

North Carolina, to Penn's store, Virginia, to the Committee on the Post-Office and Post-Roads.

By Mr. SOUTHARD: The petition of Nancy A. Hammond, for a pension, to the Committee on Invalid Pensions.

By Mr. STEVENSON: The petition of 150 citizens of McLean County, Illinois, for the repeal of the specie-resumption act, to the Committee on Banking and Currency.

By Mr. STRAIT: The petition of W. H. Jewell and others, for an extension of time for homestead or timber-culture entries upon Government lands, to the Committee on Public Lands.

Also, the petition of S. G. Anderson and 43 others, for the maintenance of the present rate of duty on linseed and linseed oil, to the Committee of Ways and Means.

By Mr. TOWNSEND, of Pennsylvania: Remonstrance of Samuel Bancroft, John Mason, jr., James Stephens, J. W. Kenworthy, and near 300 other manufacturers and mechanics of Delaware County, Pennsylvania, against the passage of any act reducing the duties on imported articles that enter into competition with American manufacturers, to the same committee.

By Mr. VANCE, of North Carolina: A paper relating to a post-route from Shelby to Marion, North Carolina, to the Committee on the Post-Office and Post-Roads.

Also, remonstrance of the Whitney Sewing-Machine Company, against an extension of letters-patent granted November 12, 1850, to Allen B. Wilson, to the Committee on Patents.

By Mr. WADDELL: A paper relating to a post-route from Dunchurch to Lumber Bridge, North Carolina, to the Committee on the Post-Office and Post-Roads.

By Mr. WALLING: The petition of John W. Rickey and 65 other citizens of Fairfield County, Ohio, for the unconditional repeal of the specie-resumption act, to the Committee on Banking and Currency.

By Mr. WELLS, of Missouri: The petition of Henry Zeas, for a pension, to the Committee on Invalid Pensions.

Also, memorial of the Mexican Veterans with the proceedings of their convention at Saint Louis, on February 23, 1876, to the Committee on Revolutionary Pensions.

By Mr. WHITTHORNE: The petition of the heirs of Matthew Allison, for the refunding of money unlawfully taken from said Matthew Allison by the military officers of the United States and transmitted to the Secretary of the Treasury, to the Committee on War Claims.

By Mr. WILLARD: The petition of 143 citizens of Homer, Michigan, that authority be granted to construct a bridge across the river at Detroit, Michigan, to the Committee on Commerce.

Also, the petition of 48 citizens of Vermontville, Michigan, of similar import, to the same committee.

By Mr. A. S. WILLIAMS: Papers relating to the petition of Emily E. Weiss, for a pension, to the Committee on Invalid Pensions.

Also, the petition of Alfred Rowland, to be relieved from the charge of desertion, to the Committee on Military Affairs.

IN SENATE.

TUESDAY, March 7, 1876.

Prayer by Rev. A. WOODBURY, of Providence, Rhode Island.
The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Acting Secretary of War, transmitting a letter from Major John J. Upham, Fifth Cavalry, stating that section 2139 of the Revised Statutes is by the ruling of the United States district court regarded as excepting Indians from the penalty of introducing intoxicating liquors into the Indian Territory, and inviting the attention of Congress to the recommendation of Major Upham for such legislation as will correct the evil.

The PRESIDENT *pro tempore*. The communication will be referred to the Committee on Indian Affairs, and printed, if there be no objection.

Mr. CONKLING. I venture to call the attention of the Chair to the propriety of sending the communication to the Committee on the Revision of the Laws, and I will assign my reason to the Chair, which can then be judged of. It is desirable that corrections, if there be such in the statutes, should, as many as may, be embraced in some one bill and should not be found scattered over the statute-book. The Committee on the Revision of the Laws I understand is engaged assiduously in collecting these instances. Therefore if the chairman of the Committee on Indian Affairs, who I see in his seat, should agree with me, I should feel more confident than I did at first in suggesting the propriety of sending this communication to the Committee on the Revision of the Laws that they might embrace it in their general bill rather than have it go separately.

Mr. ALLISON. It always gives me pleasure to agree with the Senator from New York, especially on this subject. I think the communication had better go to the Committee on the Revision of the Laws.

The PRESIDENT *pro tempore*. That reference will be made, if there be no objection.

PETITIONS AND MEMORIALS.

Mr. SAULSBURY presented a petition of citizens of Delaware, praying for an improvement of the navigation of the Jones Creek and Dover River, in that State; which was referred to the Committee on Commerce.

Mr. McMILLAN presented the memorial of John Schroeder, in favor of an amendment of the homestead law, so as to save innocent settlers from the rules and regulations of the General Land Office; which was referred to the Committee on Public Lands.

Mr. KERNAN presented the petition of Horace L. Emery, praying for the extension of his patent for improvement in cotton-ginning machines; which was referred to the Committee on Patents.

Mr. FRELINGHUYSEN presented the petition of George Whitaker, late a private in Company C, Twelfth Regiment New Jersey Volunteers, praying restoration of pay and an honorable discharge; which was referred to the Committee on Military Affairs.

He also presented the petition of Mrs. Martha Irwin, of Camden City, New Jersey, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. INGALLS presented the petition of E. Valetton de Boissiere, a citizen of Franklin County, Kansas, praying the passage of a law placing machinery for manufacturing raw silk imported into the United States on the free list; which was referred to the Committee on Finance.

Mr. WHYTE presented the petition of Hodyer Bros.; Hamilton Easter & Co., and other merchants of Baltimore, Maryland, praying that the bankrupt law be not repealed, but amended; which was referred to the Committee on the Judiciary.

The PRESIDENT *pro tempore* presented a memorial of the Legislature of Wisconsin, in favor of the establishment of a tri-weekly mail route from Marquette, in the county of Green Lake, via Kingston, to Portage, in Columbia County; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. WRIGHT. Some days since I had the honor to present a bill granting a pension to Armstead Goodlow, which was referred to the Committee on Pensions. I now present a petition and accompanying papers in support of the bill. I move their reference to the Committee on Pensions.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. INGALLS. The Committee on the District of Columbia, to whom were referred the bill (S. No. 100) to establish an insurance department and to provide for the incorporation and regulation of insurance companies in the District of Columbia, and the bill (S. No. 181) to amend section 593 of the Revised Statutes relating to the District of Columbia, and for other purposes, have instructed me to report a bill in the nature of a substitute for both of these bills. I ask that the new bill may be read and placed upon the Calendar and printed, and that the bills No. 100 and No. 181 may be indefinitely postponed.

The bill (S. No. 569) to provide for the incorporation and regulation of insurance companies in the District of Columbia was read and passed to the second reading.

The PRESIDENT *pro tempore*. The other bills will be postponed indefinitely, if there be no objection.

Mr. PADDOCK. I am instructed by the Committee on Public Lands, to whom was referred the bill (S. No. 256) to confirm certain school indemnity selections of public lands by the State of Nebraska, to report it without amendment. I send to the desk with the bill a letter from the Commissioner of the General Land Office, which is a sufficient explanation of the bill, and I ask for its present consideration.

The PRESIDENT *pro tempore*. The bill will be reported at length for information, subject to objection.

The Chief Clerk read the bill.

The PRESIDENT *pro tempore*. The Secretary will read the letter of the Commissioner of the General Land Office.

The Secretary read as follows:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., February 8, 1876.

SIR: In reference to Senate bill No. 256, entitled "A bill to confirm certain school indemnity selections of public lands by the State of Nebraska," which you filed in this Office for an expression of my views thereon, I have the honor to state that it appears that Nebraska, having the right to select school lands under the acts of 20th May, 1826, and 26th February, 1859, (now sections 2275 and 2276 of the Revised Statutes) as indemnity for lands in sections 16 and 36, granted for schools, but which were otherwise disposed of on account of pre-emption claims acquired prior to survey, or from other causes, selected certain lands as such indemnity, and on their being reported to this Office and examined here, the selections, to the amount of 31,611.86 acres, were found to embrace tracts lying within the alternate sections reserved to the United States in acts of Congress making land grants for railroad purposes, and the price thereof fixed at \$2.50 per acre, and which come under the operation of the act of Congress of March 6, 1868, providing that the lands therein referred to shall be subject only to entry under the pre-emption and homestead laws.

This Office holds that where, as in this case, the sections 16 and 36 appropriated for schools lie within the limits of railroad grants, and selections are to be made of indemnity for tracts lying thereon, which have been otherwise disposed of, this may be done from the alternate reserved sections, within the same limits, the price of which is fixed at \$2.50 per acre, where there is no express provision of law to prevent it; but in the case of these selections, the prohibition contained in the act of March 6, 1868, of any other disposal of the lands than such as is provided for in the pre-emption and homestead laws, stands in the way of the approval thereof; that prohibition extending to the even-numbered sections along the routes of the several roads mentioned in the act of July 1, 1862, entitled, "An act to aid in the construc-

tion 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," and the acts amendatory thereof. (See act of March 6, 1868, Statutes, volume 15, page 39.)

Apart from the prohibition referred to, there is no reason why the tracts called for in these selections should not be appropriated for the purpose of their selection which would not apply to any other tracts held at the double minimum price which might be selected. I think that this bill (S. No. 256) should be passed.

Very respectfully, your obedient servant,

L. K. LIPPINCOTT,
Acting Commissioner.

Hon. A. S. PADDOCK,
Chairman Subcommittee of the Committee on Public Lands,
United States Senate.

The PRESIDENT *pro tempore*. Is there objection to the present consideration of the bill?

Mr. SHERMAN. I do not know enough about it yet. Has it just been reported?

The PRESIDENT *pro tempore*. The bill was reported from the Committee on Public Lands, and it has been read at length for information, subject to objection. The bill will again be reported if the Senator desires.

Mr. EDMUNDS. It had better lie over until to-morrow.

Mr. SHERMAN. I should like to have some statement of it. I could not understand the matter from the reading of the letter alone. I think the Senator from Nebraska had better allow it to lie over.

Mr. PADDOCK. Very well.

The PRESIDENT *pro tempore*. Objection being raised, the bill goes over.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. No. 391) to authorize the Secretary of War to purchase for the use of the United States a parcel of land at Key West, Florida, now the property of Walter C. Maloney and wife, reported it with an amendment and submitted a report thereon; which was ordered to be printed.

Mr. McMILLAN, from the Committee on Claims, to whom was referred the petition of Daniel Edwards, of New Orleans, praying payment for certain commissions contracted to be paid him on sale of crops and supplies furnished for securing the same on Oaklands and Pointe Céleste plantations, Louisiana, submitted an adverse report thereon; which was agreed to, and ordered to be printed.

BILLS INTRODUCED.

Mr. FRELINGHUYSEN (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 570) in relation to maritime liens; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 571) extending the jurisdiction of the Court of Claims of the United States, and for other purposes; which was read twice by its title, referred to the Committee on Patents, and ordered to be printed.

Mr. McMILLAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 572) for the relief of settlers upon the reserved Government sections of the public lands within railroad limits; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. PADDOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 573) to amend section 1113, Revised Statutes of the United States, in relation to the appointment of Army sutlers; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 574) to amend the act entitled "An act to amend the act entitled 'An act to encourage the growth of timber on western prairies,'" approved March 13, 1874; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

THE REVENUE LAWS.

Mr. GORDON. I offer the following resolution:

Resolved, That the Committee on Finance be instructed to ascertain, if possible, what amendments to our revenue laws are necessary to secure economy and certainty in the collection of internal revenue, and prevent the recurrence of official frauds in that branch of the public service.

I do not wish this resolution acted on at present. I ask that it lie on the table, and to-morrow, or the day after to-morrow, as my friend from West Virginia [Mr. DAVIS] informs me that the bill for the admission of New Mexico is the special order for to-morrow, if it be the pleasure of the Senate I will ask to amend it by some additional resolutions which I am now preparing, at which time I hope to make some remarks showing the extent of these frauds and what amendments in my judgment are necessary to the revenue laws to prevent their recurrence in the future. I will name the day after to-morrow for this purpose.

The PRESIDENT *pro tempore*. The resolution will lie on the table; and the Senator from Georgia expresses a desire to submit some remarks upon it the day after to-morrow.

DESTRUCTIVE INSECTS.

Mr. FRELINGHUYSEN. As there is no other morning business, I move that the Senate take up Senate bill No. 438. The Senate is aware that there have been a great many petitions presented from all parts of the country, from the agriculturists and the farmers of the

country, asking that Congress shall appoint a commission to gather information in reference to the destructive insects which have so materially damaged the wealth of the nation. A bill was presented which provided for three commissioners with a salary of \$5,000 each. Instead of that the Committee on Agriculture have unanimously reported back an amendment which provides for one commissioner whose term of office shall be for one year with a salary of \$4,000, he to be selected by the Secretary of the Smithsonian Institution, the Secretary of the Interior, and the Commissioner of Agriculture.

Mr. EDMUNDS. How can that be done? Is he an officer of the United States?

Mr. FRELINGHUYSEN. I suppose that the Commissioner of Agriculture can select one to perform the duty under him. He already has one entomologist, and I do not see that there is any difficulty in such an appointment being made. However, will the Senator consent to hear the bill read?

Mr. EDMUNDS. Yes; let us hear the bill read.

The Chief Clerk read the bill (S. No. 438) for the protection of agriculture against injurious insects.

Mr. LOGAN. Is the bill up for consideration?

The PRESIDENT *pro tempore*. That is the motion.

Mr. LOGAN. I do not wish to make any point on the bill; but I desire to make a suggestion to the Senator from New Jersey. I do not exactly understand why it is that a person should be appointed for the purpose here named, when the reports of the Interior Department and the reports of the Agricultural Department are filled with scientific reports made by the entomologists who have traveled with the different surveys in the various Territories and the reports of the entomologists of the different States on all these subjects. If the Senator will have the reports examined, he will find that Professor Thomas, a man who understands as much of that branch of science as any man in this country, traveled with the Hayden survey for three or four years, at \$1,800 a year. He made reports on this subject every year, reports that have been copied all over Europe, and one that is considered better authority than any other report made in this country. Our surveys took with them an entomologist nearly always—I know the Hayden survey did—and they examined these very questions and reported on them. Professor Thomas, who was with that survey for years, is now entomologist of Illinois, and has made reports on all these subjects. The Smithsonian Institution and the Agricultural Department can obtain the reports of the entomologists of the different States without this officer at this great expense. I should say \$4,000 a year was an extravagant salary for a man in that business. It is higher than any man detailed for that purpose anywhere in this country has ever received.

Mr. EDMUNDS. Is the bill up?

The PRESIDENT *pro tempore*. The motion is to take it up.

Mr. MAXEY. I would suggest an amendment to the second section to include the cotton-worm.

Mr. FRELINGHUYSEN. I will accept that after the bill is taken up.

The PRESIDENT *pro tempore*. The question is on the motion to take up the bill.

The motion was agreed; there being on a division—ayes 30, noes 9.

So the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 438) for the protection of agriculture against injurious insects.

The Committee on Agriculture reported the bill with an amendment to strike out all after the enacting clause, and in lieu thereof insert the following:

That the Secretary of the Interior, the Secretary of the Smithsonian Institution, and the Commissioner of Agriculture are hereby authorized to appoint a commissioner having the requisite scientific and practical knowledge, whose duty it shall be to investigate and gather information relative to those insects which are most destructive to the crops of farmers and planters, and especially of the Rocky Mountain locust, the chinch-bug, the army-worm, the Hessian fly, potato-bug, and other insects injurious to the great staples, wheat, corn, and cotton, in order to devise successful methods for the destruction of such insects; and to make public from time to time such information and such practical instructions for the suppression of the different insects referred to; and that the commissioner report the results of such investigation and information to the Commissioner of Agriculture, by whom the same shall be submitted to Congress.

Sec. 2. That the said commissioner shall be appointed for the term of one year, and, in case of a vacancy, the same shall be filled for the residue of the term only; and he shall receive \$4,000 per annum, to be paid monthly from the date of original appointment, and shall be paid his traveling and other personal expenses incident to the discharge of his duties, to be audited by the Commissioner of Agriculture, not exceeding for the year \$2,000. And the said Commissioner of Agriculture is instructed to afford the said commissioner for the suppression of injurious insects such aid as is in his power, and such clerical assistance, office-room, fuel, stationery, and chemicals as are at his disposal; and the printing of necessary circulars and blanks incident to the duties of the said commissioner shall be done, at the expense of the Government, at the Government Printing Office.

Sec. 3. That the sum of \$6,000 is hereby appropriated for the purpose of carrying out the objects of this act.

Mr. EDMUNDS. I move to amend the bill by striking out the clause as to the power of appointment in the first section vested in the Secretary of the Smithsonian Institution and the Commissioner of Agriculture, and so on, and make it read:

That the President of the United States, by and with the advice and consent of the Senate, may appoint.

I do this because it does not appear to me that under the Constitution we are authorized to confer the power of appointing a distinct officer who is acting under the law and with the tenure of a definite

time named in the law and with a salary to be paid directly to him out of the public Treasury, in the way that the amendment reported by the committee provides. I therefore move to make it read that the President shall appoint with the advice and consent of the Senate.

The PRESIDENT *pro tempore*. The amendment will be read.

The CHIEF CLERK. It is proposed to strike out—

The Secretary of the Interior, the Secretary of the Smithsonian Institution, and the Commissioner of Agriculture are,

And insert—

The President of the United States, by and with the advice and consent of the Senate, is;

So as to read:

That the President of the United States, by and with the advice and consent of the Senate, is hereby authorized to appoint a commissioner, &c.

Mr. MAXEY. I move to insert the words "cotton-worm" after "army-worm."

The PRESIDENT *pro tempore*. That is in another part of the bill. The question is on the amendment of the Senator from Vermont.

The amendment to the amendment was agreed to.

Mr. MAXEY. After "army-worm," in line 10, section 1, I move to insert "the cotton-worm."

The amendment was agreed to.

Mr. WITHERS. I move to insert "tobacco-worm" after "cotton-worm."

The amendment was agreed to.

Mr. SARGENT. If it be in order to move to insert another worm—

The PRESIDENT *pro tempore*. The Chair will entertain any question that is relevant.

Mr. SARGENT. There is one more destructive than any other; I move to insert "worm of the still." [Laughter.]

The amendment was rejected.

Mr. SHERMAN. There is not a single duty enjoined by this bill on this newly appointed officer at \$4,000 a year that is not required to be done by the Commissioner of Agriculture, and that cannot be done by him or some of his subordinates under him. It seems to me the only effect is to increase the salary of the entomologist of the Agriculture Department from the present amount of \$1,800 or \$2,000 to \$4,000 a year. I am disposed on that ground to vote against it.

I have no doubt that the information desired is valuable. If we can adopt any plan for destroying the insects named in the bill, I shall be glad of it. I would be willing to give thousands and even hundreds of thousands of dollars if a plan could be devised to destroy these insects; but a man with a salary of \$4,000 a year will have a poor chance when the Smithsonian Institution, the Agriculture Department, and scientific men in all parts of the world are addressing their attention to this subject. I think it is perfectly idle for us to set a man at \$4,000 a year, and \$2,000 for expenses, and \$25,000 probably to print his lucubrations, to perform this work.

I voted to take up the bill and consider it; but I shall certainly vote against its passage. I think the law is now ample. The Commissioner of Agriculture has power now to detail any officer of his Department to attend to this business, to examine into it, not only to make his own observations but to gather from the observations of others. All their reports are accessible to him; all the information that can be had in this country as to the various worms spoken of in the bill can be had by him, and he can give us the information in his annual report on agriculture, where it will properly come and be printed at the public expense.

Mr. FRELINGHUYSEN. The Commissioner of Agriculture is stationed here at Washington. He has his duties to perform here. It is entirely out of his power for him to travel to different portions of the country to gather information in reference to these most destructive insects. Therefore the Commissioner cannot perform this duty. There is an entomologist in that Department who is constantly at work. The petitions which came here were to have three appointed; but this bill provides that this commissioner shall co-operate with them, get the information from different sections of the country. Not only that, it provides that he shall at once give instructions as to the best means of destroying these injurious insects. It is provided that he shall from time to time publish the result of his researches. Now, as to the amount of salary, \$4,000, if it is too much, make it less; but my opinion is that you cannot get a scientific man who is qualified for this duty for a lower compensation. It seems to me that it is very little that the great agricultural interests of the country ask. They do, and have from all parts of the country by their petitions requested this legislation, only in a much more ample and extravagant manner than we have reported. It is the great wealth of the nation, and they come here and ask an appropriation of \$5,000 or \$6,000. You spend hundreds of thousands for the protection of commerce and manufactures; and here is the great wealth of the nation, and those who understand this subject better than we do do not find it a thing to laugh at, do not find it a thing to ridicule. They see their crops stricken off, they see whole counties and States impoverished by these insects, and they ask Congress, exercising their judgment on this subject, and they are the parties interested, to give them this small relief. I think this bill ought to pass without a dissenting voice.

Mr. INGALLS. The Senator from Ohio and the Senator from Illi-

nois evidently entirely misapprehend the purposes, objects, and scope of this bill. It is very true that a scientific entomologist has accompanied Professor Hayden and the other explorers of the Western States and Territories and the region lying within and beyond the Rocky Mountains, who has made various reports upon those insects that are most destructive to vegetation. It is also true, as the Senator from Ohio has said, that there is a department in the Agricultural Bureau from which information can be obtained in regard to the habits and the destructive statistics of these various pests that are now threatening, not only the prosperity, but the actual habitation of certain portions of the West.

I observe that the feeble attempts at jocularity, derision, and ridicule that assail this bill come from sections of the country that have not been particularly exposed to the depredation of these insects. I venture the assertion that there are but very few of the Senators on this floor who are aware of the fact that the annual loss to the productive resources of this country arising from the ravages of these insects is not less than \$300,000,000. If that is a subject for jocularity, or ridicule, or mirth, or derision, I am not aware of the basis upon which these gentlemen's facetiousness is to be conducted. The loss to the agriculture of the Mississippi Valley during the last year from the depredations of the Rocky Mountain locusts alone exceeds—from actual statistics that have been collected by the various agricultural departments of that section of the country—more than \$50,000,000; and it is not too much to say that since the year 1860 enough has been lost to the resources, the productive capacity, and the material wealth of this country by the depredations of these insects to have paid and extinguished the entire national debt.

This is a subject, therefore, which appears to me to be worthy of consideration. The area of our country that is liable to these invasions extends from the British Possessions on the north, in an irregular triangle bounded on the west by the Rocky Mountains and extending east over a portion of the States of Iowa and Minnesota through the western line of Illinois, embracing Nebraska, Kansas, Missouri, the Indian Territory, and a portion of Texas, extending as far south as Dallas. I venture the assertion that unless something is done to prevent or guard against these annual incursions very large tracts of the most fertile and productive portion of the valley of the Mississippi will become depopulated. There are portions of my State that, if they are hereafter subjected to successive repetitions of the losses and scourges that have arisen from these pests during the last three years, will become depopulated. It will be absolutely impossible for man to inhabit them.

Now, sir, the object of this bill is not, as some Senators seem to imagine, to produce scientific essays on the habits of these insects; but by means of examination and investigation to report whether or not civilization has not some resources by which these invasions can be resisted and their depredations repressed. Other nations have been subjected to similar visitations; and methods have been resorted to for the purpose of preventing them. It has not been considered unworthy the attention of the French government to inquire by governmental commissions into the causes and consequences of these insect depredations. In northern Africa, in Algeria, measures have been resorted to, under the auspices of that government, for the purpose of preventing these desolating visitations, that would otherwise render that portion of the world uninhabitable and valueless for productive purposes.

What the agricultural portion of the West desires is that some investigation shall be made under national auspices for the purpose of reporting facts, and ascertaining whether or not some means cannot be devised by which these injurious depredations may be prevented hereafter. Several methods have been resorted to by other governments; bounties have been offered for the collection of the eggs of the locust; means have been adopted for the destruction of the young before they become fledged. The State of Minnesota during the last season, if I recollect aright, has adopted measures for the destruction of these insects in that State; and, if I am correctly informed, in seven counties nearly sixty thousand bushels of the unfledged young of the locust were destroyed and paid for by bounties offered by the county authorities, amounting in the aggregate to more than \$80,000.

If the visitations of these insects were confined to isolated and detached localities, it might well be considered as a matter for States to take care of; but when these vast armies ravage immense portions of the national domain, flying from State to State and from Territory to Territory, and destroying the crops and rendering portions of the country uninhabitable, it is certainly a matter for the nation to consider, because it affects not the States alone, but the Territories also and the resources of the whole country.

I am therefore at a loss to understand upon what theory this bill is met with derision or considered a subject for ridicule.

Mr. LOGAN. I am a little surprised to see the Senator have the understanding that his bill is to be killed by derision.

Mr. INGALLS. It is not my bill; it is reported by the Committee on Agriculture.

Mr. LOGAN. Very well; a bill from the Committee on Agriculture. I believe the Senator introduced the bill. I had no such object in mind. I rose not so much to oppose the bill as to give my views in reference to it and to show the Senate that there was no economy in this bill, for the reason that the very same thing was being done by the Government and paid for. We have for some reason or

other ingenious men in this country who, when a thing is being performed, are dissatisfied with the manner in which it is performed unless they themselves perform it. Hence a bill usually is offered to point out the mode and manner by some way that we will establish some new office and appoint some new officer to perform the very duties that are being performed by the Government. The Senate well knows that the very duties required to be performed in this bill have been performed by the different scientific men that are exploring the Territories of the country and geologizing the country. We have had a scientific man on this very subject, and who has reported on it time and again, and he is doing the same thing to-day.

The Senator from Kansas says some means should be provided for the destruction of the locusts. God knows I wish there could be. I certainly represent an agricultural people. Very few States, I think, anywhere will go far ahead of mine in that respect. We have an entomologist in Illinois examining this very question, and his examination is reported here to the Agricultural Department and the Smithsonian Institution. My suggestion was that we should not duplicate the duties and pay twice for them. So far as the locusts are concerned, which have destroyed many times the corn crops in the Senator's State, I have seen the destruction myself. I would ask him what scientific man there is in this country or ever will be who can stop the locusts from being carried by the winds? The winds coming to the east from the mountains bring them there in great swarms upon the country, and they destroy the crops that you are producing there. We have a scientific report which shows that the locusts breed in the mountains on the eastern and southern slopes of the Rocky Mountains, and the winds from the west bearing them carry them over the plains. Now, if the Senator can tell me whether there is science in this country sufficient to stop the winds bearing the locusts on them, I am willing to agree that there may be something in it. So far as their destruction is concerned, I would rather trust an old farmer to-day to devise means for their destruction than any scientific man in this country. I know that last summer in the Territory of Colorado, where the locusts were destroying the crops, the old farmers themselves were devising plans for the destruction of the locusts, plans, too, that were not devised by scientific men. I saw some of them myself with their wagons covered by sheet-iron, which was turned around in some way for the purpose of catching them as they were flying. Whether it produced the result or not I could not say; but to a certain extent it did good. There is no question about that.

We have in the Agricultural Department to-day a scientific man investigating this very subject—a man who asks all the entomologists of the country everywhere to send him specimens of bugs, of worms, of locusts, of everything, that he may investigate them and report upon them. I ask, then, why should we have another at the expense of the Government? As far as the habits of the locusts are concerned, we have had a report in reference to them. Their places and the times of hatching their young have been investigated by scientific men, and they have reported in reference to them. If you want the investigation to go on, let the scientific men go on and investigate. I desire that they should, in the different States, make their reports as they have done heretofore, and let this man, upon their reports, give his opinion.

Why should Senators suggest that other Senators are opposed to the interest of the agriculturists of this country because they think this bill will not accomplish the object? You provide that one man shall investigate this whole question of all bugs, of locusts, of chinch-bugs, of potato-bugs, of the tobacco-worm, the army-worm, and all these destructive insects. To investigate all that and report thereon you give him one year to do it in.

Mr. FRELINGHUYSEN. My friend ought to be a little more logical than that. I understand that one objection to having this commissioner appointed is that there is plenty of force to do the work now. The next objection is that there is so much work that one man cannot do it.

Mr. LOGAN. Is that the Senator's criticism on my argument?

Mr. FRELINGHUYSEN. I understand it so.

Mr. LOGAN. I will try to be more logical, so that the Senator can understand me. I said that when you were having work done, and when it was being done satisfactorily, there was no necessity for duplicating it. I said that. Does the Senator disagree with me in that? I stated that this work was being done by the scientific men of this country, that it had been reported upon, and that the scientific men that are out West in the Territories have an entomologist for the purpose of reporting in reference to these very insects. Now, does the Senator want it duplicated?

Mr. FRELINGHUYSEN. I have no doubt of my friend's interest in agriculture, and in the farmers, just as much as any of us; but I think he is mistaken on this subject. He has stated the effort which is being made in his State to eradicate this evil. The same has been done in Minnesota and in other States. Now, it seems to me that it would be of great service to have a commissioner who would at once, not when an agricultural report is published in a year or two, but who would at once gather up this information, and, as this bill provides, at once communicate it to different parts of the country, so that even this year there may be great relief from this pressing evil. The amount it costs is of no account compared with the magnitude of the object if there is any good to be attained.

Mr. LOGAN. The amount cuts very little figure in the case; but

what I was going to say in connection with what I have said is that you already have the officer.

Mr. FRELINGHUYSEN. I think not.

Mr. LOGAN. You have an entomologist in the Agricultural Department to-day performing that duty on a salary.

Mr. FRELINGHUYSEN. There is no doubt of that.

Mr. LOGAN. Then why do you wish to duplicate it?

Mr. FRELINGHUYSEN. There is no doubt there is a Commissioner of Agriculture.

Mr. LOGAN. Not the Commissioner. I mean a man performing this specific duty, a scientific man. I do not remember his name, but I have been there and conversed with him on the subject.

Mr. MORRILL, of Vermont. Professor Glover.

Mr. FRELINGHUYSEN. A very intelligent man; and he is occupied all the while, perhaps as industrious a man as there is in the country; but he cannot perform this duty of going to different sections of the country, gathering up this information, and then communicating it at once to the public. He has his whole time occupied in the investigations which he is making, the results of which we get in the Agricultural Report.

Mr. LOGAN. He performs the duty by staying there, and making up his report on information which he gains from all parts of the country from scientific men who are investigating this very subject, and that is all that your commissioner that your bill provides for will do. It is simply nonsense, in my judgment, to say that you provide that one man shall travel over this country and investigate this whole subject. He cannot do it. It can only be done in the mode that I say it is now being done, that is, by receiving the information from all parts of the country, from scientific men, and collecting it here, and making it public for the benefit of the country. That is the only way it can be done. Your man that you will appoint under the bill will do the same thing. He will take a room in the Agricultural Department, and there he will sit down. He will ask for information from all parts of the country, probably have two or three clerks; he will send one of them to this State or that State; he cannot go to all the States. In some places the chinch-bug may prevail; in others, the locust; in others, a different character of insect. He cannot visit them all. There is but one way to obtain this information, and that is the way they are doing it to-day. If you provide for this officer, I ask the Senator why it is that you provide in every appropriation bill for the last four years for an officer of this very character to accompany our roving commissions of scientific men? There is where your information comes from; it comes from these men at a much less cost to you than you provide for it in the bill. I believe, when you are getting information as you are, there is no necessity for this thing, unless the object is to appoint some man to a particular office, and exclude appropriations that are being used by other scientific men of a much less amount, because they are the men who have to go on scientific parties anyhow?

That is my objection to it; not because the object is not a good one; not because I do not desire that it shall be carried out; but because the origin of the bill seems to me to be for the benefit of some one, an increase of salary in his department, to do that which he cannot possibly do.

Mr. FRELINGHUYSEN. My friend may relieve his mind on that. I am sure that there is no one in view at all.

Mr. LOGAN. I do not mean any such thing, so far as the Senator is concerned, or so far as the committee is concerned.

Mr. FRELINGHUYSEN. I do not think there is the slightest reason for that intimation.

Mr. LOGAN. I have seen these statements made here often. A little bill is passed for the purpose of employing a man to do a certain thing for twelve months. That twelve months means the next fifty years. I have seen schools started in this country the same way, a little appropriation bill for an itinerant school down at Fortress Monroe some three or four years ago, and now it is a West Point in every appropriation bill. So it goes. This is the entering-wedge to a bureau for this purpose, for the purpose of continuing it as long as time shall last, or at least as long as this country shall last in its present organization. That is the meaning of it. All these new bureaus mean that; as witness your Educational Bureau. Call this what you please, the bureau of entomology, or the bug bureau—that is what it means. It means to start it and establish it, when they can perform no duty except that which is now being performed.

The PRESIDENT *pro tempore*. The morning hour has expired.

Mr. MORRILL, of Vermont. I desire to say a single word on this bill.

Mr. FRELINGHUYSEN. I hope we shall be allowed to take the vote.

The PRESIDENT *pro tempore*. Is there objection to continuing the bill? The Chair hears none.

Mr. MORRILL, of Vermont. I suppose there is not a Senator here who would not be in favor of the general purpose of this bill, which I take to be to ascertain some mode by which the great evil of the annual influx of locusts now devastating the western portion of the country may be avoided; but it seems to me this embraces too much. Professor Glover, of the Agricultural Department, is one of the most efficient men we have ever had on that subject, and he has made his investigations and reported upon the cotton-worm, upon the apple-borer, and upon the wheat-midge, and various other insects that were

destructive to vegetation years and years ago, and has a museum of these insects now in the Agricultural Department that probably surpasses that in any other portion of the country.

Mr. LOGAN. Allow me to ask the Senator whether or not Professor Glover has not received those specimens and the history of them from persons interested all over the country—from the fruit-growers and the farmers? He makes up his reports on that basis.

Mr. MORRILL, of Vermont. I was going on to say that there is not a strange insect, bug, or worm in any portion of the country that the correspondents of this Professor Glover fail to reach. They are constantly transmitted to him for examination and for report thereon. If, therefore, gentlemen would confine this bill to something like the locust question—and I will say in relation to that as President Lincoln said about putting down the rebellion, it is a big job—I think it would receive the approbation of the Senate. Certainly it seems to me an anomaly to create a subordinate to receive about twice the salary of the present chief who has in charge this subject at the Agricultural Bureau. If the Senate should be disposed to make an appropriation to allow some party to be sent out specially to investigate the locust question, I should certainly have no objection to it.

Mr. McMILLAN. Mr. President, my own State is somewhat interested in the subject of this bill. The ravages of the locust there have been a source of great injury to our farming population. The Senator from Kansas has correctly stated that we have suffered very severely in that direction, so much so that our own State has taken some action in this matter. His excellency the governor of the State, upon the representations of citizens of the State, deemed it his duty to appoint a commission to investigate this matter. They were sent to the portions of the country which were devastated by the ravages of the locusts. They made practical observations in regard to it, not scientifically into the nature of the locusts, but as to the destruction they were creating and the methods of overcoming them, and various means were tried there, such as ditching, and burning, and using other instrumentalities for catching the locusts as they flew. A report has been made upon that subject by this commission, and in view of the importance of the subject the Legislature of my own State has transmitted a memorial to the Senate of the United States, which has been referred to the Committee on Agriculture of this body.

The Senator from Illinois is certainly mistaken in his supposition that there is any special purpose of having an appointee whose personal interests shall be advanced by this bill. This bill is the result of numerous petitions sent to this body, of memorials of the State Legislatures, all expressions of the desire and interest of the people on the frontier in regard to this subject. I do not understand that this bill provides for an officer who shall sit in his office in Washington and study the nature of these insects. I understand that he is to visit the sections of country which are injured and suffering injury from this great evil, that he is there, with the scientific knowledge he may possess, to make examinations and observations, and report on the subject of his mission.

This has been of so much importance that the counties in our State have incurred large expenses in the destruction of these insects. The State has also expended in this direction; and the burden is so great and the injury so extensive that the several States affected by it should not be called upon to bear the entire burden, and they have referred it to the General Government, and ask the Government to give its attention to a subject of national importance; and the result of all this matter is the measure introduced by the Committee on Agriculture. It is a matter which should receive the serious attention of the Senate; it is a matter in which some action should be taken in the nature of that suggested by the committee; and so far as I have examined the bill I see no reason why it should not pass.

Mr. LOGAN. I offer an amendment now to strike out a large part of the bill, and let it read simply—

That it shall be the duty of the Agricultural Department to investigate and gather information relative to those insects which are most destructive to the crops of farmers and planters, and especially the Rocky Mountain locust, chinch-bug, army-worm, cotton-worm, tobacco-worm, the Hessian fly, and other insects injurious to the great staples, wheat, corn, and cotton, in order to devise such successful methods for the destruction of such insects; and to make public from time to time such information and such practical instructions for the suppression of the different insects referred to; and that the Commissioner shall report the results of such information to the Congress of the United States.

And there I propose to stop, except the appropriation for the amount of expenditure. Then it will leave the Agricultural Department, which is the proper Department, to investigate this subject in such manner as it sees proper. I think they are investigating it properly now; but this requires the Commissioner to make the investigation. He can do it through any one he chooses; people all over the Territories and in the States to whom he applies will give him information.

Mr. FRELINGHUYSEN. What did the Senator say as to the appropriation?

Mr. LOGAN. So far as the appropriation is concerned for the Agricultural Department carrying out this scientific exploration or examination, or whatever it may be termed, I have nothing to say.

Mr. FRELINGHUYSEN. Does the Senator strike it out or leave it in?

Mr. LOGAN. I leave it for the Senate to decide whether it will appropriate anything or not. But instead of appointing an officer with a bureau, my amendment requires the Agricultural Commissioner to

perform this duty or have it performed. That will be the bill if so amended. I move to strike out "commissioner" wherever it occurs except "Commissioner of Agriculture," so as to leave the whole matter in his hands to make the investigation.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Illinois.

Mr. EDMUNDS. What has become of the regular order?

The PRESIDENT *pro tempore*. The Chair announced that the morning hour had expired, and by unanimous consent the pending bill was continued before the Senate.

Mr. CONKLING. The other morning a bill of not very large concern except locally was considered a little while and the Senator from Ohio [Mr. SHERMAN] objected. I think he has no further objection, and at some moment before the regular order is taken up, I will ask the Senate to allow a vote to be taken upon that bill. I think there will be no debate about it, and time is of some consequence. It is a bill applying certain provisions to the port of Genesee, New York.

Mr. SARGENT. Mr. President, I am always disposed, where there is a matter of pure local cognizance, to listen with great deference to the wishes of Senators who represent the locality; but where, as in this case, it is a proposition to create a new office with salary and expenses to be paid by the national Treasury, with the probability that it will be continued from year to year, as has been our experience in the past; and then the friends of the legislation say that their purpose is simply to make a way to take from the Treasury of the United States the means by which that which they call a pest shall be destroyed, and which will be very expensive, it becomes a question of national concern; and it seems to me that I cannot listen merely to the representatives of the locality whose constituents may petition them in that regard.

It is the tendency of the congressional mind, whenever relief is asked for by their constituents, to rush immediately into the creation of some commission or new office. It is a ridiculous tendency. I presume that I am guilty of it as much as any other Senator. It seems to be the universal panacea. Our people are suffering in a particular locality; let us create an office, and pay for it out of the Treasury, to inquire into and report upon it, and that will be all right; that answers the local demand! We go back to our constituents and say, "See how zealous we have been; here is this man inquiring into the matter." That means "it is all right, and you should be satisfied." It does not remedy any evil; and especially it is not proper where we have machinery already provided by law, and paid for, which would accomplish the same results.

I am not in favor of the amendment of my friend from Illinois to this bill, or of the original bill. The Revised Statutes of the United States on page 87 substantially give the powers which are contained in the amended bill, and go far to answer the object, if it can be answered, of the original bill. Section 526 provides that—

The Commissioner of Agriculture shall procure and preserve all information concerning agriculture which he can obtain by means of books and correspondence, and by practical and scientific experiments, accurate records of which experiments shall be kept in his office, by the collection of statistics, and by any other appropriate means within his power.

Here is a grant of power as great as that conferred on this new commissioner to be created. It requires him further to "collect new and valuable seeds and plants," and propagate them in a certain manner. He has power to make practical and scientific experiments; he has power to obtain information by books and by correspondence. He collects statistics and facts bearing upon this subject, and any subject which is mentioned in this bill. He has at his command men who are paid by the Government to investigate these matters, upon the very ground itself. The whole history of the locust has been given, or if not, will speedily be given by our scientific expeditions—I mean the locust in his cradle, in his very home, showing his modes of migration, where he alights, and the consequences. All these facts are collected by our scientific men, and poured in here upon Congress. Now, is it not vain to say that it is necessary to create another office to look over this same horizon, to ascertain how these animals are developed, and by what laws their migration is controlled? All these things are now under our very hand, and passing through the Government Printing Office, and not this year only, but in past years. It has been a matter of continuous scientific and valuable study; and I ask whether we should duplicate these duties.

You may say that these things are undigested, that these are trifling discoveries which are made and reported, but that you should come down to the result that should be deduced from them all. Then I say that under this section 526 there is a man who is paid by law to digest these very things, to make experiments if it be necessary, and to report to Congress directly. He has power to make these reports by monthly publications going out to farmers all over the country; and it is a mere ridiculous subterfuge when there is a question of that kind presented to us that we rush to the creation of a new officer and pay him out of the Treasury. I say it is ridiculous, and therefore we ridicule it. It is ridiculous to put on any one man's shoulders, and he paid \$4,000 a year, to look into all these matters, from the locust to the army-worm, himself, with various portions of the country to be visited, different climates considered, different regions—all to be considered by one man. How is it to be done? Merely by correspondence. Is not that correspondence provided for by the section of law I have read? Can this man more intelligently conduct that corre-

spondence than the gentlemen of the Agricultural Department under the direction of the chief of the Agricultural Office?

But they say that here is an immense destruction of material prosperity and of property which should be arrested. I admit that, and some intelligent steps were taken in Minnesota and elsewhere toward this end. But it is said that this ought not to be left to the States to do; that the General Government should be saddled with this duty; that provision should be made out of the Treasury for this purpose. That I contest. I contest it because it would be impossible for the Treasury of the United States to stand the strain which would be brought upon it provided it was required to chase down and destroy all the long variety of animals which are named in the bill. It is to furnish a bounty, according to the theory of my friend from Minnesota and that of the Senator from Kansas, to destroy especially the Rocky Mountain locust, the chinch-bug, the army-worm, the cotton-worm, the tobacco-worm, the Hessian fly, the potato-bug, and other insects injurious to the great staples. This is an extraordinary duty to devolve upon the Government of the United States. They say, however, that we ought to do it, and on the same principle exactly we ought to provide guano to restore wasted lands, we ought to provide the means of irrigation for the broad valleys which are parched in the sun during the exceptional years of drought, because see what immense values of property are destroyed.

Mr. McMILLAN. Allow me to suggest that the amendments referred to with reference to the tobacco-worm and several other insects have been added since the Senate went into Committee of the Whole. The Committee on Agriculture I understand did not embrace them. The bill was intended to apply to the destruction of grain upon our western frontier, corn and wheat, which has become so very great as to be of national importance. I do not understand that there are any evils complained of with reference to the other insects and that these were inserted merely as additions to the bill, that some inquiry should be made as to the character of the insects themselves, not to apply to the great ravages which have marked the Northwest.

Mr. SARGENT. I should fail to make myself understood, if it was inferred from my remarks that I intended any reflection on the committee that reported the bill or on any Senator. I do nothing of the kind. I am discussing the bill which is before us, and the bill is, as I have cited it, the bill which we are now asked to vote upon and pass or reject.

If this principle were admitted, that we ought to offer bounties to prevent the ravages of the locust, &c., it would follow that we should be liable for damages for injuries which they caused during the time we neglected that duty. If it were true that we should do this on account of the great destruction of property, we still more ought to make good the ravages caused by the Mississippi which passes through many States, gathering its flood of waters, occasionally breaking its dikes and spreading over the country. We ought by all means to take on the nation the charge of penning those waters within their original current, and if they break loose, repair the damages and make compensation therefor, which they may cause on all sides by their overflow.

Mr. FRELINGHUYSEN. I think the Senator is under a misapprehension of the bill if he finds in this bill anything that looks to the Government paying bounties.

Mr. SARGENT. The Senator from Kansas, and more expressly the Senator from Minnesota, said that it was impossible for the States to cope with this matter, and that it ought not to be expected of them; that the General Government ought to relieve them of the burden.

Mr. FRELINGHUYSEN. Their speeches are not in the bill.

Mr. SARGENT. The commentary runs with the text. I have a right to judge of the bill by the inferences of its friends.

Mr. FRELINGHUYSEN. I do not think the Senator has a right to infer that that is in the bill which by reading it he sees is not in the bill, and then to characterize it and depreciate the bill because it is in.

Mr. SARGENT. No; but I have a right to say that it would be my own natural inference from it as an entering-wedge in order to produce the other result, and I will tell the Senator why. Why is it that this new officer is to be appointed? In order to collect this information. Have we not information here; is it not being sent by the most valuable channels; collected by the most responsible men and the most scientific men, paid for doing it, and filed in here upon us? Is there any doubt about the habits of these insects? Is there any doubt as to the best method of destroying them?

Mr. FRELINGHUYSEN. I can answer the Senator that my view of the propriety of the bill is that here is what amounts to a national calamity, an evil which impairs the national wealth or diminishes our taxes hundreds, thousands, and millions of dollars; and therefore I think it is our duty, whether any State has applied to us or not, to start an investigation in reference to it. That is one reason. Another reason is because I do not think it is in the power of any one State to gather this information. It may gather information in the particular State; but here is an evil which is stretched over a great region of country, and it wants some person to communicate with these different localities and to concentrate all the information and become the organ to impart it to every part of the country. Those are the reasons why I think it is a subject for the nation to take charge of.

One word more, if my friend will permit me.

Mr. SARGENT. I would like to reply to that first.

Mr. FRELINGHUYSEN. My friend has called our attention to the statute. There is no doubt but that the statute provides for the Department of Agriculture gathering this information, and all the entomologists which have been pronounced on the entomologist who is there employed are deserved; but they do and have been doing all they can. Now there is an exigency upon the country. It is desired to get this information so that it may be valuable in the coming and approaching season; and it was for that reason that I pressed the bill this morning. The Commissioner of Agriculture and his force can do no more than they have been doing, and we ought to make this appointment under this particular exigency.

Mr. SARGENT. It is because I contend that the power is within the Department of Agriculture; it is because I see clearly that the power which the Senator says should be exercised by the Government of the United States of paternal supervision which he would have in this matter was years ago created in the Department of Agriculture, and that is supplemented by the appropriations which we annually make for scientific expeditions, that I do not think the only merit which the Senator claims for this bill exists. If it were not for this provision and the Commissioner of Agriculture were not exercising these powers, and the entomologist was not giving us the scientific deductions from the facts collected by the exploring expeditions, then there might be something in it; but all this operation is going on and going on expensively to the Government of the United States. No single State is required to collect this information; we are collecting the information for all the States. But suppose that this commissioner thus appointed comes in and recommends that the Government of the United States shall pay out of its Treasury a bounty for the destruction of these insects, will the Senator then be in favor of adopting the suggestion of the commissioner? I ask him, suppose that your commissioner reports to Congress that an appropriation ought to be made out of the Treasury as bounties in order to insure the destruction of these insects, would the Senator be in favor of such an appropriation?

Mr. FRELINGHUYSEN. I certainly would not.

Mr. SARGENT. Then those who insist upon this bill to get information in order to show the duty of the Government see that even the chairman of the Committee on Agriculture would not consent to an appropriation of this kind. I say if the power exists it ought to be extended not merely to the great objects which I mentioned, as, for instance, the Mississippi which overflows its banks, which we ought to guard because it runs through different States, but you can come down to particular States, in my State, and I believe also in the State of Oregon, and there our wheat crop is very seriously impaired by squirrels, and our counties are paying very large bounties. It cost one county, Contra Costa, I believe, eight or ten thousand dollars during last year as bounties for the poisoning or destruction of squirrels which otherwise would have rendered the county uninhabitable. Should not the Government offer bounties for that purpose to relieve the county of Contra Costa, Alameda, and other counties in my State from ravages of that kind? Ought not "squirrel" to be put in here between "Hessian fly" and "potato-bug," if that classification would do? It would seem that just the same destruction is being wrought by this quadruped that is wrought by insects in the other case, and upon exactly the same kind of interest; and to a very serious amount as is obvious from the very large amount of bounties we have been compelled to pay for years in counties in my State in order to prevent these ravages and destructions.

We have found by experience and we have learned by reading the reports of the Agricultural Department the best method for the destruction of these pests, and so when any of the districts named in this bill are invaded any one who desires information can obtain it from the Agricultural Department specifically and fully, and information is coming from all sources all the time into the reservoir there provided by Congress to receive it and distribute it to the people. Then why create officers, why create commission upon commission, unless there is a reasonable hope that the effect will be that the Government will assume the duty of killing these noxious insects and appropriating out of its Treasury enormous amounts for that purpose and thereby relieving counties and States? Very little interest would be taken in this bill if it had no other object, because if it is a mere question of information as to the habits of animals we have it all; or, if not, we have the means organized to procure it. Unquestionably the forthcoming reports will be full of valuable information on that matter, which will go out through all these channels to those who are most interested in the subject. But the object of the bill, the after-thought, is that Congress itself will take this burden upon it. Seeing as I think—I speak humbly—further than the Committee on Agriculture on this matter, that this is a mere opening-wedge, taking warning from the new advances of the advocates of the bill, I am not disposed to favor it, because I can see no advantage in creating an office to give information we already have unless it may be an after-thought to divert the Treasury of the United States to that purpose.

Mr. HARVEY. I merely wish to say that I think I can satisfy my friend, the Senator from California, and other Senators that the General Government has an important interest in this matter; as he is aware, and all the Senators here have the same knowledge, the General Government is a large landed proprietor in all that portion of this continent lying between the Missouri River and the Sierra Nevada

Mountains; and he is no doubt also aware that a distinguished officer of the United States Army is now engaged in promulgating through public prints and in other ways the statement that all that portion of this continent where the Government owns such large landed possessions is and must remain a desert unfit for human habitation; and in support of that view one of the reasons that he cites is this quotation from a report of General Warren:

A fourth might be named—the occasional visits of grasshoppers. They often fill the air like a shower of rain or the smoke of a prairie fire. The height of their flight may be inferred from the fact of their being seen high in the air from a peak of the Rocky Mountains, eighty-five hundred feet above the surrounding plain, and fourteen thousand five hundred feet above the sea, and the sound of their wings was like the rushing of a railroad train.

If it be true that the Government of the United States is justified in refusing to the leading productive interests of the country the insignificant sum proposed by this bill for the purpose of procuring information necessary for the protection of agriculture, if it were justified in refusing this small demand for that important interest, is it justified in so neglecting its own property interests that it would abandon without an investigation or an effort of resistance an immense region, a portion of this continent greater in extent than that already occupied and improved? I say, is it justifiable that through and for such reasons as these, from the fact that it would cost \$6,000, the limit of the expense provided for in this bill, in view of such facts as these, will the Senate, to save the insignificant sum of \$6,000, lose the opportunity, even the chance, of acquiring information which would be of such importance to the direct property interest of the Government itself, irrespective of the question of its duty to do something for the principal productive interests of the country?

The Senator from California says that if this is done we would necessarily be obligated to support legislation for the payment of bounty or to carry on this destruction of insects by the Government. Does it follow, because the Government of the United States expends millions in making surveys, building light-houses, and everything of that kind, for the benefit of commerce, that the General Government must itself carry on the business of commerce? By no means:

Some of our friends seem a little sensitive to the derision with which this proposition was met. I heard before coming into the Senate, elsewhere, the suggestion that the discussion of a bill like this would give rise to some derisive comment. It was perhaps to be expected; but in a body composed as this is, of gentlemen having the knowledge which members of the Senate must possess, or should at least possess, derision of that kind cannot be expected to last long. I know my friend, the Senator from California, meant nothing serious in the way of an objection to the bill when he proposed an amendment to include "the worm of the still."

Mr. CONKLING. "The worm that never dies."

Mr. HARVEY. Yes; that is the worm that never dies; but it is not a worm particularly destructive to the agricultural interests. It is the urban element of population particularly that succumbs to the ravages of the worm of the still; but this bill is advanced in a different interest, and I think that the amendment is not germane to the object of the bill.

And now a word as to the amendment of my friend, the Senator from Illinois, who suggested that the matter be left entirely in the hands of the Commissioner of Agriculture, under the impression that he will make every inquiry necessary. Early in this session I introduced a bill providing for a temporary commission, to be appointed by the Commissioner of Agriculture and all the expenses incurred to be audited by him, so that the matter would be entirely under his direction; but before the time that the bill was considered in committee I happened to be in the Department of Agriculture, and in conversation with the Commissioner I ascertained that in relation to the particular insects that have been most discussed here, the Rocky Mountain locust, he had not acquired a very great deal of practical information concerning their habits as a destructive insect.

Mr. LOGAN. I suppose if he had consulted Pharaoh he might have found out more about it than he does now.

Mr. HARVEY. His scientific description of the insect is no doubt accurate, and would guide us; but I discovered in conversation with the Commissioner that he was not aware of the fact that throughout the portion of the continent where the ravages of these insects prevail it is believed that they originate in the Rocky Mountains and fly in various directions into the rich and cultivated portions of the country, there laying eggs and producing young; and that in the course of the succeeding season the young locusts, as soon as they acquire strength and wings to fly, rise and fly back in the direction from which the original swarms came. The Commissioner of Agriculture, notwithstanding he had been in correspondence with different sections of the country and with some scientific gentlemen having that matter particularly in view, had yet never heard of this supposition. As I said before, the bill that I introduced had in view the placing of the whole matter under his control in such a way that he could direct and supervise the investigations altogether. Another bill was introduced which I thought was in some of its features preferable. I preferred the second bill and would now prefer it, because I think it makes a more liberal and adequate provision for the object which is in view; but hoping for harmony I agreed readily and heartily in support of the bill now before the Senate; and, inasmuch as it provides

for all the most destructive insects, I think that it will meet a sufficient support in the Senate and make it assured that whatever information can be acquired with the small sum appropriated will be acquired in such a way that it can be properly used. Gentlemen, for instance the Senator from Illinois, talk about the effective way in which certain farmers operated against the Rocky Mountain locust. Their method is very practical, and they deserve commendation for it.

Mr. LOGAN. I did not say "effective." I did not know anything about its effectiveness.

Mr. HARVEY. In many instances their efforts have been effective; but I say these very efforts would have been far more effective if there could have been any general system of attack practiced upon them. If commissioners such as are herein provided for or somebody else in the public interest, seeking information as to the most effective way of their destruction, had recommended and published throughout the country the most effective way of operating against them, there would have been uniform co-operation, and I think the effect would have been such as to have saved millions of dollars. I think that the effect of this appropriation of \$6,000 would be the saving of many millions of dollars to this Government, and I hope the Senate will vote it.

Mr. WINDOM. I have been somewhat surprised at the manner of the opposition manifested to this bill, and also at the argument suggested by the two or three Senators who have spoken against it. Here is a pest sweeping over the country every year, destroying from thirty to fifty millions of property, and a bill is brought in by the Committee on Agriculture appropriating the small sum of \$6,000 for the purpose of obtaining information as to the best mode of preventing these devastations, and gentlemen meet the proposition with ridicule, and seek to prevent this very slight response to the wish of the agricultural interests of the country by insisting that there is already a sufficient provision made for it. I do not deem myself the best judge as to whether sufficient provision has been made or not. The agriculturists of the country have largely petitioned Congress to take some steps in this matter. Those petitions have been referred to the Committee on Agriculture, who I have no doubt have carefully considered the subject, and, so far as I know, have unanimously reported in favor of the proposition. The Commissioner of Agriculture, I assume, also has favored it; so that when all those parties, the farmers themselves, who are directly interested, and the committee appointed for the purpose of considering and representing their interests, have considered it and reported in favor of this bill, two or three of us assume here to ridicule a proposition of this kind, and say that there is no sort of necessity for it; and why? In one breath, because the field is so broad that one man can never do anything, if appointed; that he cannot extend his investigations over this vast territory, and that it will not amount to anything. Another argument in the very next breath is that we have already appointed and paid for by the Government, in the Agricultural Department, an officer who is amply able, who is competent in every respect to conduct this investigation, and why not let him do it? As both Senators who have most vigorously opposed this measure have said, "Why duplicate his duties?" Let us look at this duplication of duties for a single moment. Here is a clerk in the Agricultural Department under a pay, I believe, of \$1,800 a year, or about that sum, who is expected, without any additional appropriation of money, to carry on his investigations over this wide extent of territory, and to recommend to the people of this country the most successful methods for the destruction of these insects. The Senator from Illinois and the Senator from California insist that this is a sufficient appropriation to meet the demand of this great interest suffering so seriously from these pests.

Mr. LOGAN. Will the Senator allow me?

Mr. WINDOM. I yield.

Mr. LOGAN. The Senator from Illinois did not say anything about the appropriation. If it was desired to make an appropriation for Professor Glover to continue his scientific examinations I presume no one would object to it, but the necessity of appointing an officer for the duplication of his duties was questioned, and that was the objection made.

Mr. WINDOM. Ah! Then I understand the honorable Senator from Illinois to complain of the Committee on Agriculture because they proposed to favor somebody. The chairman of the Committee on Agriculture has distinctly announced that they have nobody in mind. It now turns out that my honorable friend from Illinois has somebody in mind, and he desires an appropriation made for the special benefit of Mr. Glover. We, who desire to see this bill passed in the interest of the agriculturists of the country and for their protection, have nobody in mind. I believe Mr. Glover to be a thoroughly competent man, and I shall have no sort of fault to find if he is armed with the authority and clothed with the means necessary to carry on this investigation. There is no private end to be attained, as I understand it, by this committee, but only to meet the just demands so far as we can of the sufferers in the western part of the country.

Mr. LOGAN. Will the Senator allow me to ask him a question right there? I ask him why he is so desirous of having an officer appointed to perform this duty when one already exists? That is the point I make in reference to that matter. If the officer now existing has not sufficient money to carry on the duties, then appropriate more money; but why make a new officer, why make a new bureau? The Senator knows very well it will not be abolished. There never has

been a bureau in this Government abolished after it was once established.

Mr. WINDOM. I have no fears of making a new bureau by this bill. The same gentleman who is now performing the duty may be appointed if the proper authorities choose to appoint him. It simply gives a little more authority and provides what duty shall be performed. I think the committee have been very wise in the mode they have provided for securing the appointment of the man who is best qualified to perform this duty. I think that the terror manifested by my honorable friend from Illinois and also by my honorable friend from California as to the duplication of officers is entirely without foundation. I ask my honorable friend from California if he felt any of that terror when some years ago we appointed a commissioner on mining statistics? We have had two or three of them. Some have reported, and I hold in my hand one of the large reports made by the Commissioner of Mining Statistics. I think my honorable friend was then a member of the House of Representatives, if not of the Senate, and I never heard any special alarm on account of any duplication of duties or any increase of officers who had been commissioned and traveling over the country in all the Territories long before that. We have had all these explorations going on over the Territories. Was he alarmed when we proposed to send Mr. Raymond, J. Ross Browne, and others, commissioners to examine into the mining interests of the country, for fear that we should inaugurate some new officers and create new bureaus?

Mr. SARGENT. Will the Senator allow me a moment?

Mr. WINDOM. Yes, sir.

Mr. SARGENT. I am entirely opposed to appointing mining commissioners, and have said so over and over again in the Committee on Appropriations. The thing was created before I came back to Congress the last time, six years ago. I am opposed to it and have so stated on all occasions, and in favor of striking such officers from the list. As to the exploring expedition, it is there in the interests of the agriculturists.

Mr. WINDOM. But as to J. Ross Browne?

Mr. SARGENT. That was when I was out of Congress.

Mr. WINDOM. Then my friend has not been quite as inconsistent as I supposed; that is all.

Mr. SARGENT. As a member of the Committee on Appropriations the Senator ought to know that on a number of occasions I have stated that I consider the appointment of commissioners useless.

Mr. WINDOM. The Senator makes so many valuable observations in the Committee on Appropriations and in the Senate that I am not expected to remember all he says.

Now a word as to the benefits that may be expected from this bill. The chairman of the Committee on Agriculture pointed them out to you very distinctly, I think, and I need not repeat them to you except in this: that one of the provisions of the bill is that this investigation is to be made "in order to devise successful methods for the destruction of such insects." I do not think that at present any of these exploring commissioners who have been traveling over the country are directed or authorized to make reports upon that subject, or that it is any part of their duty to suggest it. I want to say to my honorable friend from Illinois who has, I believe, distinguished himself as a commander of a large portion of our Army, if it is not important, if we are to combat an enemy whose destruction is widespread, that we should have some system, some organization, some head, somebody to whom all these men over the country that are combating the enemy may report and through whom they may be organized? Take my own State. In a single county in Minnesota last year there were over \$25,000 paid for the destruction of these pests; and the reports say that they saved many times that amount of money by the persistent and the systematic efforts which they made for this destruction. There was one mode adopted there; another mode has been adopted in another State or Territory; and one of the objects of this bill is to recommend or to devise the most successful manner of doing it. Can this eighteen-hundred dollar clerk, who stays here, no matter what his ability may be, no matter how well he may be versed in all kinds of bug-ology and in every kind of insect lore, with \$1,800 annual salary, travel over the country and ascertain what these men are doing, ascertain what by experience is the best mode of destroying these pests? I think not. But the gentleman who will be appointed will be authorized to visit those places; will be authorized to examine the nature of these ravages; will be authorized to consult with the farmers. My friend from Illinois, in order to compliment the farmers, whom I think he is not complimenting by opposing this bill, says he would rather have the opinion of one old farmer as to the best method of doing it than that of scientific men. Then let us give to this officer the means and the opportunity to go out among those farmers who are battling year by year with this destructive pest; let him consult with them, and ascertain what is being done, and then let him report after full consultation and bring to bear all the scientific knowledge and experience he has as to which is the best mode of destroying them. As was said by the Senator from Kansas, from thirty to fifty millions a year are being destroyed, and we propose here simply to send out and inquire if there is no way in which we can arrest this pest which has swept like a tornado over a territory larger than all New England. The Senator from Illinois and the Senator from California say no. I say in response to the demands of the farmers who have petitioned, and rely-

ing on the best judgment of the committee who have investigated and whose duty it is to investigate and understand this question, I want to make the experiment and see if something cannot be done.

Mr. MORTON. This proposition is to make an appropriation for the advancement of science. If there is a reasonable prospect that by scientific investigations this grasshopper plague can be abated or to any extent ameliorated, I think it is worthy the attention of Congress and entirely within the purview of its powers. It is not more than two years since we made an appropriation to send commissioners to different parts of the globe to observe the transit of Venus. That was for scientific purposes and for abstract science. If it was competent for Congress to do that, it is certainly competent for Congress to do this, and the reason is very strong in this case. States have been devastated; hundreds and thousands of people have been left without food and support. There has been great suffering; contributions have been taken up in different parts of the United States to supply the necessities of these people. Now if by the appointment of a special commissioner to investigate the nature and character of this pestilence there is any prospect of either abating or ameliorating it, and I am told there is, I think we ought to make the appropriation without hesitation.

My friend from California said that this principle would involve appropriations to confine the Mississippi River to its channel. If there was a reasonable prospect that by some scientific discovery or by some progress in science the Mississippi could be confined to its channel and the overflow of that valley prevented, I think a commission could not be appointed too quick. If, to use his own illustration, there is any prospect that by the advancement of science we can bring rain to the arid plains of the West, and supply them with water, and make them fertile—if there be such a prospect, then a scientific commission ought to be appointed without delay. As there is no reasonable prospect of any scientific discovery confining the Mississippi to its banks or bringing rain to the plains of the far West, I think the arguments are not in point. But as there is a prospect of doing something to ameliorate the terrible loss which has been inflicted by the grasshoppers, I think the appropriation ought to be made. I shall vote for it very cheerfully.

The suggestion occurred to me while the Senator from Illinois was speaking that it may be that this commission ought to be put under the control of the entomological bureau of the Department of Agriculture. It may be that the professor of entomology there should have the control and direction of this matter. I think there is something in that. To make it an independent commission perhaps would not be the wisest thing to be done; but we ought to make a special appropriation, and authorize that bureau in the Agricultural Department to prosecute these investigations, the chief of it having power to appoint assistants and to go himself.

Mr. MAXEY. Mr. President, Senators whose States have not been devastated by these insects cannot feel the importance of this bill so much as those whose States have thus been devastated. In the State in which I live, and which I have the honor in part to represent, the whole of the northern part of Texas a few years ago was devastated and the entire crop swept off by grasshoppers. Throughout the State every autumn we lose millions of dollars by the cotton-worm. What is true there is true throughout all the cotton-growing States. The States have used all their exertions to ascertain some mode of destroying the boll-worm and various other cotton-worms that destroy that crop.

It is said that the entomologist connected with the Agricultural Department should have charge of all this. I would ask how a man who works in an office, who has no knowledge of these insects save what he sees by having dead insects sent to him along with such an account as may be furnished of them, can give to the world that information which the man can give who goes and examines the insects in the act of destroying crops and who notices their habits? It is an impossibility. An engineer working in the office is essential there; but an engineer on the field is equally essential. Let the professor who has charge of the entomological bureau of the Agricultural Department go on and do his work as he is doing it daily; but put a man in the field also.

Mr. SARGENT. I will merely say that the law as I cited it gives the Commissioner of Agriculture power to have persons correspond with him who do observe these things in the field.

Mr. MAXEY. Put a man in a field and let that man work there. It is said that the head of the bureau gets letters and information from all parts of the country and that he can collate this information and thus furnish to the community that which they need. Does not anybody know that when you get talking with the farmers to whom the Senator from Illinois refers and who have a vast amount of most valuable experience and most valuable observation, you will get more out of one of them than when you put him down to writing a letter. He cannot write a letter containing all that an intelligent man could get from him by actual conversation and intercourse with him. I want some intelligent man who understands the science of entomology to go out among these farmers and gather from them the information which is sought. I want him to be in a position where he can examine the operations of these pestiferous insects. I want him to go where he can have actual knowledge of the destruction occasioned to the agricultural community by these insects.

Is the United States interested in this question? Why, sir, at this

time any one acquainted with agricultural affairs knows that the chinch-bug is doing immense destruction in the wheat-crop. As I stated a moment ago, the whole wheat-crop of Northern Texas was swept off a few years ago. Last year, not having the grasshoppers among us, we shipped a million and a half bushels of wheat, for which we got a million and a half of dollars. That is that much saved. The United States is directly interested in exportations, and every dollar of agricultural products that we can export to foreign countries adds that much to the wealth of the country. If we can discover some means of destruction to the cotton-worm, it will save to you millions of dollars. It is true of the chinch-bug, and it is true of this terrible pest, the grasshopper. Believing as I do that the small amount asked to be appropriated will be well expended, and representing as I do an agricultural community which rarely comes into Congress for any help, I do think that when this little pittance is asked in order to fall upon some process whereby the agricultural interests may be protected and advanced it does not look well to attempt to stop it.

Mr. CONKLING. Mr. President, it has been the pleasure and the judgment of Congress to appropriate money and create commissioners of one sort and another to observe the movements of heavenly bodies, notably the study of the transit of Venus; to discover a polar sea; to study currents of the air and currents of water; to examine, explore, and discover mines; to breed fish, to propagate shad; to examine the habits of the people touching the swallowing of alcoholic drinks; and to do a great variety of other things supposed by the law-making power to concern the public interests. Some time ago it became painfully evident not only in Nebraska and Kansas but elsewhere that grasshoppers and locusts—the locusts of Egypt which according to Holy Writ were in ancient times so malignant in their visitations—took their rise in clouds on the table-lands of Mexico and by currents of air were brought nearer us and spread far and wide over agricultural portions of the country, leaving total devastation behind them. The committee of this body appropriately charged with such subjects has commended to us a bill proposing to so treat this subject that it shall not be everybody's business and nobody's business, but that an investigation of this great scourge, of this not merely sporadic but repeated and apparently continuing calamity, in its causes, in its remedy if there be one, in the precautions which may be employed to guard against it, may be brought to the knowledge and utility of those concerned.

The honorable Senator from California proposed an amendment which I do not think is appropriately the object of criticism, because it was undoubtedly a piece of wit and I think rather a rare piece of wit. It is said that

A little nonsense now and then
Is relished by the best of men.

I am afraid it is true that even grave Senators do enjoy once in a while having the proceedings diversified a little by a thing so harmless as that. Therefore I have no censorious criticisms to make upon it, nor do I sympathize with Senators who think that this bill has encountered derision. It has been treated with a little playfulness, and I think it can afford to be so treated. I agree with very much that has been said on both sides, and agreeing to so much I see my way quite clear as matter of power and legitimate legislative province to vote for the bill. I shall vote for it without being able to bring any certainty to my mind that it may result in large utility, but feeling quite clear that it is an effort by appropriate means in the right direction.

This commissioner to be appointed is to be able to draw to himself all the information to which my honorable friend from Illinois has so appropriately alluded. Everything gathered by the entomologists to whom he has alluded will be material and opportunity for this man. He, engaged in a specialty, in the doing of a single thing, will be set to try what he can do. John Randolph once said, "Beware of a man who reads but one book," thereby meaning, beware of a man who is devoted to one single thing because he probably will beat you upon that thing if you encounter him; he is quite likely to understand it, if it is the one idea which he pursues. This man who is intended to be selected for his fitness and qualification is to devote himself to this single thing, not to study at large all the information that pertains to insects, not to be an entomologist, not to rove at large over all that field of science, if it be a field of science, and I think it is, but to find out a practical way to this one single thing, how the agriculturists in that portion of the country thus visited may, if it is possible, defend themselves against a repetition of this scourge. No member of this body will laugh at the object; no member of this body will disapprove of any well-directed effort in respect of it, and the whole question is whether we shall appropriate a small sum of money for such a purpose. It is small as it stands in the bill; and although I have no right to say it, I presume the Senator who reports the bill, if it be the judgment of the Senate that a less sum will be sufficient, will acquiesce as readily as any other Senator in a reduction of the amount. Be it reduced or be it as it stands, it is the devotion of a small sum of money to the possibility at least, I think to the probability, of acquiring information the value of which no man can measure if it can be gained. Therefore, if I consider it upon its positive merits, or if I contrast it with various devotions of money which have been made since I have had the honor of a seat here, either way I find in it quite enough to justify my vote. If it results in nothing, it will be added to the countless multitude of fruitless efforts made by man in good

directions. If it results in something, it will be emphatically bread cast upon the waters which will return again with great interest and great benefit.

Mr. LOGAN. Mr. President, I certainly owe an apology to the Senate for offering any further suggestion in reference to this bill, but we are so apt to criticise the motives of one another here that I think probably I owe it to myself to give another reason why I think the bill should not pass.

My friend from Minnesota, who is always very pleasant, says that my friend from California and myself are antagonizing the farming interest of this country. I do not so understand it. If I were a candidate for any particular office, I might be accused of having a motive if I were trying to make friends of the farmers. I have always been their friend and expect to be. When I see a thing asked for that is reasonable, I expect to vote for it the same as I do for a reasonable thing asked by anybody else. I have no idea of antagonizing any interest when I oppose the bill. I oppose it because I think the bill is wrong.

Let me make one suggestion to Senators in favor of this bill, and see whether or not my proposition is a reasonable one. Here you propose that a commissioner shall be appointed by the President, to be confirmed by the Senate; that he shall investigate what? The Rocky Mountain locust, the chinch-bug, the army-worm, the Hessian fly, the potato-bug, and other insects injurious to the great staples, wheat, corn, &c., and that he shall hold his office for the term of one year. That is the proposition. I should like to ask the question of some of the intelligent Senators who advocate this bill: Suppose the locust does not appear next year; how are you to investigate him? Suppose the chinch-bug does not appear next year; what is your investigation worth? I do not know. I presume if you sent this bill to the other end of the building you could get it investigated without any trouble, [laughter;] and perhaps on as scientific principles as you will have it investigated when you pass your bill.

I said about this bill that it was only a proposition to establish an office that would exist as long as the Government existed. I said that, and I believe it. If you intend to have an investigation that amounts to anything, your bill is not worth a cent. It is not usual that the army-worm, and the chinch-bug, and the Hessian fly, and the locust all appear in one year. Have you ever known the time that they all did appear in one season? Then you are to investigate the habits of all these insects, their destructive qualities, and recommend to Congress some law that will prohibit their making attacks on wheat and corn hereafter. I suppose you might as well pass a penal statute and put them in the penitentiary or do something of that kind when you catch them. That is about what it amounts to. Perhaps your law will provide as they did in old times in the West when wolves were very bad in the country. The Legislatures used to pass a law giving fifty cents premium for a wolf's scalp. You had better pay something here as a premium for locust scalps and chinch-bug scalps, because if you do it all in one year you must do it in some way that you will work very rapidly. This bill means to provide a place for some person, and that is all it does mean. It means nothing more; it means nothing less than to provide a place for some person at \$4,000 a year? If the Senators are in earnest about it, and I find that my friend from Texas, my friend from Indiana, my friend from New York, and some more friends in the Senate advocate it who are all good men, and each and every one expects to be President, if not the next time, at some other time, [laughter;] and therefore they are all in favor of the agricultural interest—now, would it not be well to provide in this bill some penalty for the presidential maggot, [laughter;] just as well as for the locust? It might save us a great deal of trouble in this country. That would be for the preservation of mankind. We ought to have something of that sort for the preservation of the agricultural interest; and it would be just as easy; and I tell you your scientific man that you appoint can discover this insect a great deal quicker than he can discover the character and habits of the locusts.

My proposition is to leave this where the statute leaves it: to allow the Agricultural Department to have the investigations made by scientific men; and, if my friends are in earnest, let them agree to my amendment. They talk about the appropriation; they say it is a mere pittance. Well, if it is a mere pittance, make the appropriation and leave the officer out; let the Agricultural Department use the appropriation for the employment of such men as can investigate this thing, without making a special bureau and establishing a salary for it. Cannot that be done? Is not that reasonable? If one man cannot do it, perhaps two can; if two cannot do it, perhaps three can; they can be employed for much less money than you appropriate here as salary, for they have been employed for less.

So far as the investigation is concerned, I have made no opposition to it, and I do not propose to do so; but my opposition is to the mode and manner of making the investigation. Senators perhaps are not in the habit of reading the Bible very much. We might get some information on the subject of locusts if we examined the history of Egypt and the difficulties under which Pharaoh suffered. We might get some information there that would not be very valuable; for I believe they did not find any way there to destroy their locusts. You will never find any way under this bill to do it; it is impossible. You may devise all the plans that human ingenuity can suggest, and you cannot do it. We have tried for years, for centuries; but if there can be any plan devised, so as to make them less injurious to the interest

of the people, let it be done; I have no objection to it; but let it be done in the mode and manner in which it has been done heretofore through this Department, without making a separate bureau.

I asked a while ago if there is any Senator on this floor who can show me where you have ever commenced by appointing an officer to do a certain thing connected with a Department that has not become a bureau? You never abolish an office. That is what this means; it means nothing else. My opposition is not to the investigation, but it is to the making of a separate bureau for this purpose, which shall be continued whether the locust or the chinch-bug exists or not; there will always be enough for it to do, and it will come to Congress every year asking you to appropriate salary. Putting in "one year" means nothing. It is only the entering-wedge for this bureau and for this officer; for next year you will have a report that the time will have to be extended; that he has not had time enough to make this scientific investigation; he therefore desires the time to be extended; and the next appropriation bill will extend it again and again. Then it will be a separate bureau, with clerks employed and scientific men engaged. That is what it means. My amendment means this, to come in just before the word "investigate," that the Agricultural Department shall investigate and gather information on these subjects, and leave our appropriation, or such part as the Senate think proper; let that stand, and strike out of the bill all in reference to the appointment of a commissioner. That is my proposition, and that is what I have argued, and that is what I am in favor of.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Illinois.

Mr. FRELINGHUYSEN. Mr. President, I understand now that the amendment does not touch the appropriation. The amendment of the Senator from Illinois is to continue the appropriation of \$6,000, his objection being to having a commissioner appointed.

Mr. LOGAN. No. I say whatever amount the Senate thinks is proper. I do not propose \$6,000. I have no objection to appropriating the amount which is necessary; but I do not think that much is necessary.

Mr. FRELINGHUYSEN. Any amount that is necessary. The amendment does not touch the appropriation; therefore it lets the \$6,000 stand. The committee which reported this bill probably acted with a little intelligence, and after having obtained some information, and it acted unanimously. It was perfectly apparent to us that the Commissioner of Agriculture and his assistant, the entomologist there, have all that they can do. They have not touched this great evil; they cannot by possibility attend to the duties which they are to perform here in the Department and accomplish what this commissioner is intended to attain; and, besides that, it is proposed that this commissioner shall be a man of a very different character from even the person who is employed in the Department. It so happens that the scientific men of this country have this subject under their advisement and investigation. They came before the Committee on Agriculture; one of them was Professor Riley, the other was Professor Lecount, of Philadelphia. They came before the Agricultural Committee of the House and of the Senate and made their statements. One object of our introducing the provision that this commissioner should be selected by the secretary of the Smithsonian Institution was to connect him with the scientific investigations which are going on; and I will say to the Senate that my belief is that, by the appointment of this one commissioner, a scientific man, he will gather to himself the result of all the investigations which have been made by the scientific institutions in the different States where they have had commissions, and will communicate it to every part of this country; while, if it is confined to the investigations which have been going on year after year in the Agricultural Department, we shall get the result of their information, without their having visited the fields, in the next agricultural report which will be published, I suppose, two or three years after it is written. This commissioner, too, will gather, as it is suggested by my friend from Vermont, [Mr. EDMUNDS,] all the information which has been gathered in other countries. So by this little appropriation of \$6,000 we shall be gathering together and aggregating all the information which has been got by these various scientific institutions, and this commissioner will have their aid.

Mr. LOGAN. Will the Senator allow me to ask him a question? because I know he has investigated the subject. Do not the Agricultural Department and the Smithsonian Institution get all these scientific examinations from foreign countries now under a provision of exchange which they make? Do they not have them?

Mr. FRELINGHUYSEN. They get information from other countries, but they do not make it a point at the present time to gather all the particular information that there is on this one pressing subject in this exigency. They have a thousand other things to attend to. This subject is worthy the full and constant attention of one scientific man. The people of this country so believe, and I do not think that there could be a more economical expenditure, because we do thus secure all the investigation of science, and at once enlist these academies and institutes in this important subject.

I hope the bill will be passed as it has been amended, providing that the officer shall be appointed by the President on the confirmation of the Senate. As to the idea that this bill is meant to establish a bureau; that it means nothing else, as the Senator from Illinois so often repeats, it is not correct. I say it means no such thing, and by its very terms it excludes the idea that it means any such thing. It ex-

pressly provides that this commission shall terminate at the end of a year; and if the commissioner dies, or there is a vacancy, only the residue of that year shall be filled.

Mr. LOGAN. I will ask the Senator if he does not know from his examination that there is not a man in the United States who can make this investigation in a year? Does he not know that?

Mr. FRELINGHUYSEN. I cannot meet the argument of the Senator from Illinois, because it is, first, that there is nothing to do, the Commissioner of Agriculture and his aids are sufficient, and, in the next place, it is so gigantic a subject that it is an act of folly to attempt to do anything with it. I cannot meet both arguments. I do undertake to say that an intelligent scientific man, having the aid of the scientific institutions of the country, going to visit these fields, gathering information from the States of Illinois and Minnesota, can accumulate a great amount of information and communicate it to the world. That he can accomplish.

Mr. LOGAN. The Senator is a little unfair in his statement in reference to my argument. It is of course natural; we cannot help these things.

Mr. FRELINGHUYSEN. It is not natural to me to be unfair.

Mr. LOGAN. I say it is natural. The point was not that there is so much work that it cannot be done. I made no such argument. I said that they had a man performing this duty in the Agricultural Department now. I said he got his information from the entomologists of the different States. I said he got it from farmers and from others and collated and collected the information. I said that we had scientific men on the plains in connection with our scientific surveys examining this question now and getting information. I did say that no one man could collect all this information in a year; I say so now; but I put it on the ground that the man at the Department was collecting this information from all over the country by persons sending it to him. The Senator takes the ground that this man must travel around in one year to make these experiments and make his recommendation. I say that no one man can do it in a year if he is to make all these examinations and travel all over the country to investigate these different insects. So I am not inconsistent in the argument I have made. It shows that when the bill says it shall terminate in a year, that is not the meaning of it. That was the point I was arguing.

Mr. FRELINGHUYSEN. I do not know that any one Senator can stand up and say that a bill does not mean what the Senate votes that it does mean. If the bill says it is to terminate at the end of a year, no one Senator has any authority to say that it is meant to be a perpetual institution.

Mr. SARGENT. Will the Senator allow me to interrupt him? I should like to ask the Senator if he has any objection to this bill going over until to-morrow, so that we may have an opportunity to examine the petitions which have been laid on the table of the Senate and referred to the Committee on Agriculture. My impression is—I do not speak confidently, and it is quite likely I may be wrong, because I only heard casually the presentation of the petitions—my impression is that the relief asked is very different from that proposed by this bill; that they do not ask a commission, but that they do ask the United States to engage in the business of destroying these insects. If that is so, this is not the bill they want; and if it is so, it re-enforces the argument which has been made against the bill in this form. If the Senator of the West, whom I know to be intelligent—I give them all credit for that—really ask for this bill, it would have very much to do with my vote, because if they think they have not got the information I am willing that the information shall be furnished at this cost or even more than this cost.

One other suggestion, if the Senator will allow me. Yesterday the Senator from Indiana [Mr. MORTON] gave notice to the Senate that to-day he would ask the Senate to remain here until the Pinchback case was disposed of. This debate has run on over an hour and a half since the close of the morning hour, and I must say that for one I am not disposed, at the end of four or five hours' debate on this proposition, to sit late to-night in order to dispose of the Louisiana question.

Mr. FRELINGHUYSEN. If my friend's interruption is through, I will simply say that I trust the Senate will take a vote upon this bill. If they do not approve it, let them vote it down; if they do approve it, let them pass it. I trust it will not be postponed until to-morrow for the purpose of looking at these petitions. I do not remember all the petitions contained. If they contain an application for a bounty, nobody would vote for it. If they do not contain an application for a bounty, we certainly can give them this little appropriation instead of the extended bounties which my friend seems to think they ask for.

I think the Senate may be now ready for a vote, and I will not longer detain them.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Illinois, [Mr. LOGAN,] which will be reported.

The CHIEF CLERK. The proposition is to amend the bill so that if amended it will read:

That it shall be the duty of the Agricultural Department to investigate and gather information relative to those insects which are most destructive to the crops of farmers and planters, and especially of the Rocky Mountain locust, the chinch-bug, the army-worm, the cotton-worm, the tobacco-worm, the Hessian fly, the potato-bug, and other insects injurious to the great staples, wheat, corn, and cotton, in order to devise successful methods for the destruction of such insects, and to make public from time to time such information and such practical instructions for the suppression of the different insects referred to.

Mr. LOGAN. I will change the word "Department" and make it read, "that it shall be the duty of the Commissioner of Agriculture." I believe it is not designated as a department in the law.

The PRESIDENT *pro tempore*. The amendment will be so modified.

Mr. DAVIS. The portion of the bill struck out by the amendment of the Senator from Illinois includes a part to which I wish to make an amendment; and I believe it is in order first to perfect the text before the vote is taken on striking out. We all agree that the information sought should be gathered from some source. I believe that is admitted by the Senator from Illinois. It is a well known fact that more than one-half of the people of this country are engaged in agriculture, and that the other half live on that half. I think they are entitled to some consideration. The manner in which the information should be gotten is the only question. I think the salary of \$4,000 is too large. I therefore move to strike out "four" in the second section and insert "three," which will make the salary of the officer \$3,000. I wish that done before the amendment of the Senator from Illinois is voted on.

Mr. MORTON. I believe the regular order was only passed over informally with the right to call it up at any time.

Mr. FRELINGHUYSEN. I think we can vote very soon on this bill.

Mr. DAVIS. I think we are done talking.

Mr. MORTON. If the vote can be taken without further debate, I shall not interpose; otherwise I shall feel constrained to call for the regular order.

Mr. EDMUNDS. Does the Senator from Indiana intend to press the Louisiana question to a decision to-day?

Mr. MORTON. I cannot say that now.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from West Virginia, [Mr. DAVIS.]

Mr. LOGAN. I would suggest to the Senator that if my amendment is adopted that is entirely unnecessary, for the reason that my amendment will strike out the section that appoints the commissioner.

Mr. DAVIS. I understand that very well, but I wish to perfect the text. I want to have a test of the view of the Senate whether it will make the salary \$3,000. It may make some difference in my vote.

Mr. LOGAN. The test is whether we shall have this commissioner at all.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from West Virginia, [Mr. DAVIS.]

The amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment proposed by the Senator from Illinois, [Mr. LOGAN.]

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

The yeas and nays were ordered.

Mr. MORTON. Does that leave the appropriation?

Mr. FRELINGHUYSEN. No; the appropriation is out. It destroys the bill entirely.

The question being taken by yeas and nays, resulted—yeas 29, nays 23; as follows;

YEAS—Messrs. Bayard, Booth, Cockrell, Cooper, Eaton, English, Ferry, Goldthwaite, Gordon, Hamilton, Johnston, Jones of Florida, Kelly, Kernan, Key, Logan, McDonald, Merrimon, Morrill of Vermont, Norwood, Sargent, Saulsbury, Sherman, Spencer, Stevenson, Wallace, Whyte, and Withers—29.

NAYS—Messrs. Allison, Anthony, Boggy, Bruce, Cameron of Pennsylvania, Cameron of Wisconsin, Christiancy, Conkling, Cragin, Dennis, Dorsey, Edmunds, Frelinghuyesen, Hamlin, Harvey, Hitchcock, Howe, Ingalls, McMillan, Maxey, Mitchell, Morton, Paddock, Patterson, Robertson, West, Windom, and Wright—23.

ABSENT—Messrs. Alcorn, Boutwell, Burnside, Caperton, Clayton, Conover, Davis, Dawes, Jones of Nevada, Morrill of Maine, Oglesby, Randolph, Ransom, Sharon, Thurman, and Wadleigh—16.

So the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment reported by the committee as amended.

The amendment, as amended, 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.

Mr. EDMUNDS. I would like to hear the bill read at length on its third reading.

The bill was read the third time at length, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be the duty of the Commissioner of Agriculture to investigate and gather information relative to those insects which are most destructive to the crops of planters and farmers, and especially of the Rocky Mountain locust, the chinch-bug, the army-worm, the cotton-worm, the tobacco-worm, the Hessian fly, potato-bug, and other insects injurious to the great staples, wheat, corn, and cotton, in order to devise successful methods for the destruction of such insects; and to make public from time to time such information and such practical instructions for the suppression of the different insects referred to.

The bill was passed.

Mr. MORRILL, of Vermont. I enter a motion to reconsider the vote by which the bill (S. No. 438) for the protection of agriculture against injurious insects was passed.

PORT OF GENESEE.

The PRESIDENT *pro tempore*. The unfinished business is the resolution of the Senator from Indiana, relative to the admission of P. B. S. Pinchback.

Mr. CONKLING. I hope that neither the Senator from Indiana

nor any other Senator will object now if I ask that the bill which was considered the other morning, and to which the Senator from Ohio on more recent information will not interpose further objection, be taken up that the Senate may vote upon it.

The PRESIDENT *pro tempore*. Is there objection?

Mr. EDMUNDS. Subject to a call for the regular order.

Mr. CONKLING. Certainly.

The PRESIDENT *pro tempore*. The Chair hears no objection.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 2232) to extend to the port of Genesee, in the State of New York, the privileges of sections 2990 to 2997 of the Revised Statutes, inclusive.

Mr. CONKLING. The bill was read the other day and discussed at some length, as I think the Senator from Vermont will remember. It employs and involves the appointment of no officer and the creation of no additional expense, but is simply to make this port, for reasons which the committee thought were abundant, one of the ports to which the regulations here referred to apply. As a matter of time, I hope the Senator from Vermont will not have it read, unless he really wants to know what its particulars are.

Mr. EDMUNDS. I do not ask that it be read. I only wish to say that I believe the system which has already been adopted, and which embraces the names of a good many places that ought never to have been embraced, is a vicious one, and, if carried out step by step, as this bill proposes to do, it will finally result in breaking it down, as I think it ought to do; for you cannot collect the revenue fairly and impartially in the way that these steps propose. At the same time, I am bound to say that I do not know any reason in the world why the city of Rochester and the collection district of Genesee should not be much more clearly entitled to these special benefits than a great many other districts that already are entitled to them; so that, while I make no special opposition to this bill, I feel bound to put in a protest against the system which is thus being extended from one town and place to another.

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

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BOGY, it was

Ordered, That the petition and papers in the case of Sarah E. Ballantine, widow of David Ballantine, be taken from the files of the Senate and referred to the Committee on Claims.

ADMISSION OF NEW MEXICO.

Mr. HITCHCOCK. I move that the bill (S. No. 229) to enable the people of New Mexico to form a constitution and State government, and for the admission of the said State into the Union on an equal footing with the original States, be recommitted to the Committee on Territories for the purpose of making some amendments which are deemed desirable.

The motion was agreed to, and the bill was recommitted to the Committee on Territories.

Mr. HITCHCOCK subsequently reported the bill with amendments.

SENATOR FROM LOUISIANA.

The Senate resumed the consideration of the following resolution, submitted by Mr. MORTON on the 5th March, 1875:

Resolved, That P. B. S. Pinchback be admitted as a Senator from the State of Louisiana for the term of six years beginning the 4th day of March, 1873.

The pending question being on the amendment of Mr. EDMUNDS to insert the word "not" before the word "admitted."

Mr. CHRISTIANCY. Mr. President, I suppose it is well understood that my opposition to the admission of Mr. Pinchback is not an objection of color; and especially as coming from the State of Louisiana, a majority of whose people are colored, I see no possible objection to be raised on that ground. The only objection I have ever made or that I now make to the admission of Mr. Pinchback is that I do not think he was legally elected.

Mr. President, I do not intend to go into all the merits of the question of Mr. Pinchback's election. These have been argued and re-argued and discussed until little or nothing further can be said without mere repetition of what has already been said by some Senator in the course of the debates, at the last session and the present. I expressed my own views upon the main questions involved last March, to which I still adhere, and which I do not propose to repeat at length.

The Senator from Ohio [Mr. THURMAN] has again very fairly and impartially discussed the whole merits of the case at the present session. And the Senator from Vermont again on Friday last, with great ability and clearness, discussed the case in all its essential legal aspects, in whose argument I entirely concur. And I had intended to confine my remarks to the single point of the recognition by the Senate of the validity of the Kellogg government in Louisiana, now insisted upon by the Senators from Mississippi, Indiana, and New Jersey. But before coming to this point I will briefly notice some points made by the Senator from Indiana and by the Senator from New Jersey on Friday last.

The Senator from Indiana, for the purpose of showing that the certificate of Governor Kellogg to the election of Pinchback made a *prima facie* case for Pinchback, and that he should be admitted to his seat and his right contested afterward, cited the case of the creden-

tials of a Senator from Alabama and those of a Senator from Rhode Island, where the governors of those States respectively, whose election and title to office were admitted and about which there was no dispute, had signed the credentials. And to bring the Pinchback credentials, signed by Kellogg, within these precedents he relied and proceeded, as I understood him, entirely upon an asserted admission of the Senator from Vermont that Kellogg was governor of Louisiana. Now the only admission of the Senator from Vermont, as I understood him, was simply an admission that Kellogg was acting as such governor and in the actual exercise of the powers of the office, without reference to, and without any admission of, his actual election or his legal title to act as such. To bring Pinchback's case within the precedents cited by the Senator from Indiana, the admission of the Senator from Vermont could give him no aid, unless that admission went to the extent that Kellogg was the legally-elected governor; whereas we all know that has always been denied by the Senator from Vermont and every other Senator who has opposed the admission of Pinchback, the election of governor and that of the Legislature standing upon the same ground; while none have denied that Kellogg was in the possession and exercise of the powers of governor, and while, at the same time, they have insisted that he had been wrongfully placed and kept in power.

I now call upon the Senator from Vermont to state whether in his speech on Friday he made or intended to make any admission that Kellogg was rightly or legally the governor of Louisiana when he signed the credentials of Mr. Pinchback.

Mr. EDMUNDS. If the Senator wishes me to answer, I can say that I am certain that I did not make any such admission or state any such thing. What I intended to say and did say, as I think the RECORD will show, (which, so far as my humble speeches go, is never corrected for publication; but what I say goes, with whatever evils it may possess, to the Senators exactly as stated in the Chamber,) that Governor Kellogg was, as I stated over and over again, and as the Senator from Michigan has stated, acting as the executive of that State, and he was protected in that position by the President of the United States, as I have said often, as I thought he ought to have been, because there must be somebody to preserve order in the state of chaos into which that State had fallen. The President took what he could find. But I have never said, and never shall say until I change my opinion, that Mr. Kellogg was lawfully elected the governor of the State of Louisiana, and was lawfully entitled under the constitution of that State, as of right, to exercise any function at all.

Mr. MORTON. May I interrupt the Senator from Michigan a moment? In my brief reply to the Senator from Vermont I commented upon the fact that according to my understanding of his speech—and I thought I listened to him carefully—he did not call in question the executive character of Kellogg. I commented upon that immediately afterward; and, if I misapprehended the Senator from Vermont, I would have expected him to correct me then; but he did not do so.

Mr. CHRISTIANCY. The Senator from Vermont did not happen to be in the Chamber.

Mr. EDMUNDS. I am hearing what the Senator from Indiana is saying.

Mr. MORTON. That is all I have to say.

Mr. EDMUNDS. I was not in during all the time that the Senator from Indiana spoke. I was obliged to go out for a few moments and do not know what he said then; but I am sure I need not have risen to tell the Senator from Indiana what I have so often stated to the Senate, that in my belief, from the testimony reported by his own committee, Mr. Kellogg was not the lawful governor of that State. It was for that reason that I was in favor of the bill that was reported by the Committee on Privileges and Elections to provide a new election in that State; that so far as we could ascertain from the facts there was no means of knowing or believing that either of the candidates was the lawful governor: Kellogg, because he did not get votes enough; the other man, because the votes that he did get were in violation of every principle of republican government, by fraud and violence and wrong of every character; and therefore for my honorable friend from Indiana to imagine that, because I said that I did admit, as I do now, that Kellogg was acting as the governor of that State, and, therefore, in the sense of present power in position, I conceded thereby that he was the rightful governor of that State and holding *de jure* an executive capacity, surpasses my comprehension. The Senator must have been greatly amazed at what I said if he understood me to say, as I certainly did not say, if he understood me to mean that I conceded that Mr. Kellogg was the *de jure* governor of that State.

Mr. MORTON. Here is what the Senator said:

Suppose that Governor Kellogg, as I shall call him for convenience—

Mr. EDMUNDS. Exactly; "for convenience."

Mr. MORTON.

and governor in fact he was and is—

Mr. EDMUNDS. Yes.

Mr. MORTON.

had chosen to certify the credentials of the gentleman elected by what was called the McEnery legislature, should we not all have said that we knew that that body of men was not the Legislature of the State of Louisiana?

That I believe was the Senator's reference. I do not find anywhere in his argument that he intended to impair the evidence of the cre-

dentials by denying that Kellogg was governor of Louisiana. If he did, I do not remember it.

Mr. EDMUNDS. My honorable friend surprises me after what he now says still more than he did before. He has quoted me correctly, although I made some further observations on the subject; but they are of the same character. I regard that as a fair quotation from what I said; and knowing the accuracy of our reporters, it is undoubtedly literally what I said, because, as I say, the few speeches I deliver here are not doctored. That being the state of the case, the Senator will read there what I said. I called him governor "for convenience;" and then I said he is governor "in fact." What is a governor in fact? It is a man, whether by right or by wrong, who is exercising executive functions in a State. We all agree that he is, and is still. If he had gone in with an army of his own instead of with the Army of the United States and set up his authority there, he would have been governor in fact exactly as I described him to be.

Mr. CHRISTIANCY. So, Mr. President, sinks the foundation upon which the Senator from Indiana had erected a somewhat ostentatious structure; and so sinks that structure also.

Mr. MORTON. I do not want to interrupt my friend further; but the position stands undenied yet that the title of Pinchback, I think, is nowhere attacked in the argument of the Senator from Vermont because of any imperfection growing out of the fact that Kellogg was not the governor of Louisiana. So the foundation has not sunk.

Mr. CHRISTIANCY. The Senator will have an opportunity after I get through.

The Senator from New Jersey, [Mr. FRELINGHUYSEN,] in speaking of the report of the Committee on Privileges and Elections so often referred to, spoke of their conclusion, that neither Kellogg with his legislature nor McEnery with his was elected, as absurd; because, as he argues, if the one was not elected the other must have been. Now, I have so much confidence in both the integrity and the legal ability of the Senator from New Jersey that, whether I can succeed in now making him see his error or not, I am satisfied that, in the language of Lord Coke, "At some other time and in some other place," when the excitement of the present contest is over, he will discover that there is no such absurdity as he now supposes in the conclusion of the committee that neither the candidates on the one side nor the other were properly elected; and that his own conclusion, that, if one set were not elected, the other must have been, will strike his own mind as a most glaring and transparent *non sequitur*.

Mr. FRELINGHUYSEN. If my friend will permit me, as he does me the honor of directing attention to what I said, my position was not that it was absurd that Kellogg and his legislature, or McEnery and his legislature, was not elected; it was that it was an absurd conclusion to say, when on the 4th of November, 1872, two men were running for governor, that neither one of the two was elected, and that there was no tie. I said nothing about the election of a legislature.

Mr. CHRISTIANCY. I think perhaps the Senator is right; but it does not alter the argument at all, because no man ever has pointed out any difference and no man has ever discriminated between the question as it relates to the governor and as it relates to the Legislature. They were elected at the same election or neither was elected at all. The admission the Senator now makes as to the governor therefore does not necessitate the altering of a single word in my argument. Does he mean to say that the frauds committed on both sides in the election, in the mode of ascertaining and counting, or estimating the votes, in the intimidation on one or both sides, and the plots and counterplots of both could not possibly be so excessive and so general as to make it impossible to hold that the candidates on either side were duly elected?

Is there any absurdity in holding, when the evidence justifies the conclusion, that the frauds of each have been so glaring and so general that neither the one side nor the other has been legally elected; when the proceedings, as a whole, upon both sides have been void for those frauds, that the whole election as to both is void? And certainly if the wildest imagination can conceive such a case, he will find that this is one of those cases, and that his unaided imagination lags far behind the perfect nightmare of fraud on both sides exhibited by the cold, naked facts of this case. And if he will examine the facts of this case as reported by the committee he will find it a harder question than he ever yet undertook to decide, which had succeeded in perpetrating the greatest mass of fraud, or to strike the balance between them.

There may have been more of intimidation on the side of the McEnery party, and the Kellogg party may have been provoked to meet this and the frauds of the McEnery party by counterfrauds; and, if so, they certainly cannot be said to have failed in the effort. It was, on the other hand, a most signal—and, with the aid of Judge Durell and the military, became a most triumphant—success. The returning or canvassing board, under whose canvass the Kellogg party claim to have been elected, having no returns before them and supposed copies of but a part, estimated the majorities which in their opinion the various precincts ought to have given, and adopted the result as if that vote had been actually given; and when this plan was supposed to be open to question, as well it might be, they proceeded upon affidavits known by the canvassers themselves to be fictitious and fraudulent, got up by thousands in the custom-house or elsewhere, without any real claim to authenticity or to reality even, but supposed to be justifiable to meet the frauds of the other side. The opinion of the Sen-

ator from New Jersey seems to be based upon the number of colored and white voters registered, and assumes that all the colored voters would have voted the Kellogg ticket, but, owing to intimidation, that some of them did not.

Such, and such only, is the kind of evidence upon which the Senator from New Jersey ventures the assertion that he believes Kellogg and his Legislature were elected. From the very nature of the case and his own explanation, this can mean nothing more than that he thinks, if there had been no fraud or intimidation, they would have been elected. But, unfortunately for his argument, the law has not adopted his opinion, nor that of any other man, of what the result would have been without fraud or intimidation, as the test of the election, but the actual count of the votes actually given.

But the Senator from New Jersey, like the Senators from Mississippi and Indiana, again insists upon Pinchback's *prima facie* right to a seat, subject to be expelled upon investigation into the facts. This has been repeatedly urged before, and in my opinion just as frequently refuted. If the election of Kellogg and his title as governor *de jure* were admitted or not disputed, and there had been no investigation of the question of the legal existence of the Legislature which elected Pinchback, there might be force in the claim of a *prima facie* case. But here the title of the governor as well as that of the Legislature was in dispute when this election is said to have taken place.

After the pretended election of this governor and Legislature, the Committee on Privileges and Elections of this Senate was by resolution directed to inquire and report, not simply as stated the other day by the Senator from Mississippi, whether there was any governor of Louisiana or whether Kellogg had been duly elected, but whether "there is any existing State government in Louisiana, and how and by whom it is constituted." This inquiry, therefore, extended as well to the Legislature as to the governor. It concerned not only the governor, but the Legislature and any Senator claiming or who should claim an election as Senator by that Legislature; for, if there was no legal Legislature, no legal Senator could be elected.

This inquiry was essentially a proceeding *in rem*, to which all the world, or at least all whose title depended upon its legal existence, were parties; and, if not bound to take notice of the investigation, certainly nothing more was necessary to bind them by it than notice of its pendency. Pinchback not only had that notice, but, after his pretended election, and when he was just as directly interested in it as Kellogg, was present at the investigation, suggesting and asking questions of witnesses, and himself being sworn and testifying as a witness. Now, the Senator from Indiana undertook in his reply to me last March to get rid of the force of this argument by saying that Pinchback was subpoenaed as a witness before the committee, from which, I suppose, he would wish us to infer that Pinchback had no chance to be heard or to introduce evidence to establish the validity of the Legislature upon which his own title as Senator depended. It will be time enough to raise this objection when it appears that he applied to be heard and to introduce evidence, and that this application was denied; for he certainly had notice, was present and testified; and, if he did not apply or ask to introduce evidence or to be heard in behalf of the Legislature which elected him and Kellogg, who signed his certificate, we must infer that he was content with the mode in which the inquiry was conducted.

But we know enough of the majority of that committee to draw a very safe inference that if Pinchback had offered or proposed any testimony calculated to show a valid election of governor or Legislature, the evidence would have been heard. But the Senator from Indiana said the other day that, at the time of this investigation before the committee, Pinchback's credentials had not been presented to the Senate. If he can make anything out of that fact he is more ingenious than I can claim to be. But perhaps the Senator might enlighten us, if he would, as to the reason why his credentials had not then been presented here, and tell us whether he did not think his credentials to another body stood a better chance of being respected, and had not yet made up his mind to claim an election to the Senate.

But, Mr. President, that Committee on Privileges and Elections made a thorough investigation of the election, both as to governor and the Legislature. They took a large volume of evidence and made a report which in ability, candor, and fidelity has seldom if ever been excelled in this or any other legislative body, a large majority of that committee being politically friendly both to Kellogg and Pinchback. And, with almost entire unanimity, they came to the conclusion that neither Kellogg or his legislature nor McEnery or his legislature had been elected, but that the entire election was void for fraud and force, and that there was no legal government in Louisiana; and in this conclusion, in view of all the evidence, which I took the trouble to wade through, I fully concur. The evidence then being all before us, what have we to do with a mere *prima facie* case? The case should now be considered upon all the evidence, and no mere *prima facie* presumption can be of any avail. In the face of this evidence all such presumptions are overcome.

But, Mr. President, when I arose here on Friday last and gave way for an executive session I had not intended to allude to any of the points I have thus far touched.

I arose then for the purpose of calling attention to another point, and to protest against the construction now sought by the Senators from Mississippi, Indiana, and New Jersey to be put upon the resolution passed by the Senate upon Louisiana affairs on the 23d of March

last, the resolution offered by the Senator from Rhode Island as a substitute for the resolution previously offered by the Senator from Indiana on the 5th of March. It is now insisted by the Senators to whom I have alluded that the adoption of that substitute was a recognition by the Senate of the legality of the Kellogg government and of the Legislature which elected Pinchback. Against any such construction of that resolution, for which I gave my vote, I feel bound to protest.

At the time of the passage of that resolution and during its discussion, as well as the discussion of the Pinchback case, no one denied, or has ever since denied, that the Kellogg government was, in one sense, a government *de facto*; that is, in the sense that it was in the possession and exercise of power. But the real question was who put that government in power, and whether it was so far *prima facie* rightful that it could gain any validity by executive recognition. Many Senators, of whom I was one, maintained that that government, having been originally wrongfully set up by the Executive, upon the authority of a void order of Judge Durell and the forcible interference of the military, any recognition by the Executive would be merely a recognition of its own unauthorized action, and that no recognition of the Legislature thus wrongfully placed in power could bind the Senate in its decision upon the election of a Senator, or make that wrongful Legislature competent to elect a rightful Senator.

The original resolution of the Senator from Indiana was a declaration of the legal validity of the Kellogg government. That resolution, for a reason which every Senator then here well understands, did not pass, and was not even pressed by its mover; and the reason was that its friends became satisfied, as every Senator here well understands, that it could not command the votes of a majority of the Senate. If it was believed by its friends that it could have passed, why did they adopt the substitute in its place? And if the substitute was understood by all Senators who voted for it to mean the same thing as the original, how did it happen to secure the vote which the original could not?

Is it not clear enough that at least a portion of Senators who voted for it, sufficient to have changed the majority, must have understood the substitute as not equivalent to the original resolution? The original resolution is in the following language:

Resolved by the Senate, That the State government now existing in the State of Louisiana, and represented by William P. Kellogg as governor, is the lawful government of said State; that it is republican in form; and that every assistance necessary to sustain its proper and lawful authority in said State should be given by the United States, when properly called upon for that purpose, to the end that the laws may be faithfully and promptly executed, life and property protected and defended, and all violators of law, State or national, brought to speedy punishment for their crimes.

The substitute is as follows:

That the action of the President in protecting the government in Louisiana, of which W. P. Kellogg is the executive, and the people of that State against domestic violence and in enforcing laws of the United States in that State, is approved.

A simple comparison of these two resolutions shows clearly that the last leaves out all idea of the legality or validity of the Kellogg government so clearly asserted in the first. Can any man truly say, in view of the language of these two resolutions, in view of the discussion which took place upon either and upon the Pinchback case, and the true history of these resolutions, that the substitute was understood or intended as a recognition by the Senate of the rightful origin or subsequent legal validity of the Kellogg government? I say what is within my own knowledge, that the Senator who penned this substitute, in conversation with other Senators, before it was offered, disclaimed that construction and that intent.

Having voted for this substitute, it is proper to refer to my own understanding and interpretation of it, as given at the time, to which no word of dissent was uttered here by any friend of that substitute. I refer to the proceedings of the Senate of the 23d of March for the explanation which I made at that time of this resolution:

Before the vote is taken on this question I wish to state my understanding of the question. I understand the substitute offered by the Senator from Rhode Island, first, as an implied recognition of the Kellogg government merely, as one in the actual exercise of the governmental power in Louisiana, without reference to the question of its rightful origin or legal validity, and in no way involving the propriety of its establishment; second, that it approves the President's action so far only as directed merely to the protection of that government and the people of the State against domestic violence and civil war and to the enforcement of the laws of the United States, without approving any interference of the military with a legislative body or in the creation of a State government.

Such being, as it seems to me, the most natural and obvious sense of the language and the sense in which it will be most naturally understood by the people, while I adhere to the principles and conclusions which I announced here in my remarks on the 12th instant and which I here adopt by reference without retraction or qualification, and while I hold that a recognition by the Senate or by Congress of a government thus initiated can give it no greater validity than it had in its inception, still, as domestic violence and civil war which may lead to a complete dissolution of society are not the best remedy for getting rid of even an illegitimate government, I can approve the action of the President directed to the humane purposes mentioned in the amendment or substitute offered by the Senator from Rhode Island.

And believing the recognition of this government for this purpose and to this extent is justifiable under the peculiar circumstances now existing in that State, until by a fair election a more legitimate government can be instituted, I can vote for the resolution in the sense I have here attributed to it. But in the enlarged and odious sense which has been attributed to it by some of the speakers on the other side I could not vote for it; and I must deliberately avow my conviction that in such enlarged sense or in any sense which would assert the validity of the action by which that government was originally set up and put in power it could not secure the votes of a majority of this body.

I still adhere to this understanding and this interpretation of the substitute as it passed; and here again I repeat my entire conviction that if its friends, before the vote was taken, had claimed its effect to be what the Senators from Mississippi, Indiana, and New Jersey now claim for it, that resolution would not have passed the Senate.

In view of the history of this resolution, in connection with the original for which it was substituted, I must be permitted to say that to attribute to it the meaning that has been lately claimed for it seems to me to be "paltering in a double sense."

Mr. President, the question now before us is a question of law arising upon the facts of the case, and however anxious I may be to secure to this body another Senator of the political organization with whose principles I generally agree, and having no objection to Mr. Pinchback on the ground of color, if duly elected, my first duty as a Senator upon a question of legal and constitutional right like this is to guard myself against the influence of any partisan bias, to know nothing of the political opinions or party affiliations of the man who is seeking admission here, to decide the question for myself precisely in the same way as if he belonged to the opposite party. Such is the theory of the Constitution, and such I understand to be the obligation of the oath I have taken to support it.

We are admonished by the history of the past and the very nature of popular government that the same political party cannot remain permanently in power. Change, repeated and oft-recurring change, is the law written by the hand of the Almighty upon all His works, and upon none more deeply engraven than upon the political parties in all popular governments. The rule we apply to the minority here to-day will justify and invite the like rule when, as must inevitably happen, we shall some day be in the minority here. The only safety of all, in questions like this, is to adhere firmly to the spirit of the fundamental law through all mutations of parties and party ascendancy, however unpleasant the immediate consequences may seem. True wisdom overlooks and rejects all merely temporary advantages for a greater and more permanent future good; while folly sacrifices all the future to secure the advantage of the present hour. We may gain a Senator of our own political organization by disregarding and breaking down the principles of the Constitution and the laws. But I warn my political friends that, while we may gain in this way one Senator in this body for the short remnant of a single term, we shall lose much more before the people, at whose good will and pleasure this body is to be filled now and hereafter, if history teaches any lesson, if it has not been written in vain.

It is by allowing the extravagance of party zeal and an overestimate of the importance of present party advantage to obliterate in the minds of public men and to weaken their appreciation of, and their attachment to, the great fundamental principles of their Government and all fixed principles of law, and by setting all the rights and interests of society and government afloat upon the wild sea of party strife and passion, to abide the hazard of temporary party contests, sinking or swimming and swaying to and fro with the alternate triumph and defeat of parties, without the anchorage or protection of any fixed principle which can command the assent and obedience of all. It is by such means and such habits of thought and action that not only parties in all popular governments become disintegrated, but that all the republics of the past, whose wrecks lie scattered along the track of time, have been shattered and destroyed.

Mr. HOWE. Will the Senator allow me—

Mr. CHRISTIANCY. Not quite yet. I shall be through in a minute.

And now upon the question of party interest. I cannot resist the conviction that the party which does most for the permanent welfare of the country will be most likely to command the permanent support of the people; and the only safe course for the welfare of the country and for our own interest is to be found in adhering with the same fidelity and tenacity to the Constitution and the law, when their operation for the present moment may be against us, as upon occasions when they may be in our favor. If we ourselves trample upon the law, upon what ground can we claim to enforce the obedience of others?

I will close by asking this single, but pertinent question: How many of those now supporting Mr. Pinchback would vote for his admission if his politics and his party affiliations were reversed?

Mr. HOWE. Mr. President, I am not going to argue this Pinchback question again; I rise to make a few remarks. One is that I have sat in this body now for something more than fifteen years, and in that time I do not remember, and I do not think the records—and very accurately kept, you know, they are—will convict me of ever, in a single instance, having declined to allow any one of my colleagues on this floor to interrupt me when I was speaking, to make a suggestion or to ask a question. I do not believe I shall ever decline such an invitation while I do hold a seat on this floor.

Another remark I have to make is that while that is the line of conduct I have prescribed for myself and have followed myself, I do not hold that it is the bounden duty of every other Senator to follow the same; and I call attention to the fact that a great many Senators before the Senator from Michigan have declined to show me the same courtesy. That is their right. I shall pursue my own course, and I shall allow every other Senator to pursue his. I was listening intently to that admirably worded lecture which the Senator from Michigan felt called upon to read to his colleagues here in reference to their

duty. I admired the sentiments. I wanted to ask him a single question, and that was about the practical application of his gospel. I wished to be informed whether he meant to intimate to the Senate, or to intimate to the world, or to suggest in the hearing of those angels who sit above the world, that those Senators who sit on this floor who do not adopt his conclusions in reference to the pending question are less mindful of those beautiful moral lessons he inculcated than he is himself; whether he means to be understood as advancing the suggestion that we do not as well know what political ethics and political expediency teach as he himself; which is putting the question as strongly as I could put it. I thought it fair for that Senator to remember, as I tried the other day to suggest to other Senators, that the reason why we vote—I can speak with great positiveness as to the reason why I vote—to admit this claimant to a seat on this floor is not that I want to get another republican into this body, but for the reason that I believe Louisiana is entitled to another Senator on this floor, and that she has sent this very individual to take that seat by the authority of the only tribunal empowered to send a Senator here, and that is the Legislature of Louisiana, chosen by the people of that State.

Now I want to answer that very pertinent question with which the Senator from Michigan closed his remarks, whether there was a Senator on this floor who would vote for the admission of Mr. Pinchback to a seat here if he was sent here by the democratic party of Louisiana. I can tell that Senator that there is at least one Senator on this floor who would do it if he lived to vote upon the question. There is not a shadow of doubt about that; and the man who suggests or cherishes the impression that my judgment is controlled by political bias, does me a wrong, and I should be glad to believe that he did a wrong to himself.

Mr. MORTON. I desire to say a single word in reply to the somewhat extraordinary speech of the Senator from Michigan. The Senator from Michigan closed his remarks with this sentence, which I read *verbatim*:

I will close by asking this single but pertinent question: How many of those now supporting Mr. Pinchback would vote for his admission if his politics and his party affiliations were reversed?

That is in the nature of a reflection certainly upon the motives of every Senator on this floor who supports the claim of Mr. Pinchback. The Senator from Wisconsin has answered for himself, and I think I can answer for myself, that with my views of the law I would support Mr. Pinchback for a seat although he was here as a democrat. When I so far forget my duty as to reject the title of a Senator to a seat on this floor because of his politics, when he has been legally elected, as I believe, I am unworthy of a seat myself. But now that the Senator from Michigan has thrown open this door, perhaps he would not be offended by the suggestion that if the politics of Pinchback and his party affiliations were reversed, perhaps he would stand a better chance to secure the vote of the Senator from Michigan than he does now. Perhaps the Senator from Michigan feels that in the vote he is about to give he represents those who elected him to this body and is representing his constituents.

Mr. President, the resolution passed this body last spring unequivocal in its terms indorsing the conduct of the President of the United States in sustaining the government of which William P. Kellogg is the executive. The President could have been justified in sustaining it, and the Congress could have been justified in indorsing his support of it only upon the ground that that was the government of Louisiana. The resolution was explicit in its character. I know the Senator from Michigan when that resolution was before the Senate entered his explanation or his understanding of what the resolution meant. It was not replied to, for we were willing to let the Senator from Michigan vote for it upon any understanding that he might put forward as an excuse for it; but during the course of the discussion upon that resolution the Senator from Ohio [Mr. THURMAN] offered the following amendment:

Provided, That nothing herein contained is meant to affirm that said Kellogg is *de jure* governor of Louisiana.

Upon that amendment the yeas and nays were taken, and it was voted down by 33 to 24; and among the names in the negative rejecting this construction of the resolution is the name of the Senator from Michigan.

Mr. CHRISTIANCY. Will the Senator allow me to say a word on that? The reason for voting against the amendment was that I claimed that the resolution meant the same thing without the amendment.

Mr. MORTON. I voted against the amendment, and I claimed just the opposite. If the Senator thought that a vital part of the resolution, he should have voted for this amendment, because it expressed the opinion he has expressed here to-day; but he voted the amendment down, or helped to do so, leaving the resolution to stand as a recognition of the character of Kellogg *de jure* as well as *de facto*.

Mr. THURMAN. Will the Senator allow me to ask him a question?

Mr. MORTON. Certainly.

Mr. THURMAN. I put it to the Senator from Indiana whether if I had moved exactly the converse of that proviso he would not have voted against my amendment; whether he was not bound by an agreement in caucus that that resolution should pass without any amendment at all, and whether if I had offered precisely the converse of the proposition that I did offer he would not have voted against it?

Mr. MORTON. When the Senator asked me what I would have done in case he had done something, he is getting somewhat remote. I simply know that he offered that amendment declaring that it was a recognition of Kellogg *de facto* and not *de jure*, and I know that the Senator from Michigan helped to vote it down. I do not know that any such agreement was made in caucus. The Senator from Ohio knows more about our caucus than we do. Perhaps he can tell us something about another caucus that was held recently, which, report says, was not quite so harmonious.

Mr. ANTHONY. If the Senator from Indiana will permit me to interrupt him, he says he does not know that such an agreement was made in caucus. I know that no such agreement was made in caucus, at least of republican Senators.

Mr. MORTON. Perhaps it was made in a democratic caucus. I think that statement of the Senator from Rhode Island substantially settles the question. Any explanation that may be given by the Senator from Michigan for voting against the amendment of the Senator from Ohio will not change the fact.

The Senator from Michigan said, in the course of his remarks, that there was no difference between the governor and the Legislature of Louisiana; that is to say, that if Kellogg was elected, the Kellogg Legislature was elected. That is the only proposition he advances that I agree to. I have always asserted it, and that the evidence showed that both were elected. The idea of drawing a distinction between the governor and the Kellogg Legislature was always a mistake.

The Senator said further that the investigation which took place before the committee in the winter of 1873, beginning early in January and I think before Pinchback was elected at all, though I am not sure about that—and the report was made long before his credentials came to the Senate—was an investigation *in rem*, to which all the world were parties, and that Pinchback and everybody else was bound by it. Now, sir, the principle contained in that proposition I repudiate. If that is the law in the State of Michigan, it is the fault of the supreme court there. It is not the law anywhere else. In the first place, the idea of the Senate being bound by any report of a committee is preposterous. I never heard it advanced except in this case. We have reports from time to time. They are simply for the information of the Senate. The Senate is never bound by a report.

Mr. CHRISTIANCY. Will the Senator allow me to say that I never claimed that they were?

Mr. MORTON. The Senator came so near it, that I am unable to understand the distinction. He said that was an examination *in rem*, and that the whole world was bound by it. Now, if the whole world was bound by it, the Senate was included.

Mr. CHRISTIANCY. My language was that it was a proceeding *in rem*.

Mr. MORTON. Mr. President, what an idea, that the Senate is bound by a report which is merely for the information of the Senate, and half the time in this body is overruled and disregarded! I simply state that proposition that it may be understood. But the idea that Pinchback was a party to it and bound by it, when his credentials did not go before that committee for nearly a year afterward, ten months or more—

Mr. McDONALD. I should like to ask my colleague a question. I ask if the facts elicited in that investigation are the truth, as reported by the committee?

Mr. MORTON. My friend wants to ask me a question whether all the facts stated in that report are true. The facts are all true, but there are a great many things in that report which are not facts. [Laughter.]

Mr. McDONALD. Will my colleague point out the parts that are not true?

Mr. MORTON. I cannot point them out this afternoon, because the volume is very large.

Mr. McDONALD. I will ask my colleague a more specific question. Is it true that the Lynch board had no returns before them when they made up their certificate of election?

Mr. MORTON. I understand, although it is not very pertinent to this discussion, that the returns at that time were hid away by the Senator's political friends.

Mr. McDONALD. Then they did not have them?

Mr. MORTON. They did not have those official returns, as I believe. They got the very best information they could get, but the returns were concealed, a part of which were forged, and the forged ones were necessary to constitute the democratic majority.

Mr. THURMAN. That is not so.

Mr. MORTON. I think it is so. Now, Mr. President, think of the idea of Pinchback being bound by an investigation to which he was not a party; where he had no power to subpoena witnesses; where he had no right to cross-examine a witness unless by mere courtesy as a spectator, or because he had been summoned himself as a witness! That is the doctrine advanced by the Senator from Michigan. I say it may be good law in Michigan, but nowhere else in this country.

Mr. MERRIMON. Will the Senator let me call his attention to a fact that bears a little on this point? At the time this investigation began, the resolution under which the investigation was made passed the Senate on the 16th of January, 1873. On the 21st day of January, 1873, Pinchback's credentials were referred to the committee. On the 22d day of January, 1873, Ray's credentials were referred to the com-

mittee. The committee was charged by the resolution to ascertain whether there was a State government in Louisiana.

Resolved, That the Committee on Privileges and Elections be instructed to inquire and report to the Senate whether there is any existing State government in Louisiana, and how and by whom it is constituted.

They had before them at the same time the credentials of both persons claiming to have been elected Senators from the State of Louisiana, and Pinchback was therefore in that sense a party to the investigation.

Mr. MORTON. I think all that has been gone over several times, with all due respect to my friend from North Carolina. I am talking about Pinchback's case, about his being bound by a report that was made ten months before his credentials went before the committee; and when the credentials did go before the committee several members of the committee had been changed, and there were members on it who had not heard the testimony. It may be the law of Michigan that when a master in chancery makes a report—

Mr. WEST. Will the Senator allow me to ask him whether a committee whose term of office and function expired with one Congress could pass upon the credentials of a Senator in the next Congress?

Mr. MORTON. That is a very pertinent question. The idea is that the committee could pass on the credentials of Pinchback before the time when his term began!

Mr. MERRIMON. Did I understand the Senator from Indiana to say just now that Pinchback's credentials were not before the committee till eight or nine months after the committee made the report?

Mr. MORTON. Yes, sir.

Mr. MERRIMON. You are very much mistaken. I call your attention to the record.

Mr. MORTON. I asked the Secretary, and he told me so the other day.

Mr. MERRIMON. I repeat that the resolution making inquiry whether there was a government in Louisiana passed January 16, 1873; Pinchback's credentials were referred to the committee on the 21st of January, 1873; Ray's credentials were referred on the 22d of January.

Mr. MORTON. I ask the Senator whether a committee to expire on the 4th of March, 1873, could examine into the credentials of a Senator who was not to take his seat until the 4th of March, 1873? Could they investigate him in advance? Can an old Congress investigate those who are to come into the new Congress?

Mr. MERRIMON. I answer there is no reason in the world why the committee should not.

Mr. MORTON. There is every reason in the world. They have no more power over him than they have over the next President. The Senate is the judge of the elections and returns of its own members; not the old Senate, but the new Senate.

Mr. MERRIMON. The Senate is a perpetual body.

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

The PRESIDENT *pro tempore*. The Senator from Indiana declines to be interrupted.

Mr. MORTON. It is this Senate that examines the qualifications of those who propose to take seats in this Senate, and it cannot examine the credentials of those who propose to take their seats in the next Senate.

Mr. MERRIMON. There is no such thing as the next Senate.

Mr. MORTON. The membership changes every two years, and a man's credentials cannot be very well examined until he applies for admission. It is simply a formal matter of notice.

I was going to make an illustration. A master in chancery by order of the court makes a report. Until that report is confirmed by the court, it would be preposterous, I think, in every State except in Michigan, to hold that the court and the parties were bound by a report made by a master in chancery, which had never been confirmed by the court. I think it would be still more preposterous to hold that a man who was not a party to the suit until after the report had been made should be bound by that report.

Mr. CHRISTIANCY. Will the Senator allow me to say a word? If this had been a suit before a justice of the peace or a master in chancery, the Senator from Indiana would undoubtedly be right; but, this being a public proceeding, every Senator and every man claiming to be elected to the Senate was bound to take notice of it.

Mr. MORTON. This is not a suit before a justice of the peace, and I think but few justice's courts that I know anything about would have tolerated the technical and frivolous objections that have been urged against Pinchback's admission so long. He is sought to be kept out of his seat by the most technical objections; and in keeping him out the law that has been recognized in the case of every other member of this body has to be broken down. A governor has certified to his election, recognized by this body expressly as governor, recognized by a democratic House of Representatives expressly as governor, recognized by the courts, recognized by the President of the United States. He was elected by a Legislature that represented the majority of the people of Louisiana; and I undertake to say now to my friend from Michigan, and I do it with all kindness, that Mr. Pinchback represents the sentiments of a large majority of the people of Louisiana far more nearly than does the Senator from Michigan represent the majority of the people of his State.

Mr. President, the rejection of Pinchback is the triumph of the original conspiracy. In that report for which the Senator has so much veneration that conspiracy is clearly proven, a conspiracy to overcome and destroy a majority of from sixteen to twenty thousand. It has been in progress ever since, and the rejection of Pinchback is the consummation and the final triumph of it. Not only has this conspiracy prevailed in Louisiana, but it has prevailed in other States; it has recently prevailed in Mississippi, and the notes of preparation are heard now in the State of South Carolina. It would be the triumph of injustice, it would be the triumph of the enemies of law and order over the law.

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

Mr. KERNAN. I hope that we shall finish this case now.

Mr. EDMUNDS. It cannot be finished to-night.

Mr. MORTON. I should be very glad to have the vote taken to-night.

Mr. STEVENSON. I hope so.

Mr. MORTON. I am about through with what I have to say on the subject. There are other things that I would like to say, but I shall waive my right.

Mr. STEVENSON. I understood the Senator from Indiana to say that it was not competent for the Senate to investigate the credentials of a man elected to the Senate until the term of the Senator commenced. I would like to ask that Senator whether he did not controvert that very position when he offered his resolution to investigate the late election in Mississippi, which has not yet been disposed of. I would ask him also whether he did not claim and does not claim that the report of that committee in the Mississippi election may be used against Mr. LAMAR, who is the Senator-elect?

Mr. MORTON. I have never said anything to that effect that any Senator has heard or I think anybody outside. What I may say about the report in the Mississippi case when we get it I do not know.

Mr. STEVENSON. That would be unconstitutional, the Senator thinks.

Mr. MORTON. Certainly unconstitutional in Mississippi, but constitutional in Louisiana!

Mr. STEVENSON. Unconstitutional in both.

Mr. MORTON. Unconstitutional in Mississippi, but constitutional in Louisiana to keep Pinchback out of his seat. On that report which he now says is so grossly unjust, how can my friend, as a constitutional man, as a lover of the Constitution, base an argument? How can he ground himself on an unconstitutional report?

Mr. STEVENSON. I am always glad to enlighten my friend, especially when it causes me so little trouble as this. His own committee has reported that there was no legislature in Louisiana. A republican committee reported that fact, and I am unwilling to seat any Senator when there was no legislature to elect him. I have heard no such claim against the Mississippi Legislature; and that is the difference between the two cases.

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

The motion was not agreed to.

Mr. MORTON. I was about done when my friend from Kentucky came in with his question about the investigation in Mississippi. There are a great many grounds for investigation in Mississippi without reference to the Senator that may have been elected from that State. If a majority of thirty thousand can be stricken down by violence in Mississippi, the country has a right to know it and has an interest in knowing it. If a majority of fifteen thousand or twenty thousand can be stricken down in Louisiana, it is important for the country to know it. The Senator thinks it was stricken down, and that the conspiracy succeeded. I think it was not stricken down, although the conspiracy is proved. The rejection of Pinchback, however, is the success of the conspiracy, and will be a "white-line" triumph, say what you will about it.

Mr. CAMERON, of Pennsylvania. I move that the Senate proceed to the consideration of executive business. ["No!" "No!"] It is pretty late, and there is some business of importance to be laid before the Senate.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Pennsylvania.

The motion was not agreed to.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Vermont, inserting the word "not" before "admitted."

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

The yeas and nays were ordered.

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

Mr. HITCHCOCK. I move that the Senate do now adjourn.

The motion to adjourn was not agreed to.

The PRESIDENT *pro tempore*. The question recurs on the motion of the Senator from Indiana that the Senate proceed to the consideration of executive business.

Mr. EATON. Is that motion in order now? Was not the previous vote on that motion?

The PRESIDENT *pro tempore*. Other business had intervened. The motion was in order.

Mr. STEVENSON. I ask the Chair to tell me what business intervened?

The PRESIDENT *pro tempore*. If there was no business, the Chair stands corrected.

Mr. EDMUNDS. What is the pending question?

The PRESIDENT *pro tempore*. The motion of the Senator from Indiana, that the Senate proceed to the consideration of executive business.

Mr. EDMUNDS. That is not debatable; let us decide it.

Mr. LOGAN and Mr. SPENCER called for the yeas and nays.

The yeas and nays were ordered, and the Secretary proceeded to call the roll.

Mr. GORDON. I was requested by the Senator from Arkansas [Mr. CLAYTON] to state that on this question he was paired with the Senator from Alabama, [Mr. GOLDTHWAITE.]

Mr. WRIGHT. As I said the other day, on the question touching the amendment of the Senator from Vermont and on the main question the amendment of the Senator from Massachusetts, [Mr. DAWES,] but on all preliminary questions I am free to vote, according to our arrangement. I therefore vote "yea."

Mr. BOOTH. On this subject I am paired with the Senator from Illinois, [Mr. OGLESBY.] I do not know how he would vote on this preliminary question, but I prefer not to vote.

Mr. GOLDTHWAITE. On this question I am paired with the Senator from Arkansas, [Mr. CLAYTON.] He would vote "yea," I suppose, on this motion, and I should vote against it if at liberty to do so.

The result was announced—yeas 36, nays 29; as follows:

YEAS—Messrs. Allison, Anthony, Boutwell, Bruce, Cameron of Pennsylvania, Cameron of Wisconsin, Christiancy, Conkling, Conover, Cragin, Dorsey, Edmunds, Ferry, Frelinghuysen, Hamilton, Hamlin, Harvey, Hitchcock, Howe, Ingalls, Jones of Nevada, Logan, McMillan, Mitchell, Morrill of Maine, Morrill of Vermont, Morton, Paddock, Patterson, Robertson, Sargent, Sharon, Spencer, West, Windom, and Wright—36.

NAYS—Messrs. Bayard, Bogy, Caperton, Cockrell, Cooper, Davis, Dennis, Eaton, English, Gordon, Johnston, Jones of Florida, Kelly, Kernan, Key, McCreery, McDonald, Maxey, Merrimon, Norwood, Randolph, Ransom, Saulsbury, Sherman, Stevenson, Thurman, Wallace, Whyte, and Withers—29.

ABSENT—Messrs. Alcorn, Booth, Burnside, Clayton, Dawes, Goldthwaite, Oglesby, and Wadleigh—8.

So the motion was agreed to; and the Senate proceeded to the consideration of executive business. After four minutes spent in executive session the doors were re-opened; and (at four o'clock and twenty minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, March 7, 1876.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. I. L. TOWNSEND.

The Journal of yesterday was read and approved.

PUBLIC BUILDING AT SAINT LOUIS.

Mr. WELLS, of Missouri. A bill (H. R. No. 2270) to provide for the purchase of material and for the continuance of the work on a building for a custom-house and post-office at Saint Louis, Missouri, came back from the Senate yesterday with amendments. I ask that those amendments be now taken from the Speaker's table and concurred in.

There was no objection, and accordingly the bill with the amendments was taken from the Speaker's table.

The amendments of the Senate were read, as follows:

Insert after the word "material," in line 14, "as is not needed for the performance of the contract herein authorized, and;" and at the end of the proviso insert: "And provided further, That the contracts herein authorized to be made shall not in the aggregate exceed the sum of \$75,000."

So that as amended the proviso will read: "Provided, That said Architect may, in his discretion, use such portion of said sum hereby appropriated for labor and material as is not needed for the performance of the contracts herein authorized, and as may be absolutely necessary for the proper preservation and progress of said building: And provided further, That the contracts herein authorized to be made shall not in the aggregate exceed the sum of \$75,000."

Mr. WELLS, of Missouri. I move that the amendments of the Senate be concurred in.

The motion was agreed to.

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

The latter motion was agreed to.

AMENDMENT OF REVISED STATUTES.

Mr. WALLING, by unanimous consent, introduced a bill (H. R. No. 2561) to repeal section 3309 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

WILLIAM BYERS.

Mr. GUNTER, (for Mr. GAUSE,) by unanimous consent, introduced a bill (H. R. No. 2562) for the relief of William Byers, of Batesville, Arkansas; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

HENRY BRADLEY.

Mr. PHILLIPS, of Kansas, by unanimous consent, introduced a bill (H. R. No. 2563) for the relief of Henry Bradley; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

SHIPPING LAW.

Mr. COX, by unanimous consent, presented resolutions of the Chamber of Commerce of the State of New York, relative to the United States shipping law; which were referred to the Committee on Commerce.

BANKRUPT LAW.

Mr. COX also, by unanimous consent, presented resolutions of the Chamber of Commerce of the State of New York, relative to the national bankrupt law; which were referred to the Committee on the Judiciary.

Mr. COX. I ask unanimous consent that these resolutions in reference to the bankrupt law be ordered to be printed.

Mr. HOLMAN. I trust the gentleman will not insist on that request. We are encumbering the RECORD too much.

Mr. COX. If the gentleman objects, I withdraw the request.

OFFICERS, ETC., OF MILITARY ACADEMY.

Mr. JOHN REILLY, by unanimous consent, presented a list of the officers and professors of the West Point Military Academy, with rates of pay and allowances; which was referred to the Committee on Military Affairs, and ordered to be printed.

TRADING AT MILITARY POSTS.

Mr. LAWRENCE, by unanimous consent, introduced a bill (H. R. No. 2564) to prevent monopoly and exorbitant charges in trading establishments at military posts, and to secure good order at the same; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

WITNESSES ON IMPEACHMENT TRIALS.

Mr. LAWRENCE also, by unanimous consent, introduced a bill (H. R. No. 2565) to protect witnesses on the trial of impeachments; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

RESUMPTION OF SPECIE PAYMENTS.

Mr. PIERCE, by unanimous consent, presented a declaration of the Boston Board of Trade, in relation to the resumption of specie payments; which was referred to the Committee on Banking and Currency.

Mr. PIERCE. I ask that this document be ordered to be printed.

The SPEAKER. The Chair would suggest that it is not usual to print such memorials.

Mr. PIERCE. The memorial of the New York Chamber of Commerce was ordered to be printed a few moments ago.

The SPEAKER. There was objection, and it was not ordered to be printed.

Mr. PIERCE. Then I withdraw the request.

Mr. PAGE. I call for the reading of the memorial.

The Clerk read as follows:

Declaration by the Boston Board of Trade, passed unanimously March 2, 1876.

In substantial concurrence with the New York Chamber of Commerce, the Boston Board of Trade declares its opinion—

1. That a general resumption of specie payment is alike indispensable to the reinstatement of our financial affairs upon a safe and enduring basis; to the restoration of confidence and activity in every branch of industry; and to renewed success in all the pursuits of commerce.

2. For the attainment of this end two things are needful, namely, an unalterable purpose on the part of Congress and the people to abide by the law of 1875, and the requisite ability on the part of the Government to redeem its legal-tender notes in coin at the time appointed in said law.

3. This ability must be acquired in two ways: by reducing the volume of United States notes prior to January 1, 1879, by funding a portion thereof in long bonds bearing a low rate of interest, and by an increase of gold in the public Treasury sufficient to hold the remainder of the notes redeemable, at the pleasure of the holders thereof.

4. An attempt to accumulate in the Treasury an amount of gold sufficient to bring the whole existing paper currency to par of gold and hold it redeemable would, if practicable, be attended by most serious ill consequences, whereas, after a partial funding of the Treasury notes, the much smaller amount of gold needful to hold the remaining notes redeemable could be easily secured.

5. In contemplation of a resolute purpose of the Government and people to sustain the promise made in the act of January, 1875, for gold redemption of the legal-tender notes in 1879, provision will be made by or for all prudently managed banks to increase the gold portion of their reserves; and that such wholesome provision may be universal it should be required of all national banks by act of Congress.

The Boston Board of Trade, in behalf of the great interests which it represents, and of all the great industrial and productive interests of our whole country, now suffering, expressing the almost universal wish and opinion of New England people, and sustained by all the leading newspaper press of this section, republican, democratic, independent, literary, and religious alike, joins earnestly in the petition of other commercial bodies to Congress.

That the law of 1875 may not be repealed, and that its promise of redemption in 1879 may be made operative and effectual by—

First, the funding in long bonds bearing a low interest a portion of the outstanding legal-tender notes each year, beginning July 1, 1876.

Second, requiring the national banks to hold a yearly increasing proportion of their reserves in gold.

Attest:

C. G. ATTWOOD,

Secretary.

ROCK ISLAND ARSENAL.

Mr. HENDERSON. Some days ago a letter from the Secretary of War with a report from the commandant at Rock Island arsenal was

laid before the House, and referred to the Committee on Commerce. I now ask unanimous consent that the reference may be changed so that the documents shall go to the Committee on Military Affairs. I make this request with the consent of the Committee on Commerce.

The SPEAKER. Unless there be objection the change of reference will be made.

There was no objection, and it was ordered accordingly.

ARMY OFFICERS AND ENLISTED MEN.

Mr. CASON, by unanimous consent, introduced a bill (H. R. No. 2566) for the relief of officers and enlisted men of the United States Army during the late war who were promoted during absence from their commands; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

TIMOTHY M'MAHON.

Mr. CASON also, by unanimous consent, introduced a bill (H. R. No. 2567) for the relief of Timothy McMahon, late a private of Company A, Thirty-fifth Regiment Indiana Volunteers during the war of the rebellion, from the sentence of court-martial, and for other purposes; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

REPEAL OF RESUMPTION ACT.

Mr. CASON also, by unanimous consent, introduced a bill (H. R. No. 2568) to repeal so much of the act entitled "An act to provide for the resumption of specie payment" as provides for the redemption of the legal-tender United States notes on the 1st day of January, 1879, approved January 14, 1875; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

EXTENSION OF TIME FOR HORSE CLAIMS, ETC.

Mr. DE BOLT, by unanimous consent, introduced a bill (H. R. No. 2569) to revive the law and extend the time for filing claims for horses and equipments lost by officers and enlisted men in the service of the United States; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

DRAW IN BRIDGES OVER OHIO RIVER.

Mr. BANNING. I ask unanimous consent to present the memorial of the Cincinnati Chamber of Commerce, asking the Senators and Representatives in Congress from Ohio to oppose any change in the present law of Congress requiring a draw to be provided for every bridge hereafter to be built over the Ohio River, and move its reference to the Committee on Commerce, and that it be ordered to be printed.

The SPEAKER. It is the duty of the Chair again to say that it is not the custom of the House to order the printing of memorials of this kind.

Mr. BANNING. I think there will be no objection to it.

The SPEAKER. Objection has been made already this morning in similar instances.

Mr. BANNING. Very well. I move that it be referred to the Committee on Commerce without printing.

The motion was agreed to.

Mr. HURLBUT. I now demand the regular order of business.

HYDE & MACKIE.

The SPEAKER. The regular order being called for, the Chair will by unanimous consent lay before the House several communications upon the Speaker's table, for reference.

Mr. HURLBUT. I of course yield for that purpose.

The SPEAKER, by unanimous consent, laid before the House a letter from the Acting Secretary of War, transmitting, in response to a letter of the House, a communication from the Chief of Engineers on the claim of Hyde & Mackie; which was referred to the Committee on Military Affairs.

SURVEY OF LITTLE TENNESSEE RIVER.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Acting Secretary of War, transmitting, in compliance with the provisions of the river and harbor act of March 3, 1875, the report of Major McFarland, of the Corps of Engineers, of the survey, &c., of the Little Tennessee River; which was referred to the Committee on Commerce, and ordered to be printed.

INDIAN AFFAIRS.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Acting Secretary of War, transmitting a communication from Major John J. Upham, Fifth Cavalry, in reference to section 2139 of the Revised Statutes; which was referred to the Committee on Indian Affairs.

PRIVATE LAND CLAIMS, NEW MEXICO.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of the Interior, transmitting, in compliance with the act of 22d of July, 1864, two reports of the surveyor-general of New Mexico on private land claims in said Territory; which was referred to the Committee on Private Land Claims.

MEMPHIS AND LITTLE ROCK RAILROAD.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Postmaster-General, transmitting a draught of a bill providing for the payment by the Quartermaster's Department of the

amount due the Memphis and Little Rock Railroad Company for mail service performed prior to July 1, 1872; which was referred to the Committee on Appropriations.

MAIL-ROUTE IN WISCONSIN.

The SPEAKER also, by unanimous consent, presented the memorial of the Legislature of the State of Wisconsin, asking the establishment of a tri-weekly mail from Marquette, Green Lake County, to Portage, Columbia County; which was referred to the Committee on the Post-Office and Post-Roads.

SCHOOL INDEMNITY SELECTIONS, NEBRASKA.

The SPEAKER. The morning hour begins at twelve minutes before one o'clock, and the regular order for this morning is the call of committees for reports of a public nature, the call resting with the Committee on Public Lands. At the close of the last morning hour the pending question was on the engrossment and third reading of a bill (H. R. No. 1952) to confirm certain school-indemnity selections of public lands by the State of Nebraska, reported from the Committee on Public Lands by the gentleman from Nebraska, [Mr. CROUNSE.] Mr. CROUNSE. Let the bill be read.

The bill, which was read, provides that the selections of school lands made by the State of Nebraska as indemnity for tracts in sections 16 and 36 otherwise disposed of, which are suspended in the General Land Office for the reason that they are for lands which under the act of March 6, 1868, can only be disposed of under the homestead and pre-emption laws, and to which no other legal objection exists, be, and the same are thereby, confirmed; and title shall be transferred to the State as in other cases of such selections.

Mr. HOLMAN. Ought not this bill to go to the Committee of the Whole on the state of the Union?

Mr. CROUNSE. It is merely the substitution of one class of lands for another.

Mr. HOLMAN. I will withhold the point of order until the explanation is made.

The SPEAKER. In the judgment of the Chair the point of order comes too late, as the question now is on the engrossment and third reading of the bill.

Mr. HOLMAN. Then I trust the gentleman from Nebraska will explain the effect of the bill.

Mr. CROUNSE. I will do so. Under the act of 1854, organizing the Territories of Nebraska and Kansas, it was provided that when the surveys of public lands should be made and they should be brought into market sections 16 and 36 shall be reserved with the view of dedicating them to school purposes. Subsequently, and in the year 1864, when Congress enacted an enabling act with a view to admitting Nebraska into the Union, these sections 16 and 36 in the then Territory of Nebraska were granted to the State for school purposes. The act also provided that where those lands had been settled upon, any of them, prior to the time of Nebraska's admission, she should have other lands in lieu thereof as contiguous as might be. Nebraska did make the selections, and these that are immediately concerned fall within the grant to the Union Pacific Railroad in Nebraska. The act making that grant, as will be remembered, by one of its sections gives to that road ten alternate sections, the odd sections on either side of the road, for the purpose of enabling that company to build a line of road and telegraph.

One of the sections of that act of 1862 also provided that within two years after the time of mapping out and defining the line of its road the Secretary of the Interior should withdraw all the lands, both the odd and the even numbered sections, for the distance of twenty-five miles on either side of the road. They were to be withdrawn from settlement and private sale and pre-emption. That is the language of the section withdrawing that land, as appears by section 7 of the act of 1862. In pursuance of this provision of the act of 1862 all these lands shortly after were withdrawn. Subsequent thereto, and in 1868, in order not to retard further the settlement of Nebraska, an act was passed which modified that section, and which in terms restores the lands theretofore withdrawn under the act of July, 1862. It restores the even-numbered sections that were subject to settlement; it restores them to entry under the pre-emption and homestead laws alone. There is where the difficulty arises. In this act, which returns the lands again to settlement, it is provided that they shall only be open to settlement under the homestead and pre-emption laws. The act undoubtedly was passed thus broadly by an inadvertence, not respecting the rights of Nebraska, which had already made its selections within the limits where it was entitled to select in lieu of the sections numbered 16 and 36. This act paid no regard to those rights, and undoubtedly was a simple inadvertence; and if the movers of the measure had had their attention called to the effect it had upon Nebraska, no doubt the reservation would also have been made in behalf of Nebraska that she would get her indemnity lands.

All, then, that is asked by this bill relates only to a few sections of land which have been selected in the manner prescribed both by this special act framing an organic law with a view to the admission of Nebraska into the Union and also generally by the Revised Statutes, providing that where settlement has been made in advance of surveys of land, which in this case were the numbered sections 16 and 36, it should not be to the prejudice of the rights of the State entitled to those sections, but it should select others as nearly contiguous thereto as might be.

This has been done in the case of Nebraska, and I know of no reason, and none has been suggested to me, why this bill should not pass. I therefore ask that the bill may now be put upon its passage.

Mr. YEATES rose.

Mr. CROUNSE. I propose to hold the floor, but am willing to give the gentleman from North Carolina such reasonable amount of time as he may require.

Mr. YEATES. I believe the Speaker recognized me, and the previous question has not been ordered upon this bill.

Mr. CROUNSE. I have moved that the bill be put upon its passage, and I hold the floor for that purpose.

Mr. YEATES. The previous question has not been ordered and the Speaker has recognized me.

The SPEAKER. The Chair must say that it is his duty to recognize the gentleman from North Carolina [Mr. YEATES] in subordination to the right of the gentleman from Nebraska to hold the floor.

Mr. YEATES. I do not propose myself to call the previous question.

The SPEAKER. The gentleman from North Carolina therefore holds the floor subject to the control of the gentleman from Nebraska.

Mr. YEATES. I have sought the floor to say that I understand that this is nothing else than a proposition to do what this Congress refused to do in 1868. For years past Congress has been voting away the public lands to these new States; and I for one cannot understand why those new States are entitled to these lands any more than the other States for school or any other purposes. The last time these grants were before Congress several bills of this character passed; but I do not think that I would be doing right to sit still and allow this bill to pass without making inquiry about it. If the gentleman from Nebraska can show that he is in the right about these lands, I am willing that he should have his bill passed; but I am not willing to sit here any longer to vote away thousands of acres of land to people in one section of the country to the detriment of the people in other sections.

In 1862, as I understand it, Congress repealed the act that gives these lands to Nebraska; and in 1868 it passed another act that restored a portion of the lands to certain persons, but declined to give them to the State of Nebraska for school purposes.

Now the gentleman who presents this bill asks this House to give to the State of Nebraska an opportunity to go up and take an equal proportion of lands. For one, I raise my protest here against voting away these lands in millions of acres for any other purpose than for the benefit of the Government.

Mr. CROUNSE. I repeat again that gentlemen would have no opposition to this bill if they fully understood its provisions.

These sixteenth and thirty-sixth sections have already been given to the State of Nebraska under the enabling act; they have been distinctly and specifically given, and this bill merely provides that where these sixteenth and thirty-sixth sections, by reason of settlement in advance of surveys, have been appropriated by settlers, the State shall not be deprived of what Congress intended to give it. I think there are only a few sections involved, and the bill provides that the State shall select these lands as nearly contiguous as possible to the original land granted. By an inadvertence in the act of March 6, 1868, these lands were restored only to pre-emption and homestead entry, and therefore the State of Nebraska asks to be permitted to secure sections within the State adjoining those to which they would have been entitled but for this act referred to.

Mr. BLAND. Will the gentleman yield to me for a moment?

Mr. CROUNSE. I will.

Mr. BLAND. I think it is the policy of this Government to give these lands for school purposes. So long as they remain public lands and under the control of Congress they are simply a corruption fund for the monopolists of this country, and it is the duty of Congress and the duty of the Government to see that these lands are first secured to actual settlers and the proceeds will go for the benefit of schools or for the benefit of some others besides corporations.

Mr. CROUNSE. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CROUNSE 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.

REVISION OF THE STATUTES.

Mr. WALLING, from the Committee on Public Lands, reported back, as a substitute for several bills referred to the committee, the bill (H. R. No. 2041) to amend section 2291 of the Revised Statutes of the United States.

The bill was read, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the proof of residence, occupation, or cultivation, the affidavit of non-alienation, and the oath of allegiance required to be made by section 2291 of the Revised Statutes may be made before the judge of any court of record of the county and State in which the lands are situated, and the said proof, affidavit, and oath, when so made and duly subscribed, shall have the same force and effect as if made at the proper land district; and the same shall be transmitted by such judge or the clerk of his court to the register and the receiver, with the fee and charges allowed by law to him.

SEC. 2. That said proof, affidavits, and oaths shall be properly filed in the land office

by the register, and copies thereof certified to by the register with his official seal attached shall be evidence of their contents in the courts of any State or of the United States.

Sec. 3. That if any witness making such proof or the said applicant making such affidavit or oath swears falsely as to any material matter contained in said proof, affidavits, or oaths, the said false swearing being willful and corrupt, shall be deemed guilty of perjury and shall be liable to the same pains and penalties as if he had sworn falsely before the register.

The amendments reported by the committee were as follows:

In line 6 of section 1, after the word "judge," insert the words "or, in his absence, before the clerk."

In line 8, section 1, after the word "situated" insert the words "and, if said lands are situated in any unorganized county, such proof may be made in a similar manner in any adjacent county of said State."

Mr. WALLING. The bill is in effect a substitute for House bill 121, introduced by the gentleman from Iowa, [Mr. OLIVER,] and House bill 237, introduced by the gentleman from Alabama, [Mr. LEWIS,] proposing to amend the homestead act by providing that final proof of settlement and cultivation under said act may be made by the claimant in the county in which the land is situated. The law as it now stands requires the final proof to be made by the claimant and his witnesses before the register at the land office of the district wherein the land is subject to entry or pre-emption. This bill permits such final proof to be made in the county in which the land is situated, before any judge of a court of record therein, or, in his absence, the clerk of his court, which proof, when filed in the proper land office, is to operate in the same manner and have the same effect as if delivered by the witnesses in person before the register. It will operate beneficially to the class intended to be benefited by the law, who in the very nature of their circumstances are unable to bear the expense of a long trip with their witnesses to the land office of their district. The bill is carefully guarded to prevent fraud and I trust will meet the approbation of the House.

I now yield to the gentleman from Alabama, [Mr. LEWIS,] whose constituents are peculiarly interested in the bill under consideration.

Mr. LEWIS. I hope there will be no opposition to this bill. In my State and in all States where public lands remain, I know the great inconvenience that is entailed upon those who enter lands under the homestead laws. I think this bill contains all the safeguards necessary to protect the Government. Section 2291 of the Revised Statutes provides not only that the party entering the lands under the homestead law shall take the oath of allegiance and make affidavit that he has not alienated said lands, but also he must prove by two disinterested witnesses before the register of the land office his residence or occupation of the same.

This in my State, and I suppose in other States, operates a great hardship. In Alabama there are two land offices, one in the extreme northern portion and the other in the southern portion of the State. A poor man cannot afford the expense of carrying two disinterested witnesses to these land offices in order to make the proof of residence, and yet if he fails to make within two years after the five years have expired he loses the benefit of his entry; and a man who can afford to pay for two witnesses to swear to his residence can go there and have the first entry set aside and thus secure the land. The law as it now stands has been abused by these means, and frauds have been practiced upon the Government in carrying witnesses down to Montgomery to make false affidavits.

Now, this is a bill for the relief of the poor men who are compelled now not only to bear the expenses of going to the land office themselves but of carrying with them two disinterested witnesses. These witnesses are disinterested, and therefore have no motive in going. They are not willing to go with a man in a wagon, and he has to take them on the railroad and pay their expenses. This bill provides that this oath may be taken before any proper court authorized to administer oaths, a court of record, and that a copy of the affidavit shall be transmitted to and filed with the register of the land office, so that in case of false swearing there may be proof of it. Every safeguard for the protection of the Government is thrown around it by the bill, and it is simply for the relief of the poor man who has entered land under the law. I hope it will meet no objection. The amendments reported from the committee are eminently proper, because in some of the Western States there are no county courts; their county affairs, as in Iowa, are administered either by chancellors or by judges whose jurisdiction embraces several counties; so that in the absence of the judge it would be proper that the oath be taken before the clerk of the court.

Mr. DUNNELL. This bill, I am aware, has its merciful side; yet I think it deserves a great deal of serious consideration. It will be seen at once that it changes the whole land-office system of business; it is an entire revolution in this class of public business. Now all the business touching our public lands must be transacted at the office of the register and receiver, and this bill proposes that it shall be transacted at the county seat. It is an entire change of the present system. I know that under that system there are hardships. I know that in my own district poor men have to travel two hundred miles to reach a land office. But that which is merciful may also be dangerous.

Parties under this bill may go to the county seat and make their application; that application is valuable only as it is correct in description. Now, what officer at the county seat of any county in which there are public lands, or in any State where there are public lands, knows anything about those lands in some far-off county?

The plats are not there, the land-office records are not there. The county officer is liable to be deceived, to be misled. In my judgment, this would be an exceedingly dangerous innovation. It looks merciful, but I certainly think that this bill, which was defeated in the last Congress and also in the Forty-second Congress, ought to receive very serious consideration before it is passed.

The frauds which would grow out of this bill, if it become a law, and the real injury done to settlers by those frauds, would more than counterbalance any advantage that would result from it. I may be mistaken in this; I do not wish to prolong this discussion. I know very well the Committee on Public Lands have a great many important measures to report to this House, but I must say, remembering my own district, which is as much interested in this matter as any district represented on this floor, having looked at the subject in the past, I deem this to be a dangerous piece of legislation.

Mr. WALLING. I desire to say to the gentleman from Minnesota [Mr. DUNNELL] that this legislation is recommended by the Commissioner of the General Land Office.

Mr. DUNNELL. I thank the gentleman for that statement; I forgot to ask the question.

Mr. WALLING. I now yield to the gentleman from Iowa [Mr. OLIVER] for five minutes, after which I propose to call the previous question.

Mr. OLIVER. The gentleman from Minnesota [Mr. DUNNELL] entirely misapprehends the scope of this bill. It does not provide for making preliminary applications before the courts and the judges.

Mr. DUNNELL. I so understood the bill. If it only applies to final proof, then I have no further objection to make. My former remarks show the view in which I regarded the bill, on the ground that it covered all business at the land offices.

Mr. OLIVER. The gentleman has misunderstood it; there is no such provision in this bill. That is now, and has long been, the law, and has not resulted in any inconvenience whatever. The gentleman seems to apprehend that there may be danger, if this bill should pass, that frauds and abuses will arise. As the law exists now, the parties are compelled to take their witnesses and go to the land office, and in my part of the State of Iowa in many cases this is more than two hundred miles, entailing a great hardship upon the poor settlers.

As to the question whether it will lead to abuses, at present these witnesses go to the land office, are carried there by the parties themselves for the express purpose of testifying. Unknown as they are to the land officers, who cannot be assured of their characters, and cannot examine them, I submit there is much greater danger of the land officers being imposed upon in such cases at the distance of two hundred miles from where the witnesses live, than if their testimony was taken in the county of their residence before a responsible officer, acquainted with the witnesses and with their character. When they come to give their testimony in the county they are confronted by their fellow-citizens, and if they testify to anything that is false, it is known at once and they are subject to the penalties of the law. If they testify falsely at the land office it may be years before that is known. I submit that there is no danger of any abuse under this bill. It has been recommended by the General Land Office and will afford relief to the citizen and additional security to the Government.

Mr. LUTTRELL. Allow me one moment on this proposition. I concur in all my friend from Iowa [Mr. OLIVER] has just said in relation to this bill. In my district there are two land offices, and many of my constituents travel from one hundred to two hundred miles, at a very heavy expense, required to take their witnesses to the land office. In many instances they go there and we do not know what the proof is for months after. It often costs a poor man to secure his homestead more than it is actually worth after he has acquired it. The Land Office has recommended it, and I am sure that there is no proposition that could come before this House that would benefit the actual settler more than the measure now pending, because it allows the settler to go before the county officers, taking his witnesses, to be confronted there by his opponents. There the testimony can be taken and due weight given to it; its bearing upon every point can be properly understood; so that there can be no opportunity for fraud.

But under the present system the man of wealth can take his witnesses one or two hundred miles in order to make his proofs, while the poor man is totally denied that right, for the reason that it requires more money than he can possibly raise to make the necessary proofs to secure his homestead. As a settler on the frontier who has resided there for twenty-five years, I believe that this is a just bill, and I hope it will pass.

Mr. WALLING. I yield to the gentleman from Wyoming [Mr. STEELE] to offer an amendment which I believe is entirely acceptable to the committee.

Mr. STEELE. Being in favor of the provisions of this bill, which I regard as advantageous to the settlers, I offer the following amendment to make the bill applicable to the Territories of the United States, which would not be embraced by the present language of the bill.

After the word "State," in line 7, insert "or District and Territory."

Mr. WALLING. I now yield to the gentleman from Pennsylvania, [Mr. TOWNSEND.]

Mr. TOWNSEND, of Pennsylvania. Mr. Speaker, I rise to correct

an error in the statement of my friend from Minnesota [Mr. DUNNELL] who says that this bill was defeated in the last Congress. It is not proper to say that the bill was defeated; it only did not pass. It was fully and fairly considered in the Committee on Public Lands of this House; and the provisions found in the present bill were incorporated in the general bill which passed the House at the last session. That measure went over to the Senate, where for want of time, and possibly for some other reasons which I do not know, it did not pass; and so failed to become a law.

According to my recollection, this provision in the general homestead bill of last year met the approbation of the Land Department, and, if I am not mistaken, it also met at that time the approbation of my friend from Minnesota. The bill was very carefully considered. It was debated in this House, and, if I remember aright, it received the almost unanimous approbation of the House.

The difficulties that are encountered by settlers in the sparsely settled States of the Union and in the Territories have been so well set forth by the gentleman from California [Mr. LUTTRELL] and the gentleman from Iowa [Mr. OLIVER] that I need not recapitulate them here. It was shown to us, however, in the last Congress that on many occasions and in many places settlers upon the public lands have to go from two hundred to three hundred miles in order to make proof of their occupation and settlement, so that the expenses of taking their witnesses to the land office are greater than if they were allowed to purchase public lands at \$1.25 per acre. We felt that there were great hardships imposed upon the settlers. The facts brought to the attention of the committee were sufficient to induce them to make a unanimous report, and when the bill was brought before the House it received, as I have already said, the almost unanimous support of the House. I therefore think there ought to be no hesitation in passing this bill.

Mr. PAGE. At the last session of Congress, when the bill providing for the sale of public lands under the homestead law was under consideration, I introduced an amendment similar to the provision now embraced in the bill before us. The gentleman from Pennsylvania, [Mr. TOWNSEND,] if I remember rightly, reported that bill, and an amendment of this kind was opposed by a portion of the committee and failed to become a part of the law. I urged at that time that it was of importance to the people in the Western States, particularly in California and Oregon, that a provision similar to the one embraced in this bill should be incorporated in the homestead bill which passed the House at the last Congress.

I have always been in favor of a measure of this kind. As has been stated by my colleague, [Mr. LUTTRELL,] it will effect a great saving of expense to the people of my State, who are now compelled to travel in some instances hundreds of miles where there are no railroads to go to the land office to testify, when the evidence could as well be presented before a local officer of the county where the lands are situated, and thus a great saving of expense be effected. I hope the bill will pass. I cannot see why any gentleman here should urge any objection to it. It is evidently in the interest of that class of people who are endeavoring to obtain homes for themselves upon the public lands.

Mr. WALLING. I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of Mr. SEELYE was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. WALLING 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.

MRS. PHEBE C. OAKLEY.

Mr. McDILL, from the Committee on Public Lands, reported as a substitute for House bill No. 2442 a bill (H. R. No. 2570) legalizing the homestead entry of Mrs. Phoebe C. Oakley, of Bay County, Michigan; which was read a first and second time.

The bill was read. It provides that the homestead entry of Mrs. Phoebe C. Oakley, of Bay County, Michigan, No. 2713, embracing the east half of northwest quarter of section 18, in township No. 14 north, of range No. 3 east, in the State of Michigan, be declared to be as valid as though she was the head of the family within the meaning of the homestead laws; and upon the proofs of occupancy and improvement by herself and family in the time and manner as required by law, the Commissioner of the General Land Office shall cause to be issued to her a patent therefor.

Mr. McDILL. Mr. Speaker, I will state briefly that this is the case of a woman who has a husband living, but that husband, while legally the head of the family, is but little more than a drunken, worthless fellow, depending upon her for support. Supposing she had the right to enter lands under the homestead law, she has done so, has labored upon the land and put something like a thousand dollars' worth of improvements upon it. Now, upon a strict construction of the homestead law it is held that she is not the head of a family, and consequently her entry is about to be canceled, and will be canceled within the next thirty days unless this law should pass. The Commissioner of the General Land Office approves of the bill, as will be seen by the letter which I send to the Clerk's desk to be read.

The Clerk read as follows:

MARCH 7, 1876.

SIR: I have received at the hands of Hon. N. B. BRADLEY bill H. R. No. 2442, with the request that a report be made to you by this Office upon the subject thereof.

In compliance with the request, I have the honor to suggest the following amendments:

First. In lines 8 and 9 strike out the words "the same had been made by her husband, Martin M. Oakley," and substitute the words "she were the head of the family within the intent and meaning of the law."

Second. In lines 11 and 12 for "the Secretary of the Interior" substitute "the Commissioner of the General Land Office."

With these amendments the bill has my cordial approval, the testimony on file in this Office showing the case to possess in its equities peculiar claims to consideration.

Very respectfully, your obedient servant,

L. K. LIPPINCOTT,
Acting Commissioner.

Hon. MILTON SAYLER,
Chairman Committee on Public Lands, House of Representatives.

Mr. McDILL. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. McDILL 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.

STATE TAXATION OF RAILROAD GRANTS.

Mr. CROUNSE, from the Committee on Public Lands, reported back a bill (H. R. No. 1545) declaring lands heretofore granted to certain railroad companies subject to State taxation, with amendments.

The bill, which was read, provides in the first section that no provision contained in either the act entitled "An act to aid in the construction of a railroad and telegraph from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal and military purposes," approved July 1, 1862, or the act amendatory thereto, approved July 2, 1864, shall be so construed as to exempt from taxation by State authority lands which either of the companies in said acts mentioned, or its successors, shall have earned by the construction of its road, or parts thereof; provided that such road or parts thereof shall have been first accepted by the United States in the manner in said acts prescribed; and taxes assessed either before or such as may be assessed after the passage of this act, upon lands earned by said companies, or their successors, or either of them, shall be valid as against any claim or title of the United States in or to such lands.

The second section provides that if any company entitled to said lands or parts thereof shall fail to pay the costs of surveying and selecting the same, or the land officer's fees, the purchaser of any of said lands at tax sale may pay such costs and fees due upon the lands by him purchased to the proper officer, and thereupon letters-patent shall issue to such company, conveying said lands to it, but subject to the legal rights and title of such tax-sale purchaser.

The Clerk read the amendments, as follows:

In line 9 after the word "sixty-four" insert "or in any act of Congress granting lands in aid of the construction of any railroad or wagon-road."

In line 10 strike out the word "either" and insert the word "any."

In the second section, line 3, after the word "fees" insert the words "where such payment is required by any of said acts."

Add to the end of the second section the following proviso:

Provided, That nothing in this act contained shall be construed as enlarging any grant of land heretofore made to any of said companies.

Mr. HOLMAN. I believe this bill is subject to the point of order that it has the effect of making appropriation of public lands. If it does appropriate public lands, I make the point of order; but, if that is not the case, of course I do not insist on the point of order.

Mr. PHILLIPS, of Kansas. It does not make any appropriation of public land.

Mr. SAYLER. The gentleman from Indiana is entirely mistaken in his point of order, as this bill does not make any appropriation of public lands.

Mr. HOLMAN. If the bill, as I am told, merely provides for State taxation of lands granted for railroad purposes, then I have no point of order to make. I hope, however, we shall have some explanation of the bill before we are asked to put it on its passage.

Mr. CROUNSE. Mr. Speaker, the short time allotted to the Committee on Public Lands forbids my entering into any lengthy discussion of the many suggestions which occur in reference to the provisions of this bill. The most I can hope to do is to present to the House as briefly as possible the proposed law, so that members may act intelligently upon it. As its title purports, the object of the bill is to subject the large bodies of lands granted to the several railroad corporations in aid of the construction of their roads to State taxation. In the first instance the bill was pointed more particularly at the Union Pacific and the Central Pacific Railroads and the branches provided for in the act of 1862 and the act amendatory thereof passed in 1864. On the demand of others and after due consideration by the committee, the bill has been made general in its terms, so as to apply to all acts granting land in aid of the construction of any railroad or wagon-road.

Now, it seems to me it needs but little more than a simple statement of what is proposed by this bill to commend it to the favor of all who are called upon to act upon it. What reason there is, or should be,

why lands of railroad corporations should be allowed immunities and privileges not granted to the settler is one of the questions which puzzles my people as well as the people of Kansas and other States interested in this subject.

It will be remarked that under the act of 1862 as amended by the act of 1864 the roads therein designated were given ten alternate sections on each side of the road, making twenty alternate sections for every mile of road which should be built. In my State alone I think I am safe in saying that 10,000 square miles of land were dedicated to the benefit of these railroads, and that only when the roads choose to patent the lands can they be subjected to State taxation under existing law. The States of Nebraska and Kansas have tried the question, but the interpretation of the law by the courts seems particularly favorable to these corporations, and State taxation has been prohibited. One clause of the act of 1864 amendatory to the act of 1862, passed for one purpose, has been invoked for an entirely different purpose. The law provides that so many sections of land shall be given to these corporations; that, upon the completion of twenty miles of road and inspection and acceptance by the Government commissioners appointed for that purpose, bonds to the extent of \$16,000 a mile, and \$48,000 a mile in other instances, shall be delivered to the respective companies, and at the same time patents shall be issued to the company for the several tracts of lands to which they may be entitled. But, as will be seen, these roads were built very rapidly. The construction of them, under the terms given by the United States, proved to these companies a perfect bonanza. They were wrestling with each other to see who should build the most of these roads; and well they might, for the subsidy, both in bonds and lands, which they got from the building of these roads was a most lucrative enterprise. But in this rapid construction of these roads it was but natural that they should go in advance of settlement and in advance of the survey of the public lands. Therefore, in order to provide for that condition of affairs, section 21 of the amendatory act of July 2, 1864, being the last section but one, says:

That before any land granted by this act shall be conveyed to any company or party entitled thereto under this act, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same by the said company or party in interest, as the titles shall be required by said company, which amount shall, without any further appropriation, stand to the credit of the proper account, to be used by the Commissioner of the General Land Office for the prosecution of the survey of the public lands along the line of said road, and so, from year to year, until the whole shall be completed, as provided under the provisions of this act.

Then here is a provision in the bill which simply provides that, in case the company desires these lands in advance of the time they should be surveyed under the direction of the surveys or at the volition of the Government, in such event they shall advance to the Government, shall pay to the Commissioner of the General Land Office for that purpose, the expenses of the surveys, and thereupon the Government will go to work and survey the land for the benefit of the company.

But by the provisions of the act, section 4, to which I have referred, it will be seen that the lands thus granted, in consideration of the construction of the road, are absolutely those of the companies as much so as the very bonds that were advanced to them. But it became desirable to have the bonds, because they could be converted into ready money at once to be used immediately; but it has proven not so desirable to obtain patents for these lands. Under the rule that now prevails, these companies take out patents only from time to time as they make sales of these lands; although the lands are theirs, they nevertheless do not possess themselves of the muniment of title, in order that they may not be taxed for the lands they own until it suits their pleasure.

Now, the purpose of this bill is to put these companies on the same footing as any member in this House who may own lands in those States; it is to put the railroad companies on the same footing as the struggling settler, who has to deprive himself of the very necessities of life to meet the taxation which inexorably comes around with every recurring year. These companies as the case stands now seem to be above and higher than the law.

The case which arose in Kansas, known as the Prescott case, asserts two principles as pertaining to the taxation of this class of lands. There is a provision in these Union Pacific Railroad grants that within three years after the completion of the road, if they shall not have sold their lands, they may be bought by any settler at the Government price, and the proceeds paid to the company. I know, however, of no instance where this has ever been acted upon. The other provision which was invoked is that which I stated, where because the company had not taken out its patent the courts for that reason held the lands were not taxable.

Now, to those gentlemen who are schooled in the law this proposition is plain, that where the grantor has passed from him or handed over every equitable interest in a piece of land, that land becomes taxable as the property of the grantee; that is so in case of a pre-emption, where all the requisites have been conformed to as to proof and settlement, and all that which is described in the laws relating to settlements; and where the price has been paid and nothing remains to be done but simply to deliver formally the patent, in those cases it is then held and has been repeatedly decided in the Supreme Court of the United States that in those cases lands are taxable. The parties

receiving the title to the lands receive the entire equity, and nothing remains in the Government.

Mr. PAGE. Will the gentleman yield to me for a question?

Mr. CROUNSE. Let it be a short one.

Mr. PAGE. I want to know why this bill does not apply to all railroads receiving land grants?

Mr. CROUNSE. It does. The amendment provides for all, both railroads and wagon-roads.

I was about remarking that a distinction was made in this case, based on this twenty-first section. I will repeat its substance again, that it may be understood by the House. The section states that—

Before any land granted by this act—

It states that the lands have been granted and are the property of the road. But it says:

Before any land granted by this act shall be conveyed to any company or entitled thereto under this act, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same by the said company or party in interest.

There it is. It is the simple pittance due to the Government, the small sum it is necessary to pay for the survey of the land, and to pay for the patent and conveyance of it—just that which forms the bulwark behind which these companies hide themselves and have hidden themselves successfully. Judge Miller, who delivered the opinion of the court in the Prescott case, (16 Wallace, page 603,) plants it upon two grounds: One was that the equity had not passed from the Government; that the Government had yet the legal interest in the lands to the extent of the price of the surveys, and therefore that the lands were not subject to State taxation. He put it also on the other ground, that there was a provision in relation to the sale of any lands undisposed of after three years from the completion of the road.

In a more recent case, that of the Union Pacific Railroad Company, appellants, vs. C. McShane, treasurer, &c., and others, which is not yet published in any volumes of the Supreme Court reports, but a copy of which I have obtained, Justice Miller, in delivering the opinion of the court in that case, abandoned or reversed a portion of his former decision, so much as relates to this failure to sell within the three years.

Now the object of this bill is to provide that no provision contained in either the act entitled "An act to aid in the construction of a railroad and telegraph from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal and military purposes," approved July 1, 1862, or the act amendatory thereto, approved July 2, 1864, shall be so construed as to exempt from taxation by State authority lands which either of the companies in said acts mentioned, or its successors, shall have earned by the construction of its road, or parts thereof.

This is done in order to prevent any quibbling about the matter. It first provides that the lands shall be the lands of the companies because of their having earned them; because, where they have earned them and the road is complete, the title to the lands as a matter of course passes to the company; and it provides that in that class of cases where they shall have become the real owners, as in any other individual case, it shall not be exempt from taxation. But we have added this provision, also, that such road or parts thereof shall have been first accepted by the United States in the manner in said acts prescribed; and taxes assessed either before or such as may be assessed after the passage of this act upon lands earned by said companies or their successors, or either of them, shall be valid as against any claim or title of the United States in or to such lands.

Mr. BLAND. I should like to ask the gentleman a question. What I desire to know is whether the bill might not possibly give a title to these lands to the railroad company before they have earned them?

Mr. CROUNSE. I have added a proviso covering that point.

Mr. BLAND. The difficulty is that by a mere tax-sale the title might vest in the railroad company before they had actually earned the lands.

Mr. CROUNSE. By reference to the former part of the bill the gentleman will see that it applies only in cases where the lands have been earned and the road accepted.

Mr. BLAND. Section 2 is hardly explicit on that point.

Mr. CROUNSE. This bill, Mr. Speaker, has been drafted with great care. There was an attempt made in the last Congress by the use of a great deal of language to frame a bill for this purpose, but it was left too broad and too much open to construction. This bill has been very maturely considered, and I apprehend that it meets the object aimed at as fully as any bill which could well be drafted would do.

Now, I can dwell no longer on the legal aspect of the case, although, if any gentlemen have doubts upon it, I am willing to answer such questions as may occur to them; but, as to the justice or propriety of these railroad companies paying taxes on the lands, I do not see that there can be any variety of opinion. I may state here that the Union Pacific Railroad has mortgaged its entire amount of lands for \$10,000,000. It sells its lands in the market. It is getting about \$5 an acre for all the lands it sells. All settlers are excluded from those lands, and have been excluded since the inception of the act of 1864. The company hold the lands for every conceivable purpose except taxation. They hold them for mortgage; they hold them for sale, because they have sold about two million acres already, and have received a good price for them. Every day their lands are being enhanced in value

by the sweat and toil of the settlers upon the alternate sections. The alternate sections are sold for \$2.50 per acre, and the settler strains himself to pay that amount, and by industry labors to meet taxation; and by his building up school-houses, bridges, and court-houses, and in all the various ways that men improve and advance settlements, the lands of the railroad company are also advanced in value and it does seem a hardship, to which my people and the people of Kansas and of other States situated in like manner should not be subjected, and have them to submit to burdens from which these companies are relieved.

Mr. BLAND. I will suggest to the gentleman an amendment in section 2, by inserting after the word "thereof" in line 2 the words "as aforesaid;" so that it will read:

SEC. 2. That if any company entitled to said lands or parts thereof as aforesaid shall fail to pay the costs of surveying and selecting the same, or the land-officer's fees, the purchaser of any of said lands at tax-sale may pay such costs and fees due upon the lands by him purchased to the proper officer, and thereupon letters-patent shall issue to such company, conveying said lands to it, but subject to the legal rights and title of such tax-sale purchaser.

That refers back directly to the first section.

Mr. CROUNSE. I see no objection to that amendment. I now yield three minutes to the gentleman from Kansas, [Mr. PHILLIPS,] who has introduced a similar bill as the one now being considered and who has exerted himself to secure its passage.

Mr. PHILLIPS, of Kansas. The gentleman from Nebraska, who has this bill in charge, [Mr. CROUNSE,] has so fully stated its purport that I need not consume much of the time of the House. A bill almost identical with this, varying just as stated by the gentleman, passed this House in the last Congress, but failed to receive consideration in the Senate.

These separate railroad companies, these different branches of the Pacific Railroad Company to-day hold fifty millions of acres of land without paying taxes thereon, and hold that land for speculative purposes; for ten years they have held the greater part of this land. Settlers purchasing land from them or occupying the alternate sections of the public lands give these railroads the benefit of their labor and money in so far as they enhance the value of the lands held by the railroad company. From the moment the settler gets possession of his land he commences to pay taxes; he enhances the value of the railroad lands not only by his improvements, but by paying taxes upon the land which he holds for all purposes, school, local, and general. At the same time these lands held by the railroad companies for ten years for speculative purpose are exempted from all taxation. The railroad companies have, by sheltering themselves under a clause of the law, succeeded in evading taxation. The purpose of this bill is to compel these companies to pay taxes upon the land held by them just as other people pay taxes.

Under the act of 1862, granting lands and subsidies to these companies, one section provides that each of these companies shall have ten alternate sections of land on each side of the line of road, and that on the completion of each forty miles of road commissioners shall be appointed to examine, report upon, and accept the road, if properly constructed, and to certify to the President that the road has been completed and accepted. The next section of that act provides that upon the acceptance of the road the railroad company shall receive of the bonds of the United States some \$16,660 per mile, and at the same time of the acceptance of these bonds they were to have conveyed to them the lands to which they were entitled under the act. The bonds in all cases were delivered: the company has received the bonds and used the proceeds in constructing the road.

In the act of 1864 a clause was inserted that these companies should be compelled to pay the cost of surveying and certifying, a small fee. This they have failed to pay; they have failed to claim the patents for the land to which they were entitled, and in that way they evade the payment of taxes. The purpose of this bill is to place them, so far as the Government is concerned, where they will be compelled to pay taxes on the lands which they own. I think its purpose is one which will commend itself to this House, as it did to the House at the first session of the last Congress.

It is true that these railroads have mortgaged nearly all of the lands granted them. Now, if they had the right to convey the lands by mortgage, then they owned the lands. If they did not own the lands, they had no right to convey them by mortgage without subjecting themselves to prosecution for a penal offense. Should you or any gentleman upon this floor purchase from one of these companies a section or a half a section of land, they would obtain a patent for that section or half section, file it in the office of the company, record it, and then convey it to you; and from that moment you would pay taxes on the land, while these companies continue to hold millions of acres without paying any taxes; a proceeding never contemplated by this House in its former action, and which you are now called on to put forever to an end.

I will not consume much of the time of the House upon this subject, because I know the Committee on Public Lands have much valuable business before them upon which they desire to report to the House. The settlers who have to-day given to the public lands the benefit of their labor and capital and improvement, and are constructing farms and paying school, county, and State taxes, ask that this bill shall be passed providing that these companies shall pay the same taxes as are assessed against the settlers, and that aid to construct a

road shall not be made the excuse for speculation, which adds to its emoluments by evading just taxation.

Mr. CROUNSE. I now call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendments reported from the committee were agreed to.

The SPEAKER *pro tempore*. The next question is upon the amendment offered by the gentleman from Missouri, [Mr. BLAND.]

Mr. CROUNSE. There is no objection to that amendment.

The amendment was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. CROUNSE 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.

ORDER OF BUSINESS.

Mr. SAYLER. I am instructed by the Committee on Public Lands to report back, with a recommendation that the same do pass, Senate bill No. 34, to confirm pre-emption and homestead entries of public lands within the limits of railroad grants in cases where such entries have been made under the regulations of the Land Department.

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

Mr. SAYLER. I would inquire if my bill is now before the House.

The SPEAKER *pro tempore*. It is not in the custody of the House. The regular order is called for.

Mr. BLAINE. What is the regular order?

Mr. RUSK. The morning hour has expired.

Mr. BLAINE. Morning-hour business does not necessarily terminate unless something shall intervene of a higher privilege. The morning hour does not terminate in sixty minutes; unless something of a higher privilege shall terminate it, it runs all day.

The SPEAKER. The Chair understands the object of the call for the regular order to be to present such a question.

Mr. BLAINE. That ought to be settled now, because it is an important matter. If a committee has reported during the morning hour, the simple expiration of the sixty minutes does not terminate the consideration of that business; unless something of a higher privilege shall intervene, it lasts all day.

The SPEAKER. The Chair understands that.

IMPEACHMENT OF WILLIAM W. BELKNAP.

Mr. CLYMER. I rise to a question of privilege. Mr. Speaker, last evening a subpoena, issued by the supreme court of the District of Columbia holding a criminal court for this District, was served upon me, and I believe upon the other gentlemen who are members of the Committee on Expenditures in the War Department. The one served upon myself was a *duces tecum*, commanding me to bring with me certain papers and to testify with relation to charges pending in that court against the late Secretary of War.

This morning, accompanied by the gentleman from North Carolina [Mr. ROBBINS] and the gentleman from Kentucky, [Mr. BLACKBURN,] I appeared before that court, and, by the permission of the president judge, I made, on behalf of myself and the committee, a statement. I said that in obedience to the law we appeared at the bar to obey any order the court might make; that as a member of the committee of this House I felt that it would be prejudicial to the best interests of the country to compel us to state what had transpired in the room of the committee of which we were members; that I believed that it would not only close the mouths of all witnesses, but would in many cases drive them from the land. I said furthermore that, while not pleading our privileges as members of this House, as we might have done, we yet protested against being examined; and that we would only consent to be so examined after an order made specially to that end by the court. The court was kind enough to take time for deliberation, and determined that if it needed us hereafter it would send for us.

I have felt it due, not so much to myself personally as to myself in my capacity as a member of this House, that I should state precisely what we have done. Other gentlemen who appeared before the bar with me at the same time made also statements to the court; and I have no doubt that they would be pleased to have the privilege of stating for themselves the matter as they presented it. After that presentation has been made, I desire that this House may take such action upon the question as it may deem necessary, right, and just.

Mr. BLAINE. May I ask the gentleman from Pennsylvania [Mr. CLYMER] a question? I would like to know whether the court asked or desired to ask any question touching any matter that was not contained in the public report, which is a matter of public record and general notoriety, but which of course could not be used in evidence. I can very well conceive that the gentleman from Pennsylvania might not wish to be called upon in any court to testify of that which was still a committee secret; but, as to any point of delicacy arising upon matters which are as common as history can make them, I do not see where the delicacy comes in.

Mr. CLYMER. In reply to the gentleman from Maine, [Mr. BLAINE,] I would state that the court did not propose to ask us any questions at all. Those questions were to be asked by the grand jury. Had

the questions been asked by the court in presence of the public I might not have had so great objection. But I felt, sir, that if we were to go before that tribunal whose proceedings are necessarily, according to law and precedent, always secret, then no matter what might occur in the grand-jury room, if we once entered those portals, that mere fact would strike terror everywhere throughout this land and close all the avenues of evidence to this House and to its committee.

I will say further that the court did say that it was of opinion that the grand jury could not and should not ask us any questions which would tend to show what had been testified to before us in that committee. This question then arose in my mind: If they could not inquire with reference to anything that was testified to before that committee, why had they subpoenaed me or others of the committee at all, unless it was for the purpose of intimidating witnesses elsewhere?

Mr. BLAINE. The gentleman knows perfectly well—

Mr. CLYMER. I have not done.

Mr. BLAINE. The gentlemen knows perfectly well that his own privilege protects him. There is not the least power in the world to compel the gentleman to testify. He cannot be arrested; no process can issue against him. Whether the gentleman shall appear and testify is a matter wholly for himself to determine.

Mr. CLYMER. I have said that we did not intend to plead our privilege so that it might not be said that we intended to exclude anything which should be rightfully known to the public.

Mr. LAMAR. I would be glad if the gentleman from Pennsylvania would send up to the desk his subpoena, so that the House may be put in possession of the precise object of the court in issuing such a mandate to members of this House.

Mr. CLYMER. I ask the Clerk to read the subpoena.

The Clerk read as follows:

In the supreme court of the District of Columbia, holding a criminal court for said district the 6th day of March, 1876.

The President of the United States to HESTER CLYMER, to bring all papers, documents, records, checks, contracts in your possession or in the possession of the Committee of the House of Representatives on Expenditures in the War Department in relation to the charge against said defendant of accepting a bribe or bribes while Secretary of War of the United States.

You are hereby commanded to attend the said court immediately to testify on behalf of the United States, and not depart the court without leave of the court or the district attorney.

Witness:

D. K. CARTTER,
Chief Justice of said Court.
R. J. MEIGS,
Clerk.

Mr. CLYMER. I will yield now to the gentleman from North Carolina.

Mr. ROBBINS, of North Carolina. I only wish to say, sir, that I went before the court, waiving my privilege as a member so far as to make a statement to that tribunal. North Carolinians believe it is the duty of every man to obey the mandates of the judiciary. For that reason, as a North Carolinian, I went there, not to plead my privilege as a Representative, but to say to the court, on behalf of myself and the other two gentlemen who appeared with me, that we believed it would work serious detriment to the public interest if we were required to make known before any tribunal just now the secret transactions of our committee, the developments taking place there, our plans, and the probable results of our proceedings. We are engaged in investigations, the purpose of which is the purification of the public service, a purpose in which every good citizen and honest man must wish us success. If we are required to disclose our transactions at the present stage, it will tend to defeat this object.

We protested that the district attorney, the grand jury, and the court, and not ourselves, must take the responsibility of causing the public injury which would result from our giving out the full information of what is now going on before our committee, and of what has transpired in our presence recently.

I told the court for myself that if, notwithstanding what I now communicated, they shall still require me to go before their grand jury and testify, I should do so; and I will unless this House shall instruct me otherwise. I therefore hope the House will give me instructions as a member of a committee engaged in most important investigations as to what I should do under the circumstances.

I say to you, Mr. Speaker, and to this House, that the inevitable effect of our being required to testify as to what transpires in the sessions of our committee before a grand jury or anywhere else will be, as the gentleman from Pennsylvania [Mr. CLYMER] has stated, to intimidate witnesses, stop their mouths, and throttle all further investigations. I say here, if it is not the design it certainly will be the result of the course now being taken by certain officials of this District under the promptings of the head of the Government to break down investigations by shutting the mouths of witnesses. If that is not the purpose it is the effect, unless this House takes the matter in hand and provides for the protection (not of us; we need no protection; we have nothing to withhold or conceal as committeemen)—the protection of the witnesses who shall come before us.

Mr. DANFORD. As a member of the committee, Mr. Speaker, I desire to ask a question of the chairman. I will say, however, that I had no subpoena to go before the court, and that I know nothing of this matter which has been brought before the House. I understand the chairman of the committee to state to the House that it would be fatal to the ends of justice if the committee were compelled to go

into a court of justice and detail the testimony of witnesses before it. I understood him to make that statement. I desire to ask the chairman a question as to what testimony there has been given before the committee that has not been fully reported to this House and to the country? As I understood the report of the committee made on last Thursday, it contained every syllable of testimony appertaining to the matter reported to the House and proposed to be inquired into in the District court, before which these gentlemen were subpoenaed. I simply desire to ask the question to know what testimony the committee has that has not yet been reported to the House.

Mr. LAMAR. I object to the question.

Mr. CLYMER. I desire to answer that question in my own manner.

Mr. LAMAR. I rise to a point of order, and my point of order is that the chairman has no right to reveal to the House in this way what has transpired in the committee.

Mr. DANFORD. I may have been misunderstood. If there has been any testimony which has not been reported, I do not ask it be revealed, but I desire to know of the chairman whether there was any testimony taken in this matter which has not been reported?

Mr. BLAINE. That is right.

Mr. DANFORD. For, as I understand, it has been all reported.

Mr. LAMAR. I insist on my point of order.

Mr. BLAINE. What conceivable motive can the gentleman have for insisting on his point of order? There is no possibility of asking a question more guarded than that.

Mr. LAMAR. The motive I have is the preservation of the order and decorum of this body. I maintain the gentleman has no right under the rules to reveal to the House whether there is other testimony before the committee. Other testimony may have come before that committee since the report was made.

Mr. BLAINE. There is no asking any such testimony shall be disclosed.

Mr. CLYMER. I believe I have the floor.

The SPEAKER. The gentleman from Pennsylvania has the floor.

Mr. CLYMER. I trust my friend from Mississippi will not insist on his question of order, for the reason, sir, that I can say here that there is no testimony before that committee now which is not known to every one. Furthermore, I did not say to the court, or to the House that it would be the disclosure of that testimony which would work injury to the public interest. I said here was the threat to everybody who would have to come in the future before that committee that would be the basis of indictment. That is what I said to this House, and what I said to the court, and what I say to the country.

Mr. BLAINE. Will the gentleman let me ask him a question?

Mr. CLYMER. Not now. I stated to this House, and I repeat again, that this attempt to drag forth what occurs in committee can result in nothing else but detriment to the public weal.

Mr. BLAINE. If the gentleman from Pennsylvania will permit me, I wish to say this—

Mr. CLYMER. I decline to be interrupted.

Mr. LAMAR. Allow me to say that I misunderstood the question of the gentleman from Ohio [Mr. DANFORD] when I objected to an answer being given to it.

Mr. BLAINE. Then I withdraw what I said in regard to the gentleman's objection. I desire to say to the gentleman from Pennsylvania [Mr. CLYMER] that I merely desired the courtesy of being allowed to put a question.

Mr. CLYMER. I yield willingly for that purpose.

Mr. BLAINE. What I want is this: that there shall be no division, or seeming division, between the two sides of the House in regard to the vigorous prosecution of anything that is brought here in the shape of public crime. The gentleman from Pennsylvania, if I understood him, seems to impute, and indeed directly imputes, a purpose to somebody in this District to intimidate witnesses and to stifle justice. Now, what is the object of this investigation?

Mr. CLYMER. I permitted the gentleman from Maine only to ask me a question.

Mr. BLAINE. I am coming to the question. I want the gentleman to tell me what is the object of these investigations except to bring the offender to criminal justice. Will the gentleman answer me that question? What is the object of these proceedings except to bring offenders to justice?

Mr. CLYMER. I have stated the facts in this case to the House, and if an imputation necessarily arises that some one in this District wishes to close the avenues of evidence all over this land, is it not time—

Mr. BLAINE. The gentleman closes them himself.

The SPEAKER. The gentleman from Pennsylvania does not yield.

Mr. CLYMER. And I will not permit the gentleman from Maine to impute to me motives which I do not understand or to put insinuations into my mouth that I have never uttered. I yield to my colleague on the committee, the gentleman from Kentucky, [Mr. BLACKBURN.]

Mr. BLACKBURN. I am not surprised, sir, at the uneasiness manifested and the nervousness displayed by the gentleman from Maine [Mr. BLAINE] who seeks to inject his speeches into every man's utterances upon this side of the House. Did I hold the same questionable position in this matter as gentlemen on the other side by reason of the complicity of their prominent officials, I at least would be disposed to sympathize with him and share his apprehensions.

I do not like to charge that it is the purpose of the Executive of this country to intimidate witnesses, to throttle investigation, and to afford immunity from punishment to publicly convicted criminals. But I do say this, that this is the result, and unless this gag process is stopped the country will believe and I will believe that such is the purpose. [Cries of "O!" "O!" from the republican side of the House.]

I say this, and I say it by way of a personal explanation: The committee of which I am a member has been subjected to criticisms and to censures to which it is not amenable, in matters for which it is not responsible. It has gone forth to the country that they have connived at the absconding of an important witness. It is charged through the public prints of the country, and that without contradiction, that that witness was allowed to leave this capital by the majority of the democratic members of the committee, in spite of the protest of the republican members of the committee. That charge it is needless for me to say is false, flatly false, and the only wonder is that the honorable republican members of the committee have allowed it to go for one hour upon their authority without giving it their contradiction. It is not proper probably for me to state all that happened in that committee-room.

I will not undertake to say who it was that prosecuted this investigation from its inception to its conclusion. I will not say that no member of a certain political organization from the day that Congress convened until this proof was all in, signed and sealed, ever crossed the threshold of that committee-room. I will not say that. But if it is true let the gentlemen answer whom it strikes. But I will say this: that upon the floor of the House the other day—and the RECORD bears me out in this—I did those gentlemen of the other side of the House upon that committee more than justice by my silence. I then said they had agreed upon this report as promptly as the democratic members. I did not say more. Whether it was because I could not truthfully I leave the country to infer.

Now, sir, witnesses that are summoned and subpoenaed before investigating committees must be protected, otherwise they will not come. We could not hold this witness any longer. He had answered every question that had ever been propounded. He had been turned over, as the record shows, for cross-examination to the late Secretary of War and his counsel. He had been by them cross-examined. The report was in. The proof was complete. It would have been the exercise of an arbitrary power; we would have been guilty not only of assault, but we would have been guilty of bad faith, if we had sought to detain him longer. We came to this House while that witness was within the walls of this Capitol. We made our report, and stated the facts, as that report will show. The witness was then within the power of the House. He was subject to the order of Congress. We reported the facts while he was still lingering about your portals, and the House did not order his continuance in arrest, and no member of that committee ever asked it.

But, sir, this is equally true, that if the order has gone forth to the country, as it is given by the press, that the Executive of this great Government, surrounded by his council, has directed the prosecution of this man who appeared here as a witness and with testimony whose crushing weight the country has felt throughout its farthest lengths; if, in addition to the declaration of such persons, any man who testifies against those who have been guilty of malfeasance in office is to be notified in advance that on his disclosures he is to be prosecuted and sent to the penitentiary, and that is to be supplemented by the assertion that no member of Congress shall hesitate to go before the inquisitorial tribunals of this District, it will then be understood that all witnesses are not only to be made the victims of partisan persecution, but that the very tribunals of this Congress before which they appear are going to turn upon them and prosecute them in the courts.

Sir, it is utterly impossible that we can ever convict the Secretary of War or any Cabinet or other officer unless we find the facts from his accomplices; and now you propose to tell us an accomplice shall not come here, or that if he does he does it at his own peril, warned in advance that not only the power of the Government will be wielded to send him to prison, but that the committee before which he appears shall come as the chief witnesses against him.

It is this that I protest against, and I want here to say that if the executive or the civil officers who are now engaged in directing and aiding and furthering this prosecution expect the country to receive it as an honest effort to reform, stripped of all purpose save that of inflicting honest and legal punishment, they are deceived; the country will not say it, the country will not think it; and they know themselves that it is not so.

It is of no use to tell us it will do no good to the country that a democratic House and a democratic committee, after having ferreted out crime and prosecuted the criminal to conviction, have been guilty of a dereliction of duty, that there was an easing of the prosecution on our part. They will be especially unable to persuade the masses of the American people that it is an honest system of Government under which such practices can find shelter. The country want to know these facts; this committee on investigation want to furnish them with these facts. The question for the House to determine is shall we be thwarted in our purpose either by the Executive and his Cabinet or by the petty criminal courts of this District?

We have a right to subpoena the President of the United States and make him testify, and there should be immunity given to every witness who testifies before an investigating committee, and I think that

it is proper and right that the House should pass a resolution that no member of the House sitting as a member of an investigating committee shall be allowed, if in his judgment it would be detrimental to the public interest, to be called before the grand jury or any court to give testimony on any subject then pending before his committee.

Mr. Speaker, the phrase "let no guilty man escape" the country will now say means let no man escape who is guilty of telling upon those in authority. Give us the widest margin, open the doors, and give immunity to every witness who comes to tell anything that bears upon the misdeeds of the Administration, and you will find this but the beginning of the end; and in this appeal I address myself not to democrats or to republicans; I address myself to honest men everywhere. Let the investigation be as broad as it is possible to make it. As a committee of the House we ask this at your hands. We warn you now that the investigation in which we are engaged, voluminous as it is becoming, will be stopped; it will be impossible to carry it further successfully, unless you declare that the testimony of members of a committee shall not be used against witnesses for the purpose of their conviction.

Mr. CLYMER. I yield now to the gentleman from Mississippi, [Mr. LAMAR.]

Mr. PAGE. How does the gentleman have the right to yield the floor?

Mr. KASSON. I rise to a question of order, and it is that there is no question before the House that can justify the gentleman from Pennsylvania [Mr. CLYMER] in holding the floor and designating who may and who may not speak.

Mr. LAMAR. I have a resolution to offer.

Mr. KASSON. I have one to offer, if any are to be offered.

Mr. LAMAR. I have no doubt the gentleman will concur with me.

Mr. CLYMER. I trust the resolution may be reported.

Mr. LAMAR. Before my resolution is reported, I should like to make a remark or two. I do not think this is a question pertaining merely to the delicacy or personal privilege of members, nor is it one upon which there should be any party feeling or excitement. In the presence of such solemn events as are now throwing their shadows over this House, it seems to me the voice of faction for a moment at least should be hushed.

I regard this mandate, or summons, or subpoena, whatever it may be called, which has been issued to the members of that committee by the supreme court of this District as an outrage upon the privileges of this House in the persons of the members of that committee. I do not say that such was the object of the court, nor do I mean to intimate—I mean to disclaim any intimation of the sort—that it is prompted by any purpose to hush up or to suppress investigations. The question is one purely of parliamentary privilege, whether or not the members of this House and of the committees of this House are amenable to the processes of the criminal court for the purpose of testifying and bringing the papers and the records that are in the various committee-rooms before the courts for investigation and for revision.

Mr. BLAINE. Nobody says they are.

Mr. LAMAR. "Nobody says they are," says the gentleman from Maine, [Mr. BLAINE.] Then if nobody says they are, ought not this House to take some measures to protect the privileges which have been invaded by this summons?

Mr. BLAINE. It is no violation of privilege.

Mr. LAMAR. No violation to issue a summons to a member of this House commanding him to bring all the records of a committee of this body before that court, and to command him there to remain and not depart until the court or the district attorney shall allow him to do so! Suppose that a member of this House should waive his privilege; suppose he should go there and take these papers. How long would it be before the District court, if it should choose to do so, would relieve us of the power and forever deprive our committees of the opportunity to investigate?

Mr. BLAINE. Allow me a question.

Mr. LAMAR. Certainly.

Mr. BLAINE. Does not the gentleman from Mississippi [Mr. LAMAR] see, and does not the entire country see, that, having possession of all the evidence upon which an indictment can be found, having every fact of the guilt of this party in its possession, this House puts itself behind its privilege when it says this court shall not view that evidence, and throws itself across the indictment of Belknap; and that to-day this House stands as the obstacle and the sole obstacle in the way of the indictment of the late Secretary of War?

Mr. LAMAR. Neither "the gentleman from Mississippi," nor the country, nor the gentleman from Maine sees any such thing.

Mr. BLAINE. I see nothing but that.

Mr. LAMAR. It is everything but that; that does not touch it anywhere. The question is simply this: Can this House permit its records to be at the beck and call of the District court? Shall it do it? There is no doubt about the fact that when an investigation is completed, when the articles of impeachment are presented and the case is gone through with, it is within the discretion of this House to permit the courts of the country to come in and act upon that evidence. But that any court has the right *pendente lite*, while the investigation is going on, while the committees are taking their testimony—

Mr. BLAINE. Not in this case, for the committee when they reported last Thursday stated that the case was closed, and they dis-

missed the witness and reported all the facts to the House. And now, according to the doctrine of the gentleman, they propose to keep possession of all the papers and testimony concerning the guilt of this man, and shut the doors of the congressional committee-room under this miserable pretense of privilege and shield him against criminal prosecution; for that is the effect of the action proposed here to-day.

Mr. LAMAR. Such is not the effect of it, and no one knows that better than the gentleman from Maine.

Mr. BLAINE. I know nothing else.

Mr. LAMAR. The statement is utterly destitute of foundation, and the gentleman from Maine, if he does not know it, ought to be sufficiently advised of parliamentary procedure to know that when a tribunal of the country has jurisdiction of a case, when it is proceeding with that case, it is not within the power even of a co-ordinate tribunal, especially an appointee of the Executive, to come in and order the entire records of that committee to be taken from it, and the members of that committee to appear before it; otherwise what would be the effect? Every single investigation could be suppressed *in limine*. I do not say that that is the object. I do not even suggest that such is the purpose. But to say that this House is bound to allow its papers, the members of the House, the members of its committees, to be called away from their duties to go before a court and reveal each step they have taken, is a proposition not only monstrous, but it is preposterous and ridiculous.

Mr. BLAINE. Allow me a moment.

Mr. LAMAR. Not now.

Mr. BLAINE. Just one moment.

Mr. LAMAR. I would be glad to finish my statement.

Mr. BLAINE. If the gentleman will permit me one moment, I agree with him entirely that to interrupt the proceeding *in limine* is a thing that would not be tolerated, nor has the court of the District of Columbia any power whatever to go to a committee-room, either when the investigation has begun—

Mr. LAMAR. This court has come to the committee-room.

Mr. BLAINE. The court has no power whatever in the matter. This House is supreme. The question is whether the House will permit that testimony to go. The House can refuse it or it can send it there. I dare, I dare that side of the House to refuse it. [Loud applause on the republican side; cries of "Order!" on the democratic side.]

Mr. LAMAR. O, gentlemen, you are doing yourselves injustice by making such demonstrations upon a pure question of constitutional and parliamentary law.

Mr. WHITE. I rise to a question of order.

The SPEAKER. The Chair will entertain no motion until the House is in order. [After a pause.] The gentleman from Kentucky [Mr. WHITE] will now state his point of order.

Mr. WHITE. My point is that this clapping of hands is all out of order. [Laughter.]

The SPEAKER. The gentleman from Mississippi [Mr. LAMAR] will proceed.

Mr. LAMAR. I hope that the point of order will be overruled. This demonstration is about the only forcible thing that I have yet heard presented in opposition to this assertion of the privileges of this House against an attempted invasion. I do not blame gentlemen for applauding, for it is about the only thing that I have heard yet on that side that has any point in it.

In reply to the defiance of the gentleman from Maine [Mr. BLAINE] I will tell him that no threat or menace, either of language or manner on his part, or any challenge, can prevent me or the gentlemen with whom I am associated from asserting our constitutional rights in this House as a body. I present a resolution which asserts those rights, and which I hope will maintain them.

There can be no question about the right of the criminal courts to carry on their prosecution of an offender at the same time that we prosecute him by impeachment, but they have not the right to invade the precincts of this House—this House which can impeach that judge himself. Suppose, sir, that in the prosecution of this "safe-burglary" case matter should come up which would touch the honesty and integrity of a member of the court, and he should at once issue his mandate upon the committee sitting here investigating that matter, and as soon as the witnesses were dismissed order that committee to come before him to bring all their papers, all telegrams, all testimony, all receipts, everything that any witness had said before them; would the gentleman from Maine get up then, and in that way which is characteristic only of himself cry out, "I dare you to withhold the information?" Sir, this House, I presume, dares to do what is right, dares to do what is honest, dares to maintain its constitutional privileges, and to continue the prosecution of this investigation.

Sir, I have presented a resolution which I had supposed would meet the assent of every gentleman present. This case has not been finished. Other testimony must come before the committee. One of the witnesses, from causes which have been variously alleged, has disappeared. Other testimony will have to come before the committee. It is impossible that these investigations should go on if they are to be subject to the vexing and constant interposition of the criminal courts. I ask that the resolution be read and adopted.

Mr. PAGE. I would like to ask the gentleman from Mississippi [Mr. LAMAR] one question before the resolution is read. I wish to inquire whether he knows any way by which Mr. Belknap, late Sec-

retary of War, can be indicted for his crimes except upon the very testimony now in possession of the committee?

Mr. BLACKBURN. I will say to the gentleman that there is not an atom of testimony now in the possession of the committee.

Mr. LAMAR. He can be indicted, of course, by the production of the witnesses.

The Clerk read as follows:

Whereas the Speaker of this House did, on the 20th of December, 1875, appoint the following Committee on Expenditures in the War Department, to wit: HESTER CLYMER, WILLIAM M. ROBBINS, JOSEPH C. S. BLACKBURN, LYMAN K. BASS, LORENZO DANFORD; and whereas thereafter, on the 14th of January, 1876, this House adopted the following resolution:

"Resolved, That the several committees of this House having in charge matters pertaining to appropriations, foreign affairs, Indian affairs, military affairs, naval affairs, post-office and post-roads, public lands, public buildings and grounds, claims and war claims, be, and they are hereby, instructed to inquire, so far as the same may properly be before their respective committees, into any errors, abuses, or frauds that may exist in the administration and execution of existing laws affecting said branches of the public service, with a view to ascertain what change and reformation can be made so as to promote integrity, economy, and efficiency therein; that the Committees on Expenditures in the State Department, in the Treasury Department, in the War Department, in the Navy Department, in the Post-Office Department, in the Interior Department, in the Department of Justice, and on Public Buildings, be, and they are hereby, instructed to proceed at once, as required by the rules of the House, to examine into the state of the accounts and expenditures of the respective Departments submitted to them, and to examine and report particularly whether the expenditures of the respective Departments are justified by law; whether the claims from time to time satisfied and discharged by the respective Departments are supported by sufficient vouchers, establishing their justness both as to their character and amount; whether such claims have been discharged out of funds appropriated therefor, and whether all moneys have been disbursed in conformity with appropriation laws; whether any, and what, provisions are necessary to be adopted to provide more perfectly for the proper application of the public moneys and to secure the Government from demands unjust in their character or extravagant in their amount; whether any, and what, retrenchment can be made in the expenditures of the several Departments, without detriment to the public service; whether any, and what, abuses at any time exist in the failure to enforce the payment of moneys which may be due to the United States from public defaulters or others, and to report from time to time such provisions and arrangements as may be necessary to add to the economy of the several Departments and the accountability of their officers; whether any offices belonging to the branches or Departments, respectively, concerning whose expenditures it is their duty to inquire, have become useless or unnecessary; and to report from time to time on the expediency of modifying or abolishing the same; also to examine into the pay and emoluments of all offices under the laws of the United States and to report from time to time such a reduction or increase thereof as a just economy and the public service may require. And for the purpose of enabling the several committees to fully comprehend the workings of the various branches or Departments of Government, respectively, the investigations of said committees may cover such period in the past as each of said committees may deem necessary for its own guidance or information or for the protection of the public interests, in the exposing of frauds or abuses of any kind that may exist in said Departments; and said committees are authorized to send for persons and papers, and may report by bill or otherwise.

"Resolved further, That the Committee on Public Expenditures be instructed to investigate and inquire into all matters set forth in the foregoing resolutions in the legislative departments of the Government, except in so far as the Senate is exclusively concerned, particularly in reference to the public printing and binding, and shall have the same authority that is conferred upon the other committees aforesaid."

And whereas in the discharge of the duties imposed by said order the said Committee on Expenditures in the War Department did enter upon an examination into the said accounts of said Department and into the administration thereof, and did send for persons and papers to investigate certain acts of William W. Belknap, late Secretary of War, on which being reported to this House by said committee it has taken action to impeach the said William W. Belknap of high crimes and misdemeanors; and whereas the supreme court of the District of Columbia, by process bearing date March 6, 1876, has commanded HESTER CLYMER to "bring all papers, documents, records, checks, and contracts in your possession, or in the possession of the Committee of the House of Representatives on Expenditures in the War Department, in relation to the charge against said defendant of accepting a bribe or bribes while Secretary of War of the United States, and to attend the said court immediately to testify on behalf of the United States, and not depart from the court without leave of the court or district-attorneys;" and whereas the mandate of said court is a breach of the privileges of this House:

Resolved, That the said committee and the members thereof are hereby directed to disregard said mandate until the further order of this House.

Mr. KASSON. Mr. Speaker, I think it will not be unwise for the House to look for a little while coolly at the situation which has been developed this morning before taking that, or any other order, in the premises inconsistent with the ordinary proceedings of law.

The question is raised here as a question of privilege. It is presented to the House as a breach of the privilege at least of one member of this House, that he received a judicial invitation to aid in the development of a crime and the punishment of a criminal. The further extraordinary fact appears that this invitation is to aid in the prosecution and conviction of one whom the very objecting party have declared and reported to this House as a criminal against the United States. And it was also declared by the gentleman from Pennsylvania that you might search the volumes of universal history and find no crime which would be a parallel to this. Now, when the Executive of this Government, sworn solemnly to enforce the laws, finds in the Revised Statutes a clause that punishes by fine and imprisonment in the penitentiary the very offense they have reported to this House to have been committed, several gentlemen on that side of the House rise in their places and implore the House to do what? To protect them from aiding in the punishment by the courts of that crime!

Mr. Speaker, I say the condition is an extraordinary one. It is one without precedent, but with precedents directly to the contrary. I recollect, sir, after the Pacific mail investigation was reported to this House and proceedings were instituted in the court of this District in like manner, criminal proceedings for the punishment of the

parties reported to have been guilty of crime, two members of the House Committee on Ways and Means were summoned to give their testimony. What did they do? Did they come to this House to beg they might not be required to tell what they knew? On the contrary, they appeared before that tribunal, gave their evidence like citizens of this great country, all of whom were interested in the punishment of crime, and no appeal was made to the House to protect them against it.

Mr. Speaker, if it be a question of personal privilege, what more do gentlemen want than the protection of the Constitution, which says that they are privileged from arrest, and the authorities which declare that they are also privileged from obeying any process, disobedience to which may be punished by arrest? They need not go before this tribunal unless they desire to do so. If they say, for any reason whatever, that they do not wish to be required to tell what they know in aid of the punishment of a crime, let them then say so to the court, and no process can come to them in this Hall or at their rooms in this city to arrest them. They will find it written in the Manual. They will find it in the Constitution. Why, then, is this question presented in this peculiar manner this morning, arraiging the President of the United States—for that is what they have done—as endeavoring to defeat the course of justice by directing the prosecution of criminals? Was there ever a proposition made to the House like this—an arraignment of the sworn Executive of the laws because he had directed his subordinates to enforce the laws of the land? Suppose it had been the counterproposition. Suppose it was charged that the Executive had set these officers to prosecute A and B, and to leave C and D unprosecuted. The howl that would have been raised against it would have been more violent than anything we have heard in this Hall this morning.

Mr. TOWNSEND, of New York. It ran pretty high here this morning.

Mr. KASSON. The truth is that that officer could have done nothing else. He had no right to distinguish between offenses and offenders against the laws of the land. He would have been guilty of a gross abuse of his constitutional duty if he had dared to do it, and gentlemen know it. The grand jury are sworn to indict men guilty of crime within their jurisdiction; and this committee and this House have no right to embarrass them in the execution of the laws of the land. The whole object of the proceeding this morning, as it cannot possibly have the effect of securing members of this House from a breach of their privilege—the Constitution and the Manual tell them their rights—the whole object, it seems to me, is to raise a cloud upon the action of the Executive, which you all know to have been constitutional and just, and under that cloud to cover up one of the greatest blunders which has been committed by an investigating committee since I have been a member of this House; and that blunder is that before you have got your criminals you discharge your witnesses, paying them off and letting them go to Canada.

Mr. BEEBE. Mr. Speaker—

Mr. KASSON. I have not finished yet. I call the attention of the House to this fact, that this subpoena is not a process to obtain either the records of the House or the secrets of the House. The House has no secrets. The House has not been in secret session upon this subject. If it had, of course there could be no revelation. The subpoena does not call for a record of this House because this House has no record except what is open to the public. And when the gentleman from Mississippi [Mr. LAMAR] speaks of it as calling for the records and papers of this House he makes an error in his statement. There are certain members of this House who have had opportunity, as their own report shows, to hear personal statements made touching a high official of this country, which statements it is alleged go to prove his guilt.

Mr. CLYMER. Will the gentleman permit me—

Mr. KASSON. In a moment. And the demand is made here that, having allowed Marsh to escape, and they being the only repository of the confessions of the criminals, the grand jury shall not have the benefit of the facts to make an indictment.

Mr. CLYMER. Will the gentleman from Iowa permit me to say this: He certainly could not have heard or did not remember my statement made before the House and in behalf of the committee that there was no evidence before that committee touching this case but what was in possession of this House. And when he states that we have in our possession other evidence in reference to a late officer of this Government, he states inadvertently it may be, but at least he states what is absolutely untrue.

Mr. MCCRARY. Before my colleague [Mr. KASSON] proceeds, I wish to ask him if he does not know, as every gentleman on the floor knows, that there is in the possession of that committee a written contract, which is the foundation, and must be the foundation, of any proceedings for the indictment of this offender? It is in their possession, and it is probably the very thing that this subpoena is intended to bring before the grand jury.

Mr. CLYMER. Will the gentleman permit me to make a statement right here? The contract referred to is a contract between Marsh and Evans. It is between them alone, and Marsh expressly states that the Secretary of War knew nothing of it when it was made, and knew nothing of it for two years afterward, and had never seen it.

Mr. KASSON. I thank my colleague and the gentleman from Pennsylvania for both of their suggestions. And the gentleman from

Pennsylvania must not confuse the "him" as the member from Pennsylvania with the "him" as a member of that committee. As a member of this House from Pennsylvania he may have had a dozen conversations with parties charged with crime of which the committee know nothing. It is reported by the committee that the gentleman from Kentucky [Mr. BLACKBURN] did have personal conversations, and at great length, involving this very matter, and not before the committee.

Mr. BLACKBURN. Will the gentleman allow me a word? He misrepresents me.

Mr. KASSON. I take it as reported in your own record that the witness Tomlinson testified that you had a conversation with parties involved in the facts reported by the committee.

Mr. BLACKBURN. I have this to say, that when the gentleman from Iowa makes the statement that it was reported by this committee that I had conversations with Mrs. Belknap and at great length, following the example—which I certainly think worthy of imitation—set me in the other wing of the Capitol, I commission the gentleman from Iowa whenever he hears any man make such a statement as that to say that he has my authority for telling that man he LIES. [Great applause.]

Mr. KASSON. Do I understand the gentleman from Kentucky [Mr. BLACKBURN] to say that he had no conversation upon the subject involved in this criminality outside of the committee-room, and with no party involved in the report of the committee?

Mr. BLACKBURN. I will answer that question. I have filed a statement which neither the gentleman from Iowa [Mr. KASSON] nor any other gentleman will impugn.

Mr. KASSON. But I appeal to that statement.

Mr. BLACKBURN. I had a conversation with Mrs. Belknap, and that fact is on record and has gone to the country.

Mr. KASSON. If it is sufficiently important to the case to have been reported and made public why should not the criminal courts be entitled to the banquet. [Laughter and applause on the republican side of the House.]

Mr. BLACKBURN. I desire further to say that the gentleman from Iowa [Mr. KASSON] ought to know that no contract referred to by his colleague nor any other paper in this case in the shape of proof is in the possession of this committee at all. It is in the possession of the House, to which it was reported.

And now will the gentleman from Iowa [Mr. KASSON] allow me to ask him a question? I find a report in the newspapers of the country to the effect that the gentleman from Iowa [Mr. KASSON] with his colleagues waited in a body on the fallen Secretary. [Laughter.]

Mr. KASSON. I will answer that question with more cheerfulness than the gentleman answered mine.

Mr. BLACKBURN. Then I trust he will tell us what then occurred, and whether he is the repository of a confession from the late Secretary of War. [Laughter.]

Mr. KASSON. I will respond to a subpoena to give any statement of what I know in aiding the prosecution against Mr. Belknap. [Applause.] Will the gentleman do as much?

Mr. BLACKBURN. Well, sir, I appeared in court this morning.

Mr. KASSON. But will you plead your privilege.

Mr. BLACKBURN. I have already said that I appeared in court this morning and expressly stated to the court that I did not plead privilege, but if forced to become a party to the disreputable effort of your President to gag a respectable witness, I would put my protest against it on record in the American Congress and send it before the country.

Mr. KASSON. I hope the gentlemen on the other side will allow that I have been more liberal in yielding to interruptions than they were. Let me recur to the question I was discussing. I say that the prosecuting officers of the Government, in the performance of their sworn duty, investigating crime, the beginning of which was developed by the Committee on the Expenditures of the War Department, are proceeding exactly in accordance with law before the tribunal established by law, and the question now presented to the House is, Shall the House withhold the aid in its power, or shall any member of the House refuse his aid to secure the punishment of this criminal?

Mr. ROBBINS, of North Carolina. Will the gentleman allow me to ask a question?

Mr. KASSON. Let me finish what I was saying. I affirm that in this state of facts this House cannot afford to put itself on record as obstructing the course of justice.

So far as the allegation that this discourages men from giving testimony is concerned, every lawyer in the House knows that the moment an indictment or an impeachment is presented an alarm is sprung to some extent; and in the given case of Marsh it was well understood that the man fled before notification of the impeachment had been presented to the Senate, or even to the House; that is nothing but an excuse.

Mr. BLAINE. Will the gentleman from Iowa allow me to interrupt him?

Mr. KASSON. Certainly.

Mr. BLAINE. I merely want, by the indulgence and kindness of the gentleman from Iowa, to state—and I want the country to understand it—that there is no question pending before the criminal court of this District affecting any other person than William W. Belknap in relation to this matter.

Mr. BLACKBURN. How do you know?

Mr. BLAINE. These gentlemen are not summoned to give testimony in the case of any witness whatever.

Now, these gentlemen made a final report of this case and wound it up by moving an impeachment, and the impeachment article in the Constitution expressly guarantees that the guilty party shall be liable and subject to indictment, trial, judgment, and punishment according to law, and the President of the United States in pursuance of his duty sent these men before a judicial tribunal, and the judicial tribunal sent up a summons here asking this House to let them know the testimony that they thought grave enough upon which to found an impeachment.

And then we have the miserable backing and filling, shuffling, and pretense that somebody's privilege is invaded. I undertake to say that from 1789 down to this moment there never was so paltry a plea put in anywhere. Every one knows that a summons issued to a member of Congress goes upon the explicit understanding that he can respond to it or not, because, except in case of treason, felony, and breach of the peace, he is constitutionally exempt from arrest. When these gentlemen come in here and pretend that their sacred privileges were invaded it is a little laughable. They could walk the streets unmolested. The whole question for these gentlemen originally, and for the House, as they have now transferred it to the House, is whether we will stand as a bar to the prosecution in the criminal courts of the late Secretary of War or whether we will furnish all the testimony in our possession.

And the question I desire to ask the gentleman from Iowa [Mr. KASSON] is this: How, in his judgment, would it have looked before the country if the republican party had come in here this morning and interposed this pitiful evasion with the idea that they might skulk behind it, and in some way save a member of their party?

Mr. KASSON. It would look as if we had gone over to the democracy. [Laughter.] I now yield to the gentleman from North Carolina for a question or a brief statement.

Mr. ROBBINS, of North Carolina. My point is this, that there is a great deal of pettifoggery here about the position of different gentlemen of different parties. I do not care about that; but I want to ask one square question as an American citizen.

Mr. KASSON. Good; do it.

Mr. ROBBINS, of North Carolina. Is not the necessary effect of inquiring of members of this House upon investigating committees as to what has been testified in regard to matters before them, when a witness may be subject to indictment for bribing public officers—is not the necessary effect of such inquiries before any tribunal while the investigations are in progress to intimidate witnesses? And further, does not the gentleman see that it is not ourselves that we ask to be protected, but that it is the witnesses we have before us by the dozen, and who are about to be scared away from here by this thing? [Laughter and applause.]

Mr. KASSON. That is pretty well put under the circumstances. [Renewed laughter.] But I ask at the same time if the country will not say of a committee that takes that ground, especially where three of them had this particular information some time before the other two had any knowledge of it, that their object is to make a disagreeable odor in the political atmosphere, and not to enforce justice according to law?

Mr. ROBBINS, of North Carolina. I ask the gentleman if he will allow me—

Mr. KASSON. I always yield to the gentleman from North Carolina for a question.

Mr. ROBBINS, of North Carolina. I thank the gentleman for his courtesy. I do not often trespass upon it. This is what I say: This case will keep until we have tried the late Secretary of War where he ought first to be tried.

Mr. KASSON. That is just what I thought the day of the impeachment; that the impeachment would keep at least over night; but they thought it would not, and hurried it right through under the previous question.

Mr. ROBBINS, of North Carolina. I beg the gentleman to hear me.

Mr. KASSON. The more you examine into the reasons for this the more you find that this business of intimidating witnesses has no effect upon "the dozens that are waiting on the committees." And why? Because by law they are protected against having their testimony used against them; they are perfectly protected.

Mr. ROBBINS, of North Carolina. Will the gentleman allow me another question?

Mr. KASSON. Certainly.

Mr. ROBBINS, of North Carolina. Is not Caleb P. Marsh indictable for having bribed the Secretary of War? And if I am summoned and swear that he confessed before us that he did do so, do I not put him before the grand jury to be indicted?

Mr. KASSON. I hope to God he will be indicted for offering a bribe.

Mr. ROBBINS, of North Carolina. And did not that threat of the President that he should be prosecuted make him go to Canada? [Laughter.]

Mr. KASSON. The point is evaded. He went before any such threat was made. Of course the man is indictable and ought to be indicted if there are witnesses to be found to prove the offense. But the other point is the one involved, that he is bound to testify. Did

we not last winter keep a witness in jail for weeks and weeks, until he finally yielded and testified, because he had taken an illegal position, that he ought to be protected against being compelled to testify? He was intimidated, but the intimidation amounted to nothing; we got his testimony. And so can this committee, if it is in earnest, get the testimony of any witnesses whose testimony they are entitled to by the laws of the land.

We ought not to be asked to postpone the indictment of the Secretary of War himself, the criminal revealed here on the report of the committee; we ought not to postpone his indictment to the distant future on the theory that some possible witness may be scared away, when the committee have it in their power to enlighten the grand and the petit juries as to the facts in the case.

Mr. ROBBINS, of North Carolina. I want to say one word further.

Mr. KASSON. I am desirous to yield to the gentleman from Mississippi, [Mr. SINGLETON.]

Mr. BLACKBURN. The gentleman from Iowa will allow me to remind him that he promised me to answer a question which he has unwittingly or deliberately ignored. Was it true, as stated in the newspaper reports—

Mr. KASSON. I remember the question.

Mr. BLACKBURN. Let me state the question.

Mr. KASSON. Not again.

Mr. BLACKBURN. Did the gentleman go with the Iowa delegation and hold an interview with the Secretary of War; and if he did, what secrets did he learn?

Mr. KASSON. I ask the gentleman to observe the rules of the House. The question had passed out of my mind, and I do not want it to do so again before I answer it, or I shall have another speech from the gentleman from Kentucky.

A MEMBER. A better speech than your own.

Mr. KASSON. Before the committee had made their report, there came a notification to the entire Iowa delegation in both Houses that the Secretary of War wanted to see them. That was before the committee had made their report; and I for one have never seen that day when I was so much afraid of a man that was down upon his back that if he sent to me a request to see him I would not see him. I tell the gentleman from Kentucky further that if such be the spirit of Kentucky, he cannot find one member of the Iowa delegation that will respond to it. We went in the evening by the request of the Secretary of War; and then we met—what? The gentleman is entitled to it, and he shall have it all. We met this statement: "Gentlemen, when I sent for you I supposed there was to be some opportunity to be heard in the House in some way upon this subject. I have now learned by accident since six o'clock that I am impeached, and that the House has taken order to notify the Senate of the impeachment. It is useless for me to trouble you with what I was going to say touching the evidence in this case." And we left him. Let the gentleman make the most of it; but let him understand that if he thinks it right, Iowa does not think it right to refuse to one of its citizens an interview when he is impeached before the Senate of the United States.

Mr. AINSWORTH. I desire to ask my colleague if it is true that the Secretary of War sent for the entire Iowa delegation; and, if so, why they left me out. [Loud laughter.]

Mr. KASSON. I rather think there were two reasons for it. One is that my colleague [Mr. AINSWORTH] did not see the boy that brought around the requests; and the other is that he happens to come from such a district, politically, that the Secretary of War forgot there was a democratic Representative from Iowa. [Laughter.] But really I do not know whether his name was on the list or not. There was a long list of names; that is all I know.

Mr. HARRISON. Does the gentleman mean to say that that little district—

Mr. KASSON. O, never mind that. I now yield to the gentleman from Mississippi [Mr. SINGLETON] for a question.

Mr. SINGLETON. Mr. Speaker, the gentleman from Iowa [Mr. KASSON] and all the gentlemen on the other side of the House profess to be ready to join earnestly with the democratic side of the House in the endeavor to have these matters thoroughly and properly investigated. Now I want to ask this question: whether they are willing to unite with us in securing the passage of a bill (if it be necessary) through this House and the Senate giving protection to witnesses when they appear in these cases and testify to matters under investigation?

Mr. BLAINE. Certainly.

Mr. KASSON. I hardly know whether I comprehend the point of the gentleman's question. There is now a law protecting witnesses from liability for any statement they may make in evidence before a congressional committee.

Mr. SINGLETON. I understand that; but it does not when evidence is obtained *aliunde*.

Mr. KASSON. If any law can be devised that can give greater protection, if it does not defeat the ends of justice, we will support it unanimously on this side.

Mr. SINGLETON. The gentleman knows perfectly well that while the members of a committee cannot be compelled to disclose what took place in the committee-room, and while witnesses may have protection in that way, yet if others than members of the committee shall come forward and testify in court against these parties,

does not the gentleman see that they may thus be made liable to prosecution?

Mr. KASSON. If I understand the gentleman, he is in very great error touching the law. The law for the protection of witnesses, to be found in the Revised Statutes, is explicit, the object being to induce them to make clear and full statements before investigating committees of Congress. I am sure the gentleman misapprehends the law; but if it is defective, we will support any bill to make it more effective.

Mr. SINGLETON rose.

Mr. KASSON. The gentleman must excuse me further. I now yield to the gentleman from Massachusetts, [Mr. HOAR.]

Mr. SINGLETON. The entire extent to which the law goes, as I understand, is this: It does not protect witnesses from criminal prosecution—

Mr. KASSON. So far as concerns their own evidence it does.

Mr. SINGLETON. The testimony given by them cannot be used against them in a criminal prosecution, but they are liable to be prosecuted in a criminal court upon other evidence.

Mr. KASSON. And ought to be.

Mr. SINGLETON. Now I ask the gentlemen on that side of the House, are you willing to unite with us to afford protection to these witnesses against all detriment that can come to them if they appear and testify in these matters before committees of this House and before a criminal court?

Mr. HOAR. I rise to a question of order. The gentleman from Iowa has yielded to me.

Mr. SINGLETON. The gentleman yielded to me for a question, and I insist upon an answer. I ask for an answer; I am pleading for an answer.

The SPEAKER. The gentleman from Iowa yields to the gentleman from Massachusetts.

Mr. KASSON. I have tried to answer my friend from Mississippi. I wish to say distinctly, if he means to propose a law that if you have twelve criminals, gross criminals, and they all testify to the question of one other criminal, then the whole twelve shall escape punishment, I will not do it. If he means, on the other hand, a reasonable law that will give further protection, if further protection is needed, to procuring testimony and finding out criminals, we will support it. I hope I am now understood.

Mr. HOAR. I propose, Mr. Speaker, to submit the following amendment as a substitute for that offered and now pending.

The Clerk read as follows:

Resolved, That the said members be at liberty to attend before said court and give such evidence and produce such documents, if any they have, as relate to the charge against said Belknap for receiving a bribe from one Marsh.

Mr. HOAR. Mr. Speaker, I desire to say only two or three words in regard to this matter. I suppose it is clear that if these three gentlemen who have addressed the House had been members of the English House of Commons, they would have been punished as for contempt of the body to which they belonged, forthwith, on their own statements. If any court, or the other branch of Parliament, summons a member of the House of Commons to appear and testify in any mode which is a breach of his privilege, it is necessary first to apply to the house for leave, and the member commits a high contempt or crime if he waives that privilege. Why? Because the privilege is the privilege of the house, and the individual member has no right to waive it.

If these gentlemen are in possession of the secrets of this House, if they are in possession of public documents relating to the pending investigation, then it is a breach of our privilege, not of theirs, if they put themselves within the power of any legal tribunal and by waiver of that privilege enable it to wring from them those secrets. So that they are either wrong in the position they assume, and they have no such secrets in their possession, or they have been guilty of a high contempt of this House.

Now, sir, what is the attitude of this question? It is this: This House has no power and the Senate has no power to punish an American citizen for anything except for contempt. They may protect the American people by removing from office or by preventing the return to office of a corrupt office-holder. But gentlemen must of late years have been reading some other constitution than ours. [Laughter.] They have forgotten our Constitution declares that no man shall be held as answerable for crime unless on presentment or indictment of a grand jury. That is the right of the people and of the citizen as well. No political body eager to find reasons against its political opponents—

Mr. TUCKER. Will the gentleman yield to me?

Mr. HOAR. Not at this moment.

No political body eager to make capital for any pending election is intrusted with the august privilege of vindicating the outraged justice of the American people. I will now answer the gentleman from Virginia, [Mr. TUCKER.]

Mr. TUCKER. I would like the gentleman from Massachusetts to tell the House under what constitution, according to the reading of what constitution was it that Milligan, a citizen of the State of Indiana, was tried capitally without presentment or indictment?

Mr. HOAR. That was under military law, if it was under law at all. That is a different thing; it was in time of war.

Mr. Speaker, now this committee had discharged its function. The members of the committee had received, by conversations, by con-

fession, by investigation, certain facts which tended to prove a high crime had been committed in this District. They communicated those facts, as far as they related to this distinct charge against the Secretary of War of taking a bribe from one Marsh, to the House, and their communication has been published to the country. So far as they are concerned, there is no investigation pending. So far as they are concerned, there is no secret of the House touching this thing in their possession. The matter has been taken from them; they have been discharged and the matter has been committed to another committee of the House. Now, it seems to me, therefore, and I submit to the cooler judgment of the gentlemen on the other side of the House, that the duty of the House is to direct that the evidence in the knowledge of these gentlemen, or any documents, if they have any, tending to prove the particular charge against William W. Belknap of taking a bribe from Marsh, may be laid before the judicial tribunal of the country. If, on the other hand, they are prosecuting their investigation and that *subpoena duces tecum* is too broad in reference to the matter described, it is their duty to plead their privilege in regard to all such matters and refuse to submit themselves to that tribunal for any other investigation.

Now one word, sir, in regard to the question suggested by the gentleman from Mississippi, [Mr. SINGLETON.] I should not be in favor, and I am quite sure with my knowledge of his good sense he will not be in favor, of such a proposition as he has suggested, and that is of a bill which enacts that whenever a person appears before a committee of either branch of Congress and makes a statement on oath touching any crime he never shall be indicted for that crime.

See where that would lead. Just take the case of a Senate and House of different political parties and of a prosecution or investigation by the House going on against political criminals belonging to the party which is in the ascendancy in the other branch, all that party would have to do would be to institute an investigation by one of its committees, summoning the various officers of the Departments before it and asking them such questions as they chose, and forever those officers would be pardoned for the offense. Mr. Belknap, if it turned out that he appeared before an investigating committee of the Senate and answered some general questions about the matter in prosecution, would be pardoned if such a law were put upon the statute-books.

A MEMBER. Witnesses would volunteer.

Mr. HOAR. I suppose I am violating neither the privilege nor the secrecy of any committee to which I belong if I say that probably a law which will secure all that is desired in regard to this class of cases will be framed and proposed to the House shortly, and will probably receive the united support of all the members of the House.

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

Mr. HOAR. Yes, sir.

Mr. SINGLETON. It is perfectly evident to my mind, and I suppose to the mind of every other member who has given attention to this matter, that the reason why Marsh is now missing is altogether on account of the fact that it has been announced everywhere in your papers that no guilty man should escape. He therefore felt that he was *particeps criminis* in this affair, and thought it best to get out of the way.

Mr. KASSON. Does the gentleman complain of that policy that no guilty man should escape?

Mr. SINGLETON. I do not, sir. And now the whole prosecution *criminally* is in danger of failure on account of the absence of this witness. The proposition I make to the gentleman from Massachusetts and to the other side of the House is this: that we shall in regard to this particular witness—not in regard to the witnesses in every case where they shall appear and testify, but in regard to the witness or witnesses in this particular investigation and others growing out of it—we give them assurance that they will not be prosecuted; and my word for it, as soon as that is done you will see them here ready to testify.

Mr. HOAR. I do not yield further. But I will put a question to the gentleman from Mississippi [Mr. SINGLETON] which I do not ask him to answer. It is a mere rhetorical statement of an argument. Do you want Belknap to get off and not have his case presented to the criminal courts of the country for fear you frighten Marsh?

Mr. SINGLETON. Not a bit of it. The whole object, let me say, in this proposition is to prosecute as vigorously as it may be done, that you may have the benefit of the evidence of these witnesses. You have now frightened them off, and that has been as I believe intentional.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed a bill (S. No. 438) for the protection of agriculture against insects; in which the concurrence of the House was requested.

The message further announced that the Senate had passed without amendment the bill (H. R. No. 2282) to extend to the port of Genesee, in the State of New York, the privileges of sections 2990 to 2997 of the Revised Statutes, inclusive.

IMPEACHMENT OF W. W. BELKNAP.

Mr. DANFORD. I have no desire whatever to discuss this question of privilege, and I should not have sought the floor were it not for intimations thrown out by the member of the committee from

Kentucky, [Mr. BLACKBURN.] I do not know whether I understood fully the remarks of that gentleman or not. I understood the gentleman to intimate that the republican members of the committee were not so earnest in their desire to prosecute the late Secretary of War as the democratic members of the committee. If the gentleman from Kentucky means by this simply the fact that the republican members of that committee were never present until Wednesday morning last, then I have nothing further to say; but in justice to myself I desire to state that I happen to be a member of the Committee on Naval Affairs. That committee has been constantly in session for some weeks, having liberty to sit during the sessions of the House. I had been notified twice by the chairman of the Committee on Expenditures in the War Department to meet with that committee. I had never met with that committee, for the reason that my time was wholly occupied in the Committee on Naval Affairs, conducting an investigation that has taken a very large amount of testimony. There are gentlemen present who will undoubtedly sustain me in that declaration.

I was notified on Wednesday morning—and I may say that I was kindly notified by the chairman of the Committee on Expenditures in the War Department coming to me at the breakfast-table and so informing me—that important matters were before our committee.

Mr. BLAINE. Were you ever so notified before?

Mr. DANFORD. It was the first notification I had save a formal notification of the meeting of the committee which I had received twice. I never felt badly treated by the committee for the reason as I understood it that the investigations were being conducted at the regular meetings. I had notice of the times when the committee met. I did not appear. The fact, however, is as the chairman will bear me out in saying, that I had no notice of anything special being before the committee until last Wednesday. I did appear upon receiving that notice. I went to the Committee on Naval Affairs and asked the chairman of that committee to postpone the examination of a witness for some time, and I went down to the Committee on the Expenditures of the War Department, and I hope that my colleague on the committee from Kentucky [Mr. BLACKBURN.] does not intend to intimate that either myself or the other republican member of that committee, the gentleman from New York, [Mr. BASS,] from that time until the resolutions were reported and passed by this House, were not as vigilant and as earnest in pursuing that inquiry as the democratic members of the committee.

Mr. BLACKBURN. Will the gentleman permit me a word?

Mr. DANFORD. I will.

Mr. BLACKBURN. In justice to him as well as to myself I want to say that the record of this House will show when the resolution which declared that this ex-officer was liable to impeachment was pending before this body, I said that in the committee-room in the matter of agreement on that report we had recognized no difference between republicans and democrats. That was my language substantially, and I trusted the same purpose would be manifested by the republican members of the House. I did then say that, having seen the statement made in the public prints of the country upon the authority of the republican members of that committee, that efforts made by them to retain the absconding witness had failed. I have done to these gentlemen more than justice by my silence. I now take pleasure in attesting the truth of what the gentleman from Ohio says. I had not said before, but after his statement I may say now, and I want the country to know it, that there is not one atom of truth, or fact, or proof that has ever appeared before the committee that I do not want emblazoned before the country. In view of his utterance I feel authorized to say that from the day when Congress convened until last Wednesday, when the proof was all in and signed and sealed, no one republican member of that committee ever crossed the threshold of the committee-room, although, as the gentleman from Ohio admits, he was notified more than once to attend. It was then, when a culmination had been reached of the inquiry, that a special messenger was sent to ask these two republican gentlemen to come to the committee-room and read the proof before we made a report to the House; and I now reiterate what I said upon this floor last Thursday, that from that time no democratic member of that committee was more earnest, more vigilant, or more honest in his endeavors to bring this guilty party to justice than the gentleman from Ohio [Mr. DANFORD] and the gentleman from New York, [Mr. BASS.] That is the whole truth.

Now, if the gentleman will permit me, I will read the charge of which I complain; and after the liberal and just manner in which I had treated them on last Thursday, I am surprised at their silence under a charge like this. I read from the New York Tribune of yesterday:

CLYMER BLAMED FOR MARSH'S ESCAPE.

WASHINGTON, March 6.

There seems to be a great sensitiveness on the part of the democrats that the only witness in the Belknap case should have been allowed to escape through the thoughtlessness if not imbecility, or some stronger term, of the chairman of their own committee, who is one of the leaders of the party. The republicans seem disposed to press the fact to the disadvantage of the democrats, the more so from the fact that the republican members of the committee urged that Mr. Marsh be detained until the case against Mr. Belknap should be disposed of.

I ask the gentleman from Ohio now to tell whether that charge is true or false?

Mr. DANFORD. I desire to say here that I am not the authority for the statement read by the gentleman from Kentucky.

Mr. BLACKBURN. I knew that would be the gentleman's answer; and I ask him now to state whether the charges there made are false. Was there any effort made in the committee-room to retain the witness?

Mr. DANFORD. If it is not conceived by other members of the committee to be a secret, I feel at liberty to state just what my recollection is. On the morning of last Thursday Mr. Marsh came into the committee-room shortly after its meeting and the suggestion was made, either by himself or perhaps by the chairman of the committee, that he be discharged. That was prior to the committee having ascertained the fact whether there would be more testimony or not before the committee. At that time I remember that Mr. BASS, my republican colleague on the committee, suggested that it would be improper to discharge the witness until the investigation was closed, and I think the chairman of the committee will remember that suggestion. Afterward the witness Marsh withdrew. It had been determined that we would take no further testimony before the committee. Mr. Marsh then came in and the question of his discharge was again before the committee, and there was no member of the committee who questioned his right to go.

I believe that my colleague, [Mr. BASS,] who is absent to-day on account of sickness, would bear me out exactly in the statements I make, and the only regret that I have is that Mr. BASS is not present on this occasion.

Mr. CLYMER. I know how desirous my colleague from Ohio on the committee is to do exact justice and state what is fair, and therefore I will try to refresh his memory by this suggestion: whether on the morning when Mr. Marsh appeared, and it was suggested, as I will admit, although I do not remember it personally, that he should be discharged, after that he was not cross-examined by Judge Blair, counsel for Mr. Belknap?

Mr. DANFORD. Certainly.

Mr. CLYMER. And did not he then say that he had no other or further questions to ask him?

Mr. DANFORD. Undoubtedly.

Mr. CLYMER. And then, in the presence of Judge Blair, and in the presence of the whole committee, did not the witness say: "Are you done with me?" And was not my reply, or the reply of some one, this: "We do not know that we have anything more to ask you." And did not the witness then say: "I want to go to New York." And I remember that I asked him, "When do you propose starting?" and he said, "I would like to get off very early." I asked him if he would go that night, and suggested that if he was going he could get his mileage and pay, and I even went so far as to say that I would go with him to the Sergeant-at-Arms if he was not acquainted with him. I think he intimated that he cared nothing about that. The witness left the room in the presence of and with the consent of the entire committee.

Mr. HOAR. Will the gentleman from Pennsylvania allow me to ask him a question?

Mr. CLYMER. Certainly.

Mr. HOAR. It is whether, if a resolution had been offered to the House to take order for the detention of that witness for the purpose of testifying in the impeachment case, it would not have been better, instead of calling the previous question on his resolution, and preventing men who understood their business from attending to it—

Mr. BLAINE. And further—

Mr. CLYMER. I want to reply to that question. I want to say that no member of that committee, after seeing the manner of the witness and the fairness of the statement of his evidence, had the least suspicion on earth that he would leave the country.

Mr. HOAR. I want to ask the gentleman—

Mr. CLYMER. One moment. I say now that he left the country; and if he does not return it is because this case has been pursued with a purpose so as to frighten him from the country.

Mr. HOAR. I want to ask the gentleman whether he is not now satisfied that he made a mistake in reporting his resolutions and calling the previous question on them before anybody could suggest the proper course to be pursued?

Mr. CLYMER. No, sir; I made no mistake.

Mr. BEEBE. He could not anticipate what your President would do.

Mr. CLYMER. I made no mistake. I let the blow fall, as fall it should, with a swiftness and suddenness calculated to strike terror to all evil-doers.

Mr. DANFORD. I desire to state in relation to the remarks made by the chairman of the committee [Mr. CLYMER] that, while I do not remember the entire colloquy between himself and the witness Marsh, I do remember the substance of it. The gentleman states correctly what took place in the presence of the entire committee. The only other thing I desire to say is this: in justice to my colleague, Mr. BASS, it ought to be stated here to the House and to the country that he is at this time sick and has been unable to attend even the sittings of the House. And now, as this is a matter of record, I ask the chairman of the Committee on Naval Affairs, [Mr. WHITTHORNE,] whom I see present, to bear witness as to the manner in which our time upon that committee is occupied. I ask it in justice to myself.

Mr. WHITTHORNE. I take very great pleasure in stating, on behalf of the gentleman from Ohio, [Mr. DANFORD,] that he has been constant and unremitting in his attention to the duties devolved upon him as a member of the Committee on Naval Affairs. Upon one or

more occasions I remember that he has called my attention to the fact that he would be absent on duty connected with the Committee on Expenditures in the War Department, and asked me not to examine a given witness until he returned. I take pleasure further in adding on behalf of my colleague on the committee that I have noticed his honesty and good faith in seeking to develop any matter connected with honesty and integrity in the public service.

Mr. COX. I ask that the resolution, not the preamble, offered by the gentleman from Mississippi [Mr. LAMAR] be read.

The Clerk read the resolution, as follows:

Resolved, That the said committee and the members thereof are hereby directed to disregard said mandate until further order of this House.

Mr. COX. I do not intend to detain the House very long in answering the irrelevant talk that has been made by the gentlemen on the other side. There is an old trick, an old fallacy in logic. It is copied from the action of a certain fish of the sea, which emits a large quantity of a certain sort of juice of an inky color, in which to make its escape from attack. There is another pertinent illustration. When some one once spoke in the Roman senate in defense of assassination a senator said that the defenders of assassination were worse than the assassins.

Gentlemen were horrified the other day at some expressions of mine. One member said that they had disgusted the civilized world. I wonder what the civilized world thinks of this nation to-day. What will it think of members talking here about remitting this great matter for which Congress has impeached an unfaithful war minister to a little police tribunal of our own creation? What will it think of trying to steal the jurisdiction from us when impeachment was intended by the Constitution, not only as a punishment but as a solemn warning and great ensample to functionaries for all time?

Gentlemen fail to see the distinction between impeachment and its penalties and conviction by a mere police court of this District, which is our creature.

It was said here the other day that the President could pardon a criminal convicted under our statutes in the police court. True; and Congress itself may repeal the very law under which the conviction is had and the convict may go acquitted. Not so with the paramount impeachment.

Mr. BLAINE. Who is objecting to his impeachment?

Mr. COX. You did not object to it the other day.

Mr. BLAINE. Nobody else did or is objecting now.

Mr. COX. Now you sit down and do not play those tricks on me. [Laughter.]

Now, Mr. Speaker, I never received any treatment from the gentleman from Maine while he was in the chair except courtesy. He used frequently to chide me for interrupting discourteously and irregularly other members while they were speaking. That was all right. Now let him practice what he taught in the chair.

Who objected to this impeachment? The gentleman from Massachusetts [Mr. HOAR] held that we could not impeach an officer after his resignation.

Mr. HOAR. O, no; will the gentleman permit me to state what was my position?

Mr. COX. I understood the gentleman from Massachusetts to argue that resignation forbade impeachment, and he quoted from Judge Story to prove it.

Mr. HOAR. Will the gentleman permit me to explain? I am sure he does not wish to do me injustice.

Mr. COX. After the expression which the gentleman used the other day about my having disgusted the civilized world, he can hardly expect me to yield. [Laughter.] I say that the gentleman from Massachusetts the other day thus quoted Judge Story, and in a melodramatic manner declared: "If I am alone, I will vote against this impeachment in this mode, so hastily."

Mr. HOAR. O, no.

Mr. COX. Well, the remark was something of that kind; the RECORD will show it.

Mr. HOAR. The gentleman is mistaken altogether.

Mr. COX. Did not the gentleman from Iowa [Mr. KASSON] plead in behalf of a citizen of his State, the late Secretary of War, for delay? What is the meaning of all this excitement and noise here? Why is your side of the House so unanimous, with the exception of one or two gentlemen, against pursuing this proceeding as the committee has pursued it—in a fair and honorable manner? What has this committee done that is wrong? Simply hesitated to plead their privilege and asked the judgment of the House. Why, sir, the gentleman from Maine said that to plead a privilege such as is recognized in parliamentary rules was a "miserable whiffing, shuffling, backing, and filling sort of thing," and then the gentleman from Massachusetts [Mr. HOAR] says that a man who does not plead it is in contempt of the House!

Mr. BLAINE. I said for the House to plead it.

Mr. COX. Now there is no use for the gentleman to get up any more. [Laughter.]

Now, Mr. Speaker, I read a definition of this privilege as given by Jefferson in his Manual, to be found on page 58 of our Digest:

This privilege from arrest, privileges, of course, against all process the disobedience to which is punishable by an attachment of the person; as a *subpoena ad respondendum*, or *testificandum*, or a summons on a jury; and with reason, because a member has superior duties to perform in another place.

What is the reason for this rule of our action? Simply this: that a Representative who represents a large body of people, or a Senator who represents a State, should not be called by the courts at their pleasure to leave their seats. He holds superior allegiance. If it were otherwise, might we not be left without a quorum here? Might we not have great difficulty in proceeding with the public business? The object of a privilege of this kind is that the public business shall go on. Public duty is paramount to all your police courts and with all their attachments and subpoenas *duces tecum*. Ah! gentlemen say that they would allow this petty court of the District to take all the records of this committee and all documents from our control and possession, including the main evidence in writing—that is the Marsh-Evans contract—before the grand jury of that court; they would allow them to be there examined; they would have this committee take them all down to that jury-room. What for? To aid the object of their procurement? To cleanse the public service and to punish for high crimes and misdemeanors? To facilitate the procedure inaugurated for impeachment? No. To indict and punish Marsh? The gentleman shakes his head; he does not want to punish Marsh, I suppose.

Mr. BLAINE. The subpoena was only for the Belknap case; don't dodge behind Marsh.

Mr. COX. Just wait; I can fix you on that. [Laughter.] I was raised in a clerk's office; I have issued thousands of *subpoenas duces tecum* and understand the duty of a grand jury. That process is a notice under penalty to the witness to come with all the documents named in the process.

Mr. BLAINE. In the case of Belknap.

Mr. COX. O! but the subpoena is to appear before the grand jury; and if it appears before the grand jury, upon inquiring as to Belknap, that Marsh is guilty, the grand jury, as the gentleman knows, is bound to find an indictment against Marsh; and hence you press this thing. [Applause.]

Mr. BLAINE. Will the gentleman permit me one moment?

Mr. COX. No, sir.

Mr. BLAINE. One moment only.

Mr. COX. No, sir.

Mr. BLAINE. Just a moment by the gentleman's courtesy.

Mr. DAVIS. I rise to a question of order. The gentleman from Maine is out of order, and nobody knows it better than himself. [Laughter.]

Mr. BLAINE. That depends on whether the gentleman from New York yields to me. Does the gentleman yield to me for a question?

Mr. COX. I decline. You know the other day you declined to yield to me. [Laughter.]

The SPEAKER *pro tempore*. The Chair understands the gentleman from New York does not yield.

Mr. BLAINE. I now understand it too. [Laughter.]

Mr. COX. There is nobody I would rather hear speak than the honorable gentleman from Maine; but he does not seem to keep his temper very even on this question. I do not know why he should be so anxious to protect this Administration. It has not been so anxious to take care of him. [Laughter.] Perhaps he thinks this matter will kill the Administration and then his chance will be better to be a Senator or something of that sort. [Laughter.]

But the point I make is this—you cannot get over it; you cannot get under it; you cannot get around it; you have got to come up and meet it—it is this: If these committeemen testify, and these papers and testimony are carted to the room of the grand jury sitting as an inquest in secret, and inquiring into all offenses, and that contract signed by Marsh, not by Belknap, is read by them, the indictment will not be against Belknap but against Marsh; and therefore you are pursuing Marsh in this way.

Mr. KASSON made a remark which was not heard.

Mr. COX. I cannot hear that talk in the seat over there. It is irregular; I cannot answer it; and I hope it will not be put into the RECORD like some other bad things I have seen.

This suspicion of rascality in the administration of the Government has been in men's minds for a good many years. After all our minority trials and troubles for a long time our investigations have proved almost fruitless. Nearly all of them were suppressed by the kind and patriotic efforts of gentlemen on the other side. [Laughter.] I do not wonder that the gentlemen of this committee charged with this duty were a little reluctant to confer with gentlemen on the other side in respect to these peculiar matters or to submit their evidence to other and insignificant tribunals.

When it is charged, as it is here, that this matter transpired in time to affect an election it is about the best defense of the crime possible. Then it is said that it is brought out for some malicious purpose, and when failing to defend the badness, they turn around and inculpate the committee for something. They abuse the plaintiff's counsel like the lawyer in the old story. This mode of defense does not look like the high moral tone of the party which is claimed to be based on moral ideas. [Laughter.]

But, Mr. Speaker, I was about to say that we have had investigations heretofore under republican auspices. I served two months on the committee on the "Black Friday" panic. We had to go up and down Wall street and Broad street; and we rushed from Washington County, Pennsylvania, to Washington City, District of Columbia, to obtain our proofs. We unearthed much that was infamous. We

brought matters almost up to the very portals of power. How were we treated then? I have at last accidentally found in my committee-room the journal of the Currency Committee. It was under the authority of that committee that this Black Friday was examined. I have an abstract here which I will give you now, and I do not care whether it affects the New Hampshire election or not. [Great laughter.] It ought to affect it. It ought to make honest men vote for the democratic party this year. [Applause.]

Now, what is that record? On the 1st of February, 1870, after certain revelations, Mr. COX offered a resolution that the chairman of the Committee on Banking and Currency should confer either personally or in writing with the President of the United States in reference to the testimony given before the committee referring to him or his family, and that the President be respectfully requested to state whether, after considering the matter, he desired to be heard before the committee, or otherwise, with reference to said evidence. That resolution was agreed to.

On the 4th of February Mr. GARFIELD, the chairman, reported that he had, in pursuance of instructions, called upon President Grant and stated to him that in some of the testimony given before the committee personal reference was made to himself and to some of the members of his family, and inquired whether he desired to make any suggestions or statements concerning the same.

Mr. GARFIELD also reported:

The President desired me to express his thanks to the committee for their courtesy, and to say that he preferred not to see the testimony nor to make any suggestions or statements in reference to it during the progress of the investigation.

Whereupon Mr. COX offered the following resolution:

Resolved, That the committee summon the President of the United States.

On motion, the consideration of the resolution was postponed.

On the 5th of February Mr. COX moved to summon General Dent, and Mr. JONES moved to summon Mrs. Corbin. The consideration of the resolutions was postponed to the 8th of February, and on that day, after a great deal of trouble and trial, the motion of Mr. COX to summon the President was taken up.

Mr. Coburn (a republican) moved to amend by requesting the President to appear before the committee to testify. The amendment was lost by the following vote, democrats in italics:

YEAS—Messrs. Coburn, Lash, Cox, and Jones—4.

NAYS—Messrs. Judd, Smith, PACKER, BURCHARD, and the chairman, Mr. GARFIELD—5.

The vote was then taken on the original resolution offered by Mr. COX. It was lost as follows, democrats in italics:

YEAS—Messrs. Cox, and Jones—2.

NAYS—Messrs. Judd, Coburn, Smith, PACKER, Lash, BURCHARD, and the chairman, Mr. GARFIELD—7.

The reason given for not requesting or summoning the President was that he claimed to be a co-ordinate branch of the Government. And there was no way of reaching him so as to obtain his testimony. We could only impeach, not investigate by his own evidence. In spite of the precedents of Jefferson and Lincoln, who had appeared before congressional committees without objection, they refused to summon him. They voted it down, as also the motion to summon Mrs. Corbin, General Dent, and Mrs. Grant. On the 9th of February, 1870, the motion of Mr. JONES to summon Mrs. Corbin was taken up, and it was lost by the following vote:

YEAS—Messrs. COX, JONES, and BURCHARD—3.

NAYS—Messrs. Judd, Smith, PACKER, Lash, and the chairman, GARFIELD—5.

Mr. JONES moved that the testimony of Mrs. Grant be taken. Lost by the following vote:

YEAS—Messrs. COX and JONES—2.

NAYS—Messrs. Smith, Judd, PACKER, Lash, BURCHARD, and the chairman, GARFIELD—6.

Mr. COX's resolution to summon General Dent was then taken up, and lost by the following vote:

YEAS—Messrs. PACKER, Lash, COX, and JONES—4.

NAYS—Messrs. Judd, Smith, BURCHARD, and the chairman, GARFIELD—4.

Thus the House will see how republican investigations proceeded and why they were so vain. This was the way testimony was taken in that committee in these matters. We could not get at the facts. There was no way to get at them. We could not present them to the country fairly. They slammed the door in our face. We knocked at it in vain.

Now when at last the people have sent us here to do this investigating duty and go through all the Departments; when our resolutions propose thoroughness and justice, and when this Committee on War Expenses have done it honestly and discreetly, an attempt is made in this District and in this House to aid a petty police court to take away from them their papers and facts to avoid the supreme odium of impeachment; nay, more, to drive from the land in terror all those who would give testimony on this and other subjects pertaining to malfeasance in office. There arises at once, without reason, a full chorus of defense from gentlemen on the other side against such searching vigilance in the public honor and service.

But, sir, the people will take notice of what you are doing; and hereafter you will be called to account for making this pettyfogging attack upon an honest, fair attempt to investigate the pitiful putrescence which runs through all our Departments. [Applause.]

Mr. BRIGHT. It is with some regret that I intrude any remarks on the attention of the House. What I have to say I will endeavor to say without passion and with all candor. What is the matter that we have in hand? A committee has been appointed by this body. Their authority is derived from this body. They have reported back and recommended articles of impeachment against a high Government official. The House has taken action, and proceedings are now pending to arraign the official for trial before the Senate as the high court of impeachment. The jurisdiction has already attached, and the Senate is vested with plenary judicial power to proceed to judgment. In this state of the case what authority has a subordinate judicial tribunal to interpose its power and wrest the jurisdiction and compel the delivery of the testimony in the keeping of the superior court? Why, sir, I had always supposed that even in a case of concurrent jurisdiction the jurisdiction which first attached to the person in criminal proceedings held its jurisdiction until it was exhausted. The prisoner could not be held on trial before two tribunals at the same time. Though the Senate as an impeaching court might proceed without the presence of the prisoner, yet the prisoner would have the right to be present.

But what is the meaning of this effort to oust Congress of its jurisdiction? I apprehend the result would be, whether so intended or not, to intimidate the leading witnesses and drive them beyond the jurisdiction of the court and Congress, and thus procure the acquittal of the grand offender by default of testimony. And the judgment of such acquittal would be pleaded in bar of the prosecution of impeachment in the Senate; but whether it could be successfully pleaded is another question.

This indecent haste to arrest the documentary evidence in the keeping of Congress seems to smack of design. There is no absolute necessity for such immediate proceeding. The prisoner might have been secured by arrest and held in bail.

I maintain, Mr. Speaker, that the proceedings in the inferior court might become illegal if resorted to for the purpose of getting up prosecutions or indictments against the witnesses whose testimony would convict the prisoner and by intimidation keep them from the court. I say so because we have a highly penal statute which prohibits the intimidation of witnesses by threats or otherwise. If the court is resorted to as an instrument of intimidation, so much the worse.

Congress has ample jurisdiction and capacity to try the high offender who has been summoned before its bar.

It is a part of the history of all governments that the reign of high crimes and misdemeanors can only be arrested at times by securing the testimony of accomplices; and the state gives immunity to the informer as a consideration for the advantage of his testimony.

Every one must know that if indictments are found in the inferior tribunal which has attempted to oust Congress of its acquired jurisdiction and before the immunity is secured to accomplice witnesses, they would in terror fly from the jurisdiction of the court.

I believe this attempt of the inferior court to deprive Congress of its acquired jurisdiction will inspire the conviction in the country that this court has been used only as a scape-goat to allow the criminal to make his escape into the wilderness. The country will believe that it would be only a proceeding to drive away thieves outside of the Cabinet to protect thieves in the Cabinet.

Mr. KASSON. Will the gentleman yield to me a moment?

Mr. BRIGHT. No, sir; I cannot yield. I will be through in a moment.

The people expect us to do our whole duty. If official corruption is spreading into the Cabinet and Cabinet ministers are dropping like putrescent arms from the executive family, let the work go on, stripping limb by limb until the purification is complete. And if necessary let a thunderbolt fall on the head of even the highest official in the nation.

This regenerating power rests with the people and with Congress. It should be the glory of a republic to demonstrate to the nations of the earth that it has the power of self-purification, and that no official, however high, who has betrayed his trust, sullied the glory of his country, and brought reproach on its institutions, shall escape the just punishment of his crime. While the American abroad will feel his face mantling with burning shame as he reads the record of official corruption, he will exult in the fact that there is virtue enough left in the land to uncover and strike down the offenders.

Mr. Speaker, I shall not detain the House further. These gentlemen of the committee were nothing but the ministerial officers of the House. They have reported back the condition of things. They ask the advice of the House. The request is proper, and should be granted. Let them be protected and let the impeachment proceed. I yield to my friend from Kentucky, [Mr. BLACKBURN.]

Mr. BLACKBURN. I have no idea, Mr. Speaker, of inflicting another speech upon the House. This discussion has wandered widely from the purpose of the resolution. As members of the committee, called to waive our privilege as members of this House, we sought instructions from the House as to whether or not it should be done.

Now I asked the floor and I received it through the courtesy of the gentleman from Tennessee, [Mr. BRIGHT,] to call the House back from its wanderings to the point, and that is whether a member of the House shall waive his privilege and appear before a petty inferior court of the country to testify to the public detriment on matters then

pending in investigation before his committee? If it is the pleasure of the House that this should be done, no man will yield more prompt obedience than myself, but I do not desire to assume the responsibility of taking that action in the absence of instructions from this House, and I desire to put on record this passage from Jefferson's Manual:

The privilege of a member is the privilege of the House. If the member waive it without leave, it is a ground for punishing him, but cannot in effect waive the privilege of the House.

I hold that under this authority no member of this House has a right to waive his privilege without at the same time incurring the responsibility of the penalty which the House may inflict upon him.

I read further from the same work:

Privilege is in the power of the House, and is a restraint to the proceedings of inferior courts, but not of the House itself.

The privilege, sir, is a restraint upon the proceedings in the inferior courts. It is a privilege which pertains to the House as well as to the member, and the member could not waive it without incurring the penalty of such punishment as the House may deem proper to inflict.

I need not call attention to the fact that a case arose in 1866 where a member of this House was arrested and incarcerated in the twenty-eighth judicial district of Pennsylvania. A warrant was issued here, signed by the Speaker, directing the Sergeant-at-Arms to go there and assert the privilege of the House in the person of its member.

The member was arrested on a charge of having swindled persons out of the sum of \$100,000. On the presentation of that order of the Speaker the prison doors were thrown open and that member of Congress was returned to his duties and set free.

Now I call the attention of the House to the question which the committee are asking. We hold our privilege subject to the House, and we ask if we are to waive it; and if so, when to do it, or to tell us when we shall withhold it, in order to promote the work now going on of exposing corruption, convicting thieves, and purifying the administration of the Government, which in God's name has suffered long enough at your hands.

Sir, this committee has been established for eleven years, and if it ever made a report or held a meeting before I cannot find it on record. The transactions involved in this case reach back to 1870. *Republican Congresses from that day to this have been unable or unwilling to find a flaw, but WITHIN NINETY DAYS AFTER A DEMOCRATIC COMMITTEE HAD TAKEN CHARGE OF THE MATTER a Cabinet officer topples from his pedestal, the PUTRID CARCASS OF CORRUPTION WAS EXPOSED IN SUCH hideous rottenness as to disgust, sicken, and appall the country.* The question now is whether this work shall stop, whether the unconvicted thieves are to go unwhipped of justice, or shall we stand upon the privilege which the Constitution of the country gives and the interests of honest government demands that we shall assert?

Mr. BLAINE obtained the floor.

Mr. HOAR. Will the gentleman from Maine [Mr. BLAINE] allow me a moment before he proceeds?

Mr. BLAINE. I yield to the gentleman from Massachusetts, [Mr. HOAR.]

Mr. HOAR. Before the gentleman from Maine [Mr. BLAINE] proceeds, I wish to advert to something which was said by the gentleman from New York, [Mr. COX,] which he would not permit me to correct when he was speaking. I did not express the other day any opinion that an officer could not be impeached after he had gone out of office. I did say that two members of the committee had stated, as I understood them, that they had not investigated that question. I said this: that I thought it very likely when the evidence was printed it would be found that the House might adopt the conclusion to which the committee had arrived. I pleaded, however, for time, over night, to see the evidence in print, to look into a question so important that Judge Story intimated very strongly his opinion that it should not be done. That was the whole of it.

Mr. COX. That was not the whole of what you said, sir.

Mr. HOAR. I must decline to yield. I did not express the opinion as to whether or not a man can be impeached after he has left office, but the House has the right to secure the rights of the American people against the return to office of an office-holder after he has gone out of office under a criminal charge. That is, the President of the United States is not to be permitted to return to political office any guilty adviser or counsellor of his by reason of his escaping the judgment of impeachment, and the test of whether the remedy is still possible depends upon the question whether the judgment you are to get by it is still possible and of effect. But it came upon the House at once, and as a new question. The previous question was called even before any explanation or discussion. The committee said to us, you are to have this or nothing. All I argued for was an opportunity until the next morning to examine the question.

Now in regard to what the gentleman from New York [Mr. COX] adverted to, if he will give me his attention for a moment, in regard to the very severe personal criticism which I made upon some previous language of the gentleman. Two minutes before I arose I had not intended to speak on the occasion to which he refers, and when I replied to the gentleman from Georgia, [Mr. COOK.] And while on my feet and in the heat of debate I said what I thought about that language of the gentleman from New York, [Mr. COX,] just as the gentleman himself afterward said he had in the heat of debate uttered the language to which I referred. And I dare say, whatever I may have thought in disapprobation of that language, that the long

friendly relations which had existed between him and me would have prevented from me a public utterance of so severe a criticism, just as I am sure the gentleman from New York would have abstained from the public utterance of what he said about the gentleman from Maine [Mr. BLAINE] if he had taken any time to consider it.

But I say to the gentleman—and I say this very good-naturedly—he must not find too much fault with my saying that wherever the knowledge of that utterance had gone it had disgusted the civilized world, for when I got through the gentleman rose and said that on reflection he was disgusted with it himself.

Mr. COX. I did not say that.

Mr. HOAR. You said that in substance.

Mr. COX. O, no; not at all.

Mr. BLAINE. I think there are two or three misapprehensions or misconceptions that might arise in connection with this debate, and I will trespass long enough upon the time of the House to correct them.

First, in regard to the question of privilege to which the gentleman from Kentucky [Mr. BLACKBURN] has adverted. It is quite evident that the gentleman has the right not to waive his privilege; and even if the House gives its full permission, he still has the right not to waive it. The privilege is absolute, and unless the member shall himself have done some guilty act, neither the House nor any other power can divest him of that privilege. All this talk about putting the great privileges of the House of Representatives at the beck and bid of a little police court becomes totally irrelevant. Nobody is contending here that the summons of that court is binding upon this House of Representatives or upon any member thereof. Let me put a case to the gentleman from Kentucky, [Mr. BLACKBURN.] Suppose a murder were committed here by a member of the House—and it is not beyond the realm of imagination to suppose such a case.

Mr. BLACKBURN. Murder is an excepted case.

Mr. BLAINE. Suppose the murder is committed, and none but members of the House are witnesses of the crime. Three members of this House see another member murder an innocent man, and they are summoned to testify in a criminal court. At once the gentleman from Mississippi [Mr. LAMAR] waxes eloquent and the gentleman from Kentucky [Mr. BLACKBURN] waxes indignant at the idea of a police court presuming to come in here and to ask honorable gentlemen of this House to assist in the prosecution of the crime, to go before the grand jury to testify.

Now, what is this case? A great crime is charged upon a high officer of the Government. The gentlemen who represent the committee of this House are the sole depositaries of the evidence on which that officer may be indicted. They have possession of all the papers, they have possession of every shred of testimony, and they are respectfully asked to go before the grand jury of this District and assist in indicting that man for the crime. Forthwith the wrath of the majority side of this House is aroused, and gentlemen cry out, This is done to prevent impeachment.

Why, sir, it has nothing whatever to do with the question of impeachment. The Constitution expressly provides—and I ask the gentleman from Tennessee, [Mr. BRIGHT,] whom I have always heretofore regarded as a good lawyer, to read that Constitution—the Constitution expressly provides that the jurisdiction of the House and Senate for impeachment and the jurisdiction of the criminal courts for indictment and trial go hand in hand. No one here refuses; there is no one here, so far as I know, but what desires, demands that Belknap shall be impeached.

I have the fullest conviction, and although it is not precisely pertinent to this debate yet I will express it—I have the fullest possible conviction, after I think very mature reflection, that no officer who commits an impeachable offense can escape impeachment by resignation. No tender of resignation in any form, be it complete or incomplete, nor acceptance of it, can take from the people the right of impeachment, the right to protect themselves by declaring that he shall never thereafter hold any office of honor or profit; and therefore, with a clear conscience, on the presentation which these gentlemen made on Thursday last, I voted to present General Belknap for impeachment. And I have been waiting with some impatience for the articles of impeachment to be reported. Five days have elapsed. What is the hitch?

Mr. BEEBE. You have run the witness off.

Mr. BRIGHT. Will the gentleman from Maine [Mr. BLAINE] allow me to interrupt him?

Mr. BLAINE. Have not any witnesses! I never yet knew a prosecuting attorney to hold back an indictment of a man because there was a possibility that at the next term of the court some witness might not be present. That is a very flimsy excuse, gentlemen. Your business is to indict the man. The House of Representatives is the grand jury in the case of impeachment. Bring forward your articles; you will find a unanimous vote on this side sustaining them, so far as I know, if they are in accordance with the facts. As the gentleman from Massachusetts [Mr. HOAR] explained—and I listened with great interest, as I always do, to his remarks in regard to the opinion of Justice Story—there may be some ground of doubt as a legal question. But for myself I do not have any; and I do not believe that that doubt, however strongly it may exist, will control the vote of a single man on this side. As the gentleman from Michigan [Mr. CONGER] correctly suggests, the Senate will decide that question. The gentleman from New York [Mr. COX] will excuse me if I use strong

language, and say that he was paltering in a double sense and talking in a very paltry manner when he said this was an attempt to keep back the impeachment of Belknap. When the vote was taken the other day on the resolutions of impeachment the Speaker of the House, the honorable gentleman from Indiana, was in the chair; and he stated that the resolutions were agreed to unanimously; the RECORD so states; the Journal so states. So that any attempt to create the impression in the country that there is reluctance or evasion or unwillingness on this side of the House to indict and try Belknap is uncandid, unfair, and untrue.

Mr. BRIGHT. Will the gentleman permit me to state my legal proposition again? My proposition was that the Congress of the United States was one jurisdiction that had the right to try the offense and impeach the Secretary of War; that while that was so there was a subordinate court that had concurrent jurisdiction; but that Congress having first obtained jurisdiction, that jurisdiction could not be ousted.

Mr. BLAINE. But there is no conflict.

Mr. BRIGHT. Yes, sir, there is a conflict.

Mr. BLAINE. Not the slightest.

Mr. BRIGHT. You cannot put a man upon trial in two tribunals at the same time.

Mr. BLAINE. O! the gentleman still further shakes my faith in him as a lawyer.

Mr. BRIGHT. Here is the first tribunal; it has ousted the inferior jurisdiction for the time.

Mr. BLAINE. O! the gentleman mixes things so that it would take me an hour to untangle them. The object of impeachment is not punishment. If it were so, a person impeached might cite in his defense the provision of the bill of rights that no person shall twice be subjected to peril of life or limb for the same offense. There is nothing punitive designed in impeachment; punishment may be an incident, but the object is wholly and solely protective; and I want the gentleman from Tennessee, [Mr. BRIGHT,] lest I might lose all faith in him as a lawyer, to listen to this point: that the possession of the person is not at all requisite in impeachment. What do you want with the custody of the person impeached? You cannot even compel him to answer in person. I have sat for weeks as a member of this House in a case of impeachment in which the person impeached never presented himself. The punishment does not go to the person. Let him fly to the ends of the earth, in so far as impeachment goes, and it is still as valid and as far-reaching as the life of the man. It is a disqualification to hold office of honor, or trust, or profit, and there it ends. The criminal law comes in to punish.

Now that under this paltry subterfuge you are going in this House to hold back the evidence that would enable the grand jury now in session in this city to indict this man for criminal trial is something which (I hope the gentleman from Mississippi will not think that I am saying this in any spirit of bravado) I cannot persuade myself, and will not believe until the yeas and nays show it, that this House will dare to. If you do, you throw yourselves distinctly and unqualifiedly across the path of criminal justice. As the gentleman from Illinois [Mr. FORT] suggests, if the man were in the penitentiary, impeachment could proceed just as well. Impeachment has nothing to do with it. There is nothing in the world to arrest impeachment but death.

Mr. WARREN. Will the gentleman allow me a question?

Mr. BLAINE. Well, yes, I will.

Mr. WARREN. Is there not one thing that might stop it—the loss of the evidence by which it can be proved?

Mr. BLAINE. Very well; but why are you going to assume now that you will not have the evidence? The gentleman from Massachusetts [Mr. WARREN] is, I believe, a lawyer. Did he ever know a grand jury—

Mr. HOAR. The evidence is within the knowledge of the gentleman from Pennsylvania, [Mr. CLYMER.]

Mr. BLAINE. Certainly. Here is the gentleman from Pennsylvania, [Mr. CLYMER,] the gentleman from Kentucky, [Mr. BLACKBURN,] the gentleman from North Carolina, [Mr. ROBBINS.] I believe they have somewhat edged out the republican members. And I must here remark, after some length of service in the House of Representatives, that I heard in that report of this committee what pained me. I never before have seen the proprieties of parliamentary usage violated by referring to the "democratic members of the committee" in an official report. That, at least, is a new precedent and a new light in this House. Yet the official report of that committee speaks of the "democratic members of the committee."

The gentleman from Kentucky states in his affidavit that he conferred, not with the members of the committee, but with "the democratic members of the committee."

Mr. CLYMER. Will the gentleman from Maine permit me? He asserts that in the report certain members of the committee are referred to as democratic members of the committee. Surely he is mistaken. It is not in the report, but in the statement accompanying the report.

Mr. BLAINE. Of course in the report; why not? It is part of the *res gesta*; just as much a part of the report as any other part of it.

Mr. CLYMER. No.

Mr. BLAINE. What report was that in?

Mr. CLYMER. Let me ask the gentleman from Maine whether ia

any other report he ever read of a Secretary being impeached. [Applause.]

Mr. BLAINE. I do not know. Because a Secretary is being impeached by the House, I do not see why therefore the parliamentary proprieties and amenities ought not to be observed.

Mr. CLYMER. I do not think anybody considers them violated by the report which has been submitted from our committee, unless, perhaps it may be the gentleman from Maine.

Mr. ROBBINS, of North Carolina. Will the gentleman allow me a moment?

Mr. BLAINE. Yes, you are one of the democratic members of the committee. [Laughter.]

Mr. ROBBINS, of North Carolina. I wish to ask the gentleman from Maine whether in the report, as a report, there is any reference to the politics of the members, and whether that reference is not in one of the exhibits?

Mr. BLAINE. What is the report?

Mr. ROBBINS, of North Carolina. It is not in the report, but only in one of the exhibits.

Mr. BLAINE. But I take the liberty of asking, if the exhibits are not to be considered as part of the report, what is the report?

Mr. ROBBINS, of North Carolina. I hope the gentleman will allow me. There are in these exhibits reference to various parties; that some are thieves, some liars, scoundrels.

Mr. BLAINE. I hope the gentleman does not mean that calling a man a democratic member is the same as calling him a thief and a liar. [Great laughter.] That is his logic. But I know he cannot mean it, and I will not permit him to be so understood.

Mr. ROBBINS, of North Carolina. It seems that certain thieves are being convicted who for five years in a republican House have gone "scot-free," and who are being convicted because a majority of democrats were on that committee. [Applause.]

Mr. BLAINE. I rejoice in everything they have done.

Mr. ROBBINS, of North Carolina. I hope you do, sir.

Mr. BLAINE. The gentleman from New York takes the ground with some plausibility that the papers in this case, that the subpoena, the process, the intendment of the whole proceeding, relate solely to the late Secretary of War, and if by any possibility those papers should get there Marsh might be indicted. What for? If that be the case, if it be the sole object of the American people to keep Marsh from indictment, then of course you cannot try Belknap. But suppose you succeed, according to the apprehension of the gentleman from New York, in indicting Marsh, what will he be indicted for? For bribing a public officer, a high crime. I believe bribery is a crime at common law, and I believe Marsh can be brought back under the extradition treaty. My judgment is, if you seriously wish to get hold of Marsh, the quickest way would be to lay the extradition treaty upon him. Why not?

A MEMBER. It is against the law.

Mr. BLAINE. I should like to know whether bribery is not included in our extradition treaty?

Mr. HARRIS, of Virginia. No.

Mr. BLAINE. Then what cases are included in the extradition treaty?

Mr. HARRIS, of Virginia. The cases are these—

Mr. BLAINE. I have not read the treaty, and I should like to hear them.

Mr. HARRIS, of Virginia. I will read them. They are these: Murder, assault with intent to commit murder, piracy, arson, robbery, forgery, and utterance of forged papers. That is under the treaty of 1842.

Mr. BLAINE. I think he might be brought back under an indictment for robbery. I venture to say that if you send over for him on that indictment you will get him. Will you indict Belknap and then bring in your bill to protect Marsh?

Mr. TUCKER. Does the gentleman say that Marsh has been guilty of robbing?

Mr. BLAINE. It looks as if he had conspired to rob several companies of cavalry in the United States service.

Mr. BEEBE. I should like the gentleman from Maine to let me assist him. I think he could be clearly taken under an indictment for arson in having fired the indignation of the republican party. [Laughter.]

Mr. BLAINE. The gentleman is so keen that he puts me in mind of an anecdote of the late Mr. Stevens. Upon a brilliant sally being made by an ambitious member of the House on one occasion, Mr. Stevens said: "I had no idea my friend had so much wit, but I observe he has just so much." [Laughter.]

Now, Mr. Speaker, I want it understood by the country that the whole force and strength of the republican party in the House of Representatives will be used and exercised to secure Belknap's impeachment and his trial and conviction in the criminal court. I want it distinctly understood that, under this throwing of dust about the privilege of the House, is an attempt to hold somebody in Washington, the President of the United States, or some subordinate, responsible. There is no possibility of fixing that accusation.

I have said nothing to the gentleman from Pennsylvania thus far in regard to the witness Marsh; but I will here undertake to say, and I desire his attention, that, coming to the conclusion as he did, and as the House seconded him in it, that Belknap was guilty of high crimes

and misdemeanors worthy of impeachment, and that the conviction must hang upon the testimony principally of one witness, at least he was very lax in public duty not to take some means for detaining that witness.

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

Mr. BLAINE. Certainly.

Mr. CLYMER. I said heretofore that no member of that committee had the least cause to suppose that the witness would leave the country. Let me say further—

Mr. BLAINE. O! wait. If the gentleman speaks now it is by my courtesy, and it is more courtesy than I have had shown to me. But the gentleman shows by his own testimony that Marsh had been on the eve of leaving the country a week before, and that the man was a fugitive by desire at that moment.

Mr. CLYMER. He came voluntarily before the committee, of his own accord, and we had no reason to suppose that he would not come again. Now, pray, let me ask the gentleman from Maine a question in return. What power had we to detain him? I say we are not of those who think it competent for any one to touch a bell and deprive a man of his liberty, thereby exercising a power greater than that exercised by the Queen of Great Britain.

Mr. BLAINE. I will answer the gentleman by asking him what power or pressure there was on him to discharge the witness on that day? In my judgment Marsh would not have dared to leave the city until he was discharged. I have been in Congress for a long time and have seen a good many investigations; and I have seen witnesses in situations likely to imperil their personal liberty in a very serious degree; yet I never saw a witness in my life that dared to go away until he was discharged by the committee before which he had been subpoenaed.

Mr. CLYMER. The gentleman from Maine has made an innuendo that he knows to be false and ungenerous in regard to my personal motives; and I will not permit him or any one else in this House to do that.

Mr. BLAINE. I have made no such innuendo. The gentleman need not go into such high-jinks over it.

Mr. CLYMER. You are in the habit of doing that; but you shall not do so with me.

Mr. BLAINE. There is not the slightest need for the gentleman showing so much temper, for I have made no personal imputation on him.

Mr. CLYMER. You have; and so it will appear on the record, if the reporters took you correctly down.

Mr. BLAINE. I said the gentleman had been lax in his public duty.

Mr. CLYMER. And you said you would like to know the reasons why I had let this witness escape the jurisdiction of the House?

Mr. BLAINE. I said I would like to know—

Mr. CLYMER. What reasons could there be, if there are any, other than corrupt ones? And another thing you said was, if the gentleman would tell what pressure was brought to bear on him to induce him to go on.

Mr. BLAINE. The gentleman misapprehends me entirely. I said I would like to know what possible pressure or power there could be on him to discharge that witness.

Mr. CLYMER. The gentleman said, under what pressure was it? It was offensive and untrue, and the gentleman ought not to have made such an innuendo.

Mr. BLAINE. The gentleman need not have shown such extreme sensibility. There have been very large and reckless charges made. The gentleman from Pennsylvania himself and those associated with him have attempted to hold up this side of the House before the country as reluctant in the prosecution of this matter, as doing something or other to evade or avoid it. There is nothing whatever on the record that sustained that charge, and when I said, as I did say, that the discharge of the witness Marsh by that committee, whether by one or by all its members, is the cause of his absence from this city to-day, I said nothing but what is the fact on record.

Mr. CLYMER. Of which the people will judge.

Mr. BLAINE. I am perfectly willing that our appeal shall be made to the people, and that cannot possibly be avoided. Now there is an attempt to say that there is a privilege in this House about to be violated, and that we are proposing to submit ourselves to the police court.

Mr. CLYMER. Will the gentleman allow me one question right there?

Mr. BLAINE. Certainly.

Mr. CLYMER. Did the witness leave this city until the Cabinet had issued its orders, and declared that it would punish everybody engaged in this matter?

Mr. BLAINE. What orders?

Mr. CLYMER. And it was right in the line of the order issued by Attorney-General Pierpont, the district attorney closing the mouths of those engaged in the prosecution.

Mr. BLAINE. Did you say that the Cabinet issued an order?

Mr. CLYMER. They held a meeting, and took care to publish their proceedings.

Mr. BLAINE. What about?

Mr. CLYMER. About what they would do to witnesses in this case, which had the effect of driving them out of the country.

Mr. BLAINE. I undertake to say that the gentleman cannot show an instance in which allusions were made in any Cabinet meeting to the witness to whom he referred.

Mr. CLYMER. I say that in the next morning's papers there was a report of a Cabinet meeting—[loud cries of "No!" "No!"]—there was a publication by telegraph recounting the proceedings at a Cabinet meeting held the night after the impeachment of General Belknap, in which, whether stated by authority or not, it was intimated that anybody who appeared as a witness before an investigation committee should be punished.

Mr. BLAINE. Does the gentleman from Pennsylvania, in his responsible position in this House, call up fugitive telegrams in newspapers and hold the Cabinet of the United States responsible for what is stated therein?

Mr. CLYMER. I will say to the gentleman, in this report of the Cabinet meeting Mr. Marsh was mentioned by name in that dispatch.

Mr. BLAINE. How does the gentleman connect that with the Cabinet?

Mr. CLYMER. Ah, sir, it is so natural; the Attorney-General wrote a letter to the republican officers connected with his office, directing them not to allow accomplices to testify.

Mr. BLAINE. I undertake to say that no action has been indicated or initiated, or I believe designed, either remotely or otherwise, or even discussed in the Cabinet, in relation to any prosecution of a witness against General Belknap. The whole thing is a gross fabrication, not by the gentleman from Pennsylvania, [Mr. CLYMER,] unless he should get on his high horse again, but because he has been too credulous in believing what he sees in the newspapers.

Mr. CLYMER. If the gentleman will not make insinuations against me I shall not be aggrieved by them.

Mr. BLAINE. Now, the gentleman from New York [Mr. COX] and the gentleman from Tennessee [Mr. BRIGHT] want to hold this prisoner in order to bring him up in chains to be impeached before the Senate. I believe that is the law they preached. They never, I believe, studied the doctrine of impeachment. There is no need whatever of having Mr. Belknap here. Where he is wanted is in the criminal courts of the country, and this House of Representatives, if we adopt the resolution of the gentleman from Mississippi, [Mr. LAMAR,] declares that he shall not go there. I charge that that is the result; I do not speak of the intent. I charge that that is the palpable, undeniable result, and I here repeat that it is absolutely puerile to talk to-day about not holding him for indictment before the grand jury because one or two months hence when he may come for trial before a petit jury you imagine, or guess, or fear, or apprehend that some witness may not then be on hand. Nobody doubts that we have plenty of evidence to-day to indict Belknap, but we must take steps afterward, when the trial comes off, to recover Marsh.

The gentleman from Mississippi, [Mr. LAMAR,] who ranks high as a lawyer in his own State, will oblige me by telling me if he ever knew of an indictment which failed to be pressed because of an apprehension that some of the witnesses might not be present when the case came up for trial two or three months afterward? I never heard of a grand jury that failed to indict a man because of fear that the witnesses might not appear at the trial.

Mr. LAMAR. I never did.

Mr. BLAINE. That is what he wants the House to do to-day. He wants the House to refuse to indict Belknap because when the case comes up for trial one of the witnesses may possibly not be present. Now, gentlemen, if you will unite with us in indicting Belknap, we will help you in our turn to get Marsh.

Mr. ROBBINS, of North Carolina. It was you who ran Marsh out of the country!

Mr. BLAINE. Mr. Marsh went out with a safe-conduct from your committee. [Laughter.] And he left about fourteen hours before even these newspapers had manufactured a Cabinet meeting on the subject. He went, as I repeat, with the safe-conduct of that committee, and with enough United States money in his pocket to pay his way, which the gentleman from Pennsylvania [Mr. CLYMER] certified to.

Mr. CLYMER. The country will gladly pay him that money to recover all the money that has been stolen by your party during the last few years.

Mr. BLAINE. The country would rather allow him twice the sum for staying than half for going.

Mr. CLYMER. He would have staid if you had not done or attempted to do what you are trying to do to every other witness before the investigating committees.

Mr. BLAINE. Then why do you not bring in a bill for his protection?

Mr. CLYMER. Two such bills have been introduced and referred to the Committee on the Judiciary. Has that committee had the right to report since?

Mr. BLAINE. Yes; at any time.

Mr. CLYMER. Not at any time.

Mr. BLAINE. Let them try it.

Mr. CLYMER. Do you mean to say that the committee has a right to report a bill for the protection of witnesses at any time?

Mr. BLAINE. The committee is not absolved from responsibility in not reporting a bill until they find that some person objects. Do you fear objection from this side of the House?

Mr. CLYMER. I am not a member of the Committee on the Judiciary.

Mr. BLAINE. Then why are you talking about it?

Mr. CLYMER. I spoke merely of the fact that two bills for that purpose have been introduced and referred to the Committee on the Judiciary.

Mr. BLAINE. Are the Committee on the Judiciary ready to report?

Mr. CLYMER. I do not say that they are ready to report. But it is equally notorious that they have not reported and have not had an opportunity, under the rules of the House, to report.

Mr. BLAINE. It is equally notorious that they have had five days to report and they have not reported.

Mr. HOPKINS. I rise to a point of order.

The SPEAKER *pro tempore*. The gentleman will state his point of order.

Mr. HOPKINS. My point is that this scene is simply disgraceful because of the crowd, most of them not members, gathered in the area in front of the Speaker.

The SPEAKER *pro tempore*. The Chair listens to the suggestion and asks that order may be restored. The Chair understood the gentleman from Maine [Mr. BLAINE] to yield to the gentleman from Pennsylvania, [Mr. CLYMER.]

Mr. BLAINE. I am not raising any point of order. I want the country to understand this: it was Thursday evening last, at six o'clock, that the resolutions unanimously passed this House impeaching General Belknap. We understood that we might expect the articles of impeachment possibly the next day. Then there was some talk of having a session on Saturday for business, but it was devoted wholly to debate. Then Sunday intervened, and in the case of a great state emergency members of Congress sometimes work on Sunday. Then Monday came and went, and here is Tuesday at five o'clock p. m.

Mr. KNOTT. Will the gentleman yield to me for a moment?

Mr. BLAINE. I cannot yield just now. I say that up to this time there has been no report from the Committee on the Judiciary giving all possible immunity to witnesses either in general or to Marsh by name. There has been nothing initiated on that side, nothing proposed that indicates any desire or honest purpose to do that thing. And now to halt in regard to the trial of Belknap, or his presentation before the grand jury, because you say you have not got Marsh, and with all the power of this House in your hands you have not taken the first step to secure Marsh, not one, when every one knows you can readily and easily get it.

Mr. CLYMER. How?

Mr. BLAINE. Propose your bill. We do not mean to be hoodwinked about this matter. We do not mean that this matter shall be run alone by the democratic members of this committee. It is an open question to-day in this House, in which members as members, republicans as well as democrats and democrats as well as republicans, have a right to be heard. We do not propose that any shuffling of that kind shall go before the people. You here to-day—I do not violate parliamentary law in saying it—under what is a pitiful evasion, deliberately withhold from the grand jury of the District of Columbia the sole and only evidence on which an indictment can be framed against this guilty officer. I want the country to understand that this is done, by whom it is done, and why it is done.

Mr. LAMAR obtained the floor.

Mr. KNOTT. Will the gentleman yield to me for a few minutes?

Mr. LAMAR. For a few minutes, yes.

Mr. BEEBE. I understood the Chair to say he would recognize me.

The SPEAKER *pro tempore*. The Chair agreed to recognize the gentleman from Mississippi, [Mr. LAMAR.] who introduced the resolution now before the House. The gentleman from New York [Mr. BEEBE] subsequently applied to be heard.

Mr. LAMAR. I will yield to the gentleman for five minutes.

Mr. BEEBE. I want more than five minutes.

The SPEAKER *pro tempore*. The occupant of the chair arranged with the gentleman from Mississippi that the gentleman from New York might be heard.

Mr. LAMAR. I will yield to the gentleman if I may be allowed to make a few remarks.

Mr. BEEBE. I will yield to the gentleman from Mississippi either now or when I shall have concluded.

Mr. LAMAR. I will go on now; I wish to make a few remarks and then I will yield to the gentleman from New York.

The SPEAKER *pro tempore*. The Chair will cut this matter short and recognizes the gentleman from Mississippi, [Mr. LAMAR.]

Mr. LAMAR. I will go on, and then before I give up the floor I will yield to the gentleman from New York, [Mr. BEEBE.]

Mr. KNOTT. Before the gentleman from Mississippi [Mr. LAMAR] commences his remarks, will he allow me a few moments to vindicate myself and the committee with which I am associated?

Mr. LAMAR. Certainly.

Mr. KNOTT. The gentleman from Maine [Mr. BLAINE] took occasion in his remarks to express considerable anxiety to see the articles of impeachment, as well as disappointment because they have not been reported, conveying the imputation that the Committee on the Judiciary had been perhaps derelict in their duty in preparing them.

Mr. BLAINE. I did not say they were "derelict."

Mr. KNOTT. I know the gentleman did not say "derelict;" but he repeated the insinuation that there was a purpose on the part of the committee in withholding from the House the articles of impeachment they were instructed to prepare. Permit me to say, sir, that after what passed between the gentleman from Maine and myself this morning, he is the last gentleman on this floor from whom I would have expected any such imputation.

Now, in justice to the Committee on the Judiciary I desire to say that in pursuance of the order of this House we at once entered upon this duty of preparing such articles of impeachment as we thought to be warranted by the testimony referred to us. It was something that could not be accomplished in an hour; it required several hours. Saturday, as every one knows, there was no business session of the House. On yesterday morning these articles were prepared and ready to be reported; but the committee being greatly pressed by business, and consequently compelled to hold a protracted session, having been granted leave to sit during the sessions of the House, they did not come upon the floor until after the House had gone into Committee of the Whole, which did not rise until quite late. They were still fully prepared to make their report this morning, as the gentleman from Maine [Mr. BLAINE] well knew, before the expiration of the morning hour; and, as he well knows, they were furthermore prepared to report a bill for the protection of witnesses in cases of this kind, and which he expresses himself so ready to support; but immediately upon the expiration of the morning hour the floor was taken upon the pending question, which is one of the very highest privilege, and has been occupied by the present discussion ever since.

Now I ask the House at what time the Committee on the Judiciary has had an opportunity to make the report about which the gentleman seems so anxious, and which has been prepared ever since yesterday morning, and ready to be submitted. I appeal to the gentleman from Massachusetts [Mr. HOAR] and the gentleman from Ohio, [Mr. LAWRENCE,] the gentleman's own political associates, to verify what I have said. There has been no disposition whatever on the part of the Judiciary Committee to delay. They have gone to work honestly and in good faith to do their duty as instructed by the House.

Mr. HOAR. In reply to the appeal of the gentleman from Kentucky, [Mr. KNOTT,] I would merely remark that what he says is quite true. He forgets, however, that his side of the House adjourned the House yesterday against the remonstrance of all the republicans present.

Mr. KNOTT. Well, the Judiciary Committee had nothing to do with that.

Mr. LAMAR. I cannot yield any longer.

Mr. KNOTT. I thank the gentleman from Mississippi for the opportunity to make this brief explanation.

Mr. LAMAR. I have been very generous in yielding to interruptions. I cannot yield further.

Mr. Speaker, I propose now to bring back this discussion to the legitimate limit to which it should have been confined during the progress of the debate. What are the facts of this case? A committee regularly appointed by the Speaker of the House under its order proceeds with an investigation, which results in charging against a Cabinet officer the crime of malversation in office, accepting bribes for the bestowal of offices within his gift. Pending these proceedings, a criminal judge, an appointee of the executive department of the Government, issues a mandate to members of that committee ordering them, not "inviting" them, as the gentleman from Iowa [Mr. KASSON] states; not making a polite request, but ordering the members of that committee to bring into that court all the papers, all the contracts, all the testimony in its possession touching this charge against this former Cabinet officer.

Mr. FORT. It is a subpoena in the usual form.

Mr. LAMAR. Yes, sir, the subpoena is in the usual form; and that is the objection to it. Now the question arises whether or not it was proper for the gentlemen who are thus subpoenaed to bring before the court the papers in their custody, to obey that summons or to come before this House for instructions. There is no other question; and all this debate, with all the passion that has been flung in here, is irrelevant, and simply tends to convert a pure question of constitutional and parliamentary law into an idle logomachy; a war of words and of passion which can but obscure the issue.

The gentleman from Maine, as soon as these gentlemen modestly, temperately, and properly make their report to the House, says here in debate that he cannot see where the "delicacy" about their action should come in. Upon their report I introduce a resolution expressive of the opinion that this mandate of the court calling upon these members of the House and members of the committee—not individuals who have seen a crime committed, the case with which the gentleman from Maine has tried to analogize it—but these members of a committee, as such, to bring before the court the official proceedings of this body in that committee-room. Now, I ask whether that was not a breach of the privileges of this House in the person of its members?

Sir, the gentleman from Massachusetts, [Mr. HOAR,] who never expresses any opinion differing from my own upon law or the Constitution without my feeling more like revising my own opinion than correcting his, rose in his place after reflection upon the subject and not only stated that these gentlemen did right in coming here and asking the action of the House, but that they did wrong in going

before that court and asking it to suspend its action until they could get the instruction of the House.

Mr. HOAR. The gentleman will allow me to explain. I said that in waiving their privilege they did wrong. That is it.

Mr. LAMAR. I understand it; and without complaining at all of the gentleman's interruption, I hope he will not correct me again, because I do not think I have misstated his position.

Mr. HOAR. I thought you did.

Mr. LAMAR. The waiving of the privilege was the reason the gentleman gave; but the fact that they did wrong in going before that court is the statement which he made; he regarded it as a contempt of the House.

Mr. HOAR. If the gentleman will allow me I can explain the matter in six words. The committee themselves said, as I understood them, that they waived their privilege. I said that if they did they did wrong.

Mr. LAMAR. O, yes; if they did.

Mr. HOAR. And they said they did.

Mr. ROBBINS, of North Carolina. They only waived their privilege so far as to appear before the court and make their statement.

Mr. LAMAR. For the purposes of truth—and I know the gentleman from Massachusetts has no other purpose in these interruptions—for the purposes of truth, I am willing for all these explanations to come in. The position is that if these gentlemen did waive their privilege, they committed a contempt of this House. But suppose they waived no privilege, but only went before the court and informed it that they intended first to take the instruction of this House before they responded to the summons. The gentleman must see that in this case there is no waiver of privilege, either express or implied, but the privilege is reserved subject to the instruction and authority of the House.

Then what, sir? I came forward with a resolution which states all the circumstances and then simply asserts the jurisdiction of this House over the subject-matter, over the person, over the papers in this great impeachment trial, the most august and imposing trial known to the Constitution and laws of our country, in the presence of which these passions, these thoughts about presidential succession and party triumph actually, sir, fatigue my contempt.

What, sir, is the purport of my resolution? Simply to assert the authority of this House. What else? To tell those members not to regard that summons until its further order. Gentlemen say that it is suppression of the prosecution and of the testimony. No, sir; it is simply to protect the jurisdiction to which we are entitled and which, I undertake to say, has been invaded by this court. If a precedent is established, if it is allowable for members of our committees to be detailed without coming and seeking the instructions of this House to go before that court, you may at once dismiss all your investigating committees. As I illustrated it before, matters proceeding in this court are now the subject of investigation. Has it the right, and is it trifling, is it skulking, for this House to assert at once its authority that these members shall not go before that court with transactions which occurred in its committee until the further order of the House? The House does not refuse the testimony. It does not refuse to allow testimony; but it does call upon members of that committee that the summons shall be disregarded until it orders otherwise.

And, sir, the gentleman from Massachusetts [Mr. HOAR] sustains me. What is it, he says, these gentlemen were guilty of? Of contempt in going there and offering to testify, and he proposes the action of this House to authorize them to go and testify? Now, if it is not trifling with the dignity and privileges of this House to authorize members to go and testify before that court, how can it be trifling with its dignity simply for this House to act precisely on the other line, and say you shall not go there without our order?

What is the case before the House? It is not a case of personal privilege; it is not a case whether members can waive their personal privilege and go there, but simply whether this House shall exercise its unquestioned and unquestionable authority of restraining them from waiving their privileges as members. It is the privilege of this House, that body in the connected chain of linked responsibilities from the President down which holds all the other Departments of the Government responsible to it, invested with the authority of examining, criticizing, and impeaching them?

If this subpoena was recognized, recognized, sir; if the members had done the thing which the gentleman from Maine seemed to think they ought to have done, it would have been competent for that court, if they had disobeyed, to punish them with personal attachment. I am ready here to take the responsibility of meeting this thing *in limine*. These papers, this evidence, this testimony, are in the possession of this House through its committee; it has exclusive control and custody of them; and if it allows a judicial tribunal to take them from its control, you are dispossessed of them, and that too while this impeachment trial may be going on.

Now another point. William W. Belknap is in the custody of this House, sir. He is undergoing trial.

Mr. BLAINE. I hope the gentleman—

Mr. LAMAR. Wait until I get through my sentence.

The SPEAKER *pro tempore*. The gentleman from Mississippi declines to be interrupted, and the gentleman from Maine will observe that fact.

Mr. LAMAR. I repeat, sir, he is in the legal custody of this House,

under its constitutional control. If the gentleman from Maine means to say we have not the bodily possession of him by arrest, so be it; but we have got control of him.

Mr. BLAINE. We never intended to arrest him.

Mr. LAMAR. We may arrest him, and will do it if it is necessary, and can do it. Do you deny our competency?

Mr. BLAINE. Undoubtedly in an impeachment; I deny it, and say it is perfectly absurd.

Mr. LAMAR. You also said it was absurd to say there was anything punishable in an impeachment; and when my friend from Tennessee, [Mr. BRIGHT,] the distinguished gentleman from that State, spoke of two concurring jurisdictions, one having already acquired it by initiating the proceeding it could not be ousted, the gentleman inflicted upon him that most terrible of all punishments, the forfeiture of his respect for him as an attorney. [Laughter.] I trust the gentleman will survive, and, in full view of that penalty myself, I assert, sir, it is true, and that an impeachment is a penal trial; that there is judgment, conviction, and, in the very words which the gentleman used, "punitive" "punishment."

Mr. BLAINE. Then the gentleman takes the ground that the man could be twice punished for the same offense? I say that impeachment is protective and that the criminal jurisdiction is punitive. That is what I say, and I go on to say further that there never has been an impeachment in the United States in which there was any attempt to possess the body because of the impeachment. The possession of the body is of no account in impeachment. The judgment which deprives the man of the right to hold office is just as effective if the man were absent as in the case of his being present; and there never was an arrest of a man for impeachment in this country.

Mr. LAMAR. Are you sure of that?

Mr. BLAINE. Yes, sir.

Mr. LAMAR. Then let us form this issue, plain and complete. The gentleman says there cannot be two punishments inflicted on an individual for the same offense. The same offense. Here is the Constitution, which says that the officer shall not only be removed from office on impeachment and disqualified to hold office thereafter, but that he shall be subject to indictment, conviction, and punishment by a jury besides.

Now, sir, there is the Constitution. That answers the question of the gentleman. And I am afraid that the gentleman will lose his respect for the Constitution when it responds to his question, by saying that a man guilty of an impeachable offense shall be punished not only by removal from office, not only by disqualification to hold office, but also by indictment, conviction, and punishment.

Mr. BLAINE. Read it. Read it from the Constitution.

Mr. LAMAR. Here it is, sir.

Judgment—

Mr. BLAINE. "Judgment," not "punishment." Go on. [Laughter on the democratic side of the House.]

Mr. LAMAR. The gentleman's oracular wisdom calls forth a laugh. Before we are through the laughter will be at him instead of with him. The gentleman says "judgment," and wishes me to explain the word "judgment."

Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

Is not that one punishment?

Mr. BLAINE. Punishment is not mentioned there. Now, read on.

Mr. LAMAR. You say that is not a punishment?

Mr. BLAINE. Go on.

Mr. LAMAR. I put the question to the gentleman because of his interruption. Is not removal from office and disqualification to hold office a punishment?

Mr. BLAINE. If the gentleman speaks of its being a moral punishment—

Mr. LAMAR. No, sir.

Mr. BLAINE. If he speaks of its being a moral punishment, he may be right; but a legal punishment it is not.

Mr. LAMAR. I ask the gentleman, not whether it is a moral punishment or not, but is it not a legal punishment?

Mr. BLAINE. It is not.

Mr. LAMAR. Then the gentleman says that a removal from office, a disqualification to hold office, while a moral retribution or something of that kind, is not, in the contemplation of the law and the Constitution, a penalty, a legal punishment. Very well.

Mr. BLAINE. Now read the next part.

Mr. LAMAR. I am coming to the next part. That is one thing. Then this provision of the Constitution goes on to say:

But the party convicted—

What, sir? "The party convicted?" It is not "judgment" this time. It is conviction. And what is conviction, sir, but the judgment in a penal trial? Very well. I will carry you further directly.

But the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.

Now notice this language again. Perhaps I can convince the gentleman:

Judgment in cases of impeachment shall not extend further than to removal from office and disqualification to hold and enjoy any office of honor, trust, or profit under the United States.

Very well. Now, sir, the gentleman says that that is no punishment, and that the only punishment in the eye of the law is that which this provision speaks of in the second clause. I have too much respect for him as a lawyer to tell him that he is under a mistake on that point; but there are men who hold a different opinion on that. May I have the attention of the gentleman and of his admiring acclamers and applauders to the authority which is almost as high upon questions of constitutional law as himself? I read from Wallace's Supreme Court reports. Now notice. The court is speaking of certain constitutional disabilities imposed, and uses this language:

The deprivation of any rights, civil or political, previously enjoyed, may be punishment.

Mr. BLAINE. "May be?"

Mr. LAMAR. Well, you are nearly run to the ground. The gentleman has got to the "may be." Well, I suppose his position is this: that the removal from office and perpetual disqualification from office thereafter "may be" a punishment. But whether it may be or not, the officer impeached shall "nevertheless" be liable to indictment, conviction, and punishment according to law. I have got him to the "may be" now. He said a moment ago it was not so. Now he injects an interruption, and says "it may be a punishment." That is promising. Perhaps I can lead him on a little further. [Applause.]

Disqualification from office may be punishment as in cases—

I have a great mind, sir, to let my friend off.

What do you say, gentlemen? Shall I go on? [Cries of "Go on," "Punish him."]

Disqualification from office may be punishment as in cases of conviction upon impeachment.

Mr. BLAINE. Let me state what I mean. The gentleman read the opinion of the Supreme Court which said that disability may be punishment. Well, that is just as gentlemen take it. The gentleman from Mississippi did take it as a punishment, but another gentleman from Mississippi, Jeff. Davis, regards it as no punishment. [Cries of "O!" "O!" on the democratic side of the House.]

Mr. LAMAR. "May be punishment." Does the gentleman mean to say it is punishment or not as the recipient considers it? Is that what this decision means? Well, sir, let us see what it says: it says that disqualification from office may be punishment as in cases of conviction of impeachment. It may not be punishment in other cases, but it is in cases of conviction upon impeachment. Note the language of the court:

The disabilities created by the constitution of Missouri must be regarded as penalties; they constitute PUNISHMENT. We do not agree with the counsel of Missouri, that "to punish one is to deprive him of life, liberty, or property, and that to take from him anything less than these is no punishment at all." The learned counsel does not use these terms—life, liberty, and property—as comprehending every right known to the law. He does not include under liberty freedom from outrage on the feelings as well as restraints on the person. He does not include under property those estates which one may acquire in professions, though they are often the source of the highest emoluments and honors. The deprivation of any rights, civil or political, previously enjoyed, may be punishment, the circumstances attending and the causes of the deprivation determining this fact. Disqualification from office may be punishment, as in cases of conviction upon impeachment.

Now, sir, here is this trial going on, the trial of a former Secretary of War. The process of impeachment is not complete. All of the testimony has not been collected, and that which has been collected has been rendered useless by an accident or anything you may choose to call it. But, sir, while that grand trial is going on, here comes a small criminal court ordering the committee to come before them. What for? To bring with them all the papers in their possession to impeach and to try this man, William W. Belknap. It was not my purpose to go into that question, but I will do it for an instant.

Mr. Speaker, there was not a particle of testimony before that committee, or before it now, on which an indictment against W. W. Belknap can be founded. I say it as a lawyer. I repeat that as against William W. Belknap there is not any evidence or any testimony or anything on which any grand jury can base an indictment against W. W. Belknap. There are papers there which taken in connection with the testimony of Mr. Marsh might do it. But, sir, there is another fact to which I invoke the attention of my friends on this (the republican) side of the House, for whom I have the kindest feeling; and inasmuch as the gentleman from Maine [Mr. BLAINE] has referred to it, I will state here that toward the republican party of the country I have no personal animosity or ill feeling. I am indebted to that party for the right of standing here on this floor to-day as a Representative in part of my State; and I say that it was an act of magnanimity on their part to extend to me that privilege, whatever may be my opinion as to the wrong done me and my people in imposing these disabilities upon us. Viewing it from your stand-point, it was a magnanimous act.

Therefore, sir, gentlemen of both parties, I proclaim to you, and I do it as a lawyer, that there is not only no testimony before this committee on which a criminal court could indict or convict W. W. Belknap, but there is testimony there upon which Marsh could be indicted, and nobody else but Marsh. Now, gentlemen, we have all the proceedings which have been taken in this House and all the testimony which has been brought before it against W. W. Belknap; but with Marsh absent it is useless, and there is no way of criminally proceeding against W. W. Belknap. The only effect will be to indict, try, and convict Marsh, the confessed accomplice, who gave his testi-

mony against Belknap. Sir, the question is whether we shall permit this testimony to go, or hold it until, in the discretion of this House, the members of the investigating committee shall be ordered to go before that court and testify.

I believe there is no republican on this floor who has any disposition to screen this distinguished general who has recently been exposed in this terrible crime. The calamity is so great, the hideous ruin into which he has fallen is such as to make him sacred from attack, and all that we can do is to let the law take its course, feeling no sentiment of indignation against the unhappy man, no sentiment other than that of commiseration; but in the mean time it behooves the House of Representatives, and I invoke its action to-day, to see to it that its constitutional rights and its powers are respected.* [Applause.]

I now call the previous question.

Mr. HOAR. The gentleman understands my amendment to be pending.

Mr. BLAINE. Before the gentleman sits down—

Mr. LAMAR. I have yielded to the gentleman from New York.

Mr. BEEBE. For the insinuations of the gentleman from Maine [Mr. BLAINE] I pity him from the bottom of my heart. However much I may suffer in my reputation before the country as a wit, I know that the gentleman will suffer tenfold more for his reputation as a lawyer, if not as an honest statesman.

Mr. WHITTHORNE. Will the gentleman yield to me for a moment?

Mr. BEEBE. Certainly.

Mr. WHITTHORNE. I desire to bring to the attention of the House right now and at this moment a question of privilege.

The SPEAKER *pro tempore*. The Chair would suggest that the House is now considering a question of privilege.

Mr. WHITTHORNE. Yes, and the question I wish to bring up is involved in this discussion. I have to state to the House that by order of the Committee on Naval Affairs a witness whom we regard to be in contempt of the House is now in custody of an officer of the House. Looking to what has been said about the action of the Committee on Expenditures in the War Department, and the reflections made upon them, and the point being made against them, the Committee on Naval Affairs runs some peril before the country unless immediate action is taken upon this case.

The SPEAKER *pro tempore*. The Chair would suggest that by unanimous consent this question might be laid aside for a time.

Mr. BEEBE. I will not detain the House many minutes. The Committee on Naval Affairs is abundantly competent for the detention of their witness.

The SPEAKER *pro tempore*. The Chair would state, if the gentleman from New York [Mr. BEEBE] will permit him, that immediately upon the disposition of this subject the Chair will recognize the gentleman from Tennessee.

Mr. BEEBE. That recusant witness ought not to be entirely without the sympathy of this House, for he is between two fires; the executive on the one side and the legislative on the other.

Mr. Speaker and gentlemen of the House, permit me to say that our Committee on Expenditures in the War Department are not liable to any censure; that they would have been liable to censure, amenable to punishment, or at least to an expression of disapprobation and indignation by this House, had they taken any other course than that which they have taken. Why would they have become so liable at this time? Because Robert C. Schenck gave them a recent lesson about questions of privilege. Mr. Schenck, as minister to England, knew enough to avail himself of his privilege to get out of the British realm, and the President did not accept the resignation until after Bob Schenck had left.

Now, had this committee gone before that tribunal and surrendered the testimony in its charge or keeping, whether it had absolutely surrendered or not the documents in their charge, had it revealed evidence before that committee, they would have been severely censured by this House. Why? Because the Federal courts here, animated by the central spirit of Washington, have taught us that they are not safe depositories for testimony against criminals.

Witness the abstraction of valuable evidence from the office of the Attorney-General upon a recent occasion for the purpose of shielding a man then on trial in Saint Louis for a high crime. Mr. Pierrepont is reported as saying, in explanation more fully of his famous letter, that it was made public through General Babcock. Who was he? A man having access to the papers of the Attorney-General. How? As quasi private secretary of the President of the United States.

Now, shall this legislative department of the Government run wildly about the country seeking such safe repositories as are the Federal courts, the courts here at Washington? Why, sir, let me remind gentlemen on the other side of the House of a little matter of history which I at least have not forgotten, if they have. That tribunal has been invoked before. Gentlemen have referred to Jeff.

* After I concluded my remarks, Mr. SAMPSON, of Iowa, came to my seat and called my attention to the statute of 1861, under which the testimony given by a witness in an investigation of this kind before a committee of the House is forbidden to be used in any criminal proceeding against him. Having in the hurry of off-hand debate, overlooked that statute, I think I overestimated the liability of Marsh to be indicted on the evidence before the committee exclusive of his own depositions.

Davis here, an obscure character of which we have heard somewhat of late. Let me refer gentlemen, especially an honorable gentleman on the other side of the House, my colleague from New York, [Mr. TOWNSEND,] who was so afraid when southern heads were shaken at him, that he had to conjure up the ghost of Preston Brooks—has he forgotten how a man walked from the presidential mansion down into the editorial sanctum of a newspaper here, and, not finding the responsible editor there, beset and belabored an old man whose head is white as the head of my colleague; invaded the private sanctum of that editorial office? And having done this, he walked with brazen impudence through the streets of Washington back to the Executive Mansion. And justice was appeased in that case. He was dragged before this terrible District tribunal. Let it be handed down to posterity, for the benefit of the reputation of the American people, that the law was vindicated, and the presidential brother-in-law was fined \$100.

Mr. TOWNSEND, of New York. He was a democrat, was he not? Mr. BEEBE. He was just such a democrat as Belknap is, and as is the President who said he never voted but one ticket, and that was for James Buchanan. [Laughter.]

Now, I do not wonder that there is agitation on the other side of the Chamber. For years and years the nation has been laboring under a load imposed upon it, not by the necessities of the country, but by the rapacity of thieves in office. The people have arraigned that administration of affairs which has for years been maintained throughout the Departments of the Federal Government; and they have sent here what in the language of the republicans we were wont to hear characterized a few years ago as the "grand inquest of the nation." Here to this Hall, where they are wont to repose all their power, they have sent a majority peculiarly and especially commissioned to search out fraud and punish criminals. They have begun their duty, and only just begun. Let the consequences fall where they may, they are determined to pursue that duty until they shall have accomplished all within their power to accomplish.

Gentlemen on the other side of the House may tell us of the escape of a miserable Marsh, an obscure petty thief. The democracy were so intent upon greater things that this miserable offender may perhaps have slipped through their fingers by the aid of the deliberations and determinations of an executive cabinet council. But we propose to pursue, not especially the Marshes, who are but the *trichina*; we propose to take hold of those villains who in high places have been betraying the most holy trusts. The gentleman from Maine may go about with his lighted candle seeking for Marsh. Why, sir, he reminds me of the lines of the western rhymster:

Some bait their hooks with mites of cheese,
And sit on a kennel and bob for fleas;
Some bait their hooks with tigers' tails,
And sit on a rock and bob for whales.

Gentlemen on the other side may pursue their flea-catching business as assiduously as they please; we will drag from these turbid waters of pollution the great thieves, the whales. We will supplement it, if need be, by dragging forth the leviathan himself, to the indignation and punishment of an outraged people.

Mr. LAMAR. I now demand the previous question. I meant to do it at the conclusion of my remarks.

Mr. BEEBE. I desire to appeal to the gentleman from Mississippi, [Mr. LAMAR.] When he requested me to yield, did he do so with the intention of taking the floor from me?

Mr. LAMAR. No, sir, not at all. I thought the gentleman was through. I beg his pardon. I hope he will proceed. I do not wish to put any limit upon him.

Mr. MACDOUGALL. Will the gentleman allow me to put a single question?

Mr. BEEBE. I would prefer not to yield now.

Mr. MACDOUGALL. Does not the gentleman know that the man whom he accuses of going down to a newspaper office and caning an inoffensive editor had just previously been the democratic candidate for governor of Mississippi?

Mr. BEEBE. Mr. Speaker, it has always been the privilege of the "galled jade" to wince; and I regret that the rules of the House interpose a barrier here. But the rules must be maintained.

Mr. TOWNSEND, of New York. You should not abuse your democratic candidate for governor of Mississippi because he caned a man.

The SPEAKER *pro tempore*, (Mr. RANDALL.) The gentleman from New York knows perfectly well that he is out of order; and the Chair hopes he is old enough to regard this admonition. [Laughter.]

Mr. BEEBE. I desire to say but a word or two in conclusion. This committee, as I have maintained from the start, did right in all its steps. It did right to go down and plead its privilege as it did, saying that it held that privilege subject to the authority of the House; that it would come back and report to the House that a criminal tribunal of the country had sent a subpoena to members of the committee, and would let the House take such action as it might deem proper. I hold that the committee did right in this, and I hope the House will in the most emphatic manner so declare. I hope, too, that the House will sustain the Naval Committee in the request they are about to present. I trust that such further action may be taken as will say to men who have fatal secrets in their keeping, "If in the interest of reform, in the interest of purging the Government from the rapacity and the corruption which have crept into its various departments,

you will come forward and place those secrets in the keeping of the people of the United States represented here in their House of Representatives, you shall be protected by the House."

I now yield to the gentleman from Mississippi. [Mr. LAMAR.]

Mr. LAMAR. I yield to my colleague, [Mr. HOOKER.]

Mr. HOOKER. Mr. Speaker, I do not rise for the purpose of continuing this debate, and I certainly have no intention to say anything which shall provoke its continuance. But I think it is due to the gentlemen composing the committees of the House, who have appealed to the House for guidance and counsel in reference to this subpoena from this judicial tribunal, that the House should respond to their demand.

It was well said by the gentleman from Kentucky [Mr. BLACKBURN] that this is not a question simply of personal privilege, but a question of the privilege of the House, and it is altogether unlike the case suggested by the gentleman from Maine, [Mr. BLAINE,] where a party sees a murder committed and is subpoenaed to testify before a court in reference to that transaction, and he cannot refuse on the ground that it would be an infringement of the privilege of the House. This is entirely unlike that case. There it is not a question of personal privilege. But the question is, Shall the members of the committee obey this subpoena and transfer all the evidence in the impeachment trial to the foreign jurisdiction?

I am sure when the House looks at the extraordinary document issued from this court of justice they will at once see the appeal which the members of the committee have made to the House is not to respect so much a personal right of their own, as to respect and guard and protect the right and privileges of the House to hold its own papers, its own documents, its own records in its own possession. Sir, it is a singular document and reads in this way:

The President of the United States to HESTER CLYMER to bring all papers, documents, records, checks, contracts in your possession or in the possession of the Committee of the House of Representatives on Expenditures in the War Department, in relation to the charge against said defendant of accepting a bribe or bribes while Secretary of War of the United States.

You are hereby commanded to attend the said court immediately, to testify on behalf of the United States, and not depart the court without leave of the court or the district attorney.

This is the extraordinary document which has been served on the members of this committee. It demands the contract. What contract? Prime among the papers, chief among the testimony before this committee, is the fraudulent contract between Marsh and Evans. It is the foundation of the impeachment against Belknap, late Secretary of War. What other papers there may be are also required to be produced, consisting of the report and the exhibits attached to the report of the committee. Are all these to be taken by the process of this criminal court? Are they to be taken out of the possession of the House and put into the possession of the criminal court? This would be to lose possession of the very evidence upon which your managers are to conduct the impeachment.

It has been well said by my distinguished colleague from Mississippi [Mr. LAMAR] that if all the papers were laid before the most learned judicial tribunal in the land they would not constitute evidence sufficient to predicate an indictment or successfully maintain an indictment against Belknap, late Secretary of War; though they might, and in all probability would, be sufficient to find and maintain an indictment against the witness Marsh. The testimony of the committee or any member of it would only be hearsay.

Sir, the idea was that the members of the committee should take from the custody of this House, under this *subpoena duces tecum* and bring before that court all the documents, all the papers, all the records which went to criminate the late Secretary of War and maintain the impeachment. Suppose that was done, what security has the House that these documents which are the basis of the impeachment, upon which this most extraordinary trial is to proceed—what security has it those papers will ever be returned to its custody once they go out of the custody of the committee, out of the control of the House, and into the possession of officers over whom the House possesses no control whatever?

I thought, sir, there was a peculiar propriety in these gentlemen, thus subpoenaed by this extraordinary process, appealing to the House to protect them from surrendering that which, indeed, they had no control over. When the report of that committee had been made, when its documents, proofs, evidence, and records accompanying that report were submitted to the House, they were the records, proofs, and documents of the House, and not of the committee, and they possessed no power to surrender them, even if they desired to do so.

I stated, Mr. Speaker, that it was not my purpose to prolong this debate; but it seems to me, when you look at the peculiar character of this subpoena and the evident purpose to take from the House the conduct of this matter in reference to the grave impeachment impending now or which will be in a day or two in the other branch of the national Legislature, it is a proposition which has been well characterized as transferring to a police court or justice's court all the documents, all the records, and all the evidence which pertain to this extraordinary trial. And now, having said this much, I will not trespass further upon the attention of the House.

The SPEAKER *pro tempore*. The gentleman from Illinois—

Mr. LAMAR. I now demand the previous question.

Mr. HOAR. I rise to a parliamentary inquiry.

The SPEAKER *pro tempore*. The gentleman will state it.

Mr. HOAR. It is understood, I believe, that the gentleman from Mississippi allowed my amendment to come in, and that in case the previous question was seconded it would be voted on as a substitute for his proposition.

The SPEAKER *pro tempore*. The Chair understands that the amendment of the gentleman from Massachusetts is pending in the nature of a substitute.

Mr. HOAR. My substitute is not for the preamble, but for the resolution submitted by the gentleman from Mississippi.

The previous question was seconded and the main question ordered.

Mr. HARRISON. Is it too late to ask the gentleman to modify his amendment?

The SPEAKER *pro tempore*. It is now too late.

Mr. HOAR. I demand the yeas and nays on my amendment. The yeas and nays were ordered.

Mr. HOUSE. I ask for the reading of the resolution and pending amendment.

The resolution and pending amendment were read.

The question was taken; and there were—yeas 84, nays 130, not voting 75; as follows:

YEAS—Messrs. Adams, John H. Baker, Ballou, Blaine, Bradley, William B. Brown, Horatio C. Burchard, Burleigh, Cannon, Cason, Caswell, Chittenden, Conger, Crapo, Danford, Davy, Demison, Dunnell, Eames, Egbert, Evans, Fort, Foster, Freeman, Frost, Hathorn, Hendee, Henderson, Hoar, Hoskins, Hubbell, Hunter, Hurlbut, Joyce, Kasson, Ketchum, Lawrence, Leavenworth, Lynch, Edmund W. M. Mackey, MacDougall, McCrary, McDill, Miller, Monroe, Norton, Oliver, O'Neill, Paeker, Page, William A. Phillips, Plaisted, Platt, Potter, Purman, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Strait, Stowell, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Waldron, Alexander S. Wallace, John W. Wallace, Walls, G. Wiley Wells, White, Whiting, Willard, Andrew Williams, Charles G. Williams, William B. Williams, James Wilson, Alan Wood, jr., and Woodworth—84.

NAYS—Messrs. Ainsworth, Anderson, Ashe, Atkins, John H. Bagley, jr., Banks, Banning, Barnum, Beebe, Bell, Bland, Blount, Boone, Bright, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Campbell, Candler, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Cook, Cowan, Cox, Culberson, Cutler, Davis, De Bolt, Dibrell, Douglas, Durand, Eden, Egbert, Ely, Felton, Forney, Franklin, Fuller, Gibson, Glover, Goode, Gunter, Andrew H. Hamilton, Hardenbergh, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hatcher, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Holman, Hooker, Hopkins, House, Hunton, Hurd, Jenks, Kehr, Knott, Lamar, George M. Landers, Lane, Levy, Lewis, Lord, Luttrell, Lynde, L. A. Mackey, Maish, McMahon, Milliken, Mills, Morgan, Morrison, Mutchler, Neal, New, Parsons, Payne, John F. Phillips, Pierce, Poppleton, Potter, Powell, Randall, Rea, Reagan, Rice, Riddle, John Robbins, Roberts, Miles Ross, Saylor, Scales, Schleicher, Sheakley, Singleton, William E. Smith, Sparks, Stenger, Stone, Teese, Thompson, Thomas, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Walling, Ward, Warren, Erastus Wells, Whitehouse, Whitthorne, Wike, Alpheus S. Williams, James Williams, James D. Williams, Jeremiah N. Williams, Willis, and Yeates—130.

NOT VOTING—Messrs. Bagby, George A. Bagley, William H. Baker, Bass, Blair, Bliss, Bradford, John Young Brown, Cate, Chapin, Clymer, Collins, Crouse, Darrall, Dobbins, Durham, Ellis, Farwell, Frye, Garfield, Gause, Goodie, Hale, Robert Hamilton, Hancock, Haralson, Hartzell, Haymond, Hays, Hereford, Hoge, Hyman, Frank Jones, Thomas L. Jones, Kelley, Kimball, King, Franklin Landers, Lapham, Lord, Magoon, McFarland, Meade, Metcalfe, Money, Morey, Nash, O'Brien, Odell, Phelps, Piper, Pratt, Rainey, John Reilly, James B. Reilly, William M. Robbins, Schumaker, Southard, Springer, Stevenson, Tarbox, Terry, Waddell, Charles C. B. Walker, Gilbert C. Walker, Walsh, Warren, Wheeler, Wigginton, Wilshire, Benjamin Wilson, Fernando Wood, Woodburn, and Young—75.

So the substitute was not agreed to.

During the roll-call the following announcements were made:

Mr. BLACKBURN. I desire upon the resolutions and the substitute, for reasons which will commend themselves to every gentleman present, not to be recorded as voting at all.

Mr. CLYMER. I also desire to be excused from voting for the same reasons.

Mr. ROBBINS, of North Carolina. I desire to state that as I am one of those who ask instructions, I decline to vote.

Mr. BOONE. My colleague from Kentucky, Mr. BROWN, is absent on account of sickness in his family.

Mr. BLACKBURN. He is absent by leave of the House.

Mr. ATKINS. My colleague, Mr. YOUNG, is detained from the House by sickness. If present he would vote "no."

Mr. LUTTRELL. My colleague, Mr. WIGGINTON, is detained on account of sickness. If he were here he would vote "no."

Mr. GUNTER. My colleague, Mr. GAUSE, is necessarily absent on business.

Mr. CALDWELL, of Alabama. My colleague, Mr. BRADFORD, is detained on account of sickness. If present, I have no doubt he would vote "no."

Mr. FORT. My colleague, Mr. STEVENSON, is sick.

Mr. BURLEIGH. My colleagues, Mr. FRYE and Mr. HALE, are absent. If present they would vote "ay."

Mr. PAGE. My colleague, Mr. PIPER, is absent on account of sickness.

Mr. WALLACE, of South Carolina. My colleagues, Mr. HOGE and Mr. RAINEY, are absent. If present they would vote "ay."

Mr. PLATT. My colleague, Mr. BASS, is detained from the House by sickness.

The result of the vote was then announced as above recorded.

The question recurred on agreeing to the original resolution and preamble.

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

The yeas and nays were ordered.

Mr. LAWRENCE. I desire to have a separate vote on the different clauses of this resolution.

The SPEAKER *pro tempore*, (Mr. RANDALL.) The Chair rules that the gentleman's request comes too late. The previous question covers the preamble as well as the resolution.

Mr. LAWRENCE. The first part asserts a principle of parliamentary law, and the latter deals with a question of expediency.

The SPEAKER. The gentleman is not in order.

The question was taken; and there were—yeas 132, nays 75, not voting 82; as follows:

YEAS—Messrs. Ainsworth, Anderson, Ashe, Atkins, John H. Bagley, jr., Banks, Banning, Barnum, Beebe, Bell, Blackburn, Bland, Blount, Boone, Bright, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Campbell, Candler, Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Cutler, Davis, De Bolt, Dibrell, Douglas, Durand, Eden, Egbert, Ely, Felton, Forney, Franklin, Fuller, Gibson, Glover, Goode, Gunter, Andrew H. Hamilton, Hardenbergh, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hatcher, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Holman, Hooker, Hopkins, House, Hunton, Hurd, Jenks, Kehr, Knott, Lamar, George M. Landers, Lane, Levy, Lewis, Lord, Luttrell, Lynde, L. A. Mackey, Maish, McMahon, Milliken, Mills, Morgan, Morrison, Mutchler, Neal, New, Parsons, Payne, John F. Phillips, Pierce, Poppleton, Potter, Powell, Randall, Rea, Reagan, Rice, Riddle, John Robbins, Roberts, Miles Ross, Saylor, Scales, Schleicher, Sheakley, Singleton, William E. Smith, Sparks, Stenger, Stone, Teese, Thompson, Thomas, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Walling, Ward, Warren, Erastus Wells, Whitehouse, Whitthorne, Wike, Alpheus S. Williams, James Williams, James D. Williams, Jeremiah N. Williams, Willis, and Yeates—132.

NAYS—Messrs. Adams, John H. Baker, Ballou, Blaine, Bradley, William B. Brown, Horatio C. Burchard, Burleigh, Cannon, Cason, Caswell, Conger, Crapo, Danford, Davy, Dunnell, Eames, Evans, Fort, Foster, Freeman, Frost, Hathorn, Hays, Hendee, Hoar, Hoskins, Hubbell, Hunter, Hurlbut, Joyce, Kasson, Ketchum, Leavenworth, Lynch, Edmund W. M. Mackey, MacDougall, McCrary, McDill, Monroe, Norton, Oliver, O'Neill, Paeker, Page, William A. Phillips, Plaisted, Platt, Robinson, Sobieski Ross, Rusk, Sampson, Seelye, Sinnickson, Smalls, A. Herr Smith, Strait, Stowell, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Alexander S. Wallace, John W. Wallace, Walls, White, Whiting, Willard, Andrew Williams, Charles G. Williams, William B. Williams, James Wilson, Alan Wood, jr., and Woodworth—75.

NOT VOTING—Messrs. Bagby, George A. Bagley, William H. Baker, Bass, Blair, Bliss, Bradford, John Young Brown, Cate, Chapin, Chittenden, Clymer, Crouse, Darrall, Denison, Dobbins, Durham, Ellis, Farwell, Faulkner, Frye, Garfield, Gause, Goodie, Hale, Robert Hamilton, Hancock, Haralson, Hartzell, Haymond, Henderson, Hereford, Hoge, Hyman, Frank Jones, Thomas L. Jones, Kelley, Kimball, King, Franklin Landers, Lapham, Lawrence, Magoon, McFarland, Meade, Metcalfe, Miller, Money, Morey, Nash, O'Brien, Odell, Phelps, Piper, Pratt, Purman, Rainey, John Reilly, James B. Reilly, William M. Robbins, Savage, Schumaker, Slemmons, Southard, Springer, Stevenson, Swann, Tarbox, Terry, Waddell, Waldron, Charles C. B. Walker, Gilbert C. Walker, Walsh, G. Wiley Wells, Wheeler, Wigginton, Wilshire, Benjamin Wilson, Fernando Wood, Woodburn, and Young—82.

During the roll-call,

Mr. ROBBINS, of North Carolina, said: Without waiving my rights as a member, yet being one of those who have asked instructions of the House, I now by the leave of the House decline to vote.

Mr. MILLIKEN. I desire to state that my colleague, Mr. DURHAM, is detained from the House by sickness.

The result of the vote having been announced as above reported, Mr. LAMAR 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.

RECUSANT WITNESS.

Mr. WHITTHORNE. I rise to a question of privilege. I am directed by the Committee on Naval Affairs to submit a report in part. The report was read as follows:

The Committee on Naval Affairs, who were charged under a resolution of the House of Representatives, adopted January 14, 1876, with the duty of making inquiry into any errors, abuses, or frauds that may exist in the administration and execution of existing laws affecting the naval service, and who, by said resolution, in order to fully comprehend the workings of the various branches or Departments of the Government were authorized inquiries to make for such periods in the past as said committee might deem necessary for its own guidance or information, or for the protection of the public interests, in exposing frauds or abuses of any kind that may exist in said Departments; and were also authorized by said resolution to send for persons and papers, submit, in part, the following report:

That in pursuance of the power conferred upon them by the House, they caused one Alcaeus B. Wolfe, of Washington City, to be summoned before them for the purpose of giving testimony; who appeared this the 7th day of March, 1876, and, after being duly sworn, did testify as follows:

ALCAEUS B. WOLFE sworn.

By the CHAIRMAN:

Question. Where do you reside?

Answer. In this city.

Q. How long have you resided here?

A. Since the early part of September, 1861.

Q. Were you ever employed as clerk or book-keeper of Mr. S. P. Brown?

A. Yes, sir.

Q. During what year?

A. From the middle of January, 1867, until August, 1874.

Q. You were then in his employ in April, 1874?

A. Yes, sir; I was in the employ of S. P. and A. B. Brown. The firm was S. P. Brown & Son.

Q. Were you summoned as a witness to appear before a House committee during that time?

A. Not to my knowledge. I was taken with pneumonia about that time, and was so ill I could not leave my room, and in fact could not be interviewed even by any one. There was no summons sent to me at that time to my knowledge.

Q. You are aware that at that time the connection of S. P. Brown with the "Government" claim was being investigated?

A. Yes, sir. I know there was such a claim, but my recollection will not make me fix the exact date. I know he was connected with that claim.

Q. You were not examined before the committee at that time?

A. No, sir.

Q. Have you any recollection as to the time and circumstances connected with the payment of that claim and the receipt of any money by Mr. Brown?

lard and 45 others, for the repeal of the check-stamp tax, to the Committee of Ways and Means.

By Mr. McDILL: The petition of James Eveleth, for compensation as disbursing agent for Washington, and as agent of the Engineer Department, to the Committee on Military Affairs.

By Mr. MORGAN: The petition of G. W. Thompson and others, of Webster County, Missouri, to the Committee on Public Lands.

By Mr. NORTON: The petition of James Tanner and others, for the extending of the time in which applications for pensions may be filed, to the Committee on Invalid Pensions.

By Mr. O'BRIEN: The petition of Peter O'Donnoghue, for compensation for damage to his property on account of public improvements in the District of Columbia, to the Committee for the District of Columbia.

By Mr. WARREN: The petition of John Dillon, for compensation for injuries incurred while at work in the Charlestown navy-yard, to the Committee of Claims.

By Mr. WHITTHORNE: The petition of Captain A. C. Rhind, United States Navy, for restoration to his proper position in the Navy, to the Committee on Naval Affairs.

IN SENATE.

WEDNESDAY, March 8, 1876.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.
The Journal of yesterday's proceedings was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Acting Secretary of War, transmitting, in response to Senate resolution of February 9, a copy of the report of S. T. Abert, United States civil engineer, with accompanying maps, examinations, and surveys, made in compliance with the river and harbor act of March 3, 1875, directing the survey of "a line between the Neuse and Cape Fear Rivers, in North Carolina," &c.; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Postmaster-General, in response to a resolution of the Senate of the 6th instant, directing him to furnish to the Senate any information which he may have touching the submission of "straw-bids," or probable worthless or fraudulent bids, for carrying the mails of the United States in the several States in which advertisements for mail proposals appeared October 1, 1875; which, on motion of Mr. HAMLIN, was referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

DESTRUCTIVE INSECTS.

Mr. MORRILL, of Vermont. In order to enter a motion to reconsider the vote by which the Senate passed the bill (S. No. 438) for the protection of agriculture against injurious insects, I move that the House of Representatives be requested to return the bill to the Senate. The bill was sent there yesterday before my motion was made. The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. CAMERON, of Wisconsin. I present a petition which prays for certain legislation set forth, on the subject of secret societies. The petition is signed, as I am informed, by residents of every State and Territory in the United States. The whole number of petitioners exceeds 16,000. I ask that the petition be read, that it be referred to the Committee on the Judiciary, and that the petition, which is brief, be printed in the RECORD.

The Chief Clerk read the petition, and it was referred to the Committee on the Judiciary, as follows:

We, the undersigned citizens of the United States, believing (in the words of Daniel Webster) "that all secret associations, the members of which take upon themselves extraordinary obligations to one another and are bound together by secret oaths, are naturally sources of jealousy and just alarm to others, are especially unfavorable to harmony and mutual confidence among men living together under popular institutions, and are dangerous to the general cause of civil liberty and good government," respectfully ask your honorable body to withdraw the charter given by Congress in April, 1864, to the Masonic Hall Association of the District of Columbia.

We further petition that it be made unlawful to appoint to official positions under the Government of the United States persons who are under and acknowledge the binding character of oaths administered by secret organizations.

Also, that in United States courts, in all cases, criminal or civil, the right of peremptory challenge of jurors who are members of any secret society shall be granted to all parties in litigation.

And that membership in any secret society by the presiding officer of a court shall be held to be a sufficient reason for change of venue whenever demanded.

Mr. LOGAN presented a petition of 106 citizens of Rochelle, Michigan, praying that the duty on linseed and linseed-oil be retained as now fixed by law; which was referred to the Committee on Finance.

Mr. CONKLING presented a petition of officers of the New York Harbor Towing Company, praying that the name of the steamboat Peter Crary be changed to Joseph L. Chapman; which was referred to the Committee on Commerce.

Mr. CHRISTIANCY presented a petition of 428 citizens of the United

States, praying for the passage of a law regulating elections and the elective franchise in the Territory of Utah; which was referred to the Committee on Territories.

Mr. THURMAN. I present the petition of Jeremiah Cain, late lieutenant in the volunteer service of the United States, setting forth that during the war, owing to a misapprehension, he was dismissed from service for not reporting in time; that the sentence was reversed on its being shown that he had not received orders to report in time to do it, and he was restored to his rank as second lieutenant; but in the settlement of his accounts the Department deducted from his claim pay for the period before he was restored. He prays that he may have that pay. I move the reference of the petition to the Committee on Military Affairs.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. WRIGHT. I am instructed by the Committee on Claims, to whom was referred the petition of William Bushby, praying compensation for cooking for military prisoners from April, 1863, to July, 1865, to report it back adversely. I will state in reference to this case, as there is no written report, that we find simply a petition, but no evidence whatever in its support. I move that the committee be discharged from its further consideration.

The motion was agreed to.

Mr. WRIGHT. The same committee, to whom was referred the memorial of John Cleary, of Hinds County, Mississippi, praying compensation for certain goods, wares, and merchandise taken from him for the use of the United States Government and for a store-house destroyed by the military forces of the United States during the war of the rebellion, instruct me to report it back adversely, for the reason in the first place that there was no evidence whatever in support of the petition—a part of the claim is cognizable before the southern claims commission—and as to the property destroyed there is no statement of even the circumstances under which the destruction took place nor of the value of the property. I move that the committee be discharged from its further consideration.

The motion was agreed to.

Mr. WRIGHT. The same committee, to whom was referred the petition of Nelson Potter, praying an appropriation in payment of his claim for certain property taken and used by the United States during the war of the rebellion, which was rejected by the claims commission, ask to be discharged from its further consideration. We find that the claim was submitted to the southern claims commission, was passed upon by the southern claims commission after full testimony, and the committee see no reason whatever for reviewing that action. I move that the committee be discharged from its further consideration.

The motion was agreed to.

Mr. WRIGHT. The same committee, to whom was referred the petition of Samuel W. Lancaster, of Madison County, Mississippi, praying that compensation be given to him for certain property taken from him and used and destroyed by the United States during the war of the rebellion, instruct me to report it back adversely for the reason that the committee has applied to the other cases just reported, there being no evidence whatever in support of the petition. I move that the committee be discharged from its further consideration.

The motion was agreed to.

Mr. WRIGHT. The same committee, to whom was referred the petition of Walter L. Campbell, of Pike County, Mississippi, praying payment of certain rents and cost of repairs on property in New Orleans occupied by the Government, instruct me to report the same back and ask to be discharged from its further consideration, and to state in support of their recommendation that there is nothing to show why this claim was not presented to the Quartermaster General, and there is no proof of any injury to the property nor of the value of the property for which it is claimed payment should be made. I move that the committee be discharged from its further consideration.

The motion was agreed to.

Mr. WRIGHT, from the Committee on Claims, to whom was referred the petition of Jennie L. Wall, praying for an appropriation of \$225 to pay her salary as clerk in the Treasury Department for the months of September, October, and November, 1871, submitted an adverse report thereon; which was ordered to be printed, and the committee was discharged from the further consideration of the petition.

Mr. FRELINGHUYSEN, from the Committee on Finance, to whom was referred the petition of Charles E. Hovey, praying compensation for expenses incurred and services rendered by him in the collection of certain moneys under a contract with the Secretary of the Treasury, dated January 6, 1873, submitted a report thereon, accompanied by a bill (S. No. 575) for the relief of Charles E. Hovey.

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

Mr. WHYTE. I am instructed by the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 313) to incorporate the Oxygen Gas Company of the District of Columbia, to report the same adversely. The committee see no guarantee to the people of this District that a better gas than that already furnished