

Mr. HOLMAN. It is very clear that, if \$35,000 will be required to meet the current expenses of four committees on the part of the Senate, it will require at least as much to meet the expenses of the committees on the part of the House; for, as the gentleman is aware, the House committees are larger in number. The House sends to States of the South thirty members to investigate concerning the recent elections in Louisiana, Florida, and South Carolina. The Senate, on the other hand, sends but nine members. The gentleman must see that, if it was proper for the House to concede an appropriation of \$35,000 for Senate committees, it was proper that at least as large a sum should be appropriated on the part of the House; for, if \$35,000 will be required for the Senate committees, it is very clear that at least the same amount, if not more, will be required for the House committees.

Mr. CONGER. I understood that the committee on the part of the House thought \$30,000 enough for this body.

Mr. HOLMAN. My belief still is that \$30,000 is all that can be properly expended for either House. The House conferees, contrary to their wishes, compromised this question.

Mr. O'BRIEN. I desire to ask the gentleman a question almost equivalent to the question put by the gentleman from Michigan, [Mr. CONGER.] I wish to ask the gentleman how in his conscience he could find any authority whatever on the part of this committee to raise the appropriation for the House from \$30,000 to \$35,000, when in his solemn judgment as expressed upon this floor \$30,000 was more than sufficient.

Mr. HOLMAN. I greatly admire the tender conscience of my friend.

Mr. O'BRIEN. I call the gentleman's attention to this consideration: what right had he to yield to the judgment of the Senate in this matter, and what influence has been brought to bear upon him by the Senate in order to control his judgment?

Mr. HOLMAN. I supposed my friend wished to ask some pertinent question. I yield to the gentleman from New York, [Mr. WOOD.]

Mr. O'BRIEN. As the gentleman cannot answer my question, I presume he has no conscience in this matter.

Mr. WOOD, of New York. I am not sure whether I correctly understood this report as it was read, but if I did, the expenditures on the part of the House are to be audited and passed upon by the Committee of Accounts upon actual vouchers.

Mr. HOLMAN. Yes, sir.

Mr. WOOD, of New York. But I do not understand that in the conference report any such rule is made applicable to expenditures on the part of the Senate. Now I would like to know how this conference committee on the part of the House can reconcile it to their sense of justice and propriety that the Senate should be permitted in this way to legislate as to how we shall expend the money for our own purposes when the rule is not made applicable to the Senate committees.

Mr. HOLMAN. The rule as to the House fixed by this report is substantially the same for both bodies. The gentleman from New York is aware that the practice of the two bodies in reference to the drawing and expenditure of money out of the contingent fund is different. Unless we provide in this way for the auditing of the expenditure of this money on the part of the Sergeant-at-Arms by the Committee of Accounts, it could not be audited at all. In the Senate the auditing of accounts occurs between the Sergeant-at-Arms and the Clerk of the Senate, while here it occurs between the Sergeant-at-Arms and the Committee of Accounts of the House. There is by this conference report provision for the auditing in both bodies, here by the Committee of Accounts and in the Senate by the Clerk of the Senate. The gentleman from New York, therefore, will perceive that the rule is substantially the same in both bodies.

Mr. WOOD, of New York. If that be the rule then why put it in this conference report?

Mr. HOLMAN. I wish it to be the law. I am not aware of any well-established rule in the House on this subject. I hope never to see a dollar of the public money placed in the hands of any officer of the House, under any circumstances, in reference to which provision is not made for the auditing of its expenditure. I want all accounts to be audited by some recognized committee of the House or by some recognized officer.

Mr. BUCKNER. Is not the expenditure confined to the actual and necessary expenses?

Mr. HOLMAN. The Committee of Accounts here determines what is actual and necessary, and in the Senate provision is made for auditing what are actual and necessary expenses. The result is the same, as the gentleman from New York will perceive. I now demand the previous question on the adoption of the report.

The previous question was seconded and the main question ordered; and under the operation thereof the conference report was adopted.

Mr. HOLMAN moved to reconsider the vote by which the report of the conference committee was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ADDITIONAL LAND DISTRICT, IDAHO.

Mr. FENN, by unanimous consent, moved to take from the Speaker's table a bill (S. No. 538) to create an additional land district in the Territory of Idaho; which motion was agreed to.

The bill was then taken up, read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

CITADEL, CHARLESTON, SOUTH CAROLINA.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting, in answer to a resolution of the House, the report of Lieutenant-Colonel Gillmore, of the United States Army, relative to the building and grounds known as the Citadel, Charleston, South Carolina; which was referred to the Committee on Public Buildings and Grounds.

TROOPS AT FORT SILL, ETC.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting a statement of the number of troops now at Fort Sill, Indian Territory, and Forts Griffin and Richardson, Texas; which was referred to the Committee on Military Affairs.

COLUMBIA HOSPITAL FOR WOMEN.

The SPEAKER announced that he had appointed Mr. MACKEY as a member of the board of directors for the Columbia Hospital for Women, to fill the vacancy caused by the resignation of the Speaker.

LEAVE OF ABSENCE.

By unanimous consent leave of absence was granted in the following cases:

To Mr. POWELL, for one week from the 22d instant on account of important business.

To Mr. MONEY, from Thursday next until January 3.

To Mr. ODELL, until January 2 on account of important business.

To Mr. O'NEIL, for three days from the 26th instant.

To Mr. BAKER, of Indiana, from the 27th to the 30th of December, inclusive.

To Mr. WILLIAMS, of Alabama, from the 26th instant to the 5th of January.

To Mr. VANCE, of North Carolina, from the 21st instant until January 2.

To Mr. STEVENSON, for ten days from Friday next on account of important business.

To Mr. OLIVER, for two weeks from Thursday next.

To Mr. SEELYE, for ten days from the 22d instant.

To Mr. HARRIS, of Massachusetts, from Friday the 23d instant, until January 3.

To Mr. WILLIAMS, of New York, for ten days from the 22d instant.

To Mr. ASHE, for ten days from the 23d instant.

To Mr. HAMILTON, of Indiana, from the 27th instant to January 10.

To Mr. ROBBINS, of North Carolina, from the 23d instant to January 3.

To Mr. WARREN, for three days from the 26th instant.

And then, on motion of Mr. PAGE, (at four o'clock and ten minutes p. m.,) the House adjourned.

PETITIONS.

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

By Mr. DURAND: The petition of disabled soldiers of Michigan, for an appropriation for artificial limbs, to the Committee on Appropriations.

By Mr. HEWITT, of Alabama: Petition of citizens of Blount and Winston Counties, Alabama, for the passage of the bill introduced by Mr. G. W. HEWITT for the relief of settlers on lands claimed by the South and North Railroad, to the Committee on Public Lands.

By Mr. WALKER, of Virginia: The petition of R. A. Brock, corresponding secretary and librarian of the Virginia Historical Society; James McDonald, State librarian of Virginia; W. H. Ruffner, superintendent of public instruction of Virginia; J. C. Southall; P. C. Nicholas, librarian of the Virginia State Law Library; J. William Jones, secretary Southern Historical Society, Richmond, Virginia, and of the officers of libraries in different sections of the country, for the purchase by Congress of the papers of the General Count de Rochambeau, the commander of the French forces sent to aid Washington in our revolutionary struggle for national independence, to the joint Committee on the Library.

IN SENATE.

THURSDAY, December 21, 1876.

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

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

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a letter from the Secretary of the Treasury, transmitting a report made to that Department by Carlisle P. Patterson, Superintendent of the United States Coast Survey, stating the progress of that work during the year ending June 30, 1876; which was ordered to lie on the table and be printed.

PETITIONS AND MEMORIALS.

Mr. MITCHELL. I present a memorial of the Legislative Assembly of the State of Oregon, in which they represent "that there are extensive tracts of the public lands in Eastern Oregon which may be properly termed 'desert lands,' being such on account of the lack of

water to furnish the necessary irrigation for the production of crops; that there are also other extensive tracts of land in Eastern Oregon producing grass, but which are unavailable for grazing purposes, on account of the absence of streams of water or springs sufficient to furnish water for herds or flocks grazing upon the same. These lands cannot be disposed of by the United States under existing laws, for the reason that they are not available for the purposes of settlement on account of want of water as aforesaid." They therefore pray "that an act of Congress be passed authorizing the sale of these tracts, in quantities greater than one hundred and sixty acres to a single purchaser and at rates less than the minimum price of \$1.25 per acre, upon condition that the same be irrigated by the purchaser, by means of artesian wells or artificial canals, so as to render the same productive and available for grazing and agricultural purposes." I move that the memorial be referred to the Committee on Public Lands.

The motion was agreed to.

Mr. FRELINGHUYSEN presented a petition of citizens of the United States, soldiers in the late war, praying the passage of a law for the equalization of bounties; which was referred to the Committee on Military Affairs.

He also presented a petition of the New Jersey State Temperance Alliance, praying for prohibitory legislation for the District of Columbia and the Territories; the prohibition of the foreign importation of alcoholic liquors; that total abstinence be made a condition of the civil, military, and naval service; and for a constitutional amendment to prohibit the traffic in alcoholic beverages throughout the national domain; which was referred to the Committee on Finance.

REPORT OF A COMMITTEE.

Mr. ALLISON, from the Committee on Pensions, to whom was referred the bill (H. R. No. 3497) granting a pension to James B. Treadwell, major of the Eighty-fifth Regiment Pennsylvania Volunteers, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. MORRILL, from the Committee on Finance, to whom was re-committed the bill (S. No. 1040) to allow the late collector of internal revenue for the fourth district of Georgia his salary hitherto withheld, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

BILLS INTRODUCED.

Mr. CLAYTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1096) to remove the political disabilities of R. C. Gatlin, of Arkansas; which was read twice by its title, and, with the accompanying petition and a letter from Judge Parker, of the United States district court of Arkansas, referred to the Committee on the Judiciary.

Mr. BOOTH (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1097) to provide for the appointment of an official short-hand reporter for the United States courts in and for the district of California; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. SPENCER (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1098) granting a pension to S. M. B. Johnson; which was read twice by its title, referred to the Committee on Pensions, and ordered to be printed.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1099) granting a pension to Amy King; which was read twice by its title, referred to the Committee on Pensions, and ordered to be printed.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1100) making appropriations for the improvement of Lower Willamette and Columbia Rivers from Portland, Oregon, to the sea; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

COMMITTEE SERVICE.

Mr. JOHNSTON. I ask to be excused from further service on the Committee on Patents.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none, and the Senator from Virginia is excused.

By unanimous consent, the President *pro tempore* was authorized to fill the vacancy.

Mr. BARNUM, on his own motion, was excused from further service upon the Committee on Manufactures; and the President *pro tempore*, by unanimous consent, was authorized to fill the vacancy.

Mr. JOHNSTON was appointed to fill the vacancy.

The PRESIDENT *pro tempore* also appointed Mr. BARNUM to fill the vacancy upon the Committee on Patents occasioned by the resignation of Mr. JOHNSTON.

MANNER OF COUNTING ELECTORAL VOTES.

Mr. ANTHONY. There lies on the table a resolution from the Committee on Printing to print some additional copies of a document prepared by the Chief Clerk of the Senate on the action of the two Houses in regard to the manner of counting the electoral vote. It has been lying over for some time, I believe, at the suggestion of some Senator who desired something else to be added to it. The committee wish to have the resolution acted upon before the recess in order that the type may not be kept standing.

The PRESIDENT *pro tempore*. The Senator from Rhode Island moves that the resolution be taken from the table.

The motion was agreed to; and the Senate proceeded to consider the following resolution, reported from the Committee on Printing December 13:

Resolved, That 5,000 copies of the statement prepared by the Chief Clerk of the Senate in regard to the manner of counting the electoral votes for President and Vice-President from 1789 to 1873 be printed for the use of the Senate.

The resolution was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 4124) to provide for the expenses of certain special committees.

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

A bill (H. R. No. 1688) for the relief of Robert H. Flavell, sergeant Company F, Seventh Missouri; and

A bill (H. R. No. 4258) to provide for the payment for certain improvements on lands now embraced in the military reservation of Fort Cameron in the Territory of Utah.

PROPOSED HOLIDAY RECESS.

Mr. ANTHONY. There is a resolution upon the table introduced by the Senator from Pennsylvania [Mr. CAMERON] who is not in his seat—I am not sure that he is in the city to-day—providing for a recess. I suppose there is no parliamentary objection to stating what the other House has done in this respect. We all know that the House of Representatives has agreed to adjourn over for the constitutional period, to meet each day of adjournment and adjourn again, and so on until Wednesday, the 3d of January. If the Senate is disposed to take a recess, as I suppose it is, inasmuch as it is manifest there will be no quorum here, we might either pass the resolution that is now upon the table, with the concurrence of the House, confining the recess to the Senate but asking the concurrence of the House, or there might be a general understanding like that which has been adopted in the House; there, I believe, by a formal resolution. I think some Senators object to a formal resolution to this effect here on the ground that it would not be valid; and it certainly would not be valid against any subsequent vote of the Senate. If no other Senator has a suggestion to offer, I suggest that the Senate adjourn from to-morrow until Tuesday and from Tuesday until the next Friday; that is as long as we can adjourn; and then from that Friday until Tuesday, the 2d of January. Let that be the general understanding.

Mr. FRELINGHUYSEN. And from Tuesday the 2d of January to Wednesday the 3d?

Mr. ANTHONY. And from Tuesday to Wednesday the 3d of January. That would make our recess the same length as the recess of the House, and leaves it in the power of the Senate, if any exigency should occur, to take any action that might be deemed necessary. I make that suggestion if no Senator has any other suggestion to make or any formal resolution to offer.

Mr. JOHNSTON. What is the suggestion?

Mr. ANTHONY. I suggest that by general consent the Senate shall adjourn from to-morrow until Tuesday; that on Tuesday it adjourn until Friday, and on Friday that it adjourn until Tuesday following, and from that Tuesday until Wednesday the 3d of January.

Mr. RANDOLPH. Without the transaction of business in the mean time?

Mr. ANTHONY. Without the transaction of any business in the mean time.

Mr. FRELINGHUYSEN. Unless by special call.

Mr. ANTHONY. Of course it is possible that something may occur, though I anticipate nothing, which would make it necessary for the Senate to transact business, in which case there should be a special call and notice given. I do not suppose the Senate would pledge themselves or that they could pledge themselves not to transact business if any great emergency should arise, which no one anticipates, however. This is the way it has been done on several holidays.

Mr. SHERMAN. I ask that the resolution be read.

Mr. ANTHONY. I do not propose a resolution. The resolution of the Senator from Pennsylvania to take a regular holiday recess is the basis of my suggestion.

Mr. SHERMAN. Is the House resolution pending?

Mr. ANTHONY. The House passed a resolution that does not require the concurrence of the Senate, referring only to its own action.

Mr. SHERMAN. What is the proposition pending before us now?

The PRESIDENT *pro tempore*. The suggestion of the Senator from Rhode Island. No formal proposition is before the Senate.

Mr. SHERMAN. I read the resolution of the House, and I supposed it would be communicated to the Senate, but probably it will not be as it is a mere resolution of the House. I think that resolution embodies about what the Senate ought to do. If the House for any purpose have some fear that there may be a necessity, on account of public business to aid in the investigations pending, to call the House together, (because it leaves the body in a state of organization so that it may be organized,) I do not see why the Senate may not do the same by a vote of the Senate. We have the power to do it, I think.

Mr. FRELINGHUYSEN. I would suggest to the Senator from Ohio

that I suppose the reason why this is put in the shape of a suggestion rather than as a resolution, is the doubt as to the right of the Senate to pass such a resolution as has been passed by the House. We can only adjourn over for three days, and it is avoiding that rule for us to pass a resolution in advance that at the end of the third day we will adjourn for three days more, and so on, while we can have this general understanding.

Mr. SHERMAN. I have no doubt at all that if at the end of the three days' adjournment any Senator should demand a division and the division should show the absence of a quorum, those who were present would have to adjourn only until the next day. That is perfectly clear. You cannot make an adjournment by the action of the Senate alone for a longer period than three days; but it seems to me it is better to have that understanding in the form of an open resolution. Of course no one would violate an obligation of that kind; but all assenting to it that would be the end of it. I do not care about the mode in which it is arrived at. As a matter of course, any Senator may prevent the adjournment, whether it be agreed upon in the form of a suggestion or in the form of a resolution. If any one demands a division so as to show the absence of a quorum, the number present less than a quorum cannot do anything except to adjourn until the next day, and then the next day, and so on, the Senators in that way coming and going.

Mr. INGALLS. The constitutional provision which declares that neither House during the session of Congress shall without the consent of the other adjourn for more than three days, evidently does not require a joint adjournment of both Houses at the same time. As I understand that provision, either House with the consent of the other can adjourn for a period of more than three days, and the House consenting may still remain in session. It occurs to me that if the Senate desires an adjournment for a period longer than three days, by passing a resolution to that effect and transmitting it to the House of Representatives and asking their consent, as the Constitution provides, there would be no objection; and it appears to me that inasmuch as an adjournment from day to day, or for a period of three days only, would leave those Senators who live at a distance from the seat of Government unable to visit their constituents without the liability of business being transacted, that would be the proper course to pursue. I merely make that suggestion for the further action of the Senate.

Mr. HAMLIN. I suppose the suggestion made by the Senator from Rhode Island was for the purpose of avoiding an objection which I remember to have been made in this body at one time. I think a proposition very similar to that of the House was once made here and objected to, and according to my recollection the whole Senate concurred in the doctrine that we could not fix a day of adjournment beyond the three days to which we might adjourn under the Constitution, for another and an additional adjournment. The Senate may adjourn to-day for three days; such is the Constitution; but until that time comes—such was the objection of the Senate then, I recollect—it is not competent for the Senate to fix an additional adjournment; but when that time comes it may do it. By adopting the suggestion of the Senator from Rhode Island we avoid that trouble. That is all there is of it.

Mr. CONKLING. Mr. President, we do avoid that trouble, I beg to suggest to my honorable friend, provided there be a quorum present, that quorum which alone the Constitution says may transact business, any business, this business among others. The Constitution provides:

Each House shall be the judge * * * and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each House may provide.

I suggest to the Senator from Rhode Island who has this matter in charge that if by an understanding, or in any other way, it should be proposed that the Senate adjourning on Friday should stand over till Monday, and on Monday should adjourn further until Thursday, then if on Monday there were no quorum here, less than a quorum could do nothing but adjourn from day to day. Very likely that might in another way really answer the Senator's purpose. An understanding no doubt would be observed, indeed necessarily must be observed, as to doing business, because only a quorum could proceed to transact business. Less than a quorum could not adjourn for over three days but could simply adjourn from day to day. The Senator from Maine referred to a matter in the Senate, which in my recollection arose as to the power of both Houses. It was suggested that inasmuch as both Houses could adjourn together *sine die* or for a period, it was competent for the two Houses acting together to instruct the presiding officers on a certain day to adjourn their respective Houses to another day, and on that day, unless otherwise ordered, to adjourn their respective Houses to another day, the purpose being to enable a quorum to assemble on either of those days and otherwise order, so that the two Houses would be left in session. I think that was the instance to which the honorable Senator from Maine referred. However, that is not very important for this purpose. I see no difficulty in having a three days' adjournment, and then in the absence of a quorum proceeding to adjourn from day to day. I should see great difficulty in any understanding, or rather in any attempt to execute any understanding under which a number of Senators less than a quorum were to do any business whatever, except to adjourn from day to day.

Mr. ANTHONY. I made not a motion, but a suggestion. We might have an informal understanding on this subject, precisely as we often have, that we will take a certain vote at four o'clock. That understanding we frequently make; it is binding upon nobody except as a matter of honor; it is parliamentarily binding upon no one. I suppose the objection which the Senator from New York suggests would not arise because if there was no quorum for the purpose of business, the absence of a quorum would not be brought to the attention of the Chair, as we frequently transact business when there is no quorum. I suppose a motion would be made to adjourn for three days, and it would be put and carried; but certainly if the attention of the Chair was brought to the absence of a quorum, if that test were applied by any division being called for, there being an absence of a quorum disclosed, I suppose the Senate could adjourn only from day to day. Therefore I suggested that there be an informal understanding that to-morrow we shall adjourn for three days, and then for three days, and then for three days again, which has been frequently done here, and it is done now by the House. It is done in the House by a formal resolution. I propose that we shall do it informally because it does not seem to us to be in our constitutional power to make such a form of adjournment formally.

Mr. BAYARD. Mr. President, I am unable to concur in any agreement or even tacitly to consent to any agreement that shall indicate the power of either House of Congress to adjourn for more than three days unless under the joint consent of the two Houses. I do not construe the Constitution as the honorable Senator from Kansas [Mr. INGALLS] has done. I do not hold that the Senate may give the House the power to adjourn for thirty days, the Senate itself remaining in session, or *vice versa* the House permit the Senate to adjourn for thirty or sixty days, the House remaining in session. I consider that it was contemplated by the Constitution that the sessions of Congress should be continuous and not broken by the variant action of one House by adjourning for more than three days.

Such being my view, it being the intention that the legislative operations of the country represented by the Congress should not be broken in upon by the sole action of one House by adjourning for more than three days at a time, it would seem to me highly objectionable that we should by this open proclamation adopt the indirect machinery of the power of adjourning for nine days under the pretext that we simply were agreeing to adjourn for three.

I am perfectly aware that the practical result will be that stated by the honorable Senator from New York. We adjourn under our right and power for three days; at the end of that time it is in the power of any Senator present to disclose by a call for a vote by yeas and nays the absence of a quorum. Then nothing is in order but a motion to adjourn, which may be carried by less than a quorum; so that, in substance, the same thing would be reached; but I cannot assent that there shall be a proposition made as made by the honorable Senator from Rhode Island, that we should here now, practically, to-day settle three consecutive adjournments of three days each, aggregating nine days, under the power to adjourn for three. I do not think that is regular, nor am I willing by my silence to consent to it. I do not know whether the House resolution of adjournment is before the Senate or not.

Mr. CONKLING. It has not been sent here at all. It was simply a resolution of their own.

Mr. BAYARD. I had heard indirectly that there was a proposition to adjourn from to-morrow until Wednesday, which is a day longer, that we can probably concur in, and on next Wednesday whether there be or not a quorum present the fact will be easily ascertained, and then if there be not a quorum undoubtedly it will be in the power of the Senate to transact no business except to adjourn, which can be done by less than a quorum.

Mr. ANTHONY. There is a resolution drawn by my friend from Vermont, [Mr. EDMUNDS,] which I think covers the case and relieves us from all difficulty. I offer it.

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

The Chief Clerk read as follows:

Resolved, That when the Senate adjourns on Friday the 22d instant it be to meet on Tuesday the 26th instant; and that, unless otherwise then ordered, when it adjourns on the 26th instant it be to meet on the 29th instant; and that, unless otherwise then ordered, when it adjourns on the 29th instant it be to meet on Tuesday, January 2, 1877.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution.

Mr. ANTHONY. I offer that in lieu of the pending motion.

Mr. MORTON. I think that resolution is proper. The Senate can meet and sit on its own adjournment without consulting the House, so that it is not over three days. We can agree to meet every other day, instead of every day, if we choose, or we can agree to meet on a series of days named in a resolution like this without consulting the House, provided the adjournment in each case does not extend over a period of three days. The Senate can fix its own periods of adjournment, so that they do not extend over three days, or we can fix a series of days on which we may meet, as this resolution does, without the consent of the House. We can pass the resolution without at all violating the Constitution.

Mr. CONKLING. Mr. President, I venture to say one word about this resolution. I cannot vote for it, although I should be very willing to see its object accomplished in another way. The Constitution

declares that neither House shall adjourn for more than three days without the consent of the other. That means something, and I supposed I knew what it meant. If the meaning generally ascribed to it is the true meaning, how can it be that by an indirection so slight as that now proposed we can circumvent the whole thing? Obviously, the same power which permits an adjournment in that mode for nine days, in the same mode would permit an adjournment for ninety days. Can that be, that by making a stepping stone once in three days in a resolution passed in the beginning, once for all, either House can adjourn for the entire session? You have only to extend it and to say that when they meet on the last day named they shall adjourn three days, and on that day three days more, and so continue that till the 4th of March. Can that be the meaning of the Constitution? I differ, with deference of course, with the Senator from Rhode Island who offers this resolution and one of the Senators from Vermont who is referred to as having approved it. But having attended somewhat to a discussion on one occasion especially which I think was the one referred to a few moments ago by the Senator from Maine, I have a very fixed opinion that this is beyond any suggestion of power heretofore made.

I remember very well that when a resolution was offered a few years ago in the Senate, a discussion arose upon this form of the question. As I before suggested, it was proposed, both Houses concurring, not to adjourn *sine die*, but to direct the presiding officers in the usual form to adjourn their respective Houses on a certain day; nobody doubted that power; but the resolution went on to provide that on that day, unless a quorum assembled and ordered otherwise, the respective presiding officers should adjourn the Houses until another day; and that when that day arrived, unless a quorum met and ordered otherwise, the presiding officers should adjourn their respective Houses to a further day. Many Senators doubted the power even to do that, but of course it did not touch this question. There was the concurrent action of both Houses. Confessedly, they could adjourn for any time within constitutional limits. They could not adjourn beyond the first Monday of the succeeding December, because the Constitution said they should meet on that day, or if not the Constitution in terms, an act of Congress passed to execute the Constitution, and without repealing that they could not pass that period. But within that period the two Houses could adjourn to any time they saw fit. The question was whether, having exerted that power and fixed a day of meeting, they could in advance direct that on that day a further adjournment should occur, and so on.

The power which in that case was invoked at the hands of the two Houses and questioned somewhat, (although I confess I had no doubt about it myself then and I have never seen any reason to doubt it since,) it is proposed now to exercise by dint of the resolution of one House. I confess my understanding has been otherwise; and although I have no objection to the purpose being accomplished in this way if the Constitution permits it, I think that an understanding by which the Senate is to adjourn from day to day for a certain time unless some paramount necessity for being here arises would be the more convenient way of getting at it, and, except in the light of some instruction which I have not, I must think this resolution goes beyond the permission of the Constitution.

Mr. EDMUNDS. It does not appear to me that this proposition of the Senator from Rhode Island is open to any constitutional objection. The Constitution declares that neither House shall adjourn for more than three days without the consent of the other. Now, this resolution provides for an adjournment for three days, beginning tomorrow. I suppose nobody would probably question our capacity to pass to-day an order as to what hour the Senate should adjourn or for what length of time within the constitutional limit of three days. That brings us then—as I am sure my friend from New York will agree—lawfully and constitutionally to Tuesday next. The Senate then meets. It has the capacity by this order of its own, framed for that purpose, either to go on with its business or to adjourn as it likes; but it is taken for granted that the present wish of the Senate, not to do any business on that day, will continue unless the Senators then present shall think it advisable to proceed. If they do think it advisable to proceed, then this resolution provides that on that occasion, without anything lying over for a day for consideration, but by an order made then, they may provide for any other adjournment or for no adjournment at all, according to their convenience; and so on upon the next occasion.

So it is not a mandate to the presiding officer of this body that on Tuesday next he shall execute the present order of the Senate to adjourn this body for three days more; but it is only a provisional mandate that, everybody consenting—that is the substance of it—the Senate consenting, a majority consenting, he shall proceed to declare a further adjournment. If a majority does not wish to assent then, it has the complete constitutional power to stay. In the other point of view there would be great force in what the Senator from New York suggests, because on Tuesday next, if we had an absolute and peremptory order, it would be the duty of the presiding officer to execute it; and he could receive no motion, because it would be his business to execute the order, and, the order being executed, there would be no Senate to receive any motion or to act upon it. But in this case the Senate on next Tuesday meets with entire control of the subject, only, if it should happen that there should be no quorum present, the Senate would not be competent to prevent the adjournment that had been provided for.

Mr. FRELINGHUYSEN. I would ask my friend whether the adjournment on next Tuesday would not be by virtue of the action of to-day?

Mr. EDMUNDS. Yes.

Mr. FRELINGHUYSEN. And, if so, are we not, in fact, adjourning for more than three days?

Mr. EDMUNDS. No, Mr. President. It is by virtue undoubtedly of the original action of this day, but it is also by virtue of an action which is submitted to the will of the Senate again to change on the day when it does meet and adjourn. That is the difference which makes to my mind a broad difference between the case argued by the Senator from New York and what is implied in my friend's question. I think I quite agree with the Senator from New York that what is said to have taken place in the House of Representatives is outside of the Constitution, and clearly so if it provides as the newspapers seem to say for an adjournment for four days instead of three days, which apparently from the newspapers was the case. But it is not my purpose, and it is not my right, to comment, except as upon a public question of law, on any action the House of Representatives sees fit to take.

So then I do not think there is any difficulty in the way of this resolution if the Senate wish to get over these holidays without obliging the presiding officer to come here every day, and with a unanimous understanding that we are to do nothing, which morally is just as unconstitutional as anything else, for aught I know. When it comes to the effect of the thing, I am quite willing to work the whole time except on Christmas and New Year's days, and am still more willing to play if the rest desire to do that. I have no affirmative disposition to adjourn at all, except for these two holy days; but at the same time, as I have found after great resistance for many years, that it is impossible to have it otherwise, I am quite willing that everybody else shall go home for Christmas and New Year's, if he wishes to do so. We have found as a fact that it is practically impossible to do any business during the period named; and when we have undertaken to do it the effort has always proved a disastrous failure, as well in what little we did do generally as in what we omitted to do. So I have concluded to make a virtue of what is inevitable and give as little trouble to other people, including the presiding officer, as possible.

Mr. CONKLING. Mr. President, the Senator from Vermont [Mr. EDMUNDS] made, as I felt sure he would if he took that view of the question, the best statement which can be made in vindication of the power asserted by the resolution. After hearing him, I suggest this to the Senator from Vermont and to the Senate: When this interval has passed by, how will this resolution and the action occurring under it stand on the Journal and stand in history? To-day the Senate makes an order which adjourns the Senate three days hence. On that day, no Senator appears, no quorum appears, no action is taken, and another three days elapse in the absence of the Senate. At the end of those three days no quorum appears; no action is taken. Three days more elapse in the absence of the Senate. In the absence of the Senate why and how? Because alone of the order passed to-day. The Senate has been vacant, has been absent, has been in the language of the Constitution in adjournment for nine days by virtue of what action? Not the action of both Houses, which the Constitution suggests as an appropriate action, but by the action of the Senate alone, not saying in terms "we adjourn for nine days in bulk," but saying "we adjourn nine days, three days at a time, and we do it all at once; we do it by one single act which speaks but once, upon which action is taken but once, and which covers the whole nine days." If it does not, it would be a lawless disregard of duty for Senators not coming here. The only excuse for their not appearing three days hence is that the order of the Senate dispenses with that appearance and does not intend to require them to be here until the lapse of six days after that.

Mr. EDMUNDS. May I be allowed to put a question to the Senator?

Mr. CONKLING. Certainly.

Mr. EDMUNDS. I ask whether we do not now have a standing order, which is imperative until it is changed, that we shall adjourn over from Saturday to Monday on every occasion. Now, suppose saying that Sunday is a *dies non*, we had a standing order that we should adjourn every week from Friday to Monday, does the Senator think that would infringe upon the Constitution?

Mr. CONKLING. Well, I should think in that case it would not, for several reasons, one of which will probably suffice. It is that intermediately of each two of these Fridays, happening between each two of these recesses, is a meeting and presence of the Senate, thus totally separating and isolating from each other each of those adjournments. But if we were to pass an order that we shall adjourn from Friday to Monday each week, and that on Monday we shall adjourn until Thursday and on Thursday shall adjourn to Friday of each week, my honorable friend would have a case parallel to this; and in either case, I submit to him, that he ascribes to the House—I choose to say the House for illustration—the power to say this week or next week that there shall not be another day during the present session of Congress which will not be *dies non*.

Mr. EDMUNDS. No, I do not maintain that position.

Mr. CONKLING. I did not suppose the Senator maintained it; but I say he concedes it as a matter of argument, as I understand the law. I do not mean to put any words into his mouth.

Mr. EDMUNDS. I do not concede that. I think I agree with the Senator about that.

Mr. CONKLING. Let me state in other words what I mean; and I do not intend to detain the Senate on this matter. If it be true that the House of Representatives by adjourning three days at a time, by at once, by a single order, putting it in that form, could carry itself over for nine days, it is true it could carry itself over for ninety days, and the only difference is the trouble it would give to the scrivener to continue this repetition and expansion of the resolution. As matter of power, if the Constitution does not nominate three days and only three as the time and the whole of it during which either House may absent itself without the consent of the other, then ninety days is not the limit, nor is there a limit until you find a constitutional or statutory provision which fixes a day on which the two Houses must meet. It is said in the act of 1792 that on the second Wednesday of February in every fourth year the Congress shall be in session, the purpose being that the presidential vote shall then be counted. Whether in view of that statute such a resolution as this which should make the second Wednesday in February one of the days when the House is not to be in session, would or would not be effectual is a question to be determined by the force of that statute, perhaps; but saving a case where a statute requires the presence of the House, I submit to the Senate that, if this resolution be within the purview of the Constitution, either House may adjourn, simply saying in the resolution they do it three days at a time, for ninety days, or for any other period within the life of that House.

Mr. President, I do not desire, particularly with so small an inducement of convenience as there seems to be here, to try a pioneer experiment of this sort. I speak with some confidence when I say that such a thing was never done in the history of either House. I would not venture to assert that upon general recollection; but having had a few years ago considerable to do with a resolution asserting the power of both Houses to go from day to day, and having looked with some care at that time at the precedents, and having heard disquisitions by much more learned men which I remember, I venture to state with some confidence that there is not in the parliamentary history of this country a resolution like this or resembling it sufficiently to suggest any such power. If it be the pleasure of a majority of the Senate to take a vacation over the holidays, the mode of doing it is so very simple,—by adjourning for three days with a general understanding among Senators that they are not to expect each other to attend at the next meeting and that at that time, there will be doubtless somebody here to move an adjournment from day to day—it is so simple to adjust it by an understanding of that sort, that I repeat the inducement of convenience even seems to me very small; but even if it were a great inducement, I should hesitate to affirm the judgment of the Senate in favor of a power which I can see, exerted by one House or the other, might be inconvenient and hurtful, I am sure, to say the least.

Mr. EDMUNDS. Mr. President, I will only occupy a single moment of the time in reply to my friend from New York. I think the essential difference between the case that he discusses, and which he has discussed in such a way as to very strongly incline me to agree with him on that case, and this is manifest. When the Senate meets here on next Tuesday, the first period of the adjournment, it meets for business. This order, if adopted, would not prevent the Senate sitting continuously if it liked to do so for a week or for any other length of time that the public interest should require. It only says that when it adjourns on that day, unless otherwise ordered at that meeting, the adjournment shall be for a certain period within the letter of the Constitution. Now, if on next Tuesday only two Senators come, and they wish to otherwise order, they are not bound to adjourn, they have a right to direct the Sergeant-at-Arms to request the attendance of all the others, and to stay here until they are brought in, and to go on then with the business of the country as long as they like.

Mr. MORTON. Allow me to ask the Senator a question. By the rule now the Senate meets every day, Sundays excepted, unless otherwise ordered. We may change that general rule and agree to meet every other day unless otherwise ordered. May we not, then, fix the days, name them, instead of measuring the time the other way, so that we do not put it over the three days? What is the difference in principle?

Mr. EDMUNDS. I do not see the difference if you always keep within the control of the Senate the power, on the day at which the fresh order or the old order operating anew is to operate, to prevent its operation and to go on with business. I think this is an entirely different proposition from what one would be directing the presiding officer of the Senate on Tuesday next peremptorily to adjourn this body for one day, or for two, or for three, because it is no worse constitutionally to adjourn for three days than it is for one, and so on from day to day. That would be one thing that would fall within the very forcible observations of the Senator from New York. But if on the day when you meet you have all the power that the Constitution gives you to stay and do business as long as you like, and simply provide that when you do adjourn that day, unless you choose to fix some other time, it shall be to the next day or to the next day but one, or to the third day, I fail to see any in fraction of the Constitution in it.

Mr. HAMLIN. Mr. President, I think it was the wise man who said that there was nothing new under the sun. If he had lived today I do not think he would have uttered that exclamation. I think we have got something new here. Certainly in my judgment it is

entirely new. If we can adjourn over three days at a time without the concurrence of the other branch of the Legislature, we can come here and adjourn during the whole session, sitting only every third day. If that is not in contravention of the plain meaning and intent of the Constitution, then I do not understand the force of language.

Now I want to put this case; I want to show the force of this resolution if it be adopted. It is adopted, I will assume, and I will assume that on Tuesday next this body meets, and having met, some Senator in the body may come to the conclusion that it is appropriate, that the public exigencies demand that there shall be some public business transacted; but the body finds itself without a quorum. The Constitution says that this body may transact all legislative business, but it provides that it shall require a quorum of members to do it. The Senate finds itself without a quorum. What then are its powers? The Constitution says that the body consisting of less than a quorum may adjourn from day to day. What could the body do on Tuesday next with a less number than a quorum? They could adjourn only from day to day while under this order they would adjourn over three days. We are therefore fixing an order to-day that contravenes the express grant of power in that particular, if I can understand it.

I do not want to take up time in discussing this resolution. I have my own ideas. I am very sorry that it is offered here. I do think that it is a very bad precedent to set. I think it is in contravention of the Constitution as clearly as anything can be. I will not express any opinion in relation to the propriety of an adjournment over, whether it be by agreement or in any other way; but if we are going to do it I do hope we shall do it in that way which will leave no doubt upon the mind of any one.

The discussion which took place in this body to which I referred, and which the Senator from New York has more distinctly called the attention of the Senate to, was on a proposition far less broad in its scope, and if that proposition were an objectionable one, this it does seem to me is in a very much greater degree. I regret that it has been offered.

Mr. MORRILL. Mr. President, I move to strike out all after the words "26th instant." It seems to me that we are spending time upon a matter that we do not practically differ at all about. If we adjourn from to-morrow until the 26th instant with a general understanding that we shall then adjourn to the 29th instant, and that on the 29th instant we shall adjourn to January 2, I think it will be obeyed by what members of the Senate are present as one of the laws of the Medes and Persians.

Mr. EDMUNDS. But suppose there is no quorum?

Mr. MORRILL. I have no idea that there will be a quorum, but I have also the same faith that the point of the absence of a quorum will not be raised after a general understanding has been had that the Senate proposes to adjourn from time to time and to transact no business here between this and the 2d of January. I am very sure from what I have heard from different members that there will not be a quorum here for the next ten or twelve days. Quite a number of Senators are away on committees, and it has been even difficult for the last week to obtain a quorum in the last hours of the day's session. I know of a considerable number that are proposing to visit their homes during the holidays at Christmas and New Year's, so that I have not the slightest idea that there is going to be a quorum here during the next week; but I think that the object of the resolution of the Senator from Rhode Island can be accomplished and the purpose of all Senators can be realized by just adopting the first branch of this resolution and then by a general understanding we shall reach the same conclusion on each of the days mentioned in that part of the resolution which I propose to have stricken out.

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

Mr. MORRILL. I hope this matter will be continued until disposed of.

The PRESIDENT *pro tempore*. If there be no objection, the question is on agreeing to the amendment offered by the Senator from Vermont [Mr. MORRILL] to the resolution.

EXPENSES OF COMMITTEES.

Mr. DAVIS. I ask that the report of the committee of conference which has been received from the House be concurred in. I send the report to the desk and ask that the Senate concur.

The Chief Clerk read the report, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House No. 4124, to provide for the expenses of certain special committees, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment numbered 1 and agree to the same, with an amendment as follows: In lieu of "30" insert "35" and add at the end of the section amended the following:

"And the Clerk of the House shall pay such parts of the sum above appropriated as the chairmen of the said committees respectively shall, in writing, direct for the purposes aforesaid to the Sergeant-at-Arms of the House, who shall, as soon thereafter as practicable, make report, in writing, to the House of the manner in which the sums thus paid to him have been expended, accompanied with vouchers in detail; which report and vouchers, when examined and approved by the Committee of Accounts of the House, shall be deemed a sufficient settlement of his accountability for the money thus paid to him; and any unexpended balance remaining in the hands of the Sergeant-at-Arms after such settlement shall be paid by him into the Treasury of the United States, to the credit of the fund for which it was appropriated."

And the House agree to the same.

That the Senate recede from its disagreement to the amendment of the House to the amendment numbered 2 and agree to the same, with an amendment as follows: In lieu of "30" insert "35," and the House agree to the same.

WM. WINDOM,
H. G. DAVIS,
Managers on the part of the Senate.

WM. S. HOLMAN,
J. D. C. ATKINS,
EUGENE HALE,
Managers on the part of the House.

Mr. ANTHONY. I understood that the difference between the two Houses was in the amount of money which the Senate thought proper to appropriate for the use of its own committees. Is that so?

Mr. DAVIS. I was one of the conference committee, and the chairman of the committee is absent this morning, and at his request I ask that the report be concurred in. The difference between the two Houses was that the House originally asked \$21,000 and the Senate \$50,000. In conference it was agreed to make them equal: \$35,000 each.

Mr. ANTHONY. I understand that the House of Representatives and the Senate are both engaged in certain investigations, investigations which are of the highest importance and which exercise the highest powers of the two Houses, powers which, I think, have sometimes been abused in both Houses. The House of Representatives required a certain sum of money, in the judgment of the House, to carry on its investigation. I hope that all that the House requires will be voted, even if we think it is too much. They are responsible to their constituents and responsible to themselves. I also hope that the Senate will insist on having all that its committee thinks proper. I think it is almost necessary to the independency of the two Houses that, if they are to exercise these great powers, they should have whatever means each House may think proper to carry these powers into effect. I would never vote to restrict the House of Representatives in any amount which it requires to carry on its own investigations, nor will I vote to submit to any such restriction on the part of the Senate. If the House thinks it is not fair that the Senate should ask for a greater amount than it asks itself, then let it raise its amount if it sees fit, but not cut ours down.

I hope that the report will not be agreed to, but that, giving the House of Representatives all the money that it requires to carry on its investigations, we shall demand the same for ourselves.

Mr. DAVIS. Mr. President, it is true, as the Senator from Rhode Island has stated, that the Senate originally asked more than the House, and after a full conference there was no special disagreement, but it was concluded that the amount the House had asked was too small, and it was agreed unanimously on the part of the Senate that \$35,000, probably, would be a proper amount, and that was, as I understand, after a consultation on the part of the chairman of the Senate conferees, who is now absent, with the chairman of our investigating committee. I heard no particular claim that the Senate had not a right to ask for what they wanted. That question did not arise in the committee. I hope no obstacle will now be put in the way of adopting the report, because both sets of committees, the committees of the Senate and of the House, are out, and as I understand the only money they have with which to pay their expenses has been advanced by the Sergeants-at-Arms of the respective Houses, and both are in need at once, as I understand, of the appropriation. One of the Sergeants-at-Arms has said to me that there is no money to answer the wants of the committees. It was said in conference that if there should be a further sum necessary on the part of the Senate it could be easily asked for by resolution.

Mr. ANTHONY. I suppose the reason why the Senate committee agreed to advance the sum from \$21,000 to \$35,000 for the House was because the conference committee representing the House asked for it, and if it asked for one hundred thousand dollars I think our committee should have given it. I think each House can be trusted to manage its own expenses, the cost of its own committees, and its own investigations, and since the Senate asked for the sum of \$50,000, I shall not vote to take anything less.

Mr. LOGAN. I should like to ask the Senator from West Virginia a question. I was notified that I was appointed on the conference, but I presume I was not from the fact that I never received any notice from the committee to meet with them. I should like to ask the Senator if they had any information from the Committee on Privileges and Elections as to the amount required.

Mr. DAVIS. It is true, as the Senator from Illinois has said, that he was one of the conference committee appointed, but he was not present.

Mr. LOGAN. I was not present from the fact that I was not notified.

Mr. DAVIS. But the Senator was unwell, we understood.

Mr. LOGAN. I was unwell, but the committee perhaps might have met at my room as conveniently as at some other room. I make no point on that, however. I only say I know nothing about it.

Mr. DAVIS. I will answer the Senator's further question. I am not able to speak for the chairman of that committee, with whom I agreed; but when we agreed he spoke for himself, as I understood, and for the Senator from Illinois. That is to say, in committee we thought the Senator from Illinois would agree with us; but that is a matter of speculation only. What information the chairman had from the Committee on Privileges and Elections I have no knowl-

edge. I only know that as he was obliged to be absent to-day, and thought it important that the report should be agreed to, he asked me when it came over from the House to move concurrence.

Mr. LOGAN. I make no point as far as I myself am concerned. I have nothing to say on that account. I do not know that I could have met with the committee. I only said that I had received no notice of its meeting. That, of course, will have no effect on the report, but I desire to say that I appeared before the Committee on Appropriations. Whether the Senator from West Virginia was present then or not, I will not now state, but my impression is that he was. I was delegated by the Committee on Privileges and Elections to appear before the Committee on Appropriations. I did so appear, and made the statement of that committee as to the amount required. I was asked the question whether the committee had considered the question, and I replied they had, and that they had asked for the smallest amount they thought they could get along with, and this was the unanimous statement of the Committee on Privileges and Elections. I made that report to the Committee on Appropriations. This subsequent action I know nothing about. I only state the facts.

Mr. MORTON. Perhaps I ought to state that I was consulted by the Senator from Minnesota not now in his seat [Mr. WINDOM] on this matter, and told him that I was satisfied that the amount of \$35,000 was not sufficient, but that there was an immediate demand for money, and perhaps it would be as well to take this appropriation now, but with the understanding that more would probably be asked for. We cannot well afford to delay this appropriation bill any longer, and as a disagreement in regard to this conference report would probably result in such delay, I suppose we had better take it. I do not believe it will be sufficient, and I concur entirely in the remarks of the Senator from Rhode Island that either House should have such an amount appropriated as in the judgment of that House may be necessary. I think this is due to the courtesy between the two Houses and due to the full exercise of the powers with which each House is invested.

Mr. DAVIS. As the Senator from Indiana has said, he had a conversation with the chairman of the conference committee, and as the Senator is chairman of the Committee on Privileges and Elections I supposed that the report met with his concurrence. Therefore I hope that the report will be agreed to; and as was said in committee, or at least in the Committee on Appropriations, if there should be any further sum necessary it can be asked for and there will be no particular objection.

Mr. LOGAN. I desire to say that I had no knowledge of the chairman of the committee having any conference on this subject.

Mr. MORTON. That was within a day or two.

Mr. LOGAN. I only repeated what I was delegated to state to the Committee on Appropriations. I did convey to them the unanimous request of the Committee on Privileges and Elections.

Mr. ANTHONY. The committee of conference might well have an understanding that if any further sums were wanted they should be asked for; and I suppose they could be asked for without any such understanding. I do not suppose that the committee of conference could have any understanding that the sums asked for should be granted.

Mr. DAVIS. I hope the Senator did not misunderstand me. I said that there was something said of that, not that there was an understanding on the subject in the Committee on Appropriations; I do not know that it was in the conference committee. I hope the Senator did not understand me as saying that the committee agreed that it should be done. I did not mean to intimate such a thing.

Mr. ANTHONY. I can only say that while I am ready to grant to the House of Representatives all the money it wants for such purposes, I shall not vote for an appropriation less than what the Senate in its judgment has thought proper to ask.

The PRESIDENT *pro tempore*. The question is on concurrence in the report of the committee of conference.

The report was concurred in.

PROPOSED HOLIDAY RECESS.

The PRESIDENT *pro tempore*. The question recurs on the amendment to the resolution of the Senator from Rhode Island [Mr. ANTHONY] respecting the adjournment proposed by the Senator from Vermont, [Mr. MORRILL.] The amendment will be read.

The CHIEF CLERK. It is proposed to strike out all after the words "26th instant;" so that, if amended, the resolution will read:

Resolved, That when the Senate adjourns on Friday the 22d instant it be to meet on Tuesday the 26th instant.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question is on the resolution as amended.

Mr. SHERMAN. Let it be read as it stands now.

The Chief Clerk read as follows:

Resolved, That when the Senate adjourn on Friday the 22d instant, it be to meet on Tuesday the 26th instant.

Mr. MORRILL. And with the general understanding, which seems to be manifest on all sides of the Chamber, that when we meet again on the 26th we shall adjourn over until the 29th, and on the 29th on the 2d of January.

Mr. EDMUNDS. We cannot do that without a quorum, for it would violate the Constitution worse than the other would.

Mr. MORRILL. Of course it will not be ascertained that there is no quorum, when we have this general understanding.

Mr. EDMUNDS. It will be if I am here.

Mr. SHERMAN. It all comes to this, that any Senator can on the 26th demand a session the next day.

Mr. MORRILL. Of course.

Mr. SHERMAN. Of course; it must depend on the unanimous consent of every Senator.

Mr. EDMUNDS. Certainly; and I hope there is not any understanding about it now, Mr. President.

The PRESIDENT *pro tempore*. The question is on the resolution as amended.

The resolution, as amended, was agreed to.

HAYDEN'S REPORT.

Mr. ANTHONY submitted the following resolution; which was referred to the Committee on Printing:

Resolved by the Senate, (the House of Representatives concurring,) That there be printed 4,500 copies of Professor Hayden's annual report of the geological and geographical survey of the Territories for 1875 and 1876; 3,000 copies of which shall be for the use of the House of Representatives, 1,000 for the use of the Senate, and 500 copies for the use of the office of the survey.

LEGAL TENDER OF SILVER COIN.

Mr. MITCHELL. I call for the regular order.

Mr. MAXEY. Mr. President—

Mr. LOGAN. I desire to say that I obtained the floor when this question was before the Senate and was being discussed some days ago, and intended to submit some remarks. I have been very unwell since, and therefore am willing that the Senator from Texas shall occupy the floor in my stead this morning; but I desire to call the attention of the Senate and of the chairman of the Committee on Finance to the bill (S. No. 1026) for the issue of silver coin and to make the silver dollar a legal tender, now before the committee, and also to a bill of a similar character passed by the House of Representatives within a few days. Senate bill No. 1026 was introduced by myself at the last session. I think it is very important that the Senate should take early action on the question and settle it one way or the other; and without submitting any views on the question, more than a general statement, my views concur with the action of the House to a certain extent; that is that the old silver dollar should be made a legal tender and be received.

I desire now to ask the chairman of the Finance Committee at what time he thinks it will be likely the committee can report this bill or some bill to the Senate of the United States for their action? I was not with the committee at the last meeting for the reason that I was not well enough to be there. At the meeting before I was present, and without saying anything about what transpired I suggested this matter myself, and something was said in reference to a report of a committee or commission appointed on the subject. But inasmuch as I feel a great interest in this measure and desire to urge it at all times that I can before the Senate, I wish to know prior to the adjournment if there is any probability of early action by the committee in presenting the question to the Senate of the United States.

Mr. SHERMAN. I can only state to the Senator that the committee have not yet had an opportunity to consider the question and have been delayed somewhat by the fact that the silver commission, as it is called, has made no report on the subject. I am informed in a general way that they will be able to make a report soon. As a matter of course the subject is pending before the Committee on Finance and will be promptly acted upon after the adjournment; but how soon I do not know, certainly at an early period of the session. I am in favor of very speedy action. Whether my views agree with those of the Senator or not will be developed hereafter; but I can assure him, I think, that immediately after the adjournment, so far as the Committee on Finance are concerned, they will be ready to act on this question, especially if in the mean time the silver commission should make their report. It seems to me they ought to make their report before we take any final action.

Mr. LOGAN. I feel myself that that is very proper, but I do not see the chairman of that commission present, nor do I propose to find any fault with their action—I have no right to do so—but I do desire to say that I think it very important that that commission should report, and report at a very early day, if the Committee on Finance is waiting for the report of the silver commission, so called, unless they intend to make a report so voluminous that it will never be read, and if they do, action might as well be had without it. If they intend to make a report that can be read during this session, I hope they will make it as soon as possible, for the reason that if the report is not made until late in the session in all probability there will be no action on the question. I deem it a question of as much importance as any that is before the country now, and the action of the Senate on it is very important to the country in view of the action of the House of Representatives.

I do not desire to be understood as casting any reflection whatever upon the commission, but I merely say what I do in order that they may be urged to make their report as speedily as possible, because that certainly was contemplated by the action of the Senate when they were appointed and required to report at this session.

ELECTORAL VOTE OF OREGON.

The Senate resumed the consideration of the resolution directing an inquiry as to the eligibility of J. W. Watts as an elector for the State of Oregon and the circumstances attending the appointment of electors in that State.

Mr. MAXEY. Mr. President, yesterday evening, in the discussion of the resolution presented by the Senator from Oregon, the Senator from Ohio, [Mr. SHERMAN,] among other things, said:

I am very certain that, if Governor Hayes should become satisfied, or if I should become satisfied, so far as my action may bear on this question—I do not know that it will—that Governor Hayes did not receive the honest vote of a State or that he did not have a fair majority of the votes legally cast, he would not desire the electoral vote of any of the disputed States. If it should be clear that in South Carolina, or Florida, or Louisiana Governor Hayes did not receive a majority of the legal votes cast at the election in either of those States, I would not have him—God forbid that he should—accept the office of President of the United States with such a conviction upon his conscience. Any man who would do it would be dishonored before men and before God.

I was very greatly rejoiced to hear that utterance from the Senator from Ohio, and I will state that if it should be clear that in South Carolina, or Florida, or Louisiana, Governor Tilden did not receive a majority of the legal votes cast at the election in either of those States, I would not have him—God forbid that he should—accept the office of President of the United States with such a conviction upon his conscience. Any man who would do it would be dishonored before men and before God.

In a very grave question like this, of the very deepest concern to the whole American people, it is a matter of infinitely more concern that the vote should be fairly and legally counted than the result of that count. What is now of the utmost consequence to the peace, prosperity, and well-being of the country is that such a course should be taken by the two Houses of Congress in counting the electoral vote as to convince the American people that the count has been fair, honest, honorable, and lawful. If there is anything for which the American people are specially noted, it is for fair play. What the people now want is a fair and honest count of the vote. Whatever the result of such a count may be is a matter of secondary importance. "Fair play and no cheating around the board" is what is demanded.

Mr. President, I hope that every Senator in this body and every member of the House will come up in the spirit of the utterance I have quoted from the Senator from Ohio, determined to do his part toward securing a fair and honest count of the legal votes; and if we will all act with that earnest purpose to do justice, to do the very right between the contending candidates, and carry out that purpose, the American people will be satisfied with the result; but if the people of the United States come to the conclusion that, by indirect means, by trick, by chicanery, by fraud, by cunning, or by any unlawful means, a man has been declared to be President of the United States who was not fairly and honestly elected, there will be mutterings loud and deep, and it will be the severest shock to American institutions that they have ever yet received. I say, then, that we here, the trusted ambassadors of the States of this Union, have in our charge a matter of the gravest concern which may have a direct bearing upon the future prosperity and well-being of this country. I trust in God that reason, love of country, and an honest desire to do right unswayed by party bias will pervade the Senate and House and the whole country until this question is settled, and if we so act, I have no doubt of a solution that will satisfy the country, and that business will instantly resume its wonted channel with ever-increasing prosperity.

Mr. President, at the opening of this debate, in the first speech in the series of speeches made by the Senator from Ohio on presenting the labors of the committee sent to the State of Louisiana and the city of New Orleans at the request of the President of the United States, he took occasion to send forth to the world his conviction, under his *imprimatur* of the personal integrity of the members of the returning board of Louisiana and of the legality of their work. Sir, we all know that when the work of that board and the personal character of the members of that board are vouched for by a citizen of the distinguished reputation of the Senator from Ohio, necessarily that indorsement will have its weight and its influence. That the Senator was sincere in the statement that they were entitled to and enjoyed as much respect for their personal character and standing as any Senators on this floor, I do not gainsay; but it is a question of judgment, and upon a question of judgment honest men may differ.

So far as I am personally concerned, I do not propose to pass any judgment based on personal knowledge upon the honesty or dishonesty of those men who constituted the returning board of the State of Louisiana, but it is a part of the history of the country, and as such I have a right to refer to it, that during the days of reconstruction Lieutenant-General Philip H. Sheridan was sent by the Government to the city of New Orleans as the military commander of the department composed of the States of Louisiana and Texas for the purpose of carrying out and executing the reconstruction acts. At that time, 1867, the present chairman of the returning board of the State of Louisiana, J. Madison Wells, was governor of that State. It is part of the history of this country, published to the world by Lieutenant-General Sheridan, that J. Madison Wells, then governor of the State of Louisiana, was by him removed from that high position because he was an impediment to reconstruction; and in support of that charge,

for which he removed him, General Sheridan said he was a dishonest man and surrounded himself by political tricksters, and that he, General Sheridan, could not discharge the duties which he was sent to the State of Louisiana to discharge with such a man in office.

That, I say, is the opinion of General Sheridan. Now, General Sheridan is a man of distinguished reputation in this country. The Senator from Ohio is in like manner a man of distinguished reputation. Here we have two men of the same party, both occupying honorable positions, directly differing as to the character for integrity of the chairman of the returning board of the State of Louisiana. And it was not a mere idle utterance of General Sheridan; it was not simply something to put in a newspaper for general publication, but it was an official act. That utterance was given by him to the President as the reason for the removal of Mr. Wells, and he was removed from the governorship of Louisiana for the reasons assigned by Lieutenant-General Sheridan.

So far so good. There I have the Senator from Ohio on one side and the Lieutenant-General of the Army on the other side in respect to the character of Mr. Wells. But the Senator goes further and states in respect to this same returning board:

A committee of the House of Representatives, having power to do it in the investigation of the election of a member of the House and also in the investigation of the Louisiana election generally, held that they made a mistake of law. They construed it that they had power to act in excluding votes when there was no formal complaint or protest made by the officers who held the election. The committee set aside the action of the board to that extent for the purpose of founding a compromise in Louisiana, but at the same time they certified to the honorable character and general good conduct of the board, and the only difference was in regard to a legal opinion, and the chairman of that committee the other day in debate in the other House, to which we may refer as part of the history of the times, repeated again, and I am sorry I have not now his language before me, that that committee never did arraign the returning board for personal misconduct or arraign its legality. They acknowledge its legality. It was a conceded fact.

Mr. President, the committee to which the Senator refers was a special committee appointed by the House of Representatives of the Forty-third Congress, of which Hon. GEORGE F. HOAR, of Massachusetts, was the chairman.

Mr. SHERMAN. If my friend from Texas will allow me there, (because it may perhaps save me from further remarks at another stage,) I will now state to him the exact condition of that committee. I was substantially correct in my statement last evening, and I will now state it more precisely, because I have it from Mr. HOAR himself. That committee, I believe, was organized upon the motion of Mr. HOAR, and was composed of seven members. Instead of going in a body, the whole seven, to New Orleans to witness the inauguration of the State government, they sent three gentlemen, Mr. FOSTER, Mr. Phelps, and Mr. Potter, as a subcommittee. That subcommittee returned with their report, and it is probably from that report that the Senator is about to read. At any rate that was the report of the subcommittee, not of the majority of the whole committee. That report was communicated by the committee, not indorsed, but simply communicated to the House as the report of the subcommittee. That is the information given to me by Mr. HOAR. Afterward the committee, in pursuance of the powers conferred upon it, did undertake to go and did go down to New Orleans, Mr. HOAR, Mr. WHEELER, Mr. FRYE, and perhaps some one else—Mr. Marshall, I believe. At any rate, the other members of the committee who had not participated with the subcommittee went down.

Mr. BAYARD. To settle the accuracy of the Senator, I will state that the committee was composed of seven members and was represented by a subcommittee consisting of Messrs. Phelps, FOSTER, and Potter. When they came back their report was joined in and signed by Mr. Marshall, making four of the seven who signed their report. That will appear on reference to the record.

Mr. SHERMAN. I do not know how that may be; but at any rate the rest of the committee, four in number, went to New Orleans and there made what I always speak of, and spoke of yesterday, as the report of the committee, the report signed by HOAR, WHEELER, and FRYE, which led to the compromise arrangement made in Louisiana. When I speak of the report of the committee, I hope my friend will not quote the first document on me. He may comment on it; but that was not what I meant by "the report of the committee." I meant the paper signed by Mr. HOAR, Mr. WHEELER, and Mr. FRYE.

Mr. BOGY. The report of the minority. The other was the majority report.

Mr. MAXEY. I am very glad to hear the statement of the Senator from Ohio, and I think I know something of the transaction myself. The report from which I propose to read is Report No. 101, made to the Forty-third Congress, second session, by "Mr. GEORGE F. HOAR, from the select committee on the condition of the South," as follows:

Mr. GEORGE F. HOAR, on behalf of the special committee on that portion of the President's message relating to the condition of the South, reports as follows:

In pursuance of the order of the full committee, of December 22, a special committee of three visited New Orleans, and proceeded with an investigation, the result of which they report to the general committee as follows:

Mr. SHERMAN. Yes.

Mr. MAXEY. Now comes in their report. Then I will go on to show that this report, from which I propose to read, is not limited to the report of the subcommittee Hon. CHARLES FOSTER, William Walter Phelps, and Clarkson N. Potter, but it is the report of the whole committee, as you will see by this. Going on and embodying in the report made by Mr. HOAR to the House the report of the subcommittee

made by the subcommittee to the general committee, Mr. HOAR adds this:

The evidence on which the subcommittee base their conclusions not yet being written out, will be submitted hereafter, if it shall be deemed desirable. The committee thereupon voted to adopt the report, and also to report the same to the House with the recommendation that the same be printed and recommitted.

For the committee:

GEO. F. HOAR, *Chairman.*

It appears here that the testimony was not at that time written out, and for the reason, I take it, that the report and the evidence should go hand in hand this report was recommitted, and the testimony having subsequently been published, (three hundred and forty-one pages,) that was put out as a part of the report of the committee, and, this document being marked Report No. 101, that containing the evidence was marked Report No. 101, part 2. Therefore the evidence referred to by Mr. HOAR as not at that time having been written out was, after this recommittal, published along with the report as part of the report, and the two were together.

Mr. DAWES. Let me make an inquiry of the Senator.

Mr. MAXEY. If the Senator will permit me, I am trying to make a connected argument on this subject.

Mr. DAWES. I rose in reference to the report of Mr. HOAR. Perhaps there is a point upon which the Senator will give me a little light.

Mr. MAXEY. Yes, sir.

Mr. DAWES. I should like to inquire of the Senator whether after this subcommittee's report was taken by the whole committee, and laid before the House and printed, and then recommitted, the committee, with Mr. HOAR at its head, did not visit Louisiana, and make a full report to the House of Representatives of a very different character? I make inquiry as to the fact.

Mr. MAXEY. I think there was another report made.

Mr. DAWES. Upon that subject.

Mr. SHERMAN. If my friend will allow me, I promise not to interrupt him again. It is very common, as the practice is in this body and the other body, for committees to report a document to be printed and recommitted. The recommitting and printing does not commit the committee to what is reported and printed.

Mr. DAWES. The only word upon which the Senator from Texas bases his remark that the Representative from Massachusetts, the chairman of the committee, and his colleagues spoke through that report, is the word "adopted." They took the word "adopted" as a way to express the fact that they received from their subcommittee this report and ordered it to be printed for information and recommitted that the whole committee might still have control of it. After that the whole committee, as a committee, went to New Orleans and reviewed the whole subject and came back and made a report as a committee, not as a subcommittee, but a report as a committee. I think the Senator from Texas, if he desires to do exact justice to the committee as a committee, should turn to the leaves of that report, which is the report of the committee, and there he will find what the committee meant to be responsible for as a committee.

Mr. MAXEY. The report which I read is report No. 101 of the Forty-third Congress, second session, and is signed "GEO. F. HOAR, chairman."

The report to which I presume the Senator from Massachusetts refers was subsequent to the one I am referring to, and after, as I understand it, the return of Messrs. HOAR, FRYE, WHEELER, and I believe Mr. Marshall.

Mr. Marshall united in the report of the majority with Messrs. FOSTER, Phelps, and Potter, and the report to which the Senator refers was a minority report, but, as I insist, does not do away with the "adoption" of the report I refer to. This report which I read is reported as having been adopted by the general committee and is reported "For the committee;" and signed "GEO. F. HOAR, chairman;" and it embodies within it the report of the subcommittee, Honorable CHARLES FOSTER, William Walter Phelps, and Clarkson N. Potter. Following that, the next report is a report from the majority of the committee on the state of the South, marked "majority report No. 261." That is signed by CHARLES FOSTER, William Walter Phelps, Clarkson N. Potter, and Samuel S. Marshall. The next report is the report of a portion of the special committee, which is a minority report, as will be seen by the names signed by "GEO. F. HOAR, WM. A. WHEELER, WM. P. FRYE," a minority of the committee. This I presume is the report the Senator refers to.

Mr. DAWES. Mr. President—

Mr. MAXEY. I desire further to say in that connection that the majority report distinctly states, signed, as I have stated, by FOSTER, Phelps, Potter, and Marshall, that—

The undersigned, a majority of the Committee on the state of the South, respectfully report that they cannot agree to the report made to the committee by Messrs. HOAR, WHEELER, and FRYE.

Mr. DAWES. Now, if I do not trouble the Senator too much, I desire to ask him if he does not do my colleague in the House injustice when he undertakes to make him responsible for those views submitted to the other branch by those other gentlemen who say that they do not agree with the opinions to which Mr. HOAR himself placed his signature, and for which he is responsible. This is all I desire to say. I simply desire to have my colleague set right.

Mr. MAXEY. I do not intentionally do Mr. HOAR injustice. The character and standing of Mr. GEORGE F. HOAR, as I am advised and

believe, is that of an honorable gentleman, but I take the reports as I find them, and I beg to say that, high as the character of Mr. HOAR is, it is in no respect higher, he is no more a trusted republican than Mr. CHARLES FOSTER or than Mr. William Walter Phelps, nor is it higher than that of the democrats, Mr. Potter and Mr. Marshall; and I have read from the report of Messrs. FOSTER, Phelps, Potter, and Marshall from the report of the subcommittee incorporated in a report made by Mr. HOAR, as chairman, and which he states in his report was adopted by the full committee. Certainly the testimony of these gentlemen is as good as the testimony of the chairman of that committee. Certainly the testimony of the majority of that committee is as reliable before the country as the testimony of the minority. As I said before, I have simply stated the facts that this report which I hold in my hand was reported by Mr. HOAR, signed by him as chairman of that committee, and in it he states that the committee "thereupon voted to adopt the report and also to report the same to the House, with the recommendation that the same be printed and recommitted." I think the words mean what they say. The reason why it should be recommitted I have stated; that he had said in the report that the testimony had not been written out, and therefore it was recommitted; and as an evidence of that fact, when the testimony was written out, it was printed as part of this document which is signed by the chairman of that committee. That is part 2 of Report No. 101.

Now, the Senator from Ohio says further that this committee "acknowledged the legality of that board." The committee say:

The law provides that this board shall consist of five persons "from all political parties." It consisted at the opening of their last session of five republicans; upon the resignation of one of whom (General Longstreet) Mr. Arroyo, a conservative, was taken to fill the vacancy. After protesting against the action of the board in secret session he resigned about the conclusion of their labors, and his place was not filled, so that, as your committee think, the law as to the constitution of the board was not complied with.

When this report was subsequently made by the majority of the committee they report the same thing, that the law was not complied with. So far, then, I think the Senator from Ohio was in error when he said that this committee said nothing in regard to the illegality of that transaction. But I want to go further. He said that the House committee when it came to the personal character of that board said nothing against it. He used this language also, "but at the same time they certified to the honorable character and general conduct of the board." Now let us see whether or not the report carries out that. On page 2 of the report the committee say:

The public sittings of the returning board were attended by the counsel of the republican and conservative State committees. Objections were received from the counsel of the respective parties to the returns from different polls. The objecting party was generally allowed to produce affidavits to support the objection, and the other party to reply by affidavits. A day was fixed when these proofs were to be closed. After these public sessions the board went into private or, as they were called, executive sessions, where the proofs and matters in dispute were discussed and a decision arrived at.

I call the attention of the Senate to this:

The minutes of the board are very meager; they contain little more than a record of its meeting, going into executive session, and its adjourning, and some formal public orders. They contain no minutes whatever of the proceedings in executive session, and furnish, therefore, little light upon the findings of the board.

Now I read what refers especially to the chairman of that board, Mr. J. Madison Wells, and let us see whether or not the ideas of this committee who visited the city of New Orleans for the very purpose of ascertaining the truth in regard to the official action of these gentlemen correspond with the ideas of the Senator from Ohio.

The parish of Rapides chose three members of the Legislature. The returns elected all three conservatives. When the proofs closed, the only paper filed with the returning board was the affidavit of the United States supervisor that the election was in all respects full, fair, and free.

Mark you, three conservatives were returned, and it was sworn to by the supervisor that the election was fair, full, and free in the parish of Rapides.

It was not known in the parish that any contest existed against these members. They left their homes and proceeded to New Orleans to be present at the opening of the Legislature, no intimation of contesting their seats or objection to their election having been given by their opponents. At one of their last sessions the returning board declared all the republican members elected from that parish.

The supervisor reported the three conservatives elected. There was no contest; no paper whatever was filed except the proper paper of the supervisors; thus it went up; and it is only at the last session of the returning board that they declared all the republican members elected from that parish. Now let us see how that was accomplished, by what strange means, by what legerdemain it was that the three conservative members from the parish of Rapides were thrown out during one of the last days of their session and one of their last sessions and three republican members counted in in their place. And it will be remembered that the same four men, with the same chairman, who constituted the board to which the committee refers constitute the board now.

The committee say:

When the papers of the returning board were produced before your committee, there was found among them an affidavit by Mr. Wells, the president of the board, declaring that intimidation had existed at certain polls in that parish, and that the returns from those polls should therefore be rejected. The counsel for the democratic committee testified that they had had no opportunity to contradict the statements of this paper; that they never had seen or known of it before, and that upon an examination of the papers before the board, when the proofs closed, it was not among them. The counsel for the republican committee reserved the right to make explanation upon this point, but offered none. The affidavit was dated the — day of December, 1874. It appeared that Governor Wells was not himself in the parish on the day of the election.

I ask honorable Senators how it was possible for an honest man to file an affidavit stating that intimidation occurred in that parish on election day when he was not in that parish on the day of the election?

And though at the opening of their first session your committee declared their intention to examine into the action of the returning board, Governor Wells never came forward as a witness.

That is one time he declined.

At the close of our proceedings leave was asked that his deposition might be given in. This was declined, and Mr. Wells was himself invited to appear before the committee, but he never came. Leave was also given for taking his testimony by commission if he desired, but was not availed of.

Thus we have opportunity after opportunity offered to the witness where the opposite party would have the power of cross-examination and the searching out of the very truth, and yet on every occasion he declined to come forward and subject himself to the rigidity of a cross-examination.

Your committee are therefore constrained to declare—

Using the word "constrained." It is the report of honest men against the interest of their own party—

Your committee are therefore constrained to declare that the action of the returning board, in rejecting these returns in the parish of Rapides and giving the seats for that parish to the republican candidates, was arbitrary, unfair, and without warrant of law.

I ask honorable Senators if an honorable man can knowingly do an unfair thing, and, when the subject of the act is brought directly in question, when he is invited in all the modes known to the law to come forward and give his testimony, decline to give it in any shape or manner either by personal appearance or by deposition or by commission and interrogatories.

If the committee were to go behind the papers before the board and consider the alleged charge of intimidation upon the proofs before the committee, their finding would necessarily be the same.

How? Here Mr. J. Madison Wells swears that there was intimidation, and a committee with a majority of his own party, or a subcommittee, in that clause upon examination, state that if they were required to go behind the papers before the board that their report would be the same.

It was asserted in Governor Wells's affidavit that the McEnery officials had usurped the offices of the parish, and thereby intimidated voters. Immediately after the 14th of September, when the Kellogg authorities in New Orleans were put out by the Penn authorities, certain changes took place in some of the parishes. When the news from New Orleans reached these parishes the McEnery officials demanded their places of the Kellogg officials, and they were at once given up. When the Federal Government intervened and unseated the McEnery authorities, the Kellogg officials demanded and received back their places; but in Rapides some time seems to have elapsed before the Kellogg officials took their places back; indeed, the McEnery register of deeds was still acting as such when your committee were in New Orleans, the Kellogg register never having come to reclaim the place, which was said to be worth nothing.

That is a good reason why they did not want to remove him.

Now, in Rapides the Kellogg clerk was Mr. Wells's son. Having yielded his place to the McEnery competitor in September, he does not appear to have reclaimed it, and he was accordingly sent for, after the election, to come from his residence, some miles distant, to sign the returns of the election, which he did. Your committee are at a loss to see, in this action, any intimidation of Mr. Wells, still less of the electors of the parish.

And yet the affidavit of J. Madison Wells did state, although he was not there to know the truth whereof he testified, that the electors in that parish were intimidated. This is not a democratic paper that I am reading. I am perfectly willing to take the testimony of CHARLES FOSTER, William Walter Phelps, and Clarkson N. Potter in a case of this kind, or any kind—men whose reputation is known. The first two are trusted members of the republican party, and the last I know stands high in the ranks of the democratic party, and is one of the ablest lawyers that practices in the country. As to their integrity no one has brought it in question, and cannot. Then it does not make any difference to me whether it be that this is Mr. HOAR's report or whether it is not Mr. HOAR's report. It is the report of men as good as Mr. HOAR, and of the same political faith and order, whose business it was to go down there to investigate facts and make a report after full investigation.

I will read what they say in regard to this parish of Rapides, which they have discussed:

It so happens that that parish was taken as a sample parish of intimidation.

If they could not establish intimidation in Rapides, and that was the sample they had taken, the case failed.

Many witnesses from both parties were examined in reference to it; they show beyond question that there was a free, full, fair, and peaceable election and registration there.

And yet the president of this board, Mr. Wells, swears that there was intimidation there.

There was no evidence of any intimidation of voters practiced on the day of election, although it was asserted that intimidation of colored men before election had been effected by threats of refusal to employ them, or discharge them, if they voted the republican ticket. No evidence, either of discharge or of refusal to employ, was produced. Certain witnesses, themselves every one office-holders, testified generally to such action; but hardly any one was able to specify a single instance in which he heard of any employer so threatening or discharging any voter, or knew of any employe being so threatened or discharged. Not one single colored man throughout the entire parish was produced to testify, either to such a threat or to the execution of such a purpose, whether before or after the election.

The action of the returning board in the parish of Rapides alone changed the political complexion of the lower house, but their action in other parishes was equally objectionable.

They then go on and give the facts in regard to other parishes; but I will pass on, to save time, to De Soto:

So in the parish of De Soto, in which the returns showed a conservative elected by over 1,000 majority, it was alleged that the supervisor of registration had brought the returns to New Orleans, and had left them with a woman of bad character, who offered to produce them on payment of \$1,000.

That is a place for them!

The conservative committee took legal proceedings to compel their production; but the court held that it had no jurisdiction to that end. They then caused to be produced before the board the duplicate of those returns from the office of the secretary of state, together with the tally-sheets, poll-lists, &c., filed there according to law. These duplicates corresponded exactly with the alleged result of the compiled returns which the said woman had produced; and of these alleged facts undisputed proof was also submitted to the board. Nevertheless, the board refused to count the vote for that parish.

Here is a parish which gives an unquestioned and undisputed majority of 1,000 votes. The return from that parish is placed in the hands of the supervisor and he brings those returns down to the seat of government at New Orleans, and instead of filing them where the law required them to be filed, they are turned over to a woman of bad repute who asks \$1,000 for them. These facts are brought to the attention of that board, and nevertheless the board refused to make a demand for them and refused to count the vote for that parish; and yet this is a board which the Senator has seen fit here to say was composed of men as honorable as any Senators on this floor. In the conclusion upon that part of the case they say:

Without now referring to other instances, we are constrained to declare that the action of the returning board, on the whole, was arbitrary, unjust, and, in our opinion, illegal; and that this arbitrary, unjust, and illegal action alone prevented the return by the board of a majority of conservative members of the lower house.

We are told that the action of this board is as binding upon the country, and is entitled to as much respect, as the court of last resort, the Supreme Court of the United States. I ask when it was that any man in all this land has ever accused the Supreme Court of the United States of arbitrary and unjust decisions? They may have decided questions about which lawyers may differ as to the true construction of the law, but so far as their action is concerned the charge of arbitrary and unjust conduct has never yet been made against that august court. An honorable man, with a knowledge of the facts, cannot act unjustly. Governor Wells when he made his affidavit in regard to the parish of Rapides should have known the truth whereof he testified. The testimony before this board shows that Governor Wells himself was not in the parish of Rapides on the day of election, and therefore that he testified in regard to a subject about which it was impossible for him to know, and which, upon investigation, the committee report turned out to be untrue. The law of evidence characterizes this kind of testimony.

I should not have troubled the Senate with making these statements and with quoting from the testimony of General Sheridan in regard to the personal character of the chairman of that board, or the testimony of these gentlemen, Messrs. FOSTER, Phelps, and Potter, in regard to the arbitrary, unjust, and illegal conduct of this board and their sharp criticism in regard to J. Madison Wells but for the fact that the Senator from Ohio [Mr. SHERMAN] saw proper in his opening remarks upon the Louisiana matter to send forth to the world as honest men this returning board, and to further say that their action is entitled to as much credit as the decision of the Supreme Court of the United States. It is, therefore, but just and proper that the testimony of men of his own party with equal facilities for knowing the character and integrity and the work of these men should go before the country also. They might possibly be mistaken. I cannot well see how they could upon the facts be mistaken, but at all events the Senator from Ohio has indorsed the personal integrity and official action of this board, and the committee do not.

In respect to the report of the President's committee, we know by experience that party influences and party biases sometimes warp our judgment. If the President designed to secure a perfectly reliable report from the State of Louisiana, it seems to me that it would have been more prudent and more politic and wiser to have selected representative men from both of the great political parties so that the bias or prejudice which each party might have in respect to the evidence or the facts before the board might be corrected by the other party. In this manner the truth could have been deduced and then a joint report signed by both sides would have been entirely acceptable to the American people, but it is a matter of fact that every one of those who were sent down there at the President's instance are of the same political faith as the President.

There is another point I desire to refer to. So far as my information of affairs in the State of Louisiana goes, I do not remember to have seen a single publication charging intimidation, threats, or violence toward voters on account of political sentiments during the entire canvass. So far as the publications went that fell under my observation the canvass was fairly and peaceably conducted. The first news that came up from Louisiana, undisputed so far as I know, was that the election had been absolutely fair and peaceful in every precinct in the State, yet we have now charges of intimidation whereby we have a democratic majority of nearly 9,000 wiped out and a majority of some 4,000 counted in on the other side, making a difference of about 13,000 votes. This startling fact must be fully and satisfactorily explained before the American people will believe it just. If the testimony when it comes to be examined shows it to be right and in accordance with the votes legally cast that the State of Louisiana should be counted for the Hayes electors, if it is just, if the will of the

people of that State, fairly expressed through the ballot-box, was for him, then it should be so counted; and if it was for the electors for Governor Tilden then it should be counted for Tilden. Whatever may be the truth of the case the decision should be in accordance with the law and with the facts. The democratic party court the most searching investigation of the disputed returns.

The Senator from Ohio agrees to that sentiment, but his trouble seemed to be as to who had authority to make this investigation. Can any one believe for an instant that when our system of laws on the subject of elections is so jealous of the rights of the people that there are tribunals for establishing by contest the right to the smallest office in a State, from constable up to governor, it is so fatally defective that there is no constitutional and legal tribunal to determine who has received a majority of the electoral votes cast for President and Vice-President? The power to open all the certificates is, by the Constitution, in the President of the Senate, and the power to examine the votes and determine questions raised as to their validity or invalidity, and of counting what are thus ascertained to be valid legal votes, is, in my judgment, vested by the Constitution in the two Houses. My opinions about this, expressed in the debate at the last session, have undergone no change. I will say in respect to this matter in Oregon that I have no objection to the investigation. There is a difference of statement on a point of great concern between the Senator from Oregon [Mr. MITCHELL] and the governor of that State; that is to say, as to the publicity, and its extent, of the alleged ineligibility of one of the Hayes electors. The governor says:

[By telegraph to the Herald.]

SALEM, OREGON, December 7, 1876.

To the Editor of the Herald:

At your request I give you some of the grounds of my action in granting certificates to electors in Oregon.

The laws of Oregon require the governor to grant certificates to electors duly elected. In taking his oath of office the governor is sworn to support the Constitution of the United States and of this State. In the election of President and Vice-President the Constitution of the United States is the paramount law. That instrument declares that no person holding an office of trust or profit under the United States shall be appointed an elector. John W. Watts, one of the electors voted for in Oregon, was on the 7th day of November holding an office of profit and trust under the United States, to wit, postmaster at Fayette, the county seat of Yam Hill County, and had so held that office for more than three years. Many more than the number of voters constituting his majority had actually passed in and out of his office on official business. His official character was generally known, and was mentioned during the political discussion of the canvass. The law was known and the fact was known rendering him disqualified to be an elector.

A protest was filed in the executive office, by prominent citizens, objecting to the issuance of a certificate to Watts, as a person disqualified, accompanied by proof of his disqualification, and demanding that the same issue to the eligible person having the next highest number of votes. A reply was filed, objecting to anything but a count of the votes, and a certificate on the count, and making no denial of the disqualifying facts. It was ruled, in the case, that where the objection to an applicant's right to receive a certificate rests upon the ground that a constitutional prohibition is interposed, the governor, acting under oath to support the Constitution, is bound to entertain and determine the question; not only that, but is to determine in such a way as to enforce the constitutional mandate to the extent of his executive power. It was also held that, the law and the fact being well known, the votes cast for the ineligible candidate cannot be counted for any purpose, and the eligible candidate having the next highest number of votes was duly elected. This ruling was based upon standard authorities, such as Cushing and Grant; the decisions of many courts, like the supreme court and the court of appeals of New York; the later uniform practice in the United States House of Representatives, and the great weight of English authorities, both parliamentary and judicial.

The law of Oregon providing for filling vacancies in the electoral college recognizes a vacancy only in cases where there has been an incumbent and such incumbent has died, refused to act, neglected to attend, or is otherwise absent. In this case there was no incumbent, unless the next highest candidate should take the position, and there was no vacancy which could be filled by the other members of the electoral college. The next highest candidate eligible under the Constitution of the United States was, therefore, certified to be duly elected.

L. F. GROVER,
Governor of Oregon.

The Senator from Oregon states that he made twenty-five speeches in the interest of the republican party in that State and did not hear the ineligibility of Watts mentioned. Then there is a question which, it seems to me, is proper for investigation; and, however this may result, whoever is fairly, honestly, and lawfully entitled to the disputed vote of Oregon should have it, and the same course should be pursued in South Carolina, Florida, and Louisiana. I do not believe that philippics, that denunciations do any good here and do much harm elsewhere. We all ought to look at this from a temperate standpoint; every man ought to be controlled by reason, judgment, and common honesty; and if we come up to the work with that spirit, with the earnest purpose and desire of declaring the very truth as to who is lawfully entitled to be inaugurated my judgment about it is that everything will pass off peacefully and harmoniously, and the people will be satisfied with whomever the truth may declare as lawfully entitled by fair election, conducted by the methods of the Constitution and laws to the exalted positions of President and Vice-President of the United States.

Mr. MORTON Mr. President, the Senator from Texas started out with expressing the opinion that the will of the people should be carried out, in which I fully concur. He said that the election returns should be counted fairly and squarely, and that there should be no cheating around the board; that the result should not be determined by fraud and chicanery. In all that I agree; but I should have been glad if the Senator from Texas had gone one step further and said that violence and bloodshed and intimidation before the election should not be allowed to control the result, and that returns of elections obtained by bloodshed and all manner of violence should be rejected. I think my friend from Texas ought to have said that, and he and I

would then fully agree. The vote should be fairly counted, the will of the people should be expressed, and if there has been fraud in the count it ought to be corrected. If the results have been obtained by violence and murder and crimes of the darkest hue, then the fruits of these crimes should not be enjoyed. If the result in a particular parish or county has been obtained by murders, by the commission of high crimes, the party who committed those murders or countenanced them should not have the fruits. Those results should be cast out. You cannot stop to count the drops of blood. You cannot stop to count how many have been killed or how many men have been terrified or driven from the polls; but wherever it is shown that murder and these crimes have entered largely into the result of the election those results ought to be cast out. Murder is the highest crime known to the law, and neither individuals nor parties should be allowed to profit by it. I will say so long as murder is profitable so long it will be continued; so long as murder is defended and excused so long murder will be committed.

The question is not as to the character of the returning board in Louisiana. With all due respect to my friend from Texas, that is simply avoiding the issue. They may be good men or bad men; that is not the question. The question is what were the facts before them, what was the character of that election. The Senator cannot answer what has been said and what has been proven by saying that Wells is not a good man or that Anderson is not a good man. That is simply begging the question. That is not to the purpose at all.

The question is, what was the evidence before that board and what was the character of that election? [Holding up a book.] Here is a volume of testimony that has been printed. It is before the whole country. It is ignored; treated as if it had never taken place, and by an attack upon the character of the members of the returning board the whole thing is sought to be avoided. We have had instances of that before, where the defendant's counsel was instructed to attack the plaintiff's attorney. Instead of meeting this case by responding to these terrible charges that cannot be ignored, (and the time has gone by when they can be ignored, and Senators ought to understand that,) we are told that the members of the returning board were not men of good character. I am not now called to pass upon this question. I do not know what the Louisiana matter has to do with the discussion of this resolution; but it is brought here.

It is said by my friend from Texas that effect should be given to the voice of the people, and so say I. We should not let things turn on technicalities upon the great question of electing a President for the government of this nation. We should give effect to the voice of the people; we should put by small technicalities, little things that do not go to the substance.

In regard to Oregon there are in the first place two or three things which are not disputed by anybody. The first is that there is no charge of fraud in the election in Oregon. I have not heard that charge on either side. The election was admitted to be fair and honest, and it was admitted that the republicans carried that State by nearly twelve hundred majority. Now when an attempt is made to defeat the vote in that State and the voice of that people by saying that one elector was ineligible, the governor assuming to commission another man who was not elected and that man assuming to commission two electors who were not elected and thus to cast the vote of the State of Oregon, I want to apply to that State the doctrines laid down by my friend from Texas. I say we have got to trample under our feet these technicalities and tricks, to use a word I have used before, by which an attempt was made to take the electoral vote of Oregon from the republican party. Nobody respects what was done there. Even my friend from Missouri, [Mr. BOGY,] with all his ability and all his eloquence, cannot make the Oregon transaction respectable. It will always stand out on the page of history solitary, bald, and hideous.

To come down to the State of Louisiana, my friend referred to the report and to attacks made upon the members of the returning board. As I said before, I shall not stop now to defend those men; that is all foreign to the question. The question is not how old they are, what their occupation is, what their character has been; but the question is as to the character of the case before them, and as to the character of the election. And here we have a vast volume of testimony.

Mr. MAXEY. Will the Senator permit me to interrupt him?

Mr. MORTON. Yes, sir.

Mr. MAXEY. The remarks which I made in introducing the testimony of General Sheridan and the report of Mr. Foster, Mr. Phelps, and Mr. Potter was in answer to what had been said in regard to the personal integrity of the board by the Senator from Ohio, [Mr. SHERMAN.] If it was legitimate for him to indorse their personal integrity, it is unquestionably legitimate for us to show the other side of this question.

Mr. MORTON. Suppose that what General Sheridan said was true, how does that affect this question? Suppose he was mistaken, still how does it affect this question? If my friend is going to take the testimony of General Sheridan, I will read to him a passage from what General Sheridan has said, in which he states:

Number of political murders in the State of Louisiana from 1866 to 1875 were:

Killed.....	2,141
Wounded.....	2,115
Total.....	4,256

Mr. MAXEY. The Senator from Indiana is referring to that as the report of the committee. I think he will find upon an examination that it is a minority report signed alone by three republicans, whereas the majority report is signed by both republicans and democrats.

Mr. MORTON. So far as those facts are concerned which were reported upon by Judge HOAR, I believe there is but very little dispute. I simply want to say that if we are to talk about fairness of elections, we cannot ignore great crimes by which political results are brought about. If it can be shown, or if it has been shown, that the election in Louisiana was controlled by murder and violence in every form, I have to say that every such return should be cast out, and that is the great question. It is not to be dodged by attacking the plaintiff's attorney. Here is a mass of evidence laid before the board upon which it acted. There is the evidence running back through ten years, showing more than two thousand murders and more than two thousand men wounded before the year 1876 for political purposes. Louisiana has been a great slaughter-house of republicans for political purposes; and the fact cannot be dodged by talking about the plaintiff's attorney, by attacking the private character of the members of the returning board.

Here is a terrible state of facts alleged by General Sheridan; and if my friend places so much reliance upon what he has said of him let him take that statement along with the rest.

No, Mr. President, what the Senator refers to is trivial; it is not part of the *res gesta*. What has been the character of the election in Louisiana? There is a volume of testimony placed on our table by the Senator from Ohio, [Mr. SHERMAN.] At least it has been brought here and printed by the order of this body. I might take a single parish. I find the testimony of the coroner; I find copies of reports of coroner's juries in the single parish of Baton Rouge, eleven cases of murder in the last year, of men shot and of men hung by armed bodies of regulators; and taking this evidence altogether, it is proof of a vast mass of crime which controlled that election.

Referring to the report made by Judge HOAR in regard to Louisiana, we find that in that report he refers to the slaughter of the convention in the city of New Orleans in 1866 where nearly two hundred men were killed and wounded, unarmed and without having committed any offense. He then refers to the evidence which shows that over two thousand persons were killed and wounded in that State just prior to the presidential election of 1868. He then refers to the Colfax massacre, where nearly or quite one hundred men were murdered in cold blood in 1873. He gives the circumstances, and the whole matter is summed up by General Sheridan in the statement of between four and five thousand being killed and wounded in that State since 1866.

Whenever murder shall be condemned in the South and denounced by all parties then it will cease, but so long as it is profitable it will be continued. If elections can be carried by violence we shall have violence. Then we shall have this country Mexicanized. What we want is fair elections. If the State of Oregon has been carried fairly by the republican party it should have the vote of Oregon. If the State of Louisiana has been carried fairly by the democratic party it should have the vote of Louisiana, but if on the other hand Louisiana has been carried by violence and murder and by a repetition of the crimes that have been going on there for ten years, then it should not have the vote of Louisiana, it should not have the benefit of these crimes.

Mr. BOGY. Then does the Senator think the vote should go to Hayes without him having any votes at all?

Mr. MORTON. If the votes fairly cast were for Hayes he should have it, and those votes which were cast by fraud and violence should be thrown out.

Mr. SHERMAN. That is the law of Louisiana.

Mr. MORTON. It is the law of Louisiana, and it is the law of justice. It is the law everywhere. There is a notorious republican State, republican by a large majority, and if it can or has been shown that that majority was overcome by violence, those who committed that violence should not have the benefit of it. To give them the benefit of their crime is equally against the law of God and against the law of man. There is no use now in saying that there was no crime; we do not know anything about it. It has been going on too long and the whole world knows it. Only the other day a committee of gentlemen sent down there on the part of the democratic party to watch this count were driven to admit the existence of these terrible crimes. They could not conceal them although they tried to divert the issue and place it upon immaterial matters.

Mr. BOGY. Mr. President, if it be true that the election in Louisiana has been carried by fraud, by murder, by the shedding of blood, by anything which would prevent a fair election from having been held, of course the vote of Louisiana should not be counted by the party that carried the election in that way; the vote of Louisiana should not be counted at all; but I have put a question to my friend from Indiana before, and I have put it to my friend from Ohio before, and they have never answered it. They cannot answer it. I say that there is no evidence of that fact besides what is found upon my friend's table, which evidence was not taken in accordance with the law of Louisiana. The law of Louisiana requires that any evidence of murder, of intimidation, of the shedding of blood, to affect the election, shall be returned within a given time, say twenty-four hours, with the return of the votes of the different parishes. That law has not been com-

plied with, and why was it not complied with? Because the fact stands before the world that there was no intimidation and no murder and no bloodshed. The fact is beyond all controversy in the city of New Orleans among republicans and democrats that the election throughout the State of Louisiana was peaceful, and quiet, and orderly, and that these affidavits that are found in that report on the Senator's desk were of men picked up in the stews and gutters and purlieus and faubourgs of the city of New Orleans, men not known, many of them, and all of them, no doubt, perjured themselves. The law of Louisiana requires that any evidence of fraud shall be returned with the vote. That law has not been complied with. When you speak of the returning board, there is another fact, which these gentlemen cannot or dare not deny. That board after having got the evidence, after receiving the testimony before the committees that were there present, retired privately and threw out what they pleased; and to this day neither the committee of the democratic party nor my friend's committee know the vote of any parish in the State of Louisiana. They then made an aggregate return sweeping away at one dash a majority of 8,000 votes given to the democratic party and giving a majority of nearly 4,000 votes to the republican party; and that was done in secret session, no one but themselves being present.

After my friend from Ohio spoke as he did yesterday, you would suppose that the committees were present during all those investigations. I say that the two committees were present as a matter of form, a mere deception, at the opening of the proceedings; but what votes were returned, what were thrown out, and what were received beyond that nobody knows. Everything was done in secret; and that by the report of the committee that went there two years ago, composed of a majority of republicans, has been declared to be an improper way of transacting the business. The report of Mr. HOAR and his colleagues stigmatized that as being illegal and improper. The report says that the receiving of affidavits not having been returned with the votes is not allowed by the laws of Louisiana; and yet I do say as a fact which never has been contradicted, and which never can be contradicted, that when the returns of the votes of the different parishes were made there was no evidence of intimidation with them; and who can doubt for a moment if intimidation existed, if men had been shot, if murder had been committed, if all those horrid things embraced in that document had taken place, that that fact would have been returned? All these officers in the parishes of Louisiana were republicans; all the commissioners of registration and supervisors of election were republicans and the appointees of Governor Kellogg. These men, all belonging to one party, made no return of such things at the time, and made none for weeks afterward; and yet both of my friends admit that if there is evidence of fraud the vote should not be counted. The evidence is that there was fraud committed by the board; what appears in that book is not authorized by the laws of Louisiana. Neither of my friends can say that that thing was authorized by the laws of Louisiana. The law is positive that the evidence must be returned with the votes by the supervisors of registration and the commissioner of the parish. It was not done; and not being done, that board had no right to take jurisdiction; it had no right to fabricate and to create testimony which is upheld by my friend from Ohio in that able and, I will not say cunning, but most successful way that he has employed more than once on this floor. The testimony in the report upon my friend's table was not taken in accordance with the laws of Louisiana. If there has been intimidation; if there has been fraud, I am not myself in favor of receiving votes cast in that way. I have no doubt if we had a proper appreciation of the high office of President the vote of Louisiana ought to be thrown out altogether. Let it be so, and let those men, having experience, know better hereafter. Those men admit themselves that the vote was actually given for Mr. Tilden, but charge that that result was brought about by fraud, by the shedding of blood, and murder. I do not admit it; but does that prove that the vote of Louisiana should be given to the other party? Parishes were thrown out by the action of a board sitting in secret, and they dare not now appear before the committee that is in New Orleans and show what they did. They are resisting the investigation to-day, if what we see in the papers be true. Let the character of the board be what it may, good or bad, we say its action is not sustained by the law of Louisiana, and the report of a House committee composed of a majority of the republican party shows that its action is not in accordance with the law of Louisiana in declaring the result of the vote given at the last election.

Mr. DAVIS. Mr. President—

THE POSTAL SERVICE.

Mr. HAMLIN. Before the Senator from West Virginia proceeds, I desire to present the evidence which the commission to examine into the mail service have taken, and I ask that it be printed. We shall soon have the various subjects to which it relates before us and all Senators want the information which it contains. I move that the usual number be printed.

The motion was agreed to.

COMMITTEE ON COUNTING THE ELECTORAL VOTES.

The PRESIDENT *pro tempore* appointed as the special committee respecting the counting of the electoral votes authorized by the resolution of the 18th instant, Messrs. EDMUNDS, MORTON, FRELINGHUYSEN, LOGAN, THURMAN, BAYARD, and RANSOM.

DEATH OF SENATOR CAPERTON.

Mr. DAVIS. Mr. President, according to notice heretofore given I now submit two resolutions having for their object the furnishing of an opportunity for the Senate and House of Representatives to bear testimony to the character and public services of ALLEN T. CAPERTON, and ask their present consideration.

The PRESIDENT *pro tempore*. The resolutions proposed by the Senator from West Virginia will be read.

The Chief Clerk read as follows:

Resolved, That as an additional mark of respect to the memory of ALLEN T. CAPERTON, late a Senator from the State of West Virginia, business be now suspended that the friends and associates of the deceased may pay fitting tribute to his private and public virtues.

Resolved, That the Secretary of the Senate communicate this resolution to the House of Representatives.

The resolutions were agreed to unanimously.

Mr. DAVIS. Mr. President, the Senate is again called upon to suspend its ordinary proceedings, that it may in a proper manner mark its respect for one of its former members whose death it laments; to testify to his private worth and public virtues and give expression to its sorrow.

Scarcely a session of this body passes but it is invaded by death and some familiar face, some associate, is summoned hence and called to rest forever from all earthly care.

In my single term of service here, yet incomplete, the painful duty now upon us has been, alas! too frequently performed.

We have followed to the grave and shed the tear of affection over some of the ablest and most distinguished men of our day and time.

Our late President of the Senate, Vice-President Wilson, the nation's and people's friend; the learned and gifted Sumner; Ex-President Johnson, self-taught and self-educated, who by force of energy and native abilities hewed his way from the humblest walks of life up to the executive chair of the nation; the patriot governor, Buckingham; the amiable and affectionate Ferry; and the earnest, able, and fearless Davis, all have passed away.

In this instance it has fallen to the lot of West Virginia to mourn and render up one of her ablest, best, and truest sons.

Toward the close of the last session of the Senate, prolonged as it was into the late summer, when the heat was most oppressive and fatigue and exhaustion rested upon all, after but a brief illness of organic disease of the heart, on the 26th day of last July, death found Mr. CAPERTON at his post of duty.

It is not my purpose on this solemn occasion to pronounce any studied words of praise and commendation over my friend and dead colleague, believing that the best eulogy upon so noble a character will be the plain and simple story of his life.

ALLEN T. CAPERTON was descended from an old Virginia family, and was born at Union, Monroe County, Virginia, (now West Virginia,) November 21, 1810. His ancestors on the paternal side were English and on the maternal Scotch, a commingling of nationalities that has produced some of the greatest men of our country. His great-grandparents on both sides were among the earliest settlers on the head waters of the Kanawha, then overrun by hostile Indians; and the fact that his grandmother was captured by savages, her infant child butchered before her eyes, and she detained in captivity for four years, will give some idea of the courage it took and the dangers that had to be encountered in opening to civilization that fertile and beautiful mountain region.

Hugh Caperton, the father of the late Senator, was a man of great ability, high character, and commanding influence in the section of Virginia where he resided. He represented his district in the Thirteenth Congress and was the intimate friend and admirer of the great statesmen Clay and Webster, and other leaders of the whig party, to which he belonged.

Mr. CAPERTON passed the earlier years of his life at the home of his father, near Union, and at that village received the rudiments of his education. At the age of fourteen he went to Huntsville, Alabama, to attend school, making the long journey on horseback in company with an elder brother. He afterward attended the University of Virginia, and completed his education at Yale College in 1832, graduating seventh in a class of fifty-three at the age of twenty-two. In college he was noted, as in after-life, for his studious habits, industry, and good deportment; though modest and reserved, he was popular with his fellow-students and beloved and esteemed by his professors.

After leaving college he studied law under the late Judge Briscoe Baldwin, at Staunton, Virginia; was admitted to the bar in 1834, and commenced the practice of his profession at his native town. His natural ability, eloquence, and close attention to business soon secured for him a prominent position as a lawyer, and his practice rapidly extended throughout the southwestern portion of the State. He was not, however, long permitted to confine himself solely to his professional duties, but in 1841, at the solicitation of his friends and neighbors, he took part in politics and was elected to the house of delegates of Virginia, and in 1844 to the senate, after which, until 1860, he was at various times a member of both houses of the State Legislature. In 1848 he was a member of the national convention that nominated President Taylor. Although elected to the Legislature at an early age and at a time when some of the ablest and most brilliant men of the State were members, he soon advanced to the

front rank and gained an enviable reputation throughout the State as a useful legislator and a ready and forcible debater.

His service in the Legislature was marked by his untiring efforts and best exertions in favor of every measure looking to the progress and prosperity of the State generally, but more particularly to the opening up and development of the vast resources of the portion he represented. All propositions for internal improvements and public works found in him a zealous and energetic supporter, and he was held in the highest esteem by all parties.

A newspaper correspondent, speaking of him in 1858, says:

A. T. CAPERTON, of Monroe, is a whig and has long enjoyed the confidence of the whole people of his section. He has never been defeated for office. Mr. CAPERTON is one of the handsomest men in the Legislature, the ablest member of his party on the floor, and would make a valuable and useful member of Congress.

During all this time, notwithstanding his service in the Legislature and the interest he took in politics, he not only continued the practice of his profession with success, being engaged in almost every important suit in his section of the State, but found time to devote to agriculture and stock-growing, of which he was very fond, and was reputed among the most successful in the State.

He was also the active friend and supporter of nearly all important enterprises projected and put in operation in the southwestern portion of Virginia.

He was one of the most influential directors in the James River and Kanawha Canal, looked upon in that day and time, as now, a work of national importance, its object being to connect the waters of the East and West, and furnish means of transportation between the distant sections of the country.

In 1850 and 1861 he was elected a member of the constitutional convention of Virginia, and, like many prominent members of the whig party in the South, was a conservative-union man, and opposed secession until the commencement of actual hostilities, when he felt, as many others did, that his duty was to link his fortunes with those of his State. In 1862 he was elected by the Legislature of Virginia as a member of the Confederate States senate, which position he filled until the close of the war in 1865; after which he returned to his home, accepted the result of the war in good faith, and resumed the practice of his profession, devoting much of his time and energies, as in the past, to the opening up and developing the resources of West Virginia, particularly advertising and bringing to the attention of foreign capitalists her fine coal, timber, and grazing lands; and in this direction he accomplished much and his efforts were crowned with reasonable success.

On the 17th of February, 1875, after a spirited contest, he was almost unanimously elected a member of this body to succeed Hon. Arthur I. Boreman, and took his seat on the 4th of March following. His election was received with general satisfaction throughout the State. He brought to the Senate great strength of character, matured experience in public affairs, sound judgment, and an accurate knowledge of the history of the Government and the necessities of the country, and particularly the South. He had the liveliest appreciation of the responsibility resting upon a Senator and his duty to the General Government and his State. He recognized in the amplest manner that old issues were dead and that a glorious and prosperous future awaited the whole country if good feeling could be restored between the sections. His greatest concern and deepest anxiety was over the unsettled condition of our political affairs, and had he lived I have no doubt his voice would have been raised and energies exerted in behalf of peace and harmony.

Such is a brief outline of the early life and public services of my departed colleague.

For thirty-five years, it may be said, he was constantly under the eye of the public, filling many important positions of trust and confidence to which he had been elevated by the partiality of his neighbors and fellow-citizens. And during this long term of public service, quite an ordinary life-time, embracing and covering as it does a period as important, stirring, and exciting as has occurred in our history as a country, I have the pride and pleasure of recording that his conduct and character was so pure, so high, and so elevated that neither suspicion nor taint ever rested on either; and in all of his official acts and doings, in his professional and business dealings, he did his duty well, wronged neither state or individual, and was uniformly just and honorable.

He was a man of scholarly attainments, positive character, fixed principles, and strong convictions, a despiser of all tricks and *narrow doings*, a sound lawyer, modest and reserved, though a ready debater, thoroughly versed in the history of the country and politics, a lover of the Constitution and a close student of its wise provisions; all of which was supplemented by a large experience with men and affairs.

Thus thoroughly equipped by nature and cultivation he came up to our best ideas of an American Senator and statesman.

The term of service of Senator CAPERTON as a member of this body, less than two years, was so short that there was scarcely sufficient time for his associates to know him well and understand his noble character; but I believe I am authorized in saying that, even brief as it was, he enjoyed the esteem and respect of all, and none was more dearly beloved.

Of commanding presence and dignified deportment he inspired the respect of all with whom he came in contact. He was eminently social. Possessed of rare conversational powers and a cultivated mind,

and genial manner, warm-hearted and affectionate, he drew around and cemented to him friends wherever he went. He made but few speeches in the Senate, but when he did speak he brought to the subject careful and accurate thought, close research, and sound judgment. His highest ambition, best purpose, and most earnest wish were that the estrangement growing out of our late unfortunate war should forever disappear and be replaced by harmony and good feeling between the people of the whole Union, believing when this happy end should be attained there was a brilliant and prosperous future before the country.

He was an earnest advocate of internal improvements on the part of the General Government, feeling that if Congress could inaugurate and carry out a proper system it would prove of incalculable benefit to the country and help to bring about the harmony and friendly feeling between the people of the States which he so much desired and believed necessary to the perpetuity of our free institutions.

His speeches on the Centennial and river and harbor bills, delivered during the last session of Congress, breathe a spirit of progress and patriotism and hope for the future.

But it was at his own home, in the midst of his neighbors and friends of a lifetime and in the quiet sacredness of the domestic circle, where he was best known, that he was loved most.

A fond and affectionate husband, a generous and loving father, he enjoyed the devotion of his family.

It was my lot to be one of the number who accompanied his remains from this capital to their final resting-place at his home, and his popularity and the affection cherished for his memory were marked by the general grief and gloom that pervaded all classes as we drew nearer to the end of our sad journey. His death was not only a great loss to his State and the country, but particularly to his family and the community in which he lived. He was endeared to all classes, and in the long procession of relatives, friends, and neighbors that followed his remains to their last resting-place, among the grief-stricken and those who stood nearest the grave, were some of his former slaves.

Although cut off in the midst of his usefulness and at a time when he could apparently do the most good for his country and State, we bow with better submission to this dispensation of a divine Providence, believing and knowing that society, the times, and the age were better for his having lived.

Mr. WRIGHT. Mr. President, I should be unmindful of the strong promptings of friendship, indifferent to duty, and unjust to the memory and many sterling qualities of head and heart of the late Senator CAPERTON, if I did not add something to what has just been so appropriately said by his surviving colleague. I first met the late Senator when he appeared to enter upon his duties here in March, 1875. From that time until his death our relations, official and personal, for those theretofore strangers to each other, were more than usually intimate. Among other duties, he was assigned to the committee of which I was then made chairman, a committee (Claims) where he found hard work, drudgery, need of patience, care, thoughtfulness, watchfulness, and where, certainly equal to any other in this body, there is abundant opportunity to test the fidelity of its members to duty and their ability to dispose of the many perplexing and important questions arising. And I am sure that I but express the united judgment of his associates there when I say that no man could have been more faithful, painstaking, or attentive to every question arising, nor more solicitous to do even and exact justice to the claimant and the Government, than our late colleague.

In the committee-room, as in the Senate, he was the same affable, courteous, polite, and courtly gentleman, and in both, as in private and social life, never in an unseemly or untimely manner pressing his views, never seeming to obtrude his opinions in the spirit of the determined and obstinate antagonist, but mildly, pleasantly, and yet with a firmness which satisfied you that he knew his ground, had studied it well, and that his convictions or conclusions were the result of thought and care, and not of passion, prejudice, or other than what was to him the very right of the case. He could listen to and take part in fair and just argument; to aught else than this and the very law and justice of the matter presented, he ever turned a deaf ear.

Senator CAPERTON was educated at Yale, and had as his classmates and fellow-students, among others, John and Wellington Gordon, of Virginia; Rhett and Rutledge, of South Carolina; Shorter, of Georgia, as well as others who were afterward of distinguished prominence in their several States and in the nation. One of these (Hon. Henry Sherman, now of this city) says of him as a student that "He was of fine personal appearance, courteous in his address, of high moral character, and very popular among his fellow-students." And following him through after-life this friend adds that "He was eminent in his profession, prominent in his State; in his business he was a man of large conscientiousness and high-toned honor and integrity. I frequently found him, after he entered upon his duties in the Senate, very late at night, pouring over voluminous records and laboring with the utmost care and industry. His laborious and persistent attention to business, in my judgment, shortened his days."

In private life, as we have already heard, the goodness and greatness of the late Senator appeared in the most conspicuous manner. The man who—as another friend, who was for years brought into the closest and most intimate relations to him, in a letter now before me

says—I say the man who, “tender and guileless as an infant himself, could and did attach to him the affections of the young and the poor, enter into their plans and pleasures, identify himself with their interests, who had the almost sublime adoration of wife and children, and who returned this with a devotion attracting the attention of all who knew him, who despised a little thing beyond expression, who with that vigor of language of which on such occasions he was complete master denounced all things little and mean and wicked, who ever took an interest unequalled in the struggles and trials of those in distress and trouble, who as a man was exemplary in all the relations of life”—such a man, I repeat, could not be otherwise than good; and greatness most logically and certainly followed, for goodness leads to greatness; goodness is greatness.

Senator CAPERTON belonged to that school of politics which taught the power and constitutionality of the General Government to engage in a general system of internal improvement.

Entertaining these convictions, he was, as his public life will show, ever the most active supporter in his own State and in the nation of all those measures which tended to the material development, by a system of internal improvement or otherwise, of the old State which he loved so well, and of any and almost all schemes under the patronage and fostering care of the General Government which in his opinion might contribute in any manner to its growth, greatness, and material prosperity. On this subject or on these matters he never, as far as I can learn, and as his public record will attest, had any the least constitutional scruples. And yet it is perhaps not strange, in view of his associations, education, and from his devotion to his State, that he could quite naturally incline to side with his State in the late unpleasant and deprecated struggle. Hence he took a prominent part in that contest for what he thought were the rights of his State and his people. And yet the sincerity of the man and his convictions, his adherence to his principles as to the powers of the Government, and his, as I must believe, patriotic devotion to the Union and country in whose service he was engaged at the time of his death, is well shown by what he said to a near friend in almost his last hours as given to me when, referring to his public life, he said, “You know the influences under which I have lived and been brought up and strengthened in the views of States’ rights, consistent with which I could not do otherwise than I did. But,” he added, “I am clear of those views now, and I accept my present position with a firm determination to support the Union and Government of the United States, and my first ambition is to enforce upon the people of the State which I represent my conviction that our greatest good is to make the State of West Virginia as great a State in the Union as the Old Dominion of Virginia was in her palmy days.”

Such, Mr. President and Senators, were some of the characteristics and virtues, as they impressed me, of our late colleague; such almost his last words. Standing by his tomb and admonished by the occasion, our present surroundings, the scenes here enacted each day, how we should each be led to reflect upon the vanity and littleness of all human ambitions and aspirations! How fitting that we should for the passing hour, and indeed for time, bury the asperities, the bitterness, the criminations and recriminations of party and political strife, and upon their tomb build higher and still higher a love and devotion to that Union which is the only sure hope of our present and future greatness; that Union which should know neither sections nor parties; that country which our deceased colleague was, as I believe, in his service here, seeking to make stronger and better and purer; that country and that Union bequeathed to us by the noblest ancestry of the ages and saved to us by the best blood of their equally noble children.

Mr. WITHERS. Mr. President, amid the many appropriate and graceful tributes to the memory of our departed associate, I ask the privilege of depositing a modest chaplet on the same sacred shrine.

To the interesting biographical sketch, the acute analysis of character, the warm expressions of appreciation and esteem to which the Senate has listened, little need be added. Yet I feel in this connection that something is due from the State which gave him birth, the State toward which his true and loyal heart was ever wont to turn with filial love and never-failing reverence. Though by the exigencies of the times he appeared on this floor as one of the faithful representatives of that fair daughter which had been so rudely carved from the mutilated form of that dismembered State, ALLEN T. CAPERTON was *intus et in cute* a Virginian of Virginians. His interest and his affections, refusing to be restrained within the narrow confines of West Virginia, included in their loving embrace all Virginia, whether old or new. Nay, sir, I may go farther and say that while Virginia held the first place in his affections, no portion of his country, whether East or West, North or South, was excluded. His expansive patriotism, disdaining the restricted limits of State boundaries, embraced the interests of the whole people.

Reared amid those grand old mountains which, like heaven’s sentinels, keep watch and ward around that loved ancestral home where his progenitors for generations had “lived and moved and had their being,” it is not surprising that his mind was early imbued with that undying devotion to the principles of liberty and free government which in all ages has been deemed a characteristic of “the dweller among the hills.”

Blessed with a fine person, a strong and vigorous intellect improved

by culture; of refined literary taste, with an exquisite and quiet humor; of temperate habits and genial disposition, it is not remarkable that he should have been early called to assume the duties and responsibilities of public life. Of that public career, long and honorable as it was, I shall speak very briefly.

By inheritance, as well as by the convictions of his maturer judgment, he was an earnest but not a blind adherent of that grand old party which under the leadership of the “great commoner” attained such enviable distinction for its probity, its purity, and its patriotism as will in all time provoke the emulation of all political organizations; a party which, if not always fortunate in the inauguration of its schemes of statecraft and the election of its candidates, ever maintained as its cardinal doctrine that the interests of the whole country were to be held superior to the gratification of individual ambition, and the prosperity of the people more to be valued than the triumph of the politician.

These principles found in Mr. CAPERTON a steadfast and uncompromising adherent. His intellect, naturally acute, was expanded by culture and disciplined by study in both northern and southern schools until it attained a breadth and comprehensive scope which was fatal alike to the narrow dogmatism of the sectionalist and the destructive frenzy of the fanatic. He was no one-idea man. In politics he knew no higher law than the Constitution of his country, was ambitious of no distinction except that incident to the faithful discharge of representative trust. He sought no selfish end, labored not for personal aggrandizement. His devotion to duty was so absolute and unquestioning, his abnegation of self so utter and complete, that they overshadowed that prudence which ordinarily prompts us to regard personal comfort and personal safety superior to all other considerations, and thus doubtless accelerated the final catastrophe by which an honorable and useful career was so suddenly and sadly closed. Enervated by the excessive heat and exhausted by the unusually arduous and protracted labors of the last session, with vital powers perceptibly waning day by day, he yet, with brave heart and unblenching spirit, refused to seek amid other and more congenial surroundings that repose upon which his very existence depended. In his opinion the interests of his constituents required his personal attention and demanded his continued presence here. The members of the Senate will not, I am sure, soon forget the earnest and almost impassioned tones of his voice as they fell for the last time upon our ears pleading for the inauguration and consummation of such enlarged and comprehensive policy of internal improvements as would develop and enrich not only his own immediate constituency, but would redound to the advantage of the whole country.

In his stern devotion to duty, in his delicate sense of honor, in his contempt for all that was little and mean, and in the fearless bravery of his loyal heart he seemed better suited to the chivalric than to the present utilitarian age. But it was in the domestic circle, amid the sweet endearments of home, that the most lovable and lovely traits of my friend’s character found their fullest development. His appreciation of home joys and domestic pleasure was unusually acute, and however appreciated and honored might be his public service, he ever turned with unflinching zest and keen enjoyment to the delights of that mountain home whose elegant hospitalities he so much delighted to dispense, and to that family in whose affectionate ministrations he found his highest happiness. In the sacred *penetralia* of that home there is “an aching void the world can never fill.” I will not with rude hand attempt to draw back the veil which shrouds sorrows which it cannot wholly conceal. To “time, the comforter,” and “to Him who doeth all things well,” they can look alone for the healing of their yet green wounds, assured that when that time shall come, they will feel a just appreciation of his reputation as a public servant, and will forever cherish as their dearest heritage the memory of his sweet domestic virtues.

Mr. President, to arrest the sweeping current of heated political discussion which has since the commencement of the present session borne down everything before it, to still for a time the tones of mutual denunciation which have so persistently vexed the ear of the Senate; to withdraw our minds for a brief space from the consideration of the exciting questions which press upon us with such engrossing interest, and to turn with saddened hearts and subdued utterances to the performance of the touching duty of paying this tribute of respect and affection to the memory of our departed associate, is eminently judicious and must be productive of good.

These ceremonies bring us face to face with the last great enemy, before whom the struggles of political parties are dwarfed into insignificance, and compel you to remember that “there is no work nor device, nor knowledge, nor wisdom, in the grave whither thou goest.”

The dreams of ambition, the mad quest for power and place, the aspirations of purest patriotism, alike pass away with the fleeting breath, and thus we “bring our years to an end as a tale that is told.”

For the living know that they shall die; but the dead know not anything. Also their love, and their hatred, and their envy, is now perished; neither have they any more a portion forever in anything that is done under the sun.

Such is the conclusion of Him to whom was given wisdom beyond that which has ever fallen to man, and it becomes us well to ponder His words and so apply our hearts to the true wisdom that when our star sets at life’s close “it may set as sets the morning star, which goes not down behind the darkened west, but melts away into the brightness of the coming day.”

Mr. EDMUNDS. Mr. President, Mr. CAPERTON took his seat in this body as one of the representatives of West Virginia for the term of six years on the 4th of March, 1875. He died on the 26th of July, 1876.

A law higher than constitutions and a power greater than that of states terminated the high trust his State had committed to him before one-fourth of its period of usefulness and honor had elapsed. The daily lesson of mortality, repeated in every age and every clime in the only language common to all the inhabitants of the earth, speaks as clearly to those in the most exalted as to those in the humblest stations. The cabinets and audience-chambers of kings and the halls of senates are as obedient to its inexorable voice as the lonely tent or wigwam of the poorest dweller in the desert. Misery and happiness, want and affluence, are equal before it; and so day by day there disappear from the scene of human endeavor as well the actors of the great parts as the simple figures who only pass unnoticed across the shadows of the most distant parts of the stage.

In the brief career of Mr. CAPERTON among us, he had endeared himself to the whole body of his senatorial associates. Political friends and political opponents alike found in him those qualities of personal uprightness and independence that do so much always to mitigate the overzeal and soften the asperities of party strife. A man of much sensitiveness of temper and of strong opinions, the self-reverence and self-control flowing from a gentle spirit, a cultivated intellect, and long intercourse with his fellow-men in many stations of trust made him always courteous in manner and conciliatory in advancing his own opinions and in opposing those of others. He has been suddenly taken from the sphere of labor for his State and his country, upon which he had but just commenced. As we join in the sorrows of the young Commonwealth he represented, we naturally look backward to his predecessors and to her singular history. Mr. CAPERTON was only the third Senator of his class from that State. Mr. Boreman immediately preceded him, and Mr. Van Winkle preceded Mr. Boreman, and was one of the first two Senators from West Virginia, Mr. Willey being his colleague. Out of the convulsions of the rebellion there was born a new and welcome sister in our great family of States.

The substantial power of the old Commonwealth of Virginia, glorious in all her previous history—east of the mountains having carried her in 1861 into the rebellion—although during a short period afterward she had representatives in the Senate—the people of the forty-eight counties of the western part of the State, lying among the beautiful and fertile valleys of the Alleghanies, in 1862 framed a constitution and government for a separate and independent State. The great majority of this people were loyal to the national unity of the Republic, and naturally felt deeply anxious that their fortunes should not be linked with those of Eastern Virginia in its sad attempt to break up the Government of the Union. After much consideration and many doubts, on the 31st of December, 1862, an act of Congress was passed providing for the creation of the new State of West Virginia, and on the 19th of June, 1863, she became the thirty-fifth State of the Union, and the twenty-second of the new States. The character of the political body that, as the Legislature of Virginia, assented to the dismemberment of the State was not the clearest, as being the constitutional Legislature of the old State; but Congress exercised its undoubted political power to recognize it as such, and the State of West Virginia became an accomplished and unchangeable fact. It is not one of the least evils flowing from powerful assaults upon lawful government that the government itself is often forced to extreme measures and to the verge of its authority to preserve and protect itself; and thus it sometimes transmits to later times unsatisfactory precedents and examples that many in less emergencies are too apt to resort to as the justification or excuse for other steps dangerous to the common weal. As we reflect upon the characters and careers of departed statesmen and bring up to view the events with which they were connected in times of trouble and distress, can we not repeat with fervent emphasis?

Beware of desperate steps. The darkest day,
Live till to-morrow, will have passed away.

Neither the purest motives nor the most exalted patriotism can prove an antidote to the poison of measures of any government beyond its constituted power, however apt they may be for the exigencies of an existing occasion, or for an appeal to any other force than that of the law for the redress of grievances arising in a government constituted upon principles of justice and equal rights, and wherein, from period to period, recourse must be had to fresh expressions of the popular will. The men of the time and the excitement of the hour pass away, but the institutions and the body of the people, old and yet ever new, remain to rectify, in the sober light of truth and reason, the evils that ignorance or passion, prejudice or corruption, may have inflicted upon society.

To-day we make memorial to a prominent figure in the government of a great nation. One of that very small body of men, to whom, as "the sheet-anchor of the Government," the security and happiness of more than forty millions of people are chiefly committed, has been called, suddenly and forever, from his place. Such an event, although certain to occur very often, cannot fail to be solemn and impressive, not only—indeed not chiefly—from our awe of death, or from our friendship and respect for the man who has gone, but from considerations that relate to the connection of particular individuals, or in-

deed selected bodies of men, with affairs of state, and the little contribution the most fortunate are actually able to make to the sum of human events.

In this body itself, the most permanent in its personality of any under the Constitution except the judiciary, a very few years suffice to change almost entirely the elements of its composition. There now remain to us only three Senators who occupied their places at the beginning of Mr. Lincoln's administration, or who participated officially in the long tragedy of the rebellion; and there are only eleven who in 1868 were members of the high court that tried and acquitted the President. The accused and the greater part of his judges have long since left the forum—some for the simple duties and pleasures of citizenship, and some, with the chief personage in that great drama, have gone to their long repose, and to whose constantly increasing number has now been added one of the most recently appointed of the members of this body.

Surely the works we personally do for our country must be few and small in the aggregate of history, and their permanent value must depend, not upon the glamor of oratory, the polish of scholarship, or skill in discussion, but rather on that deep spirit of truth and justice, and the courage to follow them always, that make up the character of him—

Who, whether praise of him must walk the earth
Forever, and to noble deeds give birth,
Or must go to dust without his fame,
And leave a dead, unprofitable name,
Finds comfort in himself and in his cause,
And, while the mortal mist is gathering, draws
His breath in confidence of Heaven's applause.

Mr. BAYARD. Mr. President, on the 4th of March, 1875, our lamented associate ALLEN TAYLOR CAPERTON took his seat in this body, having been elected to serve until March, 1881. Death closed his career when but little more than a single year of his senatorial service had been performed. During this short period there was little to signalize his service here, and in the quiet, steady, undemonstrative performance of his duty must be found the basis of any commentary we may now make.

I have said his period of service here was short, yet it was long enough to cause all who came to be acquainted with him to mourn that it should not have been longer. It was long enough to impress those whose acquaintance he then first made with respect and confidence.

He came into this body with a high and unblemished personal repute, not built upon noisy professions and sustained by sensational advertisement, but firmly founded in the appreciation of his personal qualities by his friends, his neighbors, and that wide-spread circle of men of all shades of political opinion in Virginia and West Virginia amid whom his modest and virtuous life had been spent and where a worthy ancestry had preceded him from the first foundations of civil government in that country.

The term declared by the psalmist to be the years of a man had been nearly passed by him, for he had reached his sixty-seventh year when the "dread arrest" was felt. But he had so lived that he did not fear to die, and although wrung with pain he met it as the immediate and recognized precursor of death, with that fortitude which had characterized his whole life. He had lived remote from cities, and in the comparative seclusion of a country life had found his theater of usefulness, duty, and quiet happiness.

From the most venerable and one of the most highly respected institutions of learning in our country he had received, in 1832, his diploma of scholarship, and as a graduate of Yale College entered upon the study and soon the practice of the law. He attained high standing in the ranks of his profession, and gained and kept the confidence and affection of those around him, as was attested by the many important public trusts he was called upon to execute.

When Virginia, his native home, felt in 1861, in common with all other members of our Federal Union, the terrible convulsions of political strife, it was almost inevitable that a citizen so eminent and esteemed by men of all parties as Mr. CAPERTON should be called upon in that critical hour to represent his people in the public councils.

While he sought not distinction for himself, he shrank not from responsibility, nor kept in the background when danger showed itself at the front, for no man in a land where courage is the rule was more constant in that quality, morally and physically, than he.

He was in politics a whig—a conservative Union man—and with such views became a member of the State convention of Virginia of 1861. This is not the occasion to relate nor I the fit historian of the longing, lingering look, cast back upon that Union, in so great degree the work of her sons in field and council, of her treasure and her territory, by the great State of Virginia as she reluctantly withdrew from its political association.

The conscience and training of ALLEN CAPERTON bade him follow the political fortunes of his State, and in obedience to the call of her Legislature he became a member of the Confederate States senate in 1862, and served there throughout its stormy existence and until the end of that short-lived government. Ten years after that government had passed away, to be known no more except in history, Mr. CAPERTON was in the vicissitude of human affairs chosen to represent the State of West Virginia in the Senate of the United States.

Mr. President, I have never felt more penetrated with a sense of

the wisdom of prompt and thorough reconciliation of our fellow-countrymen, so lately and violently at strife, than when I recognized in the course of my confidential relations of private friendship with ALLEN CAPERTON how truly and wholly his heart beat for the happiness and prosperity of our whole country, and for the perpetuation of its constitutional government. Would that now the power could be given to me to picture in all its glowing and truthful reality the fidelity of his honest soul, that has so lately taken its flight, to the integrity and welfare of our Government and the happiness of all its people.

Sure am I that distrust and suspicion toward men such as he, and from the section of country with which he was politically identified, would vanish, and forever, from the breasts of their fellow-countrymen of the more northern section of the Union.

Honor and truth are *not* mere idle abstractions. They are the living and practical realities upon which men and women found their best reliance for personal happiness, and which constitute the real bulwarks of a nation's welfare and safety, without which written constitutions are mockeries and laws mere pitfalls.

In the life of the modest gentleman whose death we mourn these qualities were constantly exemplified, and from our contemplation of them and their exercise may we not take new resolve to pay them due respect in our memory of the dead, and call for their recognition and practice in our intercourse with the living.

Mr. BOOTH. Mr. President, we have paused in our daily labor, turned aside from the routine of business and from the consideration of those grave questions which disturb the public mind with vague alarm, to pay tribute of respect to one who in his brief service in this body, by his kindness, courtesy, and frankness, made each of us his friend, and who discharged his public duties with industry, intelligence, fidelity, and honor.

This Chamber is the arena of intellectual combat, and when the great monarch drops his baton the conflict of opinion is suspended.

In all stations, in every allotment of life, it is well that we should sometimes be brought to the absolute contemplation of death, and the realization that to each of us it is inevitable and near. The days of our life are numbered; at each sunset there is one less. The sands of our life are measured. While I speak they are wasting.

Though death is as "common as any, the most vulgar thing to sense," though it hath been "cried from the first corse till he that died to-day 'this must be so,'" it still remains the great mystery whose overshadowing presence awes us into a sense of our insignificance, and shows us the objects of our pursuit and passionate desire in their cold, naked reality. And this is its office to the living. Not lips touched with the fire of genius can so solemnize us to a sense of duty, so plead for the right, so admonish us of the vanity of human expectation as the dumb, cold lips of the dead. Beneath these forms and trappings, beneath this covering of flesh, our skeletons are marching to the grave. And everything on earth that we long for, seek, strive for, is but a covered skeleton. Adorn it as we may, cheat ourselves as we will, "to this complexion it must come at last;" and then dust and ashes.

Six months ago, if ALLEN TAYLOR CAPERTON had entered this Chamber and passed to his seat, it would have been a commonplace incident, as little noted as your or my coming to-day. If he should enter that door now, what an awe would fall upon us all. If he should rise at his desk to speak, with what rapt suspense we should listen. Not the most eloquent words that ever fell from mortal lips could so enchain attention as the lightest syllable from his.

Yet if he could come back from the "undiscovered country" and speak to us as in the flesh, do we not know what his message would be? Would he not counsel peace and good-will? Could he inculcate a higher lesson than that taught of old, that "righteousness exalteth a nation;" that "error shall pass away like a shadow, the truth shall endure forever?" Could he not tell us that self-seeking is not the highest wisdom, that safe guidance is not found in passion; and that institutions can neither be built nor preserved by hatred or violence? Could he reveal a diviner precept than "love," a more sacred duty than "charity?" If it has been permitted him to pass in review the procession of events in the unnumbered ages since man appeared on the earth and to realize that history has but begun, that in the curtailed future there are countless ages to be, could he not tell us that in the grand sweep of destiny mere personal success, the pride of place, the lust of power, are of as little worth as the foam on the river?

This is the message from the dead past to the living present; this is the lesson of the silent centuries; this is the voice from the grave of all who have gone before.

Those who knew Senator CAPERTON better than I have already spoken of the traits of his character and the incidents of his life. In our brief acquaintance he impressed me as a man of culture and refinement; of strong practical sense, impatient with what he regarded as abstractions, zealous for the promotion of every material interest, and devoted to a reunion of hearts and hands through all the land. His neighbors told me he was a man of active habits, interested in every enterprise for the advancement and improvement of the country where he lived, strong in his convictions, outspoken in his opinions, steadfast in his friendship, and of bountiful hospitality.

He had this true test of genuine worth—his character and temper softened and mellowed with years and experience. Children loved him, and the dumb beast regarded him as a natural protector.

He lived, where his ancestors had for several generations, in a region of great beauty of landscape—a high plateau with mountain-peaks in the distance, with intervalles and opening vistas of surpassing loveliness—off the great lines of travel, and where the stream of life seemed to eddy into a quiet circle. It was a spot where old customs survive, old fashions prevail, and old faiths are cherished. From his beautiful home, through the broad English lawn—almost a park—we bore his remains to the village church, where his old friends and neighbors had gathered from all the country round. The solemn service for the dead was spoken. We followed him to the grave-yard on the hill and left him with his fathers.

His task is finished. He has no part or lot in all that is done beneath the sun. No more for him the voice of love, the song of gladness, the load of care, the cup of sorrow. Not for him the beauty of spring, the splendor of summer, the glory of autumn, the uncrowned majesty of winter. Flowers will spring from his grave; storms will beat upon it; morning will greet it with her earliest light, night crown it with her stars, and the earth, rolling in her great orb in infinite space, will bear his dust with hers, till time shall be no more.

Ah, mystery of death, and greater mystery of life; both are in the hand of Him without whose knowledge not a sparrow falls; obedient to whose will the tides of human destiny ebb and flow, and unto whom a thousand years are but as yesterday when it is gone, or a watch in the night.

Mr. PRICE. Mr. President, I was no doubt better acquainted with the deceased than was any other Senator here. We lived in adjoining counties, practiced law in the same courts, were members of the same Legislatures and the same conventions, and generally had the same interests to represent. Our acquaintance extended back to his early manhood, when he first commenced his professional and entered upon his public career.

He was the son of Hugh Caperton, esq., a gentleman of fascinating address and popular manners, of great compass and energy of mind, and who, by his energy and sound judgment, had amassed a large fortune, which he left unimpaired and unembarrassed to his children. He was repeatedly called on by the citizens of his county to represent them in the popular branch of the State Legislature; and he always served them to their entire satisfaction. He was also elected to Congress from his district at a critical period in our history and rendered service satisfactory to his district.

ALLEN TAYLOR CAPERTON, the subject of our remarks to-day, was born on the 21st day of November, 1810, in the town of Union, Monroe County, Virginia, now West Virginia, and departed this life on the 26th day of July, 1876. He inherited his father's popularity and a large estate. He received the rudiments of an English education at the village school of his native town. At that time there being no schools of a high grade in that immediate neighborhood, he was sent to the academy at Huntsville, Alabama, where he remained two and a half years. He was then sent to the Lewisburgh Academy, which was presided over by that historic character Rev. Dr. John McElhenny, the pioneer preacher in the Presbyterian Church, a veneration for whose person and character Mr. CAPERTON cherished during the remainder of his life.

In early manhood, (the date I have not obtained,) Mr. CAPERTON became a student at Yale College, where he remained four years and until he was graduated. Upon his return to Virginia he went to the university of that State, where he was also graduated. He finally finished his education at General (afterward Judge) Baldwin's law school in Staunton, Virginia, and immediately thereafter commenced the practice of his profession.

He was married in the twenty-second year of his age to Miss Harriet Echols, a lady of great intellectual, social, and moral worth, whose acquaintance he made while a student at Yale College, and who remains his survivor.

Mr. CAPERTON filled many offices of trust and importance.

The first office that he filled was a State directorship in the James River and Kanawha Company as successor to his father, who had held that office and resigned. This, though not a lucrative office, having neither salary nor perquisites, was deemed one of great State importance, as it was then expected that by this improvement the waters of the Chesapeake would be connected with the waters of the Mississippi through the State of Virginia.

In April, 1841, he became a candidate for the State Legislature, and was elected to represent his native county in the house of delegates.

In April, 1844, he was elected to the State senate from the counties of Monroe, Giles, Montgomery, Floyd, Greenbrier, and Mercer. During this term, which was one of four years, he had the misfortune to lose his venerated father. He filled no political or civil office from that time until 1850. He was the executor of his father's will, which devolved upon him a large mass of business which, with a large and increasing professional business, gave him full employment without being involved in the mazes of politics.

In August, 1850, a convention being called to amend the State constitution, his fellow-citizens of Monroe, Giles, Tazewell, and Mercer Counties called on him to become one of their representatives, to which call he responded affirmatively and was elected. In this convention he took a prominent part, the great question before that body being the basis of representation in the two houses of the Legislature, one party assuming that white population should be the basis, the other that population and taxation combined should be the basis. He, in

common with his western friends, advocated the white basis. The question was finally settled by a committee of compromise of which he was a member.

He was twice upon the whig electoral ticket as elector, but failed to secure his election because his party was in the minority in the State at both elections.

In 1859 he was induced to become again a candidate for the house of delegates, with a view of pushing on the great central improvement which is now known as the Chesapeake and Ohio Railroad. He was elected and served two sessions. It would scarcely be necessary for me to say that he was one of the leading members of that body, if not the very leader.

While he was thus serving in the house of delegates, he, in 1861, was elected a delegate to the State convention known as the secession convention. He entered that convention with a determination to save the Union if he could; but when President Lincoln called for money and troops to subjugate the South, he did not think the Union could be preserved, and voted for the separation.

In 1862, Hon. William Ballard Preston, one of the senators in the confederate congress having departed this life, Mr. CAPERTON was elected to fill the vacancy.

In 1875 he was elected by the Legislature of West Virginia a Senator in this body, which he remained to the time of his death.

This is his public history, the principal part of which is known to your humble speaker.

I said in the outset that he inherited his father's popularity and a large estate, which assertion I again repeat with the addition that he added greatly to both. By the rehearsal which I have given of the chronology of his public life, it will be seen that his popularity grew with his growth and strengthened with his strength; that his last days were his most popular days; and he added to his fortune as well as to his popularity, and died possessed of a large estate.

As a lawyer he was always ingenious and persuasive. He understood law as a science, and practiced with great success. He was generally engaged in all the important cases that arose within the range of his practice. He generally argued his cases with marked ability, though he was not always equal to himself. He required to be aroused; without that his utterance was a little hesitating, and his mind seemed timid in taking hold of the subject; but when thoroughly aroused his language flowed copiously and his mind worked smoothly and vigorously. He could not only follow up his subject in argument, but could add beauty to strength; he could cull flowers for the jury and carry on a playful dalliance with everything he met with on the way-side. He was probably the best lawyer I ever knew who did not commence the practice of law from necessity, poverty being as a general thing necessary, as I think, to professional success. I can unite with another friend of his who said just before the senatorial election in 1875, "Mr. CAPERTON is an accomplished man in every respect." His disposition was genial and his fund of information copious, which made him attractive as a social companion.

His last illness was short. No one thought the symptoms of his case were alarming. Some of his family were with him, not as watchmen at the bed of death, but as nurses around the bed of sickness. He was bolstered up in bed with pillows and said to his children who were present, "Hoist the window; hoist it quickly," and swooned away and died. The winged messenger was sped with too fatal an aim. Death had struck its victim, and he is no more. "He is gone from us and will not come to us, but we may go to him."

"The ways of Providence are inscrutable and past finding out." But this we know, that "it is appointed unto men once to die." He has gone before us. We must soon follow.

To say that he was an affectionate husband and a kind father would be commonplace and almost a mockery in terms, for his family not only revered him but almost adored him. They have sustained the "irreparable loss," and no one can realize the deep meaning of this expression who has never experienced it. We need not go into the sanctuary of the family to find mourners; they are found in the streets, in the by-ways and the hedges, and everywhere where Mr. CAPERTON was known.

Deeply sympathizing with his family and other friends in humble sorrow we submit to the fiat of an all-wise and inscrutable Providence.

Mr. President, as a further testimonial of respect to the memory of the deceased, I move that the Senate do now adjourn.

The motion was agreed to unanimously; and (at four o'clock and eleven minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, December 21, 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.

W. N. HALDEMAN.

Mr. MILLIKEN, by unanimous consent, introduced a bill (H. R. No. 4262) for the relief of W. N. Haldeman; which was read a first

and second time, referred to the Committee of Ways and Means, and ordered to be printed.

R. D. SALMANS AND OTHERS.

Mr. MILLIKEN, also, by unanimous consent, introduced a bill (H. R. No. 4263) for the relief of R. D. Salmans and others; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

BUSINESS ON THE SPEAKER'S TABLE.

Mr. KASSON. I ask that the bills from the Senate now on the Speaker's table may be taken therefrom, simply for reference, that they may be put in possession of the committees before the holidays.

The SPEAKER. The motion would be in order after the morning hour; but the gentleman from Iowa may ask unanimous consent that the motion may be entertained at this time.

Mr. HOLMAN. I trust that after the morning hour all the business on the Speaker's table may be disposed of, so as to be properly referred before the holiday recess.

Mr. KASSON. If it is preferred, I will postpone the motion for the present.

The SPEAKER. The Chair will recognize the gentleman after the morning hour.

ORGANIZATION OF THE NAVY DURING PEACE.

Mr. WILLIS, by unanimous consent, introduced a bill (H. R. No. 4264) providing for the organization of the Navy during peace; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

CUSTOM-HOUSE AND POST-OFFICE AT HARTFORD, CONNECTICUT.

Mr. LANDERS, of Connecticut, by unanimous consent, introduced a bill (H. R. No. 4265) making appropriations for continuing the construction of the custom-house and post-office at Hartford, Connecticut; which was read a first and second time, referred to the Committee on Appropriations, and ordered to be printed.

DEVELOPMENT OF MINING RESOURCES.

Mr. O'NEILL, by unanimous consent, introduced a bill (H. R. No. 4266) to amend section 2325 of the Revised Statutes relating to the development of the mining resources of the United States; which was read a first and second time, referred to the Committee on Mines and Mining, and ordered to be printed.

MRS. ELIZABETH B. C. HARE.

Mr. O'NEILL also, by unanimous consent, introduced a bill (H. R. No. 4267) for the relief of Mrs. Elizabeth Binney Cadwallader Hare, widow of George H. Hare, late a lieutenant in the United States Navy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

OSCAR B. KNOTT.

Mr. VAN VORHES, by unanimous consent, introduced a bill (H. R. No. 4268) granting a pension to Oscar B. Knott, late a private in Company K, One hundred and sixty-first Regiment Ohio Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

OSAGE INDIANS.

Mr. SCALES. I ask unanimous consent to report from the Committee on Indian Affairs a bill authorizing the issue of certain funds now in the Treasury belonging to the Osage Indians, for the benefit of said Indians, and am instructed by the committee to move that the bill be now put upon its passage. If the House will allow me I desire briefly to explain the object of the bill.

The SPEAKER. The Chair will hear the gentleman from North Carolina, [MR. SCALES,] reserving the right of gentlemen to object.

Mr. WILSON, of Iowa. Let the bill be read.

The bill was read, as follows:

Be it enacted, etc. That the Secretary of the Interior be, and he hereby is, authorized to issue a sum not exceeding \$50,000 from funds now in the Treasury belonging to the Osage Indians under an act of July 15, 1870, to be expended for their benefit, to aid them in agriculture, for their care and support, and in extending improvements already begun on their reservation, and in any other manner to promote their civilization and improvement.

Mr. SCALES. I desire to make a brief statement. The bill is based upon a report made by the agent who has charge of those Indians. It comes from Superintendent Nicholson, who, I think, is one of the best and most faithful superintendents we have in the whole service. It is recommended by the Commissioner of Indian Affairs and the Secretary of the Interior, and reported favorably by the Commissioner of Indian Affairs.

The bill only provides that the Osage Indians, who are perhaps the richest tribe of Indians we have in this country, shall be permitted to use \$50,000 of their own funds now in the Treasury. According to a report made by the Commissioner of Indian Affairs they have now in the hands of the Treasurer nearly one and a half millions of dollars. They are in a destitute condition. They need this money badly. These are the representations made to us; and this simply provides that these Indians be allowed the use of \$50,000 of the fund which belongs to them, and which is now in the Treasury.

The SPEAKER. Is there objection to the reception of the bill?

Mr. WILSON, of Iowa. Does it come from the Committee on Indian Affairs.

Mr. SCALES. Yes, sir; it is a report from that committee. There being no objection, the bill (H. R. No. 4272) was received, and read a first and second time.

Mr. HOLMAN. I ask that the bill be again read. And I would suggest to the gentleman from North Carolina that the act of 1870, to which reference is made in the bill, be also read.

Mr. SCALES. It was by the act of 1870 that these lands were sold and the proceeds put into the Treasury. This is the interest on that money. They are in need of it. They did not get it last year.

Mr. HOLMAN. This only applies to the interest on the fund?

Mr. SCALES. This \$50,000 will not take the whole interest.

The bill was again read.

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

Mr. SCALES 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.

CONTESTED LAND TITLES.

Mr. KIDDER, by unanimous consent, reported back from the Committee on Public Lands, with amendment, the bill (H. R. No. 2114) to give parties contestant time to file on or enter lands under the pre-emption, homestead, or timber-culture acts after the contests shall have been finally decided; which was ordered to be printed and re-committed, not to be brought back on a motion to reconsider.

AMENDMENT OF REVISED STATUTES.

Mr. KASSON, by unanimous consent, introduced a bill (H. R. No. 4269) to amend section 3830 of the Revised Statutes; which was read a first and second time, referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

Mr. WALKER, of Virginia, by unanimous consent, introduced a bill (H. R. No. 4270) to amend section 2002, and to repeal sections 1980, 5293, and 5523 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MARY E. CAMPBELL.

Mr. HUNTON, by unanimous consent, reported back, with a favorable recommendation, from the Committee on Revolutionary Pensions a bill (H. R. No. 1985) granting a pension to Mary E. Campbell; which was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

W. & W. H. LEWIS.

Mr. BLISS, by unanimous consent, introduced a bill (H. R. No. 4271) authorizing William Lewis and William H. Lewis to make application to the Commissioner of Patents for the extension of their patent for new and useful photographic-plate-holders; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

GRASSHOPPER PLAGUE.

Mr. HATCHER, by unanimous consent, presented a memorial of the governors of Missouri, Illinois, Iowa, Kansas, Nebraska, Dakota, and others, for action on the part of Congress in reference to the grasshopper plague; which was referred to the Committee on Appropriations, and ordered to be printed.

TAMPERING WITH THE MAILS.

Mr. PLATT. I ask unanimous consent to offer the following resolution:

Whereas ABRAM S. HEWITT, a member of this House, has asserted on this floor in public speech that his letters, passing through the post-office at the city of New York, have been illegally opened before delivery and while in charge of the postal officers or employes of the United States: Therefore,

Resolved, That a committee of five members of this House be appointed to investigate said charge, and whether the same be true or false, and by whom, if by any person, said criminal act or acts were committed, and report thereon to this House as early as practicable; and that said committee have power to send for persons and papers.

The SPEAKER. Is there objection to the introduction of this resolution?

There was no objection.

The SPEAKER. The question is on the adoption of the resolution.

Mr. WILSON, of Iowa. The gentleman from New York [Mr. PLATT] ought to provide in this resolution that the committee shall have leave to report at any time.

Mr. PLATT. I accept that amendment.

Mr. HOLMAN. I hope that the resolution will be again reported.

Mr. SPRINGER. I object to the introduction of the resolution.

The SPEAKER. The objection comes too late. The Speaker asked whether there was objection, and made the usual hesitation before announcing that there was no objection.

Mr. HOLMAN. It seems to me that this inquiry might be made by the Postmaster-General. I suggest the propriety of so modifying the resolution as to instruct the Postmaster-General to make the inquiry.

Mr. PLATT. I claim that I have the right to the floor.

The SPEAKER. The gentleman from New York [Mr. PLATT] has the floor.

Mr. PLATT. I desire to submit a telegram from the postmaster at New York City.

The Clerk read as follows:

NEW YORK, December 20, 1876.

Hon. THOMAS C. PLATT, House of Representatives, Washington:

The Times and Herald have called my attention to remarks said to have been made by Mr. HEWITT gravely affecting this office. I have just telegraphed Mr. HEWITT as follows:

"I am informed that you charge on the floor of Congress that your letters passing through this office are or have been opened before reaching your hands. Do you charge that it is or has been actually or probably done in this office? If so, please supplement your charge with a motion for immediate investigation, as I pronounce such an accusation utterly and absolutely false."

T. L. JAMES.

Mr. PLATT. I move the previous question.

Mr. HEWITT, of New York. Will the gentleman allow the resolution to be again read?

Mr. HOLMAN. I trust that the resolution will be left open for amendment.

The SPEAKER. If the previous question is not sustained, of course the resolution will be open to amendment.

Mr. HEWITT, of New York. I ask that the resolution be again read. I was unfortunately not in my seat when it was presented.

The resolution was again read.

Mr. HEWITT, of New York. Mr. Speaker—

The SPEAKER. For what purpose does the gentleman from New York rise?

Mr. HEWITT, of New York. I rise to what I suppose is a point of order. The preamble of this resolution alleges that I made certain statements which I did not make. The RECORD shows the statement that I made; and if the gentleman wishes to have this resolution adopted, I think he will do better to quote the language which I used, and not put into my mouth words which I did not use.

The SPEAKER. The Chair would state that that is hardly a point of order.

Mr. HEWITT, of New York. Is it a question of privilege?

Mr. KASSON. I would suggest to the gentleman who introduced the resolution to withdraw his call for the previous question.

Mr. PLATT. I am willing to modify the preamble of the resolution so as to make it conform to the language which the gentleman used on yesterday.

The SPEAKER. The Chair would rule that if one member misstates the language of another, the member so aggrieved has a right to rise to a question of privilege.

Mr. HEWITT, of New York. I rise to a question of privilege, and desire to correct the language used in the preamble.

Mr. PLATT. I will consent to the correction.

The SPEAKER. The Chair understands that the gentleman from New York [Mr. PLATT] proposes to change the language of the preamble. He will please come forward to the Clerk's desk and do so.

Mr. HEWITT, of New York. I ask that the Clerk shall read from the RECORD the language which I used on yesterday.

Mr. BURCHARD, of Illinois. I hope the gentleman from New York [Mr. PLATT] will withdraw his call for the previous question, and allow his colleague [Mr. HEWITT] to make a statement.

Mr. PLATT. I will withdraw the call for the previous question and yield to my colleague, [Mr. HEWITT.]

Mr. HEWITT, of New York. Now that this resolution has been introduced and is before the House it is proper for me to make a statement of the facts which gave rise to the remarks which I uttered yesterday. About a month ago, as near as I can now recollect, immediately after the close of the presidential election, that is, just after the 7th of November, I received a letter without signature stating that the writer was an employe of the New York post-office and that he felt bound to communicate to me the fact, to use the language of the letter, that "Slade's little tea-kettle" was at work upon my letters. The letter being without signature, the only attention that I felt called upon to pay to it was to observe the appearance of my letters from that time. I did observe them, and I found that a considerable number of them presented, so far as I could judge and as others thought, the appearance of having been opened, and the flap of the envelope presented a puckered or corrugated appearance. I called the attention of gentlemen in my office to this fact, and they were able to pick out two classes of letters, those which had apparently been opened and those which had not been opened.

After I came here to Washington I was struck with the fact that the letters which I received from Boston, Chicago, and other points had a perfectly smooth surface upon the flap of the envelope; whereas letters received from New York frequently presented this corrugated appearance. It so happened that meeting a gentleman who was on this floor yesterday who brought on the electoral vote of the State of New York, Mr. Parke Godwin, who is a friend of the postmaster of New York City, I handed him one of these envelopes and said "Look at that, has not that been opened?" He said that it looked so. I said, "You are going down town and will see Mr. James; take that and show it to him." Now I have the most entire confidence in Mr. James, and believe him to be a model public officer. And I have heretofore said on this floor that whatever mutations of politics may come to pass I trusted his valuable services would be retained. And I wish gentlemen here to understand now that I do not think Mr. James could be or would be a party to any tampering with letters that were addressed to me or to anybody else. The anonymous note that came to me stated that it was done in a private place in the post-office.

I have had letters in this House, and one morning I showed two of them casually to the gentleman from Maine [Mr. HALE] and pointed out to him the corrugated appearance presented by the flap of the envelope. He said to me, and very properly, "You ought to call the attention of the House to this matter, if you think these letters have been tampered with." I replied to him that from the nature of the case it would scarcely be possible for me to bring any other evidence than the letters, showing by their appearance that they had been opened.

I do not know that these letters have been opened, and therefore I have not stated as a fact that they have been tampered with, nor do I now state it as a fact. But I do say that I have a suspicion which amounts to a belief that my letters have been opened, and I have acted upon that belief, so far as to send special letters by express, and to request gentlemen who have special letters to send to me to send them by express. It may be that I have been taking unnecessary precautions, that my eyes have deceived me, and on the other hand that a committee of investigation may get at facts of which I have no knowledge.

I have myself no objection to the appointment of a committee of investigation. I think that probably no good will come of it, that no facts will be discovered. Hence it is that I myself have not been willing to put the country to an expense of an investigation of this matter. If gentlemen, however, think it would do any good, I certainly will cheerfully assent to it.

Unfortunately I threw my anonymous letter into the waste-basket, as I always do with such letters. I receive from ten to twenty such letters in the course of a week, and I throw them all away. And so with these envelopes, the peculiar appearance of which I have described. I have shown them to gentlemen and those gentlemen can be produced before the committee, but the envelopes themselves have been thrown away.

It is a most remarkable thing that this morning my letters present a marked difference in appearance from those which I have heretofore received. Not a single letter in my package this morning presents this corrugated appearance. I do not know how to account for it; I simply state the facts to the House. Having stated the facts, I am perfectly willing to have a committee of investigation appointed, and I will furnish whatever evidence I have in my power to furnish; but I do not believe that any evidence can be furnished to this House or to the committee that will be at all satisfactory.

Mr. KASSON. I ask the gentleman from New York to yield to me for a moment.

Mr. PLATT. I will yield to the gentleman from Iowa.

Mr. KASSON. I have but a word to say to the House on this subject. I have myself favored the introduction and adoption of a resolution of this sort, not merely because it concerns the administration of an officer whose reputation is of the very highest in the country and an office of the last importance to the country, but for the reason especially that the public confidence should not be destroyed without cause in the Post-Office Department anywhere in the United States. The importance of the transactions of communications through the New York post-office is of such vast consequence that perfect, absolute secrecy and inviolability should be secured, every member of the House feels deeply.

I wish to say, sir, that during my connection with the Department at the opening of the late war, so sacred was this rule even in time of war that, when repeated applications were made by local postmasters of the importance of ascertaining hostile proceedings through letters deposited in the war districts of the country, an order issued from the Department prohibiting the slightest detention, delay, or tampering in any manner with such letters. And everything was required to be sent to the Department in Washington, and in that Department not a single officer or clerk was permitted to touch any returned letter or to open it, except those who had the sanction of law in what is known as the Dead-Letter Office. And in view of what I know to be the record of that Department in respect to the inviolability of letters under the most provoking circumstances, now at this time, when no such circumstances exist, it is with pain I learn that the confidence of myself or any of the people of the country should be assailed in respect to the security of the correspondence passing through the Department.

The only alternative suggested is that the Postmaster-General should make the investigation. He has not the power a committee of the House has to make such investigation. He can send special agents, but the power to summon witnesses and take testimony does not exist as it does exist in a committee of the House. Unless, therefore, the gentleman from New York will satisfy the public mind by stating that he has not sufficient ground for his charge, I do not see how the House can withhold their assent to the resolution that an investigation may be had, and so long as the charge stands from a responsible member upon this floor it seems to me to be the duty of us all to so investigate it that the public may be satisfied one way or the other that their correspondence is or is not safe. If there were any other way of arriving at the result except that suggested by the gentleman from New York I would be glad to take it, but for myself I see no other way.

Mr. PLATT. I yield now to the gentleman from Maine, [Mr. HALE.]

Mr. HALE. Now it is very clear, Mr. Speaker, that this is a matter which the House should not let drop. The inviolability of the post-

office is a thing which should be maintained, as I hold, by every power of the Government. It is of more importance now that this channel should be undisturbed and unobscured because yesterday this House took from one branch of communication between man and man all that it has ever had of inviolability. The post-office remains, and this House, sir, can do nothing better, in the exercise of its highest power, than to probe such a matter as this to the very bottom. I would have investigation made the most searching and complete to let us know whether there has been any interference with the correspondence of any gentleman, and more especially of the gentleman from New York, [Mr. HEWITT,] who bears the high relation he does to one of the political parties of the country and who has held so foremost a place here. He believes that his correspondence has been broken into, and he has lost his confidence in a great Department of the Government. Catching his eye the other day when some of those letters were in his hands, he showed me at the desk here two, which I examined, and I became convinced as I looked at the envelope upon this side of it—as I am now looking upon this one I now hold up—that the letter had in some way been opened—had been torn apart. Whether the two which I saw had been torn apart in the post-office or had been torn apart by the writer, as is frequently done, and then resealed, neither he nor I then knew. I said to him at that time, "There is no proof as to how this is done," and he said frankly, "I have no proof." And I do not believe, (as he has said this morning,) I do not believe that the postmaster of New York has had any complicity or knowledge, provided they were surreptitiously opened. But I saw, Mr. Speaker, that he really believed that his correspondence had been tampered with, and that is enough for this House to set at work every power of the House we have to see whether this great Department of the Government is safe for citizens to send their correspondence through. Under the circumstances, therefore, I hope there will be no objection to making an investigation. When it is done let it be done thoroughly.

Mr. PLATT. I yield to the gentleman from Indiana, [Mr. HOLMAN.]

Mr. HOLMAN. While from the statements made by gentlemen who have addressed the Chair it is not probable that any very satisfactory light will be thrown on this question, if it is still deemed important and desirable that this investigation should be made, I suggest to the gentleman from New York, [Mr. PLATT,] on the score of economy, at least, if nothing else, that this duty be devolved on the committee of which Mr. COX, of New York, is chairman, which is already prosecuting investigations in that city. The committee is now there, and I therefore, unless the gentleman from New York shall object, move to amend the resolution as follows—

Mr. PLATT. I do not yield for any amendment.

Mr. HOLMAN. I trust the gentleman will allow it to be read.

Mr. PLATT. I will allow it to be read.

The Clerk read the proposed amendment, as follows:

Strike out the words "a committee of five members of this House be appointed," and insert the following in lieu thereof: "the committee now in New York, of which Mr. COX is chairman, be authorized and directed."

Mr. HOLMAN. I hope there will be no objection to that amendment.

Mr. PLATT. I do not yield for that.

Mr. HOLMAN. Then I will seek to introduce this amendment if the House will vote down the previous question.

Mr. PLATT. I call for the reading of the original resolution, and will then move the previous question.

Mr. HALE. If the gentleman from New York [Mr. PLATT] will allow me, I desire to say that I hope he will not consent to any such modification of the resolution as is now suggested, putting the duty upon another committee which is charged with the investigation of an entirely distinct matter.

Mr. WILSON, of Iowa. The committee of which Mr. COX is chairman will hardly have time enough to accomplish the work it has in hand now.

Mr. PLATT. I ask that the resolution as now modified be read.

The Clerk read as follows:

Whereas ABRAHAM S. HEWITT, a member of this House, on this floor in public speech used the following language: "I wish to say that during the last month my attention has been called to my own letters passing through the New York post-office, and according to the best judgment I can form and the best judgment of gentlemen to whom I have submitted my letters, they are apparently not infrequently opened in the post-office and resealed by the use of mullage, but so affected that the steam used is shown upon the envelope, which has a puckered appearance."

Resolved, That a committee of five members of this House be appointed to investigate said charge, and whether the same be true or false, and by whom, if by any person, said criminal act or acts were committed, and report thereon to this House as early as practicable; and that said committee have power to send for persons and papers, with leave to report at any time.

Mr. PLATT. I call for the previous question.

Mr. HOLMAN. I hope it will be voted down.

The question being taken, there were—ayes 92, noes 81.

Mr. HOLMAN. I call for tellers.

Tellers were ordered; and Mr. PLATT and Mr. HOLMAN were appointed.

The House again divided; and the tellers reported—ayes 77, noes 79. So the previous question was not seconded.

Mr. HOLMAN. I now offer the following amendment:

Strike out the words "a committee of five members of this House be appointed," and insert in lieu thereof the following: "The committee now in New York, of which Mr. COX is chairman, be authorized and directed."

Mr. BUCKNER. Is it in order to move to lay this whole subject on the table?

The SPEAKER. It is.

Mr. BUCKNER. I make that motion.

Mr. HALE. Will the gentleman from Indiana [Mr. HOLMAN] listen to me for a moment?

Mr. HOLMAN. Certainly.

Mr. HALE. Let me suggest to the gentleman, if there is any objection to the framing of the resolution as drawn by the gentleman from New York, [Mr. PLATT,] (and I understand that there is some verbal objection to it,) that that be corrected, so that it may be satisfactory, in every way, both to him and to the gentleman who called the subject up yesterday; and that then he shall not insist upon this important question going to another committee which has already in its charge very grave and important matters that must occupy all the time it can give to them previous to a date when it ought to report. I do not think the gentleman himself wants to cripple the investigation. He must see, as I do and all of us do, that this is a very serious charge; that it ought to be gone into carefully, and that it will take several days. And I do not believe the gentleman from Indiana with his usual fairness wants to put this in a condition or a place where it will be in limbo and nothing come out of it. Let me repeat, then, the suggestion that I made when I rose, that the language of the resolution be made satisfactory to both sides and that then this proposed substitute be withdrawn.

Mr. HOLMAN. I recognize the fairness of the proposition of the gentleman from Maine; and my answer is that it is manifest, from the statement of the gentleman from New York, [Mr. HEWITT,] that the facts that will be obtained from any investigation will be of no great practical moment; that the real investigation will be that which will take place at the suggestion and by the act of the Postmaster-General in regard to a charge affecting one of the important branches of his Department. The important investigation will be there, and undoubtedly, from the publicity which has been attached to this transaction, that investigation will be made.

The committee of which Mr. COX is chairman is intrusted with a comparatively small duty; the investigation is confined to a very narrow range and to a comparatively small number of persons, from the necessities of the case. That committee, now in New York, is a very efficient committee, and, like the gentleman who makes this motion, the chairman of it is a citizen of the State of New York, and of course familiar with the localities and with the persons who might be called upon to testify upon such a question. The investigation cannot be an extensive one, and I submit to my friend from Maine that an efficient committee right there on the ground, in the absence of any prospect of valuable facts being eliminated, even on the score of economy, with due regard to efficiency also, should make the investigation; and I feel very confident that so far as subserving the public interest is concerned it will be as effectually accomplished through this channel as by the expensive organization of a committee with the powers conferred by this resolution.

Mr. HALE. The committee need not be an expensive one. I think the gentleman is losing sight of the importance of this question when he says that a bare investigation is all that is necessary. This is something more than an ordinary case of tampering with the mails. It is a breach of the privileges of this House through one of its members. His correspondence has been broken into. At least that is the charge. And this House cannot afford, Mr. Speaker, to let this matter drop when the correspondence of one of its members has been tampered with. It is not a matter for the Post-Office Department to investigate, the very Department found fault with. It is a subject which we should lay our strong hand on and investigate ourselves, and not stop at what little expense may be incurred, because it is an expenditure that could be well afforded.

Mr. HOLMAN. Certainly the subject-matter is sufficiently important to justify any committee that may be suggested by any member of the House, if it were possible for anything beneficial to result therefrom. But with an efficient committee right there on the ground, it seems to me that the public interests will be subserved by referring the matter to that committee. I call for the previous question.

The previous question was seconded and the main question ordered. The SPEAKER. The question is on the motion of the gentleman from Missouri [Mr. BUCKNER] to lay the whole subject on the table.

Mr. HALE. Upon that question I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 53, nays 143, not voting 93; as follows:

YEAS—Messrs. Ainsworth, Ashe, Atkins, Bell, Blount, Boone, Bradford, Buckner, John H. Caldwell, Candler, Carr, Cate, Chapin, John B. Clarke of Kentucky, Clymer, Cook, Cowan, Dibrell, Douglas, Felton, Finley, Forney, Fuller, Goode, Robert Hamilton, Henry R. Harris, John T. Harris, Hartridge, Raymond, Hurd, Knott, George M. Landers, Lynde, Mutchler, Piper, Reagan, Riddle, John Robbins, William M. Robbins, Roberts, Scales, Sheakley, Singleton, Slemmons, William E. Smith, Southard, Spencer, Swann, Tarbox, Warner, Whitehouse, Willis, and Yeates—53.

NAYS—Messrs. Adams, George A. Bagley, John H. Bagley, jr., John H. Baker, William H. Baker, Ballou, Banning, Blair, Bland, Bliss, Bradley, Bright, William R. Brown, Horatio C. Burchard, Cabell, William P. Caldwell, Campbell, Cason, Caulfield, Chittenden, John B. Clark, jr., of Missouri, Collins, Conger, Crouse, Cutler, Davis, Davy, Dobbins, Durand, Durham, Eames, Evans, Faulkner, Fort, Foster, Franklin, Freeman, Frye, Garfield, Gause, Goodin, Gunter, Hale, Andrew H. Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Hartzell, Hatcher, Hathorn, Hendee, Henkle, Hereford, Goldsmith W. Hewitt, Hoar, Holman, Hook-

er, Hoskins, Humphreys, Hunter, Hunton, Hyman, Frank Jones, Kasson, Kebr, Franklin Landers, Lane, Leavenworth, Le Moyné, Levy, Lewis, Lynch, Mackey, Magoon, Maish, McCrary, McDill, McFarland, Metcalfe, Milliken, Mills, Money, Monroe, Morgan, Neal, Norton, O'Brien, Oliver, O'Neill, Page, Payne, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, James B. Reilly, Rask, Sampson, Schleicher, Seelye, A. Herr Smith, Sparks, Springer, Stanton, Stevenson, Stone, Terry, Thornburgh, Throckmorton, Martin I. Townsend, Tucker, Tufts, Van Vorhes, John L. Vance, Robert B. Vance, Wait, Gilbert C. Walker, Alexander S. Wallace, John W. Wallace, Warren, Watterson, Erastus Wells, White, Whiting, Whitthorne Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, Wilshire, Benjamin Wilson, James Wilson, Alan Wood, jr., Fernando Wood, Woodworth, and Young—143.

NOT VOTING—Messrs. Abbott, Anderson, Bagby, Banks, Bass, Beebe, Blackburn, John Young Brown, Samuel D. Burchard, Burleigh, Cannon, Caswell, Cochran, Cox, Crapo, Culberson, Danford, Darrall, De Bolt, Denison, Dummell, Eden, Egbert, Ellis, Flye, Gibson, Glover, Harrison, Hays, Henderson, Abram S. Hewitt, Hill, Hoge, Hopkins, House, Hubbell, Hurlbut, Jenks, Thomas L. Jones, Joyce, Kelly, Kimball, King, Lamar, Lapham, Lawrence, Lord, Luttrell, MacDougall, McMahon, Meade, Miller, Morrison, Nash, New, Odell, Packer, Phelps, John F. Phillips, Poppleton, Parman, John Reilly, Rice, Robinson, Miles Ross, Sobieski Ross, Savage, Sayler, Schunaker, Sinnickson, Smalls, Strait, Stenger, Stephens, Stowell, Teese, Thompson, Thomas, Washington Townsend, Turney, Waddell, Waldron, Charles C. B. Walker, Walling, Walsh, Ward, G. Wiley Wells, Wheeler, Wigginton, Wike, Jeremiah N. Williams, William B. Williams, and Woodburn—93.

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

During the roll-call,

Mr. PLAISTED said: My colleague, Mr. FLYE, is absent on account of sickness; if present, he would vote "no."

The question recurred on Mr. HOLMAN's demand for the previous question.

Mr. HOLMAN. To enable the gentleman from Illinois [Mr. CAULFIELD] to submit a substitute, I withdraw for a moment the call for the previous question.

Mr. CAULFIELD. I offer the following as a substitute for the resolution:

Resolved, That the committee now in New York, of which Mr. COX is chairman, be authorized and directed to investigate whether any letters passing through the New York post-office have been tampered with, and, if so, by whom, and to report to this House as early as practicable; and that said committee have power to send for persons and papers in the prosecution of this inquiry.

Mr. HOLMAN. I now call for the previous question.

Mr. BURCHARD, of Illinois. Is that a substitute for the original proposition?

The SPEAKER. It is a substitute in the nature of an original proposition.

Mr. HALE. Suppose that it occurs that the committee is ready to go to Philadelphia or Jersey City?

Mr. HOLMAN. They are right there.

Mr. HALE. But is not the gentleman from Indiana defeating his own object, as this resolution refers to the committee in New York? Suppose the committee has left New York and is in Philadelphia, or Jersey City, or Brooklyn?

Mr. HOLMAN. O, there will be no difficulty about that.

The question was put upon seconding the previous question; and upon a division there were yeas 83, nays not counted.

So the previous question was seconded and the main question ordered.

Mr. HALE. I now ask that the resolution of the gentleman from New York, for which this is attempted to be substituted, be read, including the language of the gentleman from New York.

The Clerk read the resolution, and the language of Mr. HEWITT, of New York, as follows:

I wish to say that during the last month my attention has been called to my own letters passing through the New York post-office, and according to the best judgment I can form, and the best judgment of gentlemen to whom I have submitted my letters, they are apparently not infrequently opened in the post-office, and reclosed by the use of mucilage, but so affected that the steam used is shown upon the envelope, which has a puckered appearance.

Mr. HOLMAN. I wish to state that this is a substitute only for the resolution, not for the preamble; the preamble will stand.

The question was put upon agreeing to the substitute; and there were 94 votes in the affirmative.

Mr. HALE, (before the negative vote was taken.) We may as well save time. I therefore call for the yeas and nays upon the substitute.

The yeas and nays were ordered.

The question was taken; and there were—yeas 114, nays 69, not voting 106; as follows:

YEAS—Messrs. Ashe, Atkins, John H. Bagley, jr., Banning, Bland, Blount, Boone, Bradford, Bright, Cabell, John H. Caldwell, William P. Caldwell, Campbell, Carr, Cason, Cate, Caulfield, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Collins, Cook, Cowan, Culberson, Davis, Dibrell, Douglas, Durand, Durham, Faulkner, Felton, Finley, Forney, Franklin, Fuller, Gause, Goode, Goodin, Andrew H. Hamilton, Robert Hamilton, Hancock, Henry R. Harris, John T. Harris, Hartridge, Hartzell, Hatcher, Raymond, Herkle, Hereford, Abram S. Hewitt, Goldsmith W. Hewitt, Holman, Hooker, Humphreys, Frank Jones, Knott, Lamar, Franklin Landers, George M. Landers, Lane, Le Moyné, Levy, Lewis, Lynde, Mackey, Maish, McFarland, Metcalfe, Milliken, Morgan, Mutchler, Neal, Payne, Piper, Rea, Reagan, James B. Reilly, Riddle, John Robbins, William M. Robbins, Roberts, Scales, Schleicher, Sheakley, Singleton, Slemmons, William E. Smith, Southard, Sparks, Spencer, Springer, Stanton, Stenger, Stevenson, Swann, Tarbox, Terry, Throckmorton, Tucker, John L. Vance, Robert B. Vance, Warner, Warren, Watterson, Erastus Wells, Whitthorne, Alpheus S. Williams, James Williams, Willis, Benjamin Wilson, Fernando Wood, Yeates, and Young—114.

NAYS—Messrs. Adams, Ainsworth, George A. Bagley, John H. Baker, William H. Baker, Ballou, Blair, Bliss, Bradley, William R. Brown, Horatio C. Burchard, Chittenden, Conger, Crouse, Cutler, Davy, Dobbins, Eames, Evans, Fort, Foster, Freeman, Frye, Garfield, Haralson, Hardenbergh, Benjamin W. Harris, Hathorn, Hook-

Hendee, Hoar, Hoskins, Hyman, Kasson, Kehr, Leavenworth, Lynch, Magoon, Mc Crary, Monroe, Norton, O'Neill, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rusk, Sampson, Seelye, A. Herr Smith, Stone, Thornburgh, Tufts, Van Vorhes, Wait, Alexander S. Wallace, John W. Wallace, White, Whitehouse, Whiting, Andrew Williams, Charles G. Williams, James Wilson, Alan Wood, Jr., and Woodworth—69.

NOT VOTING—Messrs. Abbott, Anderson, Bagby, Banks, Bass, Beebe, Bell, Blackburn, John Young Brown, Buckner, Samuel D. Burchard, Burleigh, Candler, Cannon, Caswell, Cochrane, Cox, Crapo, Danford, Darrall, De Bolt, Denison, Duncell, Eden, Egbert, Ellis, Flye, Gibson, Glover, Gunter, Hale, Harrison, Hays, Henderson, Hill, Hoge, Hopkins, House, Hubbell, Hunter, Hunton, Hurd, Hurlbut, Jenks, Thomas L. Jones, Joyce, Kelley, Kimball, King, Lapham, Lawrence, Lord, Luttrell, MacDougall, McDill, McMahon, Meade, Miller, Mills, Money, Morrison, Nash, New, O'Brien, Odell, Oliver, Packer, Phelps, John F. Phillips, Poppleton, Purman, John Reilly, Rice, Robinson, Miles Ross, Sobieski Ross, Savage, Saylor, Schumaker, Sinnickson, Smalls, Strait, Stephens, Stowell, Teese, Thomas, Thompson, Martin I. Townsend, Washington Townsend, Turney, Waddell, Waldron, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Ward, G. Wiley Wells, Wheeler, Wigginton, Wike, Willard, Jeremiah N. Williams, William B. Williams, Wilshire, and Woodburn—106.

During the roll-call the following announcements were made:
Mr. WILLIAMS, of Wisconsin. I desire to announce that upon all political questions **Mr. CANNON**, of Illinois, is paired with **Mr. SAVAGE**.

Mr. SPRINGER. I desire to announce that **Mr. HARRISON** is paired on all political questions with **Mr. W. B. WILLIAMS**, of Michigan. If they were here **Mr. HARRISON** would vote "ay," and **Mr. WILLIAMS** would vote "no."

Mr. CONGER. I desire to announce that **Mr. WALDRON** is paired upon all political questions with **Mr. CANDLER**.

Mr. TOWNSEND, of New York. Upon political questions I am paired with **Mr. WILLIAMS**, of Alabama, and therefore will abstain from voting.

The result of the vote was then announced as above recorded. The question recurred upon agreeing to the resolution as amended; and, being put, the resolution was agreed to.

Mr. HOLMAN 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.

ENROLLED BILLS SIGNED.

Mr. HARRIS, of Georgia, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 97) directing the Commissioner of the General Land Office to issue certificate of relocation for six hundred and forty acres of land in the Territory of Missouri, to legal representatives of Samuel Ware;

An act (H. R. No. 1026) for the relief of Thomas Van Duzen and his assigns for lands; and

An act (H. R. No. 3504) for the relief of Thomas Day.

APPOINTMENT OF A CONFERENCE COMMITTEE.

The **SPEAKER** announced that he had appointed as the managers of the conference committee on the part of the House on the disagreeing votes of the two Houses on the bill (H. R. No. 1984) to provide for the sale of certain lands in Kansas **Mr. SCALES**, **Mr. MORGAN**, and **Mr. SEELYE**.

CONTINGENT FUND OF THE POST-OFFICE DEPARTMENT.

The **SPEAKER** laid before the House a letter from the Postmaster-General, transmitting, in compliance with the act of June, 1872, a statement of expenditures from the contingent fund of the Department for the fiscal year ending June 30, 1876; which was referred to the Committee on Expenditures in the Post-Office Department.

COAST SURVEY.

The **SPEAKER** also laid before the House a letter from the Secretary of the Treasury, transmitting the United States Coast Survey Report for the year of 1876; which was referred to the Committee on Printing.

MESSAGE FROM THE SENATE.

A message from the Senate, by **Mr. SYMPSON**, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 4124) to provide for the expenses of certain special committees.

LOUISIANA INVESTIGATION—RECUSANT WITNESSES.

The **SPEAKER** laid before the House the following; which was read by the Clerk:

NEW ORLEANS, December 20, 1876.

Hon. SAMUEL J. RANDALL,

Speaker of the House of Representatives, Washington, D. C.:

I have the honor to communicate the inclosed record of proceedings in the case of E. W. Barnes, manager of the Western Union Telegraph Company in this city, a recusant witness.

WM. R. MORRISON,

Chairman of Louisiana Affairs Special Committee.

FORTY-FOURTH CONGRESS, SECOND SESSION, CONGRESS OF THE UNITED STATES.

IN THE HOUSE OF REPRESENTATIVES, December 5, 1876.

On motion of **Mr. A. S. HERWITT**,

Resolved. That three special committees, one of fifteen members to proceed to Louisiana, one of six members to proceed to Florida, and one of nine members to proceed to South Carolina, shall be appointed by the Speaker of the House to investigate the recent elections therein and the action of the returning or canvassing boards in the said States in reference thereto, and to report all the facts essential

to an honest return of the votes received by the electors of the said States for President and Vice-President of the United States, and to a fair understanding thereof by the people; and that for the purpose of speedily executing this resolution the said committees shall have power to send for persons and papers, to administer oaths, to take testimony, and, at their discretion, to detail subcommittees, with like authority to send for persons and papers, to administer oaths, and to take testimony, and that the said committees and the subcommittees may employ stenographers, clerks, and messengers, and be attended each by a deputy sergeant-at-arms; and said committee shall have leave to report at any time by bill or otherwise.

The Speaker appointed **Mr. MORRISON** of Illinois, **Mr. JENKS** of Pennsylvania, **Mr. McMAHON** of Ohio, **Mr. LYNDE** of Wisconsin, **Mr. BLACKBURN** of Kentucky, **Mr. MEADE** of New York, **Mr. HOUSE** of Tennessee, **Mr. PHELPS** of Connecticut, **Mr. NEW** of Indiana, **Mr. ROSS** of New Jersey, **Mr. TOWNSEND** of Pennsylvania, **Mr. DANFORD** of Ohio, **Mr. HURLBUT** of Illinois, **Mr. CRAPO** of Massachusetts, and **Mr. JOYCE** of Vermont the said committee to proceed to Louisiana.

Attest:

GEO. M. ADAMS, Clerk.

IN THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

December 7, 1876.

The Speaker appointed **Mr. BEEBE**, of New York, in place of **Mr. LYNDE**, of Wisconsin, on said committee to proceed to Louisiana.

Attest:

GEO. M. ADAMS, Clerk.

By GREEN ADAMS, Chief Clerk.

Under said resolution the committee, as aforesaid, in conformity with the powers therein conferred, have sent for persons and papers. The committee caused a subpoena *duces tecum* to be issued and duly served on one E. W. Barnes, manager of the Western Union Telegraph Company at New Orleans, Louisiana. Said subpoena is in the words and figures following, to wit:

By authority of the House of Representatives of the United States of America.

To JOHN G. THOMPSON, esq.,

Sergeant-at-Arms, or his special messenger:

You are hereby commanded to summon E. W. Barnes, manager of the Western Union Telegraph Company at New Orleans, Louisiana, to be and appear before the Louisiana affairs special committee of the House of Representatives of the United States, of which Hon. WILLIAM R. MORRISON is chairman, and with you bring all telegrams sent or received by William Pitt Kellogg, S. B. Packard, John F. Casey, J. R. G. Pittkin, Henry C. Dibble, H. C. Warmoth, George W. Carter, and General Augur at the office of the Western Union Telegraph Company, New Orleans, from and after the 15th day of August, 1876, in their chamber in the city of New Orleans, Saint Charles Hotel, forthwith, then and there to testify touching matters of inquiry committed to said committee. Herein fail not, and make return of this summons.

Witness my hand and the seal of the House of Representatives of the United States, at the city of Washington, this 13th day of December, 1876.

[SEAL]

SAMUEL J. RANDALL, Speaker.

Attest:

GEORGE M. ADAMS, Clerk.

The return indorsed on the foregoing is in words and figures as follows, to-wit: Served personally with a copy of the within at one and one-half o'clock p. m., December 13, 1876.

JOHN G. THOMPSON,

Sergeant-at-Arms.

By J. W. POLK,

Special Messenger.

NEW ORLEANS, December 18, 1876.

Committee met at eleven o'clock a. m., pursuant to adjournment. Present, the chairman, **Mr. MORRISON**, Messrs. **JENKS**, **McMAHON**, **BLACKBURN**, **MEADE**, **PHELPS**, **NEW**, **ROSS**, **BEEBE**, **TOWNSEND**, **DANFORD**, **HURLBUT**, **CRAPO**, and **JOYCE**.

Said E. W. BARNES appeared as a witness before the committee on the 18th day of December, 1876, and, after being duly sworn according to law, was interrogated as follows:

By **Mr. MORRISON**:

Question. Where do you reside?

Answer. In New Orleans.

Q. How long have you resided there?

A. Two years at the present time, but I have lived here before about ten or twelve years.

Q. What is your occupation?

A. Manager of the Western Union Telegraph office in this city.

Q. Have you been subpoenaed to appear here before the committee?

A. I have.

Q. Have you a copy of the subpoena with you?

A. I have. [Witness produced copy of subpoena.]

Q. Have you in your possession any dispatches sent by or received by the persons named in this subpoena?

A. I presume I have some.

Q. In relation to the late election or the counting of the votes?

A. I am not in the habit of reading all of them, but there have been dispatches sent during the canvass to these persons.

Q. In relation to the election and counting of votes for presidential electors?

A. I cannot speak as to the contents of the telegrams. It is very seldom that I read them.

Q. As a matter of fact, have you not looked over them since you were subpoenaed?

A. No, sir; I have not looked over them.

Q. You say you have knowledge that telegrams have passed, and from some of these parties, concerning the election?

A. I assume that there is; but I have no personal knowledge.

Q. You may state to the committee whether it is true, after you were subpoenaed, that you made any arrangement about producing these dispatches; and, if so, with whom, and what it was.

A. I had an interview with you after being subpoenaed. A sergeant-at-arms called on me and asked me to see the chairman at seven o'clock and speak to him in regard to it, which I did. I introduced myself and asked what he wished. He told me he wished copies of the dispatches mentioned in the subpoena. I think I told him it was great labor to get them and our employes were very busy and we could not well take them off for this purpose, but that I could engage others. He asked me what it would cost. I said probably it would cost \$30. He said he had no money appropriated for that purpose, but that it was an object to get them quickly, and he thought the committee would agree to expend the \$30, and asked me what time I thought I could get them, and told him by Monday next. That is to-day. I mentioned that in these cases we always resisted an order to produce telegrams as far as we could. I had had no communication from the company at that time in regard to the matter.

Q. State whether, as a matter of fact, you did not promise me upon my agreeing to pay the expenses that you would furnish the dispatches to-day?

A. No, sir; I did not understand it so.

Q. Was not the agreement made that I was to pay expenses; that you would put on clerks, and furnish them to-day?

A. I did not understand it so. So far as I understand the matter I had telegraphed our company that such demand had been made, and at seven o'clock I had not received an answer, and I did not know whether I would be prevented from producing these dispatches or not; but I was careful in my mind not to say anything only what I could do and not what I would do.

Q. Did not you agree that I was to pay the expenses?

A. If you would pay the expenses that I could furnish them, not that I would. I had no power, without instructions, to furnish them, and we always try to evade these demands upon the telegraph office.

Q. You did not tell me that you would not furnish them to-day?

A. No, sir; I could not have told you, for I had to get the power myself from the company.

Q. You did not say anything about that to me?

A. No, sir; I had telegraphed to the company, but not received an answer up to seven o'clock that evening.

Q. Have you any of these dispatches with you?

A. No. With me? No sir.

Q. Have you been instructed by the president of the company not to deliver them?

A. Yes sir; not directly by the president, but by our general superintendent.

Q. Are your instructions similar to this? [Letter shown witness from President Orton, of Western Union Telegraph Company, to the chairman.]

A. I should have acted on these instructions without any others on this letter to you.

Q. Have you any?

A. I have only instructions from Mr. Orton to do nothing in the matter; that Mr. Orton would relieve me from all responsibility.

Q. Your instructions from Mr. Orton are not to produce the messages?

A. I understand that is my instructions from Mr. Van Horne, the division superintendent. I consider these instructions confirmed by this message to you.

Q. Then you refuse to produce these telegrams?

A. Yes, sir; I must do so according to my instructions.

Q. What did you say was the name of the division superintendent?

A. Mr. Van Horne.

Q. Where does he reside?

A. In New York.

Q. You say this is the notice you received to appear, the subpoena?

A. Yes, sir; this is one.

Q. You answer that you were subpoenaed to appear and produce telegrams sent by and received by parties named in this subpoena?

A. Yes, sir.

Q. Do you recollect whether William Pitt Kellogg is named in this subpoena?

A. Yes, sir.

Q. S. B. Packard?

A. Yes, sir.

Q. J. R. G. Pittkin?

A. Yes, sir.

Q. Henry C. Dibble?

A. Yes, sir.

Q. H. C. Warmoth and others?

A. Yes, sir.

Q. You now still refuse to produce the telegrams?

A. Yes, sir.

Q. [By Mr. HURLBUT.] I understand you were served with a subpoena. At what time?

A. At about two o'clock on the 15th.

Q. Did you report the fact of such service to your superior?

A. I did.

Q. Have you instructions from your superior officers in the telegraph company not to furnish the messages?

A. Yes, sir.

Q. Have you any written instructions, any formal instructions?

A. I have no other instructions than what I have mentioned.

Q. Telegraphic instructions?

A. Yes, sir.

Q. Have you a copy of that instruction?

A. No, sir; but that is the purport of it, a dispatch from Mr. Orton saying he would assume the responsibility.

On motion of McMAHON,

Resolved, That for the efficient prosecution of the inquiry ordered by the House the chairman of the committee communicate to the House for its consideration the refusal of E. W. Barnes to produce before the committee the telegrams referred to in the subpoena upon him December 13, 1876, his refusal being in contempt of the Representatives.

The above is a true copy of the proceedings in relation to E. W. Barnes, manager of Western Union Telegraph Company, a recusant witness, with letter of President Orton referred to in testimony of said Barnes annexed, dated New Orleans, Louisiana, December 19, 1876.

W. R. MORRISON, *Chairman.*

Attest: R. D. HUNTER, *Clerk Special Committee.*

LETTER OF WILLIAM ORTON, PRESIDENT WESTERN UNION TELEGRAPH COMPANY.

NEW YORK, December 15, 1876.

SIR: Subpoenas have been served upon several employes of this company directing them to produce before the congressional committee of which you are chairman all messages in possession of the company sent and received by the persons named in the subpoenas during several months of the present year. I have delayed a reply to these demands in the expectation that similar applications would be made by a committee of the Senate also charged with the investigation of matters connected with the presidential election in canvass in several States, so that the action of the company being the same in respect to the messages of both political parties could not be attributed a desire to prejudice or promote the interest of either. No subpoenas have yet been served upon us by order of the Senate committee, and as further delay might appear to be a discourtesy to yourself and your committee, it does not seem proper to further to postpone this answer. The subpoenas were served before the investigation which the committee had been directed to make was begun and therefore evidence had been presented to the committee either that persons named in the subpoenas had sent any messages whatever or that any messages sent by them related to the subject-matter of the investigation.

It appears to have been assumed that persons holding high official positions under the Federal and State governments and others prominent in public offices were in the habit of sending messages by telegraph, and without attempting to ascertain if any of these messages were material to the investigation the officers and agents of this company have been commanded to lay aside the business in which they are engaged to become spies and detectives upon and informers against the customers who have reposed in us the gravest confidence concerning both their official and their private affairs. I have never believed that the Congress of the United States, with this subject fairly before them, would permit committees to violate the secrecy of the telegraph in this manner; and it seems to me the present is an opportunity which it would be unwise to forego for obtaining a decision directly from the representatives of the people. In the messages of persons connected with one political party are spread before the public, a like course will be

taken in respect to those of the other party; both parties therefore have the same interest in publishing to the world the secrets of the telegraph offices or of preventing such publications.

It has therefore been decided to decline very respectfully to permit the employes of this company to produce before any committee of either House of Congress messages sent or received by the representatives of either the democratic or the republican party, at least until after Congress shall have approved the subpoenas of the committees and directed that their demands be enforced.

I am, with great respect, &c., &c.,

WILLIAM ORTON, *President.*

Hon. WILLIAM R. MORRISON,
Chairman, &c., New Orleans, Louisiana.

Mr. KNOTT. I offer the resolution which I send to the Clerk's desk to be read, and upon it I call for the previous question.

Mr. GARFIELD. I desire to ask if this telegraphic communication that has been laid before the House—

The SPEAKER. The Speaker received this late last night at his house.

Mr. GARFIELD. By telegraph?

The SPEAKER. By telegraph.

Mr. GARFIELD. And there is no signature to it except that made by the telegraph operator?

The SPEAKER. The paper is signed "WM. R. MORRISON," and a subsequent paper is signed "Wm. Orton."

Mr. GARFIELD. The signatures on the paper which is now in the presence of the House are signatures made by the telegraphic operators, are they not?

The SPEAKER. It comes exactly as all telegrams come, in the handwriting of the telegraphic operators, of course.

Mr. GARFIELD. There is no handwriting of any officer of the House?

The SPEAKER. It is duly authenticated; the Speaker has the official envelope here with the telegraphic charges. No officer of the House has had anything to do with it.

Mr. GARFIELD. All I wanted was to show that the paper now before the House was not signed by any officer of the House, but was signed by the telegraphic operator as from an officer of the House.

The SPEAKER. The Chair will submit to the House the question whether—

Mr. GARFIELD. I do not make any question upon that. I only wanted it spread upon the record that the paper which has been laid before the House was not signed by Mr. MORRISON, the chairman of the committee.

The SPEAKER. It is in every respect the same as other telegraphic dispatches.

Mr. KNOTT. I desire to say that the paper is signed by WILLIAM R. MORRISON, and his signature has been read. I call the previous question upon the resolution.

The resolution was read, as follows:

Resolved, That the Speaker of this House issue a warrant under his hand and the seal of the House of Representatives, directing the Sergeant-at-Arms of this House, either by himself or his special deputy, to arrest and bring to the bar of the House without delay E. W. Barnes, to answer for a contempt of the authority of this House and a breach of its privileges, in refusing to produce to the special committee of which Hon. WILLIAM R. MORRISON is chairman, now sitting in the city of New Orleans, certain telegraphic dispatches in obedience to a subpoena duces tecum, served on him on the 13th day of December, 1876, and to be dealt with as the law under the facts may require.

The question was upon seconding the call for the previous question.

Mr. WILSON, of Iowa. I desire to make a parliamentary inquiry of the Chair.

The SPEAKER. The gentleman will state his inquiry.

Mr. WILSON, of Iowa. Is the Chair aware whether it is the well-settled practice of this House or of any deliberative body that a telegram can be properly construed as the report of a committee? Does the Chair hold that this is a privileged report from a committee?

The SPEAKER. The Chair holds that this communication is a privileged one, involving the dignity of this House.

Mr. WILSON, of Iowa. That feature of it I do not question. But is it well settled that a telegram, without the actual signature to the paper of the chairman of the committee delegated by the House to make certain inquiries, is sufficiently well authenticated and proved to be regarded as the report of the committee?

The SPEAKER. Reports of committees are not usually signed by members of the committee; they are presented to the House by the chairman or by some other member of the committee. This comes to the Speaker—

Mr. WILSON, of Iowa. But the Chair will observe that reports made by committees are made in person. This is presumably the report of a committee. But is it sufficiently well known to the House that this is a report of this committee and of the action of the committee to justify the extreme step that is now proposed to be taken? That is what I want the Chair to say.

The SPEAKER. The report of a committee comes through a member of the committee, and his word is taken for it that it is a report from the committee.

Mr. WILSON, of Iowa. Yes.

The SPEAKER. This communication comes through the Speaker of the House. The Speaker of the House is satisfied as to its authenticity, and therefore presents it to the House.

Mr. WILSON, of Iowa. One word more, if the Chair please. I do not question the manner in which the Speaker of the House received this report. But are we justified in arresting an American citizen and

depriving him of his personal liberty on a telegram that may possibly not have emanated from a committee?

The SPEAKER. That is a question for the House to determine. It is not a question of order, neither is it a question that calls for any expression of opinion on the part of the Chair.

Mr. WOOD, of New York. The criticism of the gentleman from Ohio [Mr. GARFIELD] and of the gentleman from Iowa [Mr. WILSON]—

The SPEAKER. The gentleman from New York [Mr. WOOD] will permit the Chair to state that debate is not in order pending the call for the previous question.

Mr. WOOD, of New York. I do not propose to debate this question; I merely desire to correct some erroneous statements which, as I understood, were made by the two gentlemen on the other side who have spoken upon this question. This communication contains an extract from the minutes of the proceedings of the committee in session in New Orleans, attested by the clerk of the committee, those proceedings being participated in by all the members of the committee.

Mr. WILSON, of Iowa. How does the gentleman from New York know that?

Mr. WOOD, of New York. It is stated upon the face of the document as it has been read.

Mr. WILSON, of Iowa. Suppose that I should telegraph to the Speaker of the House a statement of this kind and should sign myself "WILLIAM R. MORRISON," who would know whether it came from him or not?

Mr. WOOD, of New York. The other members of the committee would have notified their friends, as the gentleman from Ohio [Mr. GARFIELD] was notified the other day, if there had been any dispute about this matter.

Mr. HOLMAN. Authentication by telegraph is now universally recognized in this country.

The SPEAKER. The Chair has stated that this is an authentic dispatch. The question is on seconding the call for the previous question.

Mr. GARFIELD. I appeal to the gentleman from Kentucky [Mr. KNOTT] to allow some debate on this very remarkable proposition.

Mr. KNOTT. I think the House understands it.

The question being taken on seconding the call for the previous question, there were—ayes 113, noes 11; no quorum voting.

Tellers were ordered; and Mr. WILSON of Iowa and Mr. KNOTT were appointed.

The House divided; and the tellers reported—ayes 116, noes 7; no quorum voting.

During the count by tellers,

Mr. GARFIELD said: If we can have a reasonable time for debate there will be no delay. All we ask is that an hour be allowed for debate. I hope there will be no objection to that.

Mr. KNOTT. I do not consent to that.

The result of the vote was announced as above stated.

Mr. KNOTT. I move a call of the House.

The motion was agreed to.

The roll was called, and the following-named members failed to answer:

Messrs. Abbott, Bagby, Banks, Bass, Beebe, Blackburn, John Young Brown, Samuel D. Burchard, Burleigh, Cannon, Caswell, Cochrane, Cox, Crapo, Crounse, Danford, Darrall, DeBolt, Denison, Dummell, Eden, Egbert, Ellis, Flye, Gibson, Glover, Gunter, Harrison, Hays, Henderson, Hill, Hoge, Hopkins, House, Hubbell, Hurbat, Hyman, Jenks, Thomas L. Jones, Joyce, Kelley, Kimball, King, Lane, Lapham, Lawrence, Lord, MacDougall, McMahon, Meade, Miller, Money, Morrison, Nash, New, O'Brien, Odell, Phelps, John F. Phillips, Poppleton, Purman, John Reilly, Rice, Robinson, Miles Ross, Sobieski Ross, Savage, Savler, Schumaker, Sinnickson, Slemmons, Smalls, Strait, Stephens, Stowell, Teese, Thomas, Thompson, Washington Townsend, Turney, Waddell, Waldron, Charles C. B. Walker, Walling, Walsh, Ward, G. Wiley Wells, Wheeler, Wigginton, Wike, Jeremiah N. Williams, William B. Williams, and Woodburn—93.

Mr. LUTTRELL. I wish to announce that my colleague [Mr. WIGGINTON] is absent by leave of the House.

Mr. REAGAN. I was requested by the gentleman from Maryland [Mr. O'BRIEN] to announce that he was compelled to leave the Hall on account of sickness.

Mr. PLAISTED. I desire to state that my colleague [Mr. FLYE] is confined to his house on account of sickness.

The SPEAKER *pro tempore*, (Mr. CLYMER in the chair.) One hundred and ninety-six members have answered to their names. There is, therefore, a quorum present.

Mr. WOOD, of New York. I understand the Chair to announce that a quorum of the House is present.

The SPEAKER *pro tempore*. Yes, sir.

Mr. WOOD, of New York. I wish to say that, so far as this side of the House is concerned, there is no disposition to prevent any gentleman from discussing this proposition. I suggest therefore that, after the previous question shall have been sustained, one hour be allowed for debate, to be divided equally between the two sides of the House.

Mr. GARFIELD. That is all we have been insisting upon.

Mr. WOOD, of New York. I believe my friend from Kentucky [Mr. KNOTT] agrees that after the previous question has been seconded an hour be allowed for debate.

Mr. HALE. Will there be opportunity for submitting amendments?

Mr. WOOD, of New York. Amendments will not be in order after the previous question is sustained.

Mr. HALE. But the gentleman's proposition is that by unanimous consent the previous question shall be considered as ordered and then an hour allowed for debate. Now is it not fair, as an accompaniment of that proposition, that an opportunity should be given to this side of the House to offer amendments?

Mr. WOOD, of New York. I have made this suggestion with a view to debate only, and not for the purpose of permitting amendments.

The SPEAKER *pro tempore*. If the previous question should be sustained, the gentleman from Kentucky [Mr. KNOTT] would be entitled, under the rule, to one hour.

Mr. KNOTT. I have no objection to yielding half of the time to gentlemen on the other side.

The SPEAKER *pro tempore*. The Chair would suggest that the first motion in order is that all proceedings under the call be dispensed with.

Mr. HOAR. I think the Chair fell into an inadvertence in the announcement which he has just made. This is not the report of a committee, and therefore under the rules no hour is allowed for debate after the previous question has been seconded.

The SPEAKER *pro tempore*. By unanimous consent, it was agreed that there should be an hour.

Mr. GARFIELD. The unanimous consent granted was that there should be an hour for debate before the vote was taken, that hour to be equally divided between both sides of the House.

Mr. WOOD, of New York. That was the proposition which was agreed to, as I understand it.

The SPEAKER *pro tempore*. Is there objection that the previous question shall be considered as seconded and the main question ordered, and that one hour shall be allowed for debate, to be divided equally between one side and the other? The Chair hears no objection, and it is ordered accordingly.

Mr. WOOD, of New York. I move that all further proceedings under the call be dispensed with.

The motion was agreed to.

Mr. KASSON. I desire, Mr. Speaker, to present a point of order before the debate proceeds. I have reduced it to writing and I ask the Clerk to read it.

The Clerk read as follows:

It appearing to the House that the resolution is based upon a mere telegraphic copy of an alleged report of a committee, without any official certificate of its accuracy and without verification of the signatures to the alleged copy, all the signatures being made by an alleged telegraphic operator, and without any other verification, I make the point of order that there is no legal or proper parliamentary ground for adopting an order of arrest of an American citizen; and that therefore the resolution is not in order.

Mr. KASSON. Only a single word. I desired to put it in such shape as would go upon record without designing to appeal from the decision of the Chair. It is the view which is taken on this side of the House that the proper ground does not exist for the adoption of such an order. In my experience, and so far as I can learn in that of others the action of the House has never been asked upon such a telegraphic dispatch, and I desired it might go upon record that we upon this side of the House find no justification for such a proposed order.

I supposed both sides of the House were waiting a properly signed and verified report before adopting this order.

I agree with gentleman that *prima facie* disobedience of a witness to a subpoena under these circumstances justifies an order of arrest when the proper ground is laid, and that the proper time for debating the propriety of punishing for contempt and the validity of the ground laid is when the party arrested for *prima facie* contempt is brought before the House. At this time I desire to say this on behalf of my associates, as a point of order, that this may not be regarded as an undisputed precedent for the action of future Houses of Representatives.

The SPEAKER. The Chair desires to say this communication to him comes through the usual channel of telegraphic communication. He believes it to be authentic. He believes therefore there is a proper verification for the facts set forth, and again overrules the point of order made. But it is for the House to determine as to the arrest, which is not within the province of the Chair. The point of order is overruled.

By unanimous consent, one hour is allowed for debate, to be divided equally between the two sides. The gentleman from Kentucky is entitled to the floor.

Mr. KNOTT. I will yield to any gentleman on the other side for half an hour.

Mr. GARFIELD. I wish the House to understand in the first place, Mr. Speaker, that there is on this side no purpose whatever to resist any thorough and complete investigation which has been ordered by the House touching the late election. We are more desirous, if possible, than they can be, that the investigation now being prosecuted in the State of Louisiana shall be thorough and complete. The deeper they get down into that subject, and the more truth they bring out by their investigation, the more I shall hail the result of the inquest; for I have myself looked far enough into this question of the late election in Louisiana to know that any investigation carried on honestly and thoroughly can but be valuable to the cause of truth in this country. We have of all men, therefore, the least reason either to see obstructed or to aid in obstructing any legitimate investigation.

I say this without expressing any opinion, at present, upon our constitutional right to go behind the action of any State, under its own laws, in reference to its electoral vote.

But, Mr. Speaker, there are some things in this country that perhaps are even more valuable than the ends to be reached by any investigation. Methods are sometimes more important than ends; and the methods of doing things are frequently the instrumentalities by which a country is ruined. Now in all I shall say in the few moments I may speak, I shall not refer at all to the subject-matter of the investigation. I hope at some time, not far distant, to speak of Louisiana affairs and of the absorbing question agitating this country; but to-day what I shall say will relate to the methods of this House, in reference to which there ought to be no party difference; methods which to-day you may employ, and which next year we may employ, and which the year after another party may employ; methods which ought to be a part of the immortal forces playing alike upon all parties and all political proceedings.

In the first place, it is very important, when we are about to adopt a new method of conducting business before the House, when, for the first time, a telegraphic dispatch, and in this one case containing twenty-four hundred and ninety-nine words, has been received by the Speaker, and which purports to represent the authentic proceedings of an authorized committee of the House, that we consider carefully the consequences of the precedent we are making. This dispatch may be a perfectly correct report of what transpired yesterday in the city of New Orleans; but it is attended by all the possibilities of failure in transmission, all the accidents of mistakes by being repeated through three or four hands. And we are called upon now, for the first time, so far as I know, in the history of America, to take so grave a step as to act upon a dispatch which has come through alien hands, not those of officers of the House, and to treat every word of it as a genuine authoritative document. And upon such statement, coming in such a way, it is proposed to arrest a citizen of the United States and bring him as a prisoner, more than a thousand miles away from his home, under the cloud of the heavy displeasure of this House, and arraign him at the bar of the House to receive its sentence.

Now, shall we make the first break in the old barriers of personal security in this new way, without a moment's reflection, without referring the question to a committee of the House, without taking any of the usual precautionary steps which it has been the uniform habit of this House to take, and proceed at once, on the mere reading of a telegram at the Clerk's desk, and act upon it as if it were entirely accurate and genuine? I remember very well when, during the war, I was a member of a court-martial, and for the first time, I believe, in the history of courts-martial, a stenographer took the testimony, recorded the questions and the answers, that a careful, thoughtful member of the court raised this question. The articles of war provided that all questions propounded to a witness shall be written, and should be reduced to writing and submitted by the judge-advocate to the court, so that the witness might have the opportunity to see the written question before him; and that his words in answer should be carefully written down, so that thus the whole proceeding might be made certain and authentic. Now, a member suggested that never before had the use of the phonographic art been employed at a trial by court-martial, and raised the question whether it would not be a violation of the law and an infringement of the rights of witnesses to conduct the examination by the phonographic report alone. After a full discussion it was agreed that in order to prevent a breaking down of the protections of the law, the phonographic clerk should himself take down a question, and, before it was answered, should read it out from his phonographic notes, and the answer should then be made. I give that as an example of the carefulness with which those who believe in following law watch their steps when any innovation is proposed.

Now a marked innovation on the usual methods is proposed in the case of this paper; and we ought to pause and refer it to our law committee, that they may carefully inquire whether this paper can properly and rightfully be treated as though it were the authentically signed report of the committee of this House. But no such action is to be taken. Everything is taken for granted. No mistakes are assumed to exist in this paper.

That is the first point I urge upon the consideration of the House as a reason why we ought to refer this to a committee. Again, it appears from the paper, assuming it to be as it may be, entirely authentic, that our committee in New Orleans, out of their fancy or from their information, I do not know which, have draughted a resolution assuming that dispatches had passed over the wires to New Orleans since the 1st of August last; and wanting to get hold of some testimony of whose existence they know nothing, they picked out seven conspicuous politicians at New Orleans, all republicans, all officers of that State, or candidates for office, the governor of the State, who was also a candidate for elector, the gentleman who ran as the republican candidate for governor, a gentleman who ran for the office of representative in the Legislature of Louisiana, another who ran for Representative in Congress, but was defeated, and several others. All the seven thus selected are members of one political party, and on the general presumption that they may have received telegrams during the time of registration and election and since, without laying any foundation in fact that any dispatch had been received by any one of them, a resolution was adopted by our committee in New Or-

leans commanding the managers of the Western Union Telegraph Company to come before the committee and bring all dispatches, public or private, political or commercial, that may have gone over the wires during the months of August, September, October, and November, and until the date of the subpoena, in December, upon all subjects whatever. There was no limitation of subject-matter in the subpoena. I am not sure but in some of the cross-examination reported in the dispatch it was confined to political subjects, but the subpoena is general and sweeping. And these seven citizens are all selected from one political party, not according to the principle announced here yesterday, that it should be made general and embrace all political parties, for the majority of this committee can select their men, and we see they have selected only republicans.

Now this manager of the telegraph in New Orleans is required to bring every dispatch that for a period of more than four months may have been sent to all those seven citizens, and lay them upon the table of the committee, to be made public for any use or any construction that political passion may require. I beg the attention of gentlemen to this consideration: Suppose the case had been reversed; for if this thing can be done a similar course can be taken by the Senate committee, and all the magnates of the democratic party may be named in a subpoena, and every dispatch sent to them for four months, or five months, or ten months, may thus be seized and made public.

I beg gentlemen to reflect how great and how dangerous a step we are proposing to take under the previous question and upon telegraphic dispatches. If it may be seven citizens, why not seven hundred or seven thousand? Why not all the population of America? The right to demand this, under these circumstances, is the right to demand everything everywhere about every man in the United States.

I do not say that we cannot properly, under the old guards of the law, take public or private dispatches whenever a proper foundation has been laid for taking them in the course of judicial or legislative investigations. I have no doubt we can. But I deny that we can justly do so upon the naked, foundationless demand which has been made for these dispatches. There is no evidence before us that either of these citizens, Warmoth, Kellogg, Packard, General Augur, or any one of them, have appeared anywhere in the testimony in the proceedings as having received any particular dispatches relating to the subject-matter of legislative inquiry. It is not even pretended that the slightest foundation is laid for this proceeding. The bolt was launched out of a clear sky. These gentlemen are struck merely because somebody thought it possible that such a course might possibly lead to the discovery of secrets which the committee would like to know. If this rule prevails, all that any committee will need is to suspect that somewhere an American citizen possesses a secret, and they may call upon the Western Union Telegraph Company to become the great national informer against every citizen who has ever been conspicuous enough to receive a telegraphic dispatch.

I do not know how it may strike the Anglo-Saxon minds around me; but I must say that since I entered public life I have never heard a proposition advanced that was so far-reaching in its consequences, so unjustifiable by any of the maxims of the old common law or practice of our courts in its influence upon private rights, as the pending proposition.

Now, Mr. Speaker, as this side of the House was awarded thirty minutes, I suggest that whatever gentlemen on the other side desire to say should be heard now, and that the remainder of the time allotted to our side be occupied at the conclusion of the debate.

The SPEAKER. The gentleman from Kentucky [Mr. KNOTT] will be entitled to close the debate.

Mr. GARFIELD. Let him reserve his right so as to allow some gentlemen on this side to be heard after the views of the other side have been stated.

Mr. KNOTT. The gentleman from Ohio can make what disposition he pleases of the half hour allotted to him.

Mr. GARFIELD. All I desire is that some gentlemen who want to take part in this debate later shall have an opportunity of doing so, so that the debate may be in alternate order.

Mr. KNOTT. I do not know whether I want to say anything or not, so far as I am concerned.

Mr. GARFIELD. How much time have I left?

The SPEAKER. The gentleman has twelve minutes.

Mr. GARFIELD. I will yield to the gentleman from Iowa, [Mr. MCCRARY;] but I think it would be just that gentlemen on the other side shall go on and make their remarks, so that he can speak in reply. But, as there seems to be no disposition to adopt the alternate order, I will now give a portion of my time to the gentleman from Iowa, [Mr. MCCRARY.]

Mr. MCCRARY. Mr. Speaker, I have neither the time nor the disposition to enter into a discussion of the very important question that is now before the House. I do not place my opposition to the adoption of this resolution upon the question of order that has been raised regarding the authenticity of the dispatch. I take it for granted that the dispatch is genuine, and at least substantially accurate, and I prefer that the House should stand upon that, and that we should meet fairly and squarely the other, and to the American people the exceedingly important question that is presented. I speak not of this particular investigation, but of the powers and duties of the House in investigations generally.

By reference to the subpoena which is embodied in the papers before the House two things will be observed; first, that there is no pretense in any of these papers that the committee at New Orleans had any reason to believe that there were any dispatches in the possession of this witness that were material to the investigation then going on. There was no inquiry upon that subject prior to the issue of the *subpoena duces tecum*. No foundation whatever was laid for the seizure of these papers, much less for the arrest of anybody. A subpoena has been issued for the purpose of ascertaining whether there might not be in that telegraph office dispatches addressed to these seven gentlemen touching the subject-matter of investigation.

Mr. HALE. I call the attention of the gentleman to the *subpoena duces tecum*. It does not even contain what the House yesterday put into its resolution, that the committee deemed this testimony necessary to the investigation with which it is charged.

Mr. McCRARY. There is nothing whatever of that character in it. It fails utterly to make a case under the resolution of yesterday. But there is another thing that I beg the House to consider. This is a proposition to call upon the telegraph officers of a certain company to produce the telegraphic correspondence of seven citizens of this country during a period of four months and to lay it before an investigating committee of this House. Mark you, the call is for all dispatches upon all possible subjects, without any limitation whatever as to the subject-matter of the telegrams.

In other words, we have to meet this question whether an investigating committee can call upon any number of our fellow-citizens to bring before that committee all of their private correspondence, all of their private papers, upon all imaginable subjects, to be examined by the committee in order to ascertain whether there may be among those private papers anything that may possibly be pertinent to the subject-matter of their investigation. That is precisely what this House is called upon to-day to decide, for there is not one word in all these papers touching the subject-matter of the telegrams which are called for. The operator of the telegraph company is called upon to produce all the telegrams received by a certain number of citizens within four months of time, whether they relate to their private affairs, whether they relate to their domestic relations, whether they may be telegrams between husband and wife; whatever they may be, this telegraph officer is called upon, is commanded under pain of imprisonment by the order of this House, to bring everything that either of these gentlemen may have sent or received within this period of time by telegraph, and to lay it upon the table of the investigating committee. It is the instinct of every freeman to resist to the utmost such a demand. It is a scandal to the American name that such a demand should be made and be enforced by this House under the pains and penalties of imprisonment.

Now if this be a proper course of proceeding, if this be allowable under the laws of this land, if this be within the proper jurisdiction of this House, then there is no security for the citizen in regard to his private papers. The provision of our Constitution which declares that "the right of the people to be secure in their persons, houses, and effects against unreasonable searches and seizures shall not be violated" may be rendered nugatory by an investigating committee of this body. The proposition, when seen and considered in all its length and breadth and possible consequences, is simply monstrous.

I ask the House to look at the principle involved in this resolution which we are asked to adopt. If you may select these seven gentlemen and issue your *subpoena duces tecum* to a telegraph officer, commanding him to bring to the room of one of your committees all the telegraphic dispatches which these seven gentlemen may have received within four months, then there is no rule of law that limits you to seven citizens nor to four months, nor to one telegraph office. If you can name seven men, you may name seven hundred or seven thousand. If you can command one telegraph operator to do this, you can command every telegraph operator in this country to bring every dispatch upon every imaginable subject upon which any number of our fellow-citizens may have sent or received dispatches and lay them before an investigating committee so that they may look them over and hunt them through and see if they can find anything that may by any possibility have a bearing upon the subject-matter of their investigation or that may gratify curiosity or feed scandal. If you can go back four months you can go back four years. The principle is the same.

Some gentlemen yesterday spoke about the inquisitorial power in the hands of an investigating committee. I do not like that word. And if this is what these gentlemen meant by "an inquisitorial power," then it is time that the American people understood it, and that the American Congress understood it.

There is no need of going to this extent; there is no need of establishing such a dangerous precedent as this; there is no necessity for it. If your committees have good reason to believe that there are telegrams of importance that are material, let them name the persons who have sent them and the persons who have received them, and the subject-matter of them, or otherwise describe them so that they may be identified. Lay your foundation properly by making an inquiry as to their existence and materiality, but I beg of the House not to assert the right to issue a drag-net subpoena to bring before a committee of this House all the twenty-five millions of private dispatches sent in this country, to be handed over to that committee in order that they may see if perchance something may not be found among

the private correspondence of the American people pertinent to the inquiry they are making. That is what is involved in the principle of this resolution, and that is what I object to; and I can assure gentlemen on the other side, that in my humble judgment the time will come when the madness of these times is past, when sober reason resumes its sway, when it will be acknowledged on all hands that our safe course is to be found in following lawful methods, in respecting the rights of the citizen, and in avoiding the exercise of powers not given us by the Constitution or laws, and which are unwarranted, assumed, arbitrary, and not even excused by the presence of any overshadowing necessity.

Mr. KNOTT. I now yield fifteen minutes to the gentlemen from New York. [Mr. WOOD.]

The SPEAKER. The time allowed for the other side has not yet expired.

Mr. GARFIELD. How much time have I left?

The SPEAKER. Five minutes.

Mr. GARFIELD. If gentlemen have no objection we will use those five minutes a little later.

Mr. WOOD, of New York. Mr. Speaker, I regret very much that this whole question, so far as the law is concerned, is not under some statute regulation. I regret that there is no law which may be made to apply to the question now under consideration, so far as the privileges of telegraphic communications are concerned.

So far as I am personally concerned, I would violate no great principle of individual right, not even under these circumstances. I am opposed to either legislation or congressional action as a mere matter of expediency to meet any particular case or emergency that may arise. I believe that we should have general laws, passed at a time when there is no public excitement as at present, which laws may be made applicable to these dispatches which are now claimed to be sacred and so private, in order that hereafter we may have no trouble or difficulty.

I differ very much, however, with the gentleman from Ohio [Mr. GARFIELD] and the gentleman from Iowa, [Mr. McCRARY,] especially in their idea of the private, sacred character of these telegraphic communications. I believe these gentlemen are wrong in their assumption of facts. A letter that passes from myself to another person through the mails is known only to the writer and to the receiver. Not so with a telegraphic dispatch. It is known not only to the writer and to the receiver, but to two subordinates of the telegraph company at the two ends of the line. They are persons clothed with no particular authority except that which a private corporation may confer upon them. They are subject to no law, to no punishment for any violation or betrayal of confidence. They are restrained by no considerations of any kind, character, or nature whatever. Therefore in my judgment telegraphic dispatches do not partake of that particular private character which attaches to letters which are transmitted through the mails.

Again the gentleman from Ohio [Mr. GARFIELD] will remember, and we all remember, that during the late civil war many of our military operations were conducted by means of telegraphic dispatches emanating from the War Department in this city. Many of the most important military movements were undertaken in consequence of arrangements and programmes and plans which originated in this capital. We know that for many, many years persons were arrested, incarcerated, and imprisoned, not only for criminal but political offenses, simply by a telegraphic dispatch.

We know moreover that whenever a person guilty of crime in this country seeks to evade American justice and go abroad we constantly telegraph (as we did in the case of Tweed recently) and hold him a prisoner there till he can be reclaimed by our own country for trial and conviction.

Moreover at this very moment the important political affairs of Europe, upon which hangs the question of a general European war, are being conducted to a large extent, if not altogether, by telegraph. This agency has become an open, practical means of communication. It has lost all privacy and secrecy—so much so that every important communication of every character even in commerce and trade is conducted in cipher, not by the ordinary language.

I will say just here that, in my judgment, it would be very difficult indeed to trace in any political communication that may have recently passed in this country from one party to another anything to criminate anybody. Hence my position on this question does not arise from any anxiety to procure or any belief that we can procure in this way for our committee anything that will be substantially important in determining any great event.

But, sir, here is the practical question. Gentlemen on the other side are discussing certain great principles in regard to the arrest of an individual simply in consequence of a telegraphic dispatch sent here from the committee at New Orleans. Such considerations should have been presented and discussed yesterday, because we then determined this whole question. We discussed the question on both sides of the House; we voted upon it by yeas and nays, and we finally laid down certain principles to guide the conduct of this House in every case that might arise. Our action was then made applicable directly to the case of Mr. Orton; it is now made applicable directly to the case of the subordinate of Mr. Orton in New Orleans; to-morrow it may be applicable to a case in New York; the next day to a case in Columbia, South Carolina, or Tallahassee, Florida. In the substitute

adopted yesterday, upon yeas and nays, by a very large majority, we laid down certain principles; and what are they?

Resolved. That there is nothing in the law rendering a communication transmitted by telegraph any more privileged than a communication made orally or in any other manner whatever; that this House has the power through its subpoena, under the hand and seal of its Speaker, to require any person to appear before any committee to which it has given authority to examine witnesses and send for persons and papers, and bring with him such books or papers, whether the papers be telegraphic messages or others, for the inspection of such committee, as such committee may deem necessary to the investigation with which such committee may have been charged; and that such committees may order and direct any witness who may be brought before it to produce to the committee any book or paper, whether such paper be a telegraphic dispatch or other, which may appear to be in his possession or under his control, which said committee may deem necessary to the investigation with which it may have been charged; and that any person—

This has direct reference to the case now before the House—

and that any person upon whom such subpoena shall have been served, who shall disobey the same, or having appeared as a witness shall disobey the order of such a committee to produce any book or paper which he shall have been ordered by such committee to produce, should be brought to the bar of the House upon a report of the facts by the committee to answer for a contempt of the authority of the House, and dealt with as the law under the facts may require.

The statement communicated by the Speaker from the committee at New Orleans presents all the facts. It gives the questions put to this witness and his answers, in which he refused peremptorily and positively to answer satisfactorily to the committee. He denied practically the authority of the committee and the authority of this House. He refused to produce these dispatches. He has thus placed himself in contempt, and that is the whole case. If the House carries out the rule which it laid down for its own action and government yesterday, it has nothing to do but to bring before it the body of this recalcitrant witness, that he may show cause why he should not be held to answer for contempt.

Mr. CONGER. The gentleman from New York will allow me to say that the action of the House yesterday was after the alleged contempt; and therefore the refusal of the witness cannot have been in contempt of our action yesterday. The refusal was before the action of the House.

Mr. WOOD, of New York. The gentleman from Michigan [Mr. CONGER] will recollect that the action of the House yesterday virtually determined this and every other like case. This witness brings himself within the rule established by the House; and he is in contempt.

Mr. CONGER. But the House never promulgated such a rule until yesterday.

Mr. WOOD, of New York. But the committee of the House had full authority; they have proceeded regularly and in order according to the usage in this House from time immemorial.

Mr. HOAR. If the gentleman from New York will pardon me, I wish to put to him an inquiry for my own satisfaction. I am inclined myself to agree with the decision of the Speaker that this telegraphic communication to us is reasonably satisfactory evidence of the facts; and I do not make objection on that ground. What I desire to know is whether this subordinate (the question of law being deemed somewhat doubtful) did not make this original refusal under the direction of Mr. Orton, his principal. Mr. Orton, I understand, has addressed to the chairman of the Judiciary Committee a statement expressing his desire to know the opinion of the House and his purpose to submit to that opinion when declared. It was declared yesterday. Now as the principal officer under whom this subordinate is acting has said "I wish to do just what the House thinks I should" and as the House said yesterday that he should produce these dispatches, I submit whether the House should now send down to New Orleans a peremptory order to arrest the subordinate until he has had an opportunity, after this expression of the House as made yesterday, to go again before the committee and make his answer. I understood Mr. Orton's letter to the chairman of the Judiciary Committee to declare in substance "As soon as the House expresses its judgment I will direct my subordinates to obey." Now if that be true, should not this resolve, instead of providing for a peremptory order to arrest this subordinate, provide merely for his arrest unless, upon the communication of our resolution, he should answer satisfactorily? The gentleman must easily see that a subordinate telegraphic operator down at New Orleans cannot be expected to understand all these propositions of law.

Mr. WOOD, of New York. Mr. Speaker, under the principles established by this House there is no difficulty in the case presented by the gentleman from Massachusetts, [Mr. HOAR.] Even after the House has taken a peremptory order for the arrest of a witness and his production before the House it is entirely usual for him to say, "I will answer." This witness in New Orleans has nothing to do except, under the direction of Mr. Orton, to say "I will answer." Then of course the order of the House would not be operative. Hence the difficulty which the gentleman from Massachusetts sees cannot possibly arise.

Mr. HOAR. If that be true it is a good answer; but I ask the gentleman to reflect whether the order of the House should not be that the arrest take place unless the witness shall in the mean time have answered to the satisfaction of the committee.

Mr. WOOD, of New York. I would not change the phraseology of the order. I think there will be no difficulty in case the witness chooses to put himself in a position of readiness to answer.

The SPEAKER. The Chair now recognizes the gentleman from Ohio [Mr. GARFIELD] for the five minutes remaining of his time.

Mr. GARFIELD. I will yield whatever time remains to me to the gentleman from Iowa, [Mr. KASSON.]

Mr. KASSON. Mr. Speaker, I have only partially examined the alleged report of the committee laid before the House by the Speaker, as to the foundation which has been laid by the committee for this order of arrest; but I have examined it so far as to find that there is no proof presented in that report of the existence of the dispatch for the non-production of which it is proposed to arrest this witness. The gentleman from New York [Mr. WOOD] and myself had a great deal of service, he will remember, in connection with the rights of the House and the rights of witnesses in a very famous examination some three years ago. I do not think that he can refer me or the House, and I certainly cannot refer the House, to any case in which we have arrested a witness for the non-production of papers, the existence of which papers have not been shown. I ask the gentleman from New York if he has within his memory any instance in which the House has arrested a witness for the non-production of papers the existence of which is not shown prior to asking an order of arrest. Does the gentleman remember any such instance?

Mr. WOOD, of New York. This witness admits he has possession of the dispatches.

Mr. KASSON. That is where I differ with the gentleman. I have been examining the record to find that fact and he does not state as to a single person the fact that he has in his possession any such paper or book.

Mr. WOOD, of New York. I think he admits he has telegrams from Kellogg and Packard and to them. And, moreover, I remind the gentleman that at the last session of Congress a witness admitted he had possession of certain books, which he declined to produce because they contained other peoples' accounts.

Mr. KASSON. The gentleman is right where the existence of the papers or books is shown; there is no difference between us on that. But so far as I have read this report, and gentlemen who are more familiar with it will turn to it and read the evidence, the witness says that he does not know that there are any dispatches between those parties relating to the elections. In the latter part of the examination it may be shown, and I have not had time to read it through; but where the questions are first put to him he cannot say that there are any such dispatches within the terms of the questions put to him. Under these circumstances, unless the evidence can be found in this report that these telegrams exist, I submit to every legal gentleman on that side, there is no precedent or reason for arresting a witness for the non-production of a paper the existence of which is not shown.

Mr. TUCKER. Will the gentleman from Iowa yield to me to ask him a question?

Mr. KASSON. Certainly.

Mr. TUCKER. How could the committee know the existence of a telegram without asking the witness whether one had been sent.

Mr. KASSON. They did ask the witness, and the witness did not answer it existed.

Mr. TUCKER. Then how can they ever find that out?

Mr. KASSON. Of course if they want evidence they have to produce it. They must ask the witness summoned, who is alleged to have the papers. That is the best evidence whether he has them. If not, they can summon another witness who knows where they are. And the gentleman as a lawyer will not affirm that we can arrest a man for contempt in not producing a paper where there is no proof of the existence of the paper. That is the point where a new precedent is about to be established by the House, if they adopt this resolution.

It is for these reasons, among others, I agree with my honorable friend from Ohio, [Mr. GARFIELD,] that we had better ask the Committee on the Judiciary to carefully examine this report, and the authorities for it, to see whether the ground is laid for the issue of this warrant of arrest. In all the observations, and the various debates we have had upon the report of the Committee of Ways and Means in reference to a celebrated case when I was a member of it, we never carried the doctrine so far that when a witness does not deny he had a paper, or in other words does not admit he had a paper, therefore we can arrest him for the non-production of it.

I think we are carrying the precedent of the House dangerously far in the proposed action of the gentleman from Kentucky. I desire to maintain all the privilege of the House in respect to the duties of witnesses and the obtaining of evidence. I am not willing, however, now more than I have ever been before, to carry it to the extent of the unwarranted arrest of a citizen without a legal foundation being laid for that arrest. It is a dangerous precedent for the House, and it is a dangerous precedent for the citizens of the United States.

Mr. HOLMAN. I call the attention of the gentleman from Iowa [Mr. KASSON] to the fact that this communication certainly shows that the witness admitted the fact of having possession of a portion of the telegrams referred in the *subpoena duces tecum*.

Mr. KASSON. I desire to say to the gentleman that I have not seen that, so far as I have read the report. I cannot speak in regard to what appears in the rest of the report, because I was called to my feet before I had finished reading it. But if that is so, then I think the recital of the refusal should be limited to correspond with the evidence in the case. We cannot be too careful in this business of arresting citizens. The House owes it to itself and the country to be careful and prudent; and I think it would be better if the Judiciary

Committee would make a careful examination of this report before the House is called upon to act on it.

The SPEAKER. The gentleman from Kentucky [Mr. KNOTT] has thirteen minutes of his time remaining.

Mr. KNOTT. The House on yesterday, very correctly in my judgment, laid down the doctrine that there was nothing in the law making a communication transmitted by telegraph any more privileged than a communication made orally or in any other manner whatever. In order to show that that principle is correct, and that there is no ground for supposing that there is any unusual sanctity about a telegraphic dispatch, I desire to call the attention of the House to an adjudication directly upon that point in the State of Pennsylvania arising under a statute which made it a penal offense for a telegraphic operator to disclose the contents of any dispatch in his possession. The operator was brought into court upon a *subpoena duces tecum*, and the objection was made that there was a peculiar sanctity, by reason of this express statute, about a telegraphic dispatch, which precluded the witness from testifying as to its contents or exhibiting the message. And here is what the court said:

It must be apparent that, if we adopt this construction of the law, the telegraph may be used with the most absolute security for purposes destructive to the well-being of society—a state of things rendering its absolute usefulness at least questionable. The correspondence of the traitor, the murderer, the robber, and the swindler, by means of which their crimes and frauds could be the more readily accomplished and their detection and punishment avoided, would become things so sacred that they never could be accessible to the public justice, however deep might be the public interest involved in their production.

And the court goes on further to say:

The law is jealous of extending the circle of persons excused or interdicted from giving testimony. Parents are required to testify against children, children against parents, brothers against brothers, friends against friends. Communications by letter made under the deepest obligations of friendship, affection, or honor still must be produced, if deemed necessary to the ascertainment of truth and the administration of justice by the public tribunals.

The language here used by this learned tribunal seems to me to be sufficient to dispel forever this curious and new sentiment that there is something about a telegraphic dispatch that makes it more sacred than the holy name of Deity, which formerly could only be pronounced, I believe, once a year, and that by the high priest in the *sanctum sanctorum* of the temple. The fact is, sir, there is no such distinction, and none such should be made.

Now to the point directly before the House. I yield to no member here in my veneration of the safeguards which our Constitution and laws throw around the liberty of the citizen. But to protect the liberty of the citizen the law as it is must be enforced. What then is the question? It has been communicated to the House that a witness has been legally summoned before the committee at New Orleans, that he has been legally required to produce telegraphic dispatches before that committee, and has contumaciously refused to produce them. These are the facts communicated to the House, and the question is not how they have been communicated, but does the House believe them to be true? Now if there is a solitary gentleman on the other side of the House who doubts the authenticity of these facts, why has he not stated it? Who has expressed a doubt of the existence of the facts as stated in this dispatch? The gentleman from Iowa [Mr. McCRARY] with his usual candor admits that he believes the dispatch to be authentic and that the facts as therein set out actually transpired, and the gentleman from Massachusetts [Mr. HOAR] admits the correctness of the Speaker's ruling, that the matter has been correctly brought to the attention of the House, and I venture to say that there is not a member upon this floor who doubts the facts as communicated to the House in the report just read; and, sir, if these facts are true, the recusant witness is in contempt of the authority of the House, and has been guilty of a breach of its privileges. This is the naked conclusion, stripped of all new-fangled sentimentality about the sanctity of telegraphic messages; and you cannot escape it.

The gentleman from Iowa [Mr. McCRARY] says that he objects to ordering this mandate because the terms of the original subpoena were too broad. The House on yesterday very properly refused to lay down a Procrustean rule as to the terms to be employed in framing a *subpoena duces tecum*, and very wisely did it, as this very case shows. Now look at the testimony of this witness, and you find him prevaricating from beginning to end. Suppose you limit your *subpoena duces tecum* to such terms as the gentleman would prescribe; that it should command the witness to produce only such communications as bear upon the subject under investigation. The witness appears, and he says: "O, I know I have got the dispatches," just as this witness says; "but whether they relate to the subject under dispute or not, I do not know; I have not read them." And he never will read them, and you cannot compel him to do it. Or he may say, "I have got the dispatches and I have read them, but in my judgment they do not relate to the subject." There you make the witness the judge of the relevancy of the testimony that the committee is commanded by the order of this House to procure for the enlightenment of its judgment. Do the lawyers upon the other side contend that an investigation should be thus trammelled, and that the object of any investigation, however important, may be defeated by evasions and subtleties such as these? I imagine not. Now, sir, I repeat that this very case is an ample verification of the wisdom of the House on yesterday in refusing to define the precise terms in which a *subpoena duces tecum* should be couched.

Now according to the report just read the subpoena commanded this witness to appear before the committee, and to bring dispatches that had been sent and that had been received by certain named persons within a certain prescribed period of time. He came before the committee and testified that he had the dispatches, but that he had been ordered by the superintendent not to produce them. Can that excuse him? Who made the superintendent his master? Who gave the superintendent the right to abrogate the law of the land and to exonerate or excuse this witness from bringing before the proper tribunal the papers he was required to produce? So far from that order being binding upon the witness, it simply renders the superintendent liable to be arrested and brought here for a contempt of the privileges of the House, in thrusting himself between a committee appointed by this House to ascertain facts for its information and the discharge of their legitimate duty, and tampering with a witness summoned before them. So far from the subordinate being excused by any such order his obedience to it presents a double offense to the consideration of the House.

Mr. GARFIELD. Will the gentleman allow me to ask him a question?

Mr. KNOTT. Yes, sir.

Mr. GARFIELD. Has the gentleman any evidence that the witness has received or has any knowledge of the order of the House that he is to answer? The House has never ordered the witness to deliver these dispatches to its committee.

Mr. KNOTT. The gentleman has on several occasions spoken very confidently about Anglo-Saxon law, so confidently that one would imagine him as familiar with it as with his alphabet, and I beg him to remember that the same Anglo-Saxon law for which he has such a profound veneration presumes that every man knows the law, and that when he is summoned to appear as a witness and produce papers in his possession he is bound to do so, no matter who may order him to the contrary. I tell him further that the Anglo-Saxon law presumes that the witness knew little more than even that, namely, that in refusing to obey a subpoena of the House he lays himself liable to proceedings for contempt. The gentleman must know that it did not require the enunciation of the principles laid down on yesterday to establish them as law. They were law before the resolution of the House passed, as much so as they are now.

Mr. GARFIELD. Will the gentleman allow me to ask him whether we punish a witness for refusing to answer a committee or for refusing to answer the House? Now, if the House commands a witness to answer a certain question and he refuses to do it, punishment will follow.

Mr. KNOTT. The gentleman's question calls to my mind a quatrain in Hudibras:

In logic he's a mighty critic,
Profoundly skilled in analytic.
He could distinguish, and divide
A hair, 'twixt south and southwest side.

Does not the gentleman know that the committee is the organ of the House—simply its agent? That the process by which a witness is brought before a committee is the process of the House issued under the hand of its Speaker by its authority and authenticated by its seal? Does he not know that disobedience to such process is a disobedience of the authority of the House itself, and that when a witness refuses to obey the mandate of the House he is then in contempt of the House and should be brought to it to answer for that contempt and show why he has not obeyed the subpoena of the House, as the law requires him to do? It is a very plain duty, sir, and as easily performed as understood, especially in this instance, where the witness is only required to produce telegrams which he admits that he has in his possession. [Here the hammer fell.]

Mr. BUCKNER. I ask that an amendment that I desire to offer may be read.

Mr. KNOTT. It is too late.

The question was taken on the resolutions, and they were agreed to.

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

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. HAMILTON, of Indiana, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 4124) to provide for the expenses of certain special committees of the House of Representatives and of the Committee on Privileges and Elections of the Senate.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. DURAND, until January 3.

To Mr. WELLS, of Missouri, until January 3.

To Mr. VAN VORHES, for ten days.

To Mr. JONES, of New Hampshire, for ten days.

To Mr. LANDERS, of Indiana, for two weeks from the 22d instant.

To Mr. NORTON, for one week from Wednesday next.

To Mr. DAVY, for ten days from the 22d instant.

To Mr. MAGOON, for one week on account of important business.

To Mr. JAMES B. REILLY, for four days from the 27th instant on account of important business.

To Mr. SPARKS, for ten days on account of important business.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, communicated the proceedings of the Senate in regard to the death of Hon. Allen T. Caperton, late a Senator from West Virginia.

DEATH OF SENATOR CAPERTON.

The SPEAKER. The Chair lays before the House the following resolutions, received from the Senate:

Resolved, That as an additional mark of respect to the memory of ALLEN T. CAPERTON, late a Senator from the State of West Virginia, business be now suspended that the friends and associates of the deceased may pay fitting tribute to his private and public virtues.

Resolved, That the Secretary communicate this resolution to the House of Representatives.

Mr. HEREFORD. Mr. Speaker, for the first time since the State of West Virginia was organized as a separate State are we called upon to mourn the death of one of her representatives in the national councils.

We are told in the sacred writings that:

It is better to go to the house of mourning, than to go to the house of feasting: for that is the end of all men; and the living will lay it to his heart.

May it prove so in this instance. May we lay this visitation of divine Providence to our hearts, and leave this Hall better men, better citizens, and better legislators, legislating for the whole country and the continued peace thereof.

ALLEN TAYLOR CAPERTON is no more. He was born in Union, Monroe County, Virginia, (now West Virginia,) November 21, 1810; after having attended the schools in his native village, he went to the University of Virginia and Yale College, graduating with honor at the latter institution in 1831; after which he studied law with Judge Briscoe G. Baldwin, at Staunton, Virginia; he was admitted to the bar and up to his death practiced his profession in his native county and several adjoining counties. Having all the advantages of a thorough education, and being of studious habits and fond of his profession, he soon ranked among the very ablest lawyers in the State. He had a mind peculiarly adapted to the law, its catholic spirit, the broad principles of even and exact justice he found in the pages of the law library were in perfect consonance with his own nature. His lofty spirit disdained the arts of the pettifogger. In his practice he was never guilty of deception. He deceived neither client, court, nor jury, retaining to the last the confidence and respect of each. He took peculiar delight in the companionship of his brother members of the bar, as all can attest who ever met him professionally, or under his hospitable roof; but he did not confine himself exclusively to the labors of his profession. He took great interest in developing the material interests, the agricultural and mineral resources of his State; he was a director of the Thames River and Kanawha Canal, in which he took a great interest up to the time of his death; he had a great and life-long desire to see by the construction of this magnificent work the waters of the mighty West connected with those of the East.

He was for several years a member of the State house of delegates and of the State senate of Virginia, his last senatorial term being from 1859 to 1860. During his service in the Legislature, enabled as he was by his store of knowledge, he assisted very materially in molding the code of laws of that State. He was also a member of the constitutional convention of that State in 1861. At the breaking out of the late war he was originally opposed to extreme measures, believing with many others that the rights they claimed could be more certainly obtained by battling for the right within the Union; but when his State decided otherwise he followed. During the war he was elected to the confederate senate, which position he held at the close thereof. As soon as hostilities ceased he turned his face to the future, and from that time to the day of his death he did all in his power to restore peace, harmony, and fraternal feeling to this distracted land.

As long as the whig party was in existence he was one of its strongest and ablest supporters; he defended its principles and devoted himself to its success with knightly courage and devotion. Oft and again in earlier days has his manly form been seen going from county to county, along valley and over mountain-heights, for the purpose of addressing his fellow-citizens in stirring and eloquent appeals to rally them to the standard of Henry Clay. Wherever the white plume of his great captain, Harry of the West, was seen, there was he.

On February 17, 1875, after a protracted struggle he was elected to the United States Senate to succeed Arthur I. Boreman. How short his career on that theater! Truly hath the wise man said:

Boast not thyself of to-morrow; for thou knowest not what a day may bring forth.

During the last session of Congress we had rooms in the same building, and it was my fortune to see more of him in his last sickness than any other person. It was my lot and sad pleasure to minister to his varied wants in his last days on earth. His suffering at times was very great, after which he was easy and very cheerful. He bore his paroxysms of suffering with heroic fortitude, never repining. A short time before the critical moment his only son and eldest daugh-

ter, with other relations, were summoned to his bed-side; his noble and devoted wife being too feeble to travel. He was not aware his end was so near. On the last morning of his earthly existence, thoughtful as he always was of the pleasure of others, he suggested to his son and another gentleman near and dear to him who was in attendance to go to the Hall of the House of Representatives to hear a certain discussion that was to take place in which he felt a great interest. They yielded to his request, and only returned an hour or two before he had another and his last paroxysm. About four o'clock p. m. of that day, July 26, 1876, he was sitting up in his bed conversing with his son. All at once he said quickly to him, "Raise that window," which was done, and he immediately expired.

"Raise that window!" How typical! how suggestive! As the window of his earthly mansion was raised that of the eternal was opened to receive his spirit into the "House not made with hands, eternal in the heavens."

His remains now lie buried amid the mountains where he was born, and over which he delighted to ramble in his boyhood days and riper years.

If any one had ever doubted the high esteem in which he was held at home, they would have doubted no longer if they had been present on that last sad day when his remains were lowered into the grave. For miles around his friends came from their mountain homes to mingle their tears with his weeping family—men and women of all stations in life, the rich and poor, white and black; among the latter of whom were many who once were his slaves. That was a sad, sad day for the little village of Union. Sadness and silence reigned over that mountain village as if they had lost their last and dearest friend.

But a few weeks preceding this scene a similar one had been witnessed. Augustus A. Chapman, a former member of this House for two terms, had paid the debt of nature. CAPERTON and Chapman in one brief summer. A. A. Chapman was also a man of mark and distinction, beloved by all, disliked by none—a noble and generous soul. Both have left behind them fond, devoted wives, noble specimens of true womanhood, and each a son worthy to bear the names of their respective fathers, and each several daughters inheriting all the nobler and finer traits of character of their fathers. Mr. CAPERTON was of pure and spotless character, public and private.

If it be true, as has been said, that public men are the true reflex of their constituents, then indeed may West Virginia take high rank among the great sisterhood of States.

Cicero tells us that in his day—

The senators, that is, the *senes* or old men of the state, dwelt in the country and lived on their farms.

So did Mr. CAPERTON; and to its fullest extent did he adopt the sentiment of Cicero when he said:

There is nothing more profitable, for there is not in nature, in my opinion, anything more beautiful or affecting than to behold a plantation with all the parts of it in complete and perfect order.

He delighted in horse-back exercise. He was devoted to his home and his State. He delighted in natural scenery, and at times he seemed to be enchanted.

Well do I recollect one bright, beautiful morning, when we were returning from Charleston on horseback, just as the sun was gilding the eastern horizon, we reached the highest point of Sewell Mountain, when suddenly he called to me to halt, and said, "Behold the beauty, grandeur, and sublimity of this view." Below us lay the morning fog as one broad sea, with here and there some peak taller than the others rising through the fog and presenting the appearance of so many islands, covered with the most beautiful emerald, in the midst of the ocean.

Again he burst forth in his ecstasy and exclaimed—

See yonder mountains, the everlasting mountains; how peerlessly they rise
Like earth's gigantic sentinels discoursing to the skies.

He could not tolerate tyranny or oppression either in the individual or state; he was a noble specimen of truest manhood, most eloquently and happily illustrated in that expression of George W. Summers, West Virginia's most gifted orator, when, describing the State and her people, he said:

Her people are a bold, daring, liberty-loving people; they are lulled to sleep at night by the roaring of her cataracts and awakened in the morning by the scream of the eagle as he takes his flight sunward.

He had a kind, tender, and grateful heart. Well do I remember on another occasion, when again traveling on horseback over our lofty mountains, when arriving at a certain spot he pointed to a farm some distance from the road and said "There lives a generous, kind-hearted man; I shall never forget him; directly after the war as I was passing that point he came out to me and said: 'Mr. CAPERTON, you are going to Charleston; although you are a rich man in this world's goods I know you can have no money, for the war has just closed; here are a few dollars in silver that I had buried; take it.' I thanked him, but declined his generous offer."

He was a man of scholarly attainments, a fine lawyer, a man of enlarged views on all subjects, a devoted husband and father, a warm friend, a generous neighbor, and a worthy example to old and young, at home and abroad, in public and private. He scorned everything like duplicity.

In the selection of men to fill the offices of our State, from the highest to the lowest, he always urged that none should be elevated to po-

sition but men of ability and spotless character, both in public and private, having an eye single to the good of the State and all the people thereof.

But I must detain you no longer. He is gone, gone to his long home. Who will dare say the world was not better by his having lived in it? No more shall we look upon his manly brow and delicately chiseled features; no more will we hear his merry laugh or words of encouragement and sound wisdom.

His life was gentle; and the elements
So mixed in him, that Nature might stand up
And say all to the world, "This was a man!"

Mr. GOODE. Mr. Speaker, the representatives of the American people are again called upon to pause in their deliberations for the public good, to recognize the hand of death and to render a just tribute of respect to the memory of a worthy compatriot and faithful public servant in the other end of the Capitol.

On the 26th day of July, 1876, ALLEN TAYLOR CAPERTON, a Senator from the State of West Virginia, was suddenly stricken down in the midst of an honorable and useful public career, and his mortal remains were borne hence to his beautiful home in the mountains of West Virginia, where they were tenderly consigned to the grave by his bereaved neighbors and friends who had known him long and loved him well. As one of the Representatives from the State of Virginia, I feel that I would disappoint the just expectations of my constituents if I failed to utter their voice of sympathy on this memorial occasion and to give some expression, however inadequate, of the respect and esteem in which they held the distinguished dead. Virginia claims the mournful privilege of laying a simple wreath upon the tomb of her departed son. Mr. CAPERTON was born upon the soil of Virginia. He was educated at her great university. He was identified with her works of internal improvement. He was for many years an active member of her General Assembly in both branches. He was a conspicuous member of her convention in 1861, and served her with fidelity and zeal in the senate of the Confederate States until the close of the war in 1865. He loved his native State and all her traditions. He cherished with filial devotion the hallowed associations and historic glories which cluster about her honored name. When that mother Commonwealth, so rich in historic treasures, shall stand up in after years and point with maternal pride and tenderness to her long line of devoted and illustrious sons, the name of ALLEN TAYLOR CAPERTON will not be forgotten.

My personal acquaintance with him commenced in the Virginia convention of 1861. He had come into that body earnestly opposed to the separation of the States. He was ardently and devotedly attached to the Federal Union. He was bound to it by the strongest and closest ties of affection. He was exceedingly reluctant that Virginia should attempt to dissolve her connection with it. He remembered with pride that the Union was in a great measure the creation of her own hands; that it was her son who had penned the Declaration of American Independence; that it was her son whose heaven-born eloquence had first kindled the fires of the American Revolution; that it was her son who was confessedly the father of the American Constitution. When the Union was dissolved he exerted all his great powers and exhausted all his persuasive eloquence in an effort to bring about its restoration. He was instrumental in inaugurating the peace congress here at Washington. He advised that commissioners should be sent to the seceding States of the South. But after the war had been commenced, and Virginia had been fired upon while bearing the olive-branch of peace, he felt that every consideration of duty and of honor required that she should take her position with her southern sisters, and, with a full knowledge of all the fearful odds against her, he deliberately voted to adopt her ordinance of secession. While the war continued, Virginia was swept throughout all her borders by the besom of destruction. Her sleeping cities were awakened by the music of bursting bombs. The thunder of hostile cannon echoed and re-echoed along all her coasts, and her green fields were made red with the best blood of her children. But in that trying ordeal through which she was called to pass the great heart of ALLEN T. CAPERTON never quailed and his heroic spirit never faltered in devotion to that cause which he believed to be the cause of civil liberty and constitutional government.

As a Virginia Senator he supported all the war measures of the confederate government with alacrity and zeal, and never withheld a man or a dollar until the confederacy had fallen prostrate, bleeding and exhausted before the victorious legions of the Union. Such was the intrepidity of his nature and such the cheerfulness of his courage that he moved steadily forward in the path of duty unawed by danger and uninfluenced by any consideration save those which concerned the honor and welfare of his people. But, when the war had terminated and the long night of agony and of woe had been spent, Mr. CAPERTON, as an acknowledged leader of public opinion in his section, was one of the first to come forward and advise his countrymen that it was the dictate of wisdom and patriotism to submit manfully and cheerfully to the logic of events. He believed with Edmund Burke that true statesmanship consists in a proper adjustment of the conditions in which we find ourselves placed. He indorsed the sentiments of that eminent British classic who said that "to the future and not to the past looks true nobility of soul." Instead of indulging vain regrets over the issue of our unsuccessful struggle, he felt that it was

a high and patriotic duty to extinguish the bitter memories of the war and with uplifted brow to look bravely and hopefully to the future. He felt that it was no reflection upon southern manhood to imitate, in all respects, the great example of our immortal chieftain whose watchword was duty and who from the day of his surrender at Appomattox to the day of his death at Lexington never failed to inculcate the doctrine that having renewed our allegiance to the American Constitution, we too had duties to perform as American citizens. His heart's desire and prayer to God was that we might have peace—peace between the sections and peace between the races. He well knew that without a lasting and enduring peace there could be no development of our material resources, no revival of our prostrate industries, no restoration of hope and of confidence to our distracted and afflicted country.

As one of the results of the war, the State of West Virginia was carved from the side of old Virginia and the county of Mr. CAPERTON'S residence was embraced within the limits of the new State. Notwithstanding the fondly cherished associations of a life-time were thus rudely sundered, he did not, like the captive Israelite of old, hang his harp upon the willow and sit down by the waters to weep, but, like a true man as he was, he immediately addressed himself to the task of developing the untold wealth and the magnificent resources of that young and highly favored State. Nowhere else upon this continent can be found a more fertile and productive soil or a more genial and delightful climate. Her beautiful blue mountains abound in iron, copper, coal, lead, and other minerals. Her magnificent rivers murmur, as they roll, the music of her power. Mr. CAPERTON fully appreciated her great capabilities and her immense natural advantages, and instead of calling upon Hercules for help, he advised the people to go to work and help themselves. They have gone to work with an unfaltering purpose and an indomitable will worthy of the heroic race from which they sprang. They have exhibited recuperative energies which have not been surpassed by any people in any age.

Such was the high estimate in which Mr. CAPERTON was held by the people of West Virginia that they embraced the first opportunity to send him as one of their representatives in that august body, the Senate of the United States. It is a sufficient eulogy to say of him that he was equal to the occasion and worthy of the exalted station. He was not a brilliant orator but a wise and safe counselor. He was not a fierce gladiator in debate, but a modest, dignified, prudent Senator. Descended from an ancient stock, he was always and everywhere a gentleman of the old school. He was a man of such lofty character and incorruptible integrity that he would have felt a stain upon his personal honor like a wound. What a happy day it would be, Mr. Speaker, if every position of honor and of trust in our land could be filled by a man of character, who would avoid corruption in office as he would flee from the "pestilence that walketh in darkness and the destruction that waiteth at noonday." But, sir, our true and noble and gallant friend has gone from among us forever. No more will his manly form be seen in these Halls. No more will we receive the friendly, cordial grasp of his hand. No more will we hear his words of sympathy and of cheer to comfort and to strengthen us in the great battle of life.

The mighty flood that rolls
Its torrents to the main,
Can ne'er recall its waters lost
From that abyss again.
So days and years and time,
Descending down to night,
Can thenceforth never more return
Back to the sphere of light.
And man, when in the grave,
Can never quit its gloom,
Until th' eternal morn shall wake
The slumber of the tomb.

Mr. Speaker, when the Forty-fourth Congress first assembled the Representatives of the people found the Capitol draped in mourning for the loss of Henry Wilson, the favorite son of Massachusetts and the second officer of the Government. During the existence of this Congress they have paused amid the bustle and turmoil of legislative life to chronicle the deaths of the lamented Starkweather of Connecticut, the gifted Parsons of Kentucky, the high-toned CAPERTON of West Virginia, and our late beloved Speaker, Michael C. Kerr of Indiana, whose genius and virtues have illustrated the grandeur of American institutions and lent additional luster to the American name. What mean all these dispensations of Divine Providence? What mean all these habiliments of woe which now surround the Speaker's chair and meet the eye of the Representative of the people as he enters this Hall? The solemn lesson which they convey to each one of us is "Be still, and know that I am God."

Mr. WILSON, of West Virginia. Mr. Speaker, one of the most beautiful traits of the human character is that the living mourn the loss of the dead. When relatives or friends or acquaintances are removed from earth, it forces upon us a renewed realization that man is born to die, that life is but a span, and eternity hath no end; it arouses in our breasts the feeling of man's obligation to his God. How impressive and sorrowful the reflection that from the prime of life and the vigor of manhood we may, under the providence of God, be stricken down in the twinkling of an eye. It verifies the teaching of divinity that in the midst of life we are in death.

At an early hour upon the morning of the 27th of July last I was shocked with the intelligence, communicated by a friend, that Senator CAPERTON was dead. How sad that solemn announcement! Sadder, perhaps, to me than to any other member on this floor, for the thought rushed upon my mind that but a few brief weeks before that time, when a protracted, dangerous, and wasting sickness had carried me almost to death's door; when my family, physicians, and friends had well-nigh ceased to hope for my recovery—even when the announcement of my death had flashed along the wires to my constituents—I remember, ah! well and gratefully do I remember, the deep and anxious solicitude with which the distinguished dead whose loss we mourn here to-day lingered at my bed-side; well do I remember the words of comfort he whispered in my ear, and the tender care with which he administered to my almost dying wants. Under the providence of a merciful God I have been restored to health again, but my friend, O, my friend! where is he? Gone! gone to that bourn whence no traveler returns. I follow him with my prayers and beseech for him grace and pardon from a just and righteous God.

At six o'clock in the evening of the 26th of July, 1876, ALLEN TAYLOR CAPERTON, Senator from the State of West Virginia, departed this life, in the sixty-sixth year of his age, in the city of Washington. His disease was that technically known as *angina pectoris*. His last illness was of brief duration, and was at no time regarded dangerous. His devoted wife was then unhappily confined to a sick-bed, at Richmond, Virginia, and for that reason was unable to attend her husband in his last hours. His son and daughter, assisted by other relatives, kept faithful watch over their fond father and were flattered by the hope of his speedy recovery. Upon the morning of the day of his death he was feeling so comfortable that he advised his son to attend the session of the House to hear the speech of an able friend. When the son returned he found his father sitting up in bed, brushing his whiskers. He suddenly called to the son to hoist the window, and immediately sank back on his pillow, and expired without a groan. We can better imagine than describe the anguish of those children, and the untold grief and agony that entwined itself around the heart of that wife when the startling, crushing news fell upon her ear that one whose very existence formed part of her own was called to lie down in the cold damp ground to sleep that knows no waking.

Mr. CAPERTON was born near Union, Monroe County, Virginia, now West Virginia, November 21, 1810. He attended school, first in Virginia, then at Huntsville, Alabama, next at the University of Virginia, and graduated at Yale College in 1839. He afterward studied law with Virginia's distinguished jurist, Judge Briscoe G. Baldwin, at Staunton, was subsequently admitted to the bar, and practiced his profession with ability during the remainder of his life. He served as a director of the James River and Kanawha Canal, and was for several years a member of the Virginia senate and house of delegates. His last senatorial term in the Legislature ended in 1860, and in 1861 he was elected a member of the State constitutional convention which passed the ordinance of secession, and was afterward elected by the Legislature of Virginia a member of the Confederate States senate, in which body he served until the close of the war.

After the close of the war he returned to his home in the mountains of his nativity, where, borrowing the idea from another, it may be said, the air is pure, heaven serene, and God is near. Here he intended to spend the evening of his life in his professional and private pursuits and in the enjoyments of his home. He engaged actively in presenting to eastern capitalists the vast and superior coal and timber regions of the southwestern portion of his State, and to his energy and ability perhaps as much as to those of any other gentleman are the citizens of the East and West indebted for that development which gives cheap fuel, cheap lumber, and promises of cheap transportation. But his mission had not yet been fulfilled; his people had further need of his talent, his experience, his learning, and his purity, and after an exciting and somewhat bitter contest between other gentlemen for a seat in the United States Senate in the winter of 1874-'75 the Legislature of his State conferred that high honor upon him. He was an element of compromise acceptable to all, and the honor was the more thankfully and graciously received because it came to him unsought.

In early life he was a whig in politics, was an admirer of Henry Clay, Josiah Randall, and their compeers, and a co-worker with them. The most cordial personal relations existed between himself and Mr. Randall, and the visits of the latter gentleman to the mineral springs of Virginia, and to his landed interests in the coal regions on the Great Kanawha, brought them into frequent association. Upon the disintegration of the whig party Mr. Randall was prominent in heading the movement to unite the whigs with the conservative-democratic party. His great speech, delivered at Chambersburgh, Pennsylvania, on the 6th of August, 1856, at the request of the democratic convention of that State, defined the policy of the wing of the party who aided the democrats in achieving the victory of that year. In this movement he was ably seconded by Mr. CAPERTON, and during the remainder of their lives they co-operated in carrying out the policy thus inaugurated.

Mr. CAPERTON discharged the duties of the various positions he was called upon to fill with honor to himself and benefit to his constituents. It was in the constitutional convention of Virginia, in 1861, that I became intimately acquainted with him. He there, as always before and since, displayed the fine culture, high character,

and conservative views that drew around him the love and confidence of his people. He was a conservative-union man, opposed to secession, and declared that it was not the remedy for the evils of which his State complained—that secession would lead to coercion, coercion would produce war, and war would result in distress and desolation. It was not until his State had taken the fatal step that he determined to follow, but, being of that school which regarded the doctrine of paramount allegiance to the State, when his mother, Virginia, cast her fortune with the confederate government, he threw his influence for weal or for woe with that mother and determined to share her fate, whatever that fate might be. Upon the close of the war he accepted the situation, and acquiesced in the abandonment of secession and the overthrow of the institution of slavery.

He also acquiesced in the validity of the thirteenth, fourteenth, and fifteenth amendments to the Constitution of the United States, giving to them the broadest interpretation placed upon them by the courts of the country; but he also tenaciously clung to those other familiar provisions of the Constitution, one of which guarantees to every State in the Union a republican form of government, and the other reserving to the States respectively, or to the people, the powers not delegated to the United States nor prohibited by it to the States. His earthly career is ended, and his friends in their grief point with satisfaction to his life as one well spent—upon which neither spot nor blemish can be found. The chief feature of his character was its purity and unbending integrity; he lived and died an honest man—the noblest work of God. Sorrow for such a one is an affliction we cherish and brood over in solitude; we would not wipe out from our recollection if we could the memories of the man. "The love which survives the tomb is one of the noblest attributes of the soul." "There is a voice from the tomb sweeter than song—there is a recollection of the dead to which we turn, even from the charms of the living."

Let me mingle tears with thee,
Mourning for him who mourned for me.

Mr. TUCKER. Having known Mr. ALLEN TAYLOR CAPERTON, late Senator from West Virginia, intimately for more than a quarter of a century, it is fit that, as his friend and as a representative of his mother-Commonwealth, I should speak of his public and private character to-day.

He sprang from a race which removed from the south of France to the north of Ireland; and thence his great-grandfather, Adam Caperton, came to America.

His grandfather went to Kentucky, in its early history, and was killed by the Indians in a battle known as Estill's defeat.

His father, Hugh Caperton, began life in Monroe, then Greenbrier, County, Virginia. He was a prominent man, was esteemed a gentleman of honor, and was a citizen of great public spirit and wide influence, and full of good deeds to the people among whom he lived and died.

He was a member of the State Legislature and for several terms a Representative of his district in this House of Congress, in which body he established a cordial and permanent friendship with such men as Henry Clay and Daniel Webster.

His distinguished son, whose death we now deplore, was liberally educated at the University of Virginia and then at Yale College, being graduated at the latter institution in 1831. He studied law at Litchfield, Connecticut, and afterward under the late eminent Judge Briscoe G. Baldwin, of the court of appeals of Virginia.

He began the practice of the law in his native county, and rose rapidly in public confidence as a counselor, advocate, and man. He was successively a member of both houses of the Legislature of his native State, of her constitutional conventions of 1850 and 1861, and was elected by her Legislature in 1863 to the senate of the Confederate States, in which he served honorably to the close of the war. Two years ago he was elected to the Senate of the United States by the State of West Virginia, and died in July last while faithfully doing his duty in that body.

His career, so full of manifestations of public esteem, gives evidence of rare mental and moral endowments, and justifies me, who knew him well, in attempting to portray them as they were grouped in his noble character.

His intellect was active, acute, and vigorous, with a substratum of shrewd and masculine common sense, which constituted him a wise and sagacious counselor. He had imaginative powers superadded, which gave fervor and earnestness to his convictions and made him an able and often an eloquent advocate at the bar, on the hustings, and in the Senate. His culture was liberal, and, while his study of his profession and of political science did not rank him with the most learned and profound lawyers of the country, yet he was most efficient in the conduct of his cause, very successful in the management of business, eminently safe as an adviser, and an able public servant.

In the very depths of his soul he was brave, disinterested, generous, and true. He was sincere and constant in his friendships; open, manly, and magnanimous, though stern and resolute to his foes. Deceit could not cross the confines of a heart whose inmost citadel was held by honor and truth. He was frank and candid, and in his word absolute reliance was reposed; for as his sincerity was undoubted, so his courage was a pledge to make it good to his friend, or against his opponent.

To these sterling and manly virtues were united all the gentleness

of a tender and loving nature. To his friends his society was a genial sunshine. Good sense, with wit and humor; earnestness of purpose, with perennial pleasantness; the manly activities of a firm and resolute nature, with a taste for poetry and music; gentle loves and ardent friendships in the midst of the fierce struggles with adverse fortune or malign influences—these were mingled in beautiful proportions on the page of his history.

His mountain home was the seat of a hospitality where his guest forgot it was not his own, or only recalled it as he admired the easy freedom and graceful dignity of a host who banished all formality in the nobleness of his welcome and the simplicity and generosity of his entertainment.

He had the warmest sympathies for his own people. "The short but simple annals of the poor" ever found his ear attentive. Their early traditions, their homely thoughts, their sturdy and healthful sentiments, he heard, appreciated, and cherished. To his equals he seemed proud and reserved, until friendship melted the surface, beneath which was the warm current of his affections; but he was never haughty to the lowly, the poor, or the helpless. To these he was gentle, tender, and sympathetic; so that popularity followed him unsought. He charmed childhood by his playfulness; won the esteem of the gentler sex by his attractive manners, his cordial deference, his genuine respect, and his chivalrous courtesy and manhood paid homage to his liberality, his courage, his honesty, his magnanimity, and his good sense.

In his own household—I pause upon its sacred threshold but to utter one word: As husband and father he merited the grief which can only be assuaged by Him whose promise is sure, to be the husband of widowhood and the father of orphanage!

I have spoken of Mr. CAPERTON as a man adorning society by his presence and as a citizen blessing his people by his beneficence.

I must speak of him as a public man. He was animated by a high public spirit, lending his aid to all schemes which would benefit and advance the interests of his community, his State, and his country, in its largest sense.

He was a whig in politics in early life, and adhered to that party until 1860 with consistent and unshaken fidelity. After the presidential election of that year he was elected to the convention of 1861 as a Union man. He was a patriot, who loved the Union of our fathers with a depth of devotion which was only surpassed by his veneration for Virginia. And he adhered to the Union until the proclamation of Mr. Lincoln of April 15, 1861, summoning Virginia to assist in the war upon her southern sisters, when he decided to follow her into the southern confederacy, and was faithful and true to its cause until it perished by war in 1865.

But Mr. CAPERTON was no visionary or dreamy abstractionist. His mind was sagacious and practical. In the overthrow of the confederacy he saw the divine decree that the future fortunes of the South were bound up in the restored Union under its constitution, and that duty demanded of him to devote his future life to building up the waste places of his own loved land, to repairing the breaches in the Federal system, and to promoting the liberty and the progress of the people of these reunited States.

I know that such was his patriotic purpose and has been his earnest effort. He fell at the post of his duty, and has left to his friends and to his countrymen a name without a stain, a character for spotless and lofty integrity, and the perpetual memory of a noble and honorable life.

Mr. CAPERTON and our late Speaker died within a few weeks of each other. Mr. Kerr passed away amid mountain-scenes in Virginia resembling those familiar to the eye of Mr. CAPERTON. Virginia may well mourn them together: the one her faithful son, the other who, drawing the inspiration of his opinions from our State, ever held her in a reverence which merits the tribute of her sorrow, as his eminent virtues and abilities won the esteem of her Representatives. In this Hall, where lately eloquence lent its voice of praise to the memory of Kerr, we may speak, above the graves of both, our sincere conviction that in their death the country has lost the sagacious counsels of two patriot-statesmen, never more needed than in this critical period of her history to guide her in the path of prosperity and honor and an enduring peace.

Mr. Speaker, I have thus endeavored to delineate the character of my friend in simple words and with fidelity to truth. I dare not trust myself to speak of the personal relations which bound us for many years nor of the beautiful memories of the past which crowd upon my mind.

In this desperate battle of life, as we near its close, so many who began the march with us have fallen like leaves in wintry weather, that we naturally feel as if the friends who are gone were more numerous than those who remain. What we are meant to learn from these providential events is not merely the trite lesson of the uncertainty of our life, but that as death ends so life must be filled up with duty. Duty is indeed the *whole* of our life, the sublimest word as it is the grandest thought of our race. As we look in the face of our honored dead, where passion's flush has yielded to perpetual pallor—

Before decay's effacing fingers
Have swept the lines where beauty lingers,
And marked the mild, angelic air,
The rapture of repose that's there,

we feel how solemn it is to die and close forever the book of human purpose, and human activity, and human obligation. But life is more solemn than death, and of deeper import. It is our only opportunity for responsible work, to make up that record which must stand of duty done in the fear of God and for the good of our race.

Brother Representatives, we have buried one who, with us, represented the voice of the people of these States in our Federal Union. We stand to-day at the grave of one of the representatives of an organic State, in its equipollent relations to its sister Commonwealths. Each in our respective Houses have solemn relations to this great system of government, and fraught with momentous results in the near future of our history. May we be endued with wisdom from on high so to perform these important functions that when our summons comes, as soon it must come, we may render our dread account without fear; and, life's weary warfare done, and well done, may sink peacefully and honorably, with firm faith and humble hope, to our welcome rest from all the work that wearies; and enter with immortal energy upon the activities and the aspirations of an eternal life in the presence of our Father and our God!

Mr. KASSON. Mr. Speaker, I regret that I cannot adequately contribute another to the fitting tributes already rendered to a character so respected and so amiable as that of the late Senator CAPERTON. His life here in Washington was so quiet, his public service in the American Senate so short, that comparatively few of us on this floor had the pleasure of even a personal acquaintance with him; but so many of us as did know him—and I am glad to have been one of that number—most sincerely unite with the delegation from his own honored State in a common regret at his departure from these scenes of his official duty, and in a common grief that his presence will never again brighten the hours of our social intercourse.

Sir, there has always been, both in the Senate and House of Representatives, a body of useful men, rarely claiming the attention of the public press, rarely consuming the hours devoted to debate, but sound in their judgments, attentive to the duties of committees, patient in labor for their constituents, and conscientious in their votes. The applauding clamors of the public never fall to their share, never quicken their vanity, or give them a deceptive pleasure. No wreaths of earthly glory are woven for their brows. No eager, selfish ambitions induce them to provoke or to participate in popular tumults, in the turbulence of which they may rise to temporary distinction. They love peace for themselves and peace for their country. Their reward is not sought in popular applause, but in an approving conscience. The God who speaks in a "still, small voice," not He who speaks amid the rending winds of tumultuous praise or in the earthquake of civil strife, is the object of their worship. Faithful to duty as they see it, their lives pass, giving and receiving blessing, tranquilly to their end.

To this class of useful men and trustworthy public servants Senator CAPERTON belonged during the period of my acquaintance with him, faithful to his constituents, faithful to his own convictions of duty, giving to his country the benefit of his large experience in affairs without conceit and without ostentation. In social life his quiet nature gave an illumination to the circle in which he moved. Even his presence served as a bar to discord and an invitation to conciliation. Elected to a position in the confederate senate during the years of our national trouble, it might have been expected that he would enter the Senate of our reunited States with prejudices which would mar his record or impair his usefulness. But his character was too true, direct, and sincere to admit such a result. From the moment he took his official oath as a member of that exalted body charged with the vast interests of this Republic, he seemed to have no thought which was at discord with his patriotic duty. He became a true son of his united country, and not a word from his lips ever fanned the dying embers of civil strife. His action in the Senate, in committees, and in society was an assurance of returning fraternity. So far as we have any knowledge, no angers, personal or political, remained to be buried in his grave. No one there had need to suppress a frown. Only those who bore to him the sentiments of kindness and affection could be found in all the range of his social relations.

Thus, Mr. Speaker, this House knows no distinction of party names as we gather to this memorial service. We all reluctantly bid farewell to our late associate in Congress. We all honored him living; we all revere his memory, dead. We all wish to lay some fond tribute upon his tomb. All of us deeply sympathize with those who were nearest to him in the ties of kindred and with his congressional associates from his own State. We all are to see his face no more on earth. We all pray for a meeting in the other and happier world to which he has gone.

Mr. HARDENBERGH. Mr. Speaker, death's hurricane again has passed and a stately tree has fallen, rich in the foliage and fruits of its gathered years, at once an ornament, a beauty, and a blessing.

A stricken family bewails its loved one lost; a sovereign State mourns an illustrious son, called away in the maturity of his power; the Senate drapes again with the devices of mourning a Senator's chair, and we attest by our spoken grief that another member of the Forty-fourth Congress has passed through the portals of the tomb and a spirit ascended to the bosom of its Father and its God.

It is right that we should pause in our avocations, and while laying our garlands upon his tomb give fitting expressions to the thoughts which instinctively well up in the heart. It is also right that as representatives of the people we should bear our testimony to the virtues which gave dignity to and adorned his character, for he was true to his high trust, and the sentiment is at once chaste and beautiful that marks an immemorial custom when death enters here, as State joins with State, to attest the common sorrow as mourners at the grave of an associate and a friend. We cannot repress our grief when the "good man" dies. Society feels the vacuum when an educated mind is withdrawn forever from its service and a ray of broadest light expires, light furnished by that inward and immortal lamp which when its mission upon earth has ended is trimmed anew by angel hands to shine forever in the land beyond.

The mind of man in its sphere and destiny is essentially immortal. It is true it has its periods of youth and age; its rise, its progress, its decline; yet, like the oak whose withered branches have withstood the storms and gales of centuries, when its leaves are strewn by wailing winds and angry blasts, from the small but gradual unfolding of that vital substance spring forth into life and beauty as a new creation the buds and blossoms of another year.

There have been many vacant seats since first we gathered at our country's call. Massachusetts weeps still at Wilson's grave, for he was her gifted son, reared from toil, and the record of his useful public service in times that gave development to greatness will alike forever adorn her own and the nation's annals.

Connecticut has lain away with tender hands a gallant Senator and a faithful Representative once of us here. Kentucky's tears fell thick and fast as the manly form of Parsons was borne away to repose beneath her generous sods. A few days since and all the eloquence of woe was heard within this Hall, as we rested from our pursuits of legislation at Indiana's and the nation's loss that our Speaker, her sturdy son of Roman type, lay buried from our sight; and now West Virginia, virgin State, born into the Union amid the mightiest of earth's great warfares, has veiled her temples in mourning as the sad procession again was formed to bear her departed Senator o'er her hills and through her vales at once to his home and to his grave. Born upon her soil, with gifted powers early trained in academic groves, he gave to her his noblest services. And for these she loved him and crowned him with her highest civic honors. It was right it should thus be.

That country best honors itself as it confers its dignities upon its worthiest and most illustrious sons, for the record of their lives will mark the noblest pages of its career.

There was a period in Grecian history denominated the "heroic age." The mystic spirit of that classic race had invested men with the dignity of gods. So wonderful had been their achievements, so exalted their career, that the mere attributes of ordinary humanity were not sufficient to account for the virtues they possessed. Their names were inscribed upon the warrior's shield, lifted up as the silent guardians of the public weal, adorned the temples dedicated to justice; for in all places and on all occasions where patriotism sought example the heroes of classic Greece claimed the reverence and affection of the people.

Mr. Speaker, may not the intelligent inhabitants of a hemisphere unknown to the ancient kingdoms of the world when truth was veiled in fiction and before the revelation of a superior wisdom to mankind, as we cross the threshold of our new centennial, give higher witness to our own "heroic age" as memory reverts amid such touching scenes as this to the long list of minds of giant mold from those who founded to those who in the providence of God may preserve this best of human governments? Standing as we do by the new-made graves of Wilson, Ferry, and of Starkweather, of Parsons, Kerr, and CAPERTON, shall we not learn lessons anew of the patriot's duty and the legislator's high responsibility, that passion and prejudice and envy shall be quenched in that nobler spirit of endeavor whose patriotism is the love of country, whose code of morals is the love of man? Then the pillars of our Republic will be the firmer set, its destiny the surer be, and then indeed shall be given a purer emphasis to the language of the Roman bard:

Ye have raised monuments more lasting than brazen statues—higher than the royal pyramids—which cannot be destroyed by wasting rains or the fury of the winds, by the series of countless ages, or the flight of the eternal years.

Mr. FAULKNER. Mr. Speaker, my colleague who sits near me, [Mr. HEREFORD,] having, as it was altogether appropriate for him, given a somewhat detailed sketch of the life and services of the individual whose death has just been announced, it will only be expected from me to give my personal recollections and impressions of the deceased, as derived from my occasional official and private association with him. Although we were both natives and citizens of the same State, and of the same grand division of the State, yet we were widely separated by distance from each other, and rarely met except when engaged in the public councils of our State or of the nation. This is not an occasion, in my view of it, for indiscriminate or exaggerated eulogy, but a very fit and appropriate occasion to portray the real character of the deceased, and to let the story of his life suggest such reflections as the facts may fairly warrant.

Mr. CAPERTON was not among the most distinguished men of either of the two States which have honored him with their confidence; but he was a fair and honorable representative of a high-toned and edu-

cated class of country gentlemen who gave a character to Virginia society and exercised a salutary influence upon the particular neighborhoods in which they lived. Inheriting a large landed estate from his immediate ancestor, he was removed above the necessity of pursuing any profession as a means of livelihood; and yet, as was not uncommon among youths similarly situated with himself in that State, he received the benefits of a liberal and classical education, and passed through the curriculum of Yale and the University of Virginia with credit and distinction. Such an education at that period usually embraced a course of municipal, constitutional, and national law, and was sought after by our young men of inherited fortunes, not as a means of gain or profit, but as a source of intellectual enjoyment, and as a stepping stone to political preferment. Blessed with a sound constitution, a handsome person, frank and engaging manners, an easy flow of language, an ample fortune, and animated by noble but modest aspirations for public service, no young man could have commenced life with promise of a more useful and honorable career.

His mind was quick, sprightly, penetrating, and accurate, but not of the highest and most robust order. It had not been disciplined by habitual labor nor invigorated by the stern collision of intellectual gladiatorialship. His memory was tenacious and his fancy occasionally brilliant, while a suppressed and gentle humor gave a peculiar charm to his conversation. His literary taste, naturally acute and delicate, had been assiduously cultivated and improved by a careful study of the best English classics.

As a statesman he was essentially conservative in all his views. He was a sincere believer in the superiority and value of free institutions and an inflexible advocate of all the just rights of the people; and yet he was no demagogue. His appeals were always to the reason, not to the passions or prejudices of his hearers. He never flattered popular follies, but often exhibited a peculiar pride in avowing an unpopular opinion if he had himself full faith in its soundness. He looked with intense admiration upon the wisdom and sagacity displayed in the Constitution of the United States, and was disposed especially in his earlier life, to give too broad and liberal a construction to its implied powers. He was the stern and inflexible supporter of what he believed to be the right; and perhaps treated with too much levity and harshness what was deemed by others expedient in morals and politics. His maxim in life was *Nihil vero utile, quod non idem honestum*.

There was one quality which strikingly distinguished Mr. CAPERTON, and which all will recognize who enjoyed the pleasure of his acquaintance, and that was an elevated tone of mind and morals, which rendered him incapable of countenancing a low or mean action. He shrank from all humbuggery, imposture, and false pretension as something vile and contaminating. He was a stranger to the gnawings of envy; he stabbed no man in the dark; he took no unmanly advantage of an opponent; he was modest in the assertion of his own merit; disdained to appropriate credit or honor to himself which he had not fairly and honestly earned, but did full justice to all who were associated with him in joint labors of any kind. He never sought to impress himself upon the world as something greater or better than he really was. In other words, he was throughout life a sincere, truthful, honest and honorable man.

My acquaintance with Mr. CAPERTON commenced at Richmond, in 1841. He was then a delegate from the county of Monroe, one of the transmontane and western counties of that State. The agricultural interests of his constituents were at that time suffering severely from the want of a cheap and convenient transportation of their products to market, and he, keenly sympathizing with their necessities, became soon recognized as an ardent and earnest friend of a liberal system of internal improvements. At that time the great scheme which absorbed the attention of the State was a continuous line of water communication between the seaboard and the Ohio River by the valleys of the James and Kanawha Rivers—an enterprise suggested by the unerring foresight of the Father of our Country—shown to be practicable by the engineering science of McNeil, Ellet, Fisk, and Lorraine, and pushed forward in its construction by the labors of Cabell and the eloquence of McDowell. Mr. CAPERTON attracted attention by his earnest advocacy of this great national thoroughfare, a work which now challenges the attention of Congress and ranks among the public works best entitled to its consideration and patronage.

My next association with him was in 1850, as a member of the reform constitutional convention of Virginia.

The people of Virginia for half a century after the close of the revolutionary war lived under a State constitution which would hardly be regarded as republican in these advanced days of democratic progress. Population as the basis of representative power in the Legislature was wholly ignored. The smallest counties, with a population of a few hundred inhabitants, had the same weight in the Legislature with the largest and most populous counties numbering from twenty to thirty thousand; suffrage was restricted to freeholders alone; not an office in the State was elective by the people except members of the Legislature. Election precincts were unknown, and if a voter lived twenty or thirty miles from the court-house, it was there, and there alone that he could declare his *viva voce* vote in the presence of the assembled voters of the county. These defects, with many others in the constitution of that State, were sought to be remedied by a convention which assembled in 1829, composed of a body of men as illus-

trious as ever met together in council upon this continent. Among the persons composing that body were James Madison, James Monroe, Chief-Justice Marshall, John Randolph, Littleton Waller Tazewell, Benjamin W. Leigh, and a host of others scarcely less distinguished for ability and statesmanship. Some of the most glaring defects in the then constitution were remedied; representation was somewhat more fairly apportioned and suffrage partially extended. But the instrument, though protected from severe criticism by the illustrious names which framed it, and which recommended its adoption, fell far short of meeting the popular demand for reform. Accordingly another convention was called in 1850, of which Mr. CAPERTON was a member. The results of that convention gave entire satisfaction to the popular mind of Virginia. Representation upon the basis of the free white population of the State was recognized, although, in a spirit of compromise, the period was suspended for a few years when the principle was to be carried into full operation. Suffrage was extended to all free white male citizens of twenty-one years of age and upward. All offices were made elective by the people, with many other changes of an important and interesting character. In all the proceedings of this convention Mr. CAPERTON bore a useful and prominent part as a friend of constitutional reform, earning the respect and confidence of his colleagues by his good sense, sound principles, and practical suggestions. The constitution was adopted by an overwhelming majority of the people, and an impulse given to the active energies of the State which soon became perceptible in its rapidly increasing prosperity.

Mr. CAPERTON was an ardent admirer of that great and accomplished statesman Henry Clay, who gave evidence in three of the most memorable acts of his life of a devotion almost passionate for the perpetuity of the Union. This sentiment was enthusiastically responded to by his supporters and disciples throughout the country, who, indeed, made it almost the shibboleth of party faith. But the Union which Mr. Clay so eloquently depicted was one of choice, of conciliation, and compromise; not of armed despotism and force. This opinion was largely shared by Mr. CAPERTON, and in all the movements preceding the breaking out of hostilities he was a firm and inflexible adviser of a policy that sought to preserve Virginia to the Union. But when the proclamation of President Lincoln was issued, calling upon that State, among others, to contribute her quota of troops and to become an active party to the war then about being inaugurated to crush the seceding States, and to imbrue her hands in the blood of her brethren of the South, a change came over him, as in one night it did over fifty thousand of the freemen and voters of Virginia. That proclamation boldly presented, on behalf of the Northern States, the stern ultimatum of war, and the alternative was then precipitated upon Virginia either to become a party to a war to conquer and subdue the seceding States or a party to a war to maintain and defend rights which she had held sacred from the foundation of the Government. Mr. CAPERTON and the great mass of the people of that State arrayed themselves on the side of the rights and sovereignty of the States. From that moment his heart and his services were freely given to the confederate cause.

I met with Mr. CAPERTON frequently after he took his seat in the Senate of the United States. I had occasional conferences with him upon measures pending before the two bodies, and it became my duty from time to time, as a member of the House of Representatives, to call his special attention to the personal claims of my constituents and to the local interests of my district. I found him a frank, courteous, intelligent, and attentive collaborer in the work of legislation, ready at all times to guard and protect the interests and to promote the just claims of the citizens of his State. In not a single instance did I observe any procrastination or inattention on his part to any of the several matters to which I invited his attention. His service in that elevated and dignified body was brief, too brief to enable him to exhibit to the country many of those sterling qualities of head and heart which would have reflected credit on his State. But he is now gone forever from among us; his place may be filled by successors of greater brilliancy and of more dazzling talents; but it never can be filled by any man of more virtuous and generous impulses, nor by one more loyal to the true interests and honor of his native State.

Mr. Speaker, I submit the resolutions which I send to the Clerk's desk to be read.

The Clerk read the resolutions, as follows:

Resolved, That the House of Representatives has received with deep sensibility and profound sorrow the intelligence of the death of Hon. ALLEN T. CAPERTON late a Senator from the State of West Virginia.

Resolved, That the proceedings of this House in relation to the death of Hon. ALLEN T. CAPERTON be communicated to the widow and family of the deceased by the Clerk of the House.

Resolved, That as a further mark of respect for the memory of the deceased this House do now adjourn.

The resolutions were adopted; and accordingly (at five o'clock and thirty minutes) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. BANNING: The petition of John A. Lynch, acting quartermaster for the western department, under the command of Major-

General John C. Frémont, for compensation while acting as said quartermaster, to the Committee on Military Affairs.

By Mr. FENN: The petition for a post-route from Kilton, Utah Territory, to Rock Creek, Idaho Territory, to the Committee on the Post-Office and Post-Roads.

By Mr. HOOKER: The memorial of Annetta Mary Vauclair, for a pension, to the Committee on Invalid Pensions.

By Mr. SEELYE: The petition of Augustus Watson, to abolish the Presidency, to the Committee on the Judiciary.

By Mr. VAN VORHES: The petition and affidavits in relation to the claim of Oscar B. Nott, late a private of Company K, One hundred and sixty-first Regiment Ohio Volunteer Infantry, for a pension, to the Committee on Invalid Pensions.

IN SENATE.

FRIDAY, December 22, 1876.

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

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

PETITIONS AND MEMORIALS.

Mr. MITCHELL. I present the joint memorial of the Legislative Assembly of the State of Oregon, in which they represent in substance and effect that the Columbia River, forming the boundary in part between the State of Oregon and the Territory of Washington, and draining the Territories of Idaho and Montana, west of the Rocky Mountains, ranks, among the rivers of the United States, next in importance to the Mississippi River, and is the largest river flowing into the Pacific Ocean from the American continent, its tributaries, watering about 220,000 square miles of territory; that the Columbia is the only river in the United States admitting deep sea-going vessels and ocean steamers one hundred miles into the interior from its mouth; that the channel of this river affords first-class facilities for the navigation of river steamers of large size, and for barge transportation for the distance of five hundred miles or more, obstructed only by two principal rapids and a few reefs and rocks removable by ordinary engineering. The rapids at the Cascades of the Columbia River have already been surveyed and favorably reported upon by the military engineers and an appropriation has been made of \$90,000 for beginning the construction of a canal and locks to overcome the obstruction of the rapids at that point; surveys of the rapids called The Dalles have been made and favorably reported upon as feasible for improvement for a canal and locks at a limited expense, in comparison with the great commercial advantages which will result from such improvement. They further represent that the commerce already developed on that river is quite important and every year increasing at a rapid rate; that a very great extent of country bordering upon the Upper Columbia River is adapted for the growth of cereals in the highest perfection, and no undeveloped region of our country offers better advantages to agricultural settlers than this region. The great problem to be solved in opening this country to early settlement and great productiveness is cheap transportation to the sea of the great future agricultural exports which will follow the occupancy of the country. The Columbia River, when cleared of obstructions and opened to free navigation, will furnish the channel for this cheap transportation. They therefore pray, in the interest of the future development of this country, as well as in the interest of the general commerce of the United States, that Congress will grant liberal appropriations for the opening and free navigation of the great Columbia River. I move that this memorial be referred to the Select Committee on Transportation Routes to the Seaboard, and I desire to state that yesterday a bill was introduced having reference to this matter and referred to the Committee on Commerce. I desire if it be in order to move another reference of that bill. I move that the vote be reconsidered by which it was referred to the Committee on Commerce, in order that it may go to the Select Committee on Transportation Routes to the Seaboard.

The PRESIDENT *pro tempore*. The Senator from Oregon moves that the Committee on Commerce be discharged from the further consideration of the bill (S. No. 1100) making appropriations for the improvement of the Lower Williamette and Columbia Rivers from Portland, Oregon, to the sea, and that it be referred to the Select Committee on Transportation Routes to the Seaboard. Is there objection? The Chair hears none. It is so ordered.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred to the Committee on Military Affairs:

A bill (H. R. No. 1638) for the relief of Robert H. Flavell, sergeant Company F, Seventh Missouri; and

A bill (H. R. No. 4258) to provide for the payment for certain improvements on lands now embraced in the military reservation of Fort Cameron, in the Territory of Utah.

REPORTS OF COMMITTEES.

Mr. PRICE, from the Committee on Claims, to whom was referred the petition of Laban Heath, praying compensation for damages