the contingent fund of the House of Representatives.

That Congress then passed upon this question. They decided there that until these gentlemen refunded to the Treasury that money they would not be paid their salary for the entire term.

Now, it seems to me that to come in here four or five years afterward and ask Congress now to reverse the judgment of that House I submit to gentlemen is not good legislation. The gentleman from Missouri [Mr. PARKER] refers to a precedent in the case of the gentleman from Georgia. I do not know but that is a precedent; but as the gentleman from Pennsylvania [Mr. SPEER] stated, it is always better to shun a bad precedent than to follow it. If it is a precedent, it is a very bad one, and should not be followed.

Mr. PARKER, of Missouri. The gentleman from Iowa seems to think that because the House by a resolution may have done certain things that settles the question legally. I beg to say that the Constitution declares that the compensation of a member of Congress shall be ascertained by law. A resolution of this House is not a law. Therefore whatever action the House may have taken by simple resolution is in direct violation of the constitutional provision which requires that the compensation of a member should be ascertained by law. That compensation was at that time ascertained by law. The Judiciary Committee of this House after a careful examination settled the question, and the House by adopting the resolution in the Young case settled that the pay of a member of Congress commenced from the beginning of his term of office.

Now, it was a good thing to see my friend from Pennsylvania [Mr. SPEER] growing so eloquent on this question; but I should have been glad to have heard his eloquent voice when the case of General YOUNG, of Georgia, was here for settlement. It is precisely analogous. The facts in the case correspond precisely to those. Thus the principle was settled there, and I assert under the Constitution settled rightfully, that pay commenced from the commencement of the term. The House agreed to that proposition. That gentleman was rightly under the law paid and received this amount of money. All that I ask is that the principle settled in accordance with the Constitution in that case shall be made to apply to others who may be surrounded by the same facts.

[Here the hammer fell.]

The question was taken on the amendment offered by Mr. PARKER, of Missouri, and on a division there were ayes 11, noes not counted.

So the amendment was not agreed to.

The Clerk resumed the reading of the bill and read as follows:

For paying-teller for the Sergeant-at-Arms, House of Representatives, $300 for the fiscal year ending June 30, 1875, and $300 for the fiscal year ending June 30, 1876.

Mr. GARFIELD. I offer the following amendment, to come in after the paragraph:

To enable the Clerk of the House of Representatives to pay to the Sergeant-at-Arms of the House of Representatives for the use of horses and carriages for the past and present fiscal years, $1,825.

My friend from Pennsylvania [Mr. SPEER] suggests that a part of the paragraph just read is in the legislative bill. I shall ask permission, if we find that the committee of conference on the legislative bill leaves that in, to make a change in the clause.

The amendment was agreed to.

Mr. GARFIELD. Now if the Clerk will read the clause in reference to the District of Columbia I will move that the committee rise.

The Clerk read as follows:

DISTRICT OF COLUMBIA.

To refund to the commissioners of the District of Columbia the amount paid by them on behalf of the United States from the treasury of the District, to be expended by them, $46,202.70.

Mr. HOLMAN. I move to strike out that paragraph.

Mr. LOUGHRIDGE. I rise to a question of order.

The CHAIRMAN. What is the question of order?

Mr. LOUGHRIDGE. I desire to make a point of order on that paragraph of the bill.

Mr. HOLMAN. If it is subject to a point of order, I hope the gentleman will insist upon it.

Mr. LOUGHRIDGE. Before I make the point of order, I ask the gentleman from Ohio [Mr. GARFIELD] to state on what this paragraph is founded.

Mr. GARFIELD. If gentlemen will turn to pages 33 and 34 of the report which accompanies this bill, they will see a letter from the commissioners of the District of Columbia giving a detailed statement of the elements of which this sum is made up. They were all put in one paragraph, rather than to make a large series of paragraphs. On the thirty-second page, in the middle of the page, gentlemen will find this:

The commissioners of the District hand you herewith a communication addressed to them by the auditor of the District, showing the amount of $46,202.70 paid

by them from the treasury of the District, which we respectfully ask Congress to refund to the District.

Then there is another letter from the commissioners of the District of Columbia, setting forth in detail those expenditures which the commissioners of the District understand to be properly payable by Congress. By the law creating the District commission a great many matters of detail had to be left with them, and they are gentlemen, I believe, entirely trustworthy; and the Committee on Appropriations thought it our duty to report these recommendations. They are the recommendations of our own officers, and of course authorized by law of Congress. I do not think that any point of order can lie against this paragraph in any way. If there be anything against it, it must be upon its merits.

Mr. LOUGHRIDGE. I make the point of order that this paragraph is not only without authority of law but against law. The items are as follows:

On account of salaries of the commissioners of the District of Columbia to January 1, 1875, $7,528.66.

I think that would be in order.

On account of salaries of assistant engineers to January 1, 1875, $1,736.16.
On account of expenses of the board of audit, including salaries of the clerks, &c., to January 1, 1875, $25,486.63.

Now, the law expressly says that the expenses of the board of audit shall be paid by the District of Columbia from the taxes and revenues of the District of Columbia.

On account of printing and trimming 3.65 bonds, act June 20, $11,451.25.

The law expressly says that those bonds shall be paid for by the District. I refer to the act of last session, on page 120, which is as follows:

And they are hereby authorized to allow for the services of such accountant or accountants and assistants such sums as they may deem proper, which shall be paid by the board of commissioners out of the revenues of said District.

Again:

Each of the said officers constituting said board shall be paid the sum of $2,000 for his services under this act, out of the funds of said District, in addition to his present compensation.

The law provides that these bonds shall be exempt from taxation by Federal, State, or municipal authority, and that the expense of engraving and printing them should be paid by the District of Columbia.

The CHAIRMAN. What is the point of order?

Mr. LOUGHRIDGE. It is that each one of the items I have indicated should be paid by the District of Columbia. It is therefore contrary to express statute to pay them out of the United States Treasury, unless the law is changed for that purpose.

The CHAIRMAN. The Chair will overrule the point of order for the present, until he is informed specifically in regard to it.

Mr. GARFIELD. We must sit here all night to-morrow night; we sat here all of last night. I am sure we will do more and better work if we get some sleep to-night. I therefore move that the committee now rise.

The motion was agreed to.

The committee accordingly rose; and Mr. CESSNA having taken the chair as Speaker *pro tempore*, Mr. HAZELTON, of Wisconsin, reported that, pursuant to the order of the House, the Committee of the Whole on the state of the Union had had under consideration the special order, being the bill (H. R. No. 4840) making appropriations to supply deficiencies in the appropriations for the service of the Government for the fiscal years ending June 30, 1875, and prior years, and for other purposes, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of their clerks, announced that the Senate had agreed to the amendment of the House to the bill of the Senate (S. No. 420) to amend an act entitled "An act for the restoration to homestead entry and to market of certain lands in the State of Michigan, and for other purposes."

The message also announced that the Senate had passed, without amendment the bill (H. R. No. 4856) to change the name of the port of Nobleborough to Damariscotta.

The message further announced that the Senate had passed, with an amendment in which the concurrence of the House was requested, the bill (H. R. No. 3504) to provide for deductions from the sentence of United States prisoners.

LEAVE TO PRINT.

Leave to print, as a portion of the debates of the House, remarks prepared upon the subjects indicated was granted as follows:

Mr. MCCORMICK, upon the interests of the Territories, &c. (See Appendix.)

Mr. GARFIELD, upon the political subjects lately considered by the House. (See Appendix.)

Mr. SMALL, upon the subject of cheap interstate transportation. (See Appendix.)

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

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

IN SENATE.

WEDNESDAY, *March* 3, 1875.

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

Mr. PRATT. I move to dispense with the reading of the Journal this morning for the purpose of calling up the remaining pension cases, private pension bills, some thirty odd in number. I hope there will be no opposition to this. It is the last opportunity I shall have.

The VICE-PRESIDENT. The Senator from Indiana asks that the reading of the Journal of yesterday may be dispensed with in order to put on their passage several pension bills. It requires unanimous consent.

Mr. EDMUNDS. Let the question be divided.

Mr. SARGENT. I object to the motion.

Mr. EDMUNDS. I do not object to dispensing with the reading of the Journal; and then we can see what we shall take up.

Mr. SARGENT. I ask that the morning business may be dispensed with to enable us to proceed with the sundry civil appropriation bill. I would remind Senators that this bill is ninety-eight or one hundred pages, and has to pass the Senate, and then the clerks are compelled to take an hour or two to inform the House of our amendments in the ordinary manner; that then the House is to pass upon them *seriatim*, which will take several hours longer, and after that the committee of conference acts and reports, and then this large bill has to be enrolled; and unless we can put it through early to-day I fear all our labor on it will be lost.

The VICE-PRESIDENT. The Senator from California asks that the reading of the Journal be dispensed with for the purpose of acting upon the sundry civil appropriation bill. Is there objection?

Mr. SARGENT. I trust not.

Mr. CRAGIN. The residue of the morning hour to-day after the regular morning business belongs to the Committee on Naval Affairs, according to the order of the Senate. The committee has four House bills that can be passed in ten minutes, if the committee is allowed that time. My proposition would be to extend the rest of the morning hour to the Committee on Pensions.

The VICE-PRESIDENT. Is there objection to the proposition of the Senator from California?

Mr. HAMLIN. I want to say one word in relation to these pension bills. The enrolling clerks must have some time to enroll them. Less than an hour, probably half an hour, will dispose of all of them. This appropriation bill is going through; there is no trouble about it. The pension bills are cases that appeal to our sympathy; they appeal to our humanity; they are the cases of poor widows mainly, who want the pittance that our Committee on Pensions, rigid as it has been, says they are justly entitled to. Now, I say it will be a crying shame, nay, I hold that it will be a sin, if we do not give a passage to these bills. A few moments will do it. I do hope my friend from California, who has charge of the appropriation bill, will give half an hour for that purpose.

The VICE-PRESIDENT. The Chair hears no objection to the proposition of the Senator from California.

Mr. HAMLIN. I object.

The VICE-PRESIDENT. Objection is made, and the Secretary will read the Journal of yesterday.

Mr. SARGENT. I shall object to anything then except the ordinary morning business.

Mr. HAMLIN. Well; let us have it.

Mr. EDMUNDS. I ask consent that the reading of the Journal be dispensed with; and when we get that done we shall see what we can do next.

Mr. HAMLIN. I withdraw my objection. I will not follow the example of others. I will not be captious.

The VICE-PRESIDENT. Is there objection to the request of the Senator from Vermont that the reading of the Journal be dispensed with? The Chair hears no objection, and the reading is dispensed with.

Mr. SARGENT. Now I believe there is no objection to the Committee on Appropriations proceeding.

Mr. SCOTT. I do not want to object. I want that done; but before I give my consent I wish to ask unanimous consent that after the sundry civil and the river and harbor bills shall be out of the way at least one hour shall be given to bills of the Committee on Claims. I deem it my duty to ask that in view of the two appropriation bills reported from the committee.

Mr. SARGENT. I have no objection to that.

Mr. HAMILTON, of Maryland. I hope that one hour or half an hour will be given to the Committee on the District of Columbia. It is too bad that we have not passed a single measure for the people of this District.

Mr. CRAGIN. Before I give my consent I want it understood that the Committee on Naval Affairs shall have fifteen minutes, as we are entitled to this morning hour, in preference to any other business after the appropriation bills are disposed of.

The VICE-PRESIDENT. Is there objection to the proposition that after action on this bill the Committee on Naval Affairs shall have fifteen minutes?

Mr. CRAGIN. For House bills simply.