upon it, was that owing to the constitutional provision that a judge shall hold his office during good behavior, and therefore during life in almost every case, the only way in which you could get rid of an incompetent judge was to pension him off by allowing him to resign and continue his pay. It is a matter of history, as we all know, that we have had to resort to that to get rid of several judges who were totally disqualified to discharge their duties, one of whom was a lunatic, absolutely insane, and others totally disqualified to discharge their duties. The provision of the Constitution in regard to the tenure of the judges compelled us to make a civil pension-list as to the Federal judiciary; but we never have gone one single step beyond that. And in respect to the military and naval pension list—and I include both under the term "military"—we never have gone on the monarchical principle of giving great pensions to the distinguished officers in our service, but have rather given some recognition to the private soldier or the private seaman who has risked his life and incurred loss of limb or member or health in the public service.

Mr. President, even with that limitation, our pension list amounts, if I am not mistaken, to about thirty million dollars a year; far more than carried on all the functions of the Government of the United States when I arrived at man's estate; far more than paid all our expenses, pensions included, and interest on the public debt included, when I arrived at man's estate. If we are to add to this a great list of pensions commensurate with our idea of the intellectual ability and intellectual services and military skill of the generals and admirals and the like who have figured in our service, then we shall have that state of affairs which exists in monarchical countries and which never yet has been adopted here.

Mr. President, when I have made these remarks, I should not find fault with anybody for saying to me "this necessarily compels you to vote against the bill as it came from the House, because every principle which you have advanced militates against that bill." I feel the full force of that objection, and I must say that, highly as I esteem General Shields personally, for I had the pleasure of knowing him many years ago, much as I value the services which he has rendered to the country, much as I believe he is deserving of the country, it is not without misgivings that I shall cast a vote for the bill as it came from the House, if it shall in that shape be presented. I shall do so, however, entirely on the ground stated by the Senator from Georgia so well, and by the Senator from Indiana, that the case is wholly exceptional. Here is a man nearly or quite seventy years of age desperately wounded, wounded in the Mexican war, badly wounded in the civil war, in very humble if not absolutely destitute circumstances, and who might be selected as the bravest grenadier of France, well worthy of our esteem and needing some provision for his declining old age.

Mr. EDMUNDS. May I ask the Senator why a pension bill for him does not answer that purpose?

Mr. THURMAN. I would greatly prefer that if the pension was made adequate to the purpose.

Mr. DAVIS, of Illinois. I will sustain the Senator from Ohio there.

Mr. THURMAN. I would prefer that on principle. I would set no bad precedent then, and I should not do the injustice to officers of the Army to which the Senator from Vermont referred. I should greatly prefer that the bill was in that shape, but I have not the shaping of the bill at all. I must take what comes to me, and although I have so high an estimation of the merits of this gentleman and I feel the force of the peculiar circumstances of the case so strongly that I shall vote for the bill if it stands single and alone as it came from the House, yet I do it with very great doubt whether I am not helping to set a precedent which ought not to be set.

Mr. CONKLING. Mr. President——

Mr. HAMLIN. With the consent of the Senator from New York, the hour being late, I submit a motion to adjourn.

Mr. COCKRELL. I hope not. Let us finish this bill.

Mr. CONKLING. There will be several amendments offered to this bill, and several suggestions to be made.

Mr. COCKRELL. I hope the Senate will not adjourn.

Mr. CONKLING. Is the motion to adjourn debatable?

The PRESIDENT *pro tempore*. The motion is that the Senate do now adjourn.

Mr. DORSEY called for the yeas and nays, and they were ordered.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had appointed Hon. MILTON SAYLER, a Representative from the State of Ohio, as Speaker *pro tempore* during the temporary absence of the Speaker.

The question being taken by yeas and nays on the motion to adjourn, resulted—yeas 32, nays 30; as follows:

YEAS—32.

Allison,	Christiancy,	Hoar,	Oglesby,
Anthony,	Conkling,	Howe,	Patterson,
Blaine,	Conover,	Kellogg,	Plumb,
Booth,	Davis of Illinois,	Kirkwood,	Rollins,
Bruce,	Dorsey,	McMillan,	Sargent,
Burnside,	Edmunds,	Matthews,	Saunders,
Cameron of Pa.,	Ferry,	Mitchell,	Teller,
Cameron of Wis.,	Hamlin,	Morrill,	Windom.

NAYS—30.

Armstrong,	Davis of W. Va.,	Jones of Florida,	Morgan,
Bailey,	Dennis,	Kernan,	Paddock,
Barnum,	Eustis,	Lamar,	Randolph,
Bayard,	Grover,	Maxey,	Thurman,
Beck,	Harris,	McCreery,	Voorhees,
Butler,	Hereford,	McDonald,	Withers.
Cockrell,	Hill,	McPherson,	
Coke,	Johnston,	Merrimon,	

ABSENT—14.

Chaffee,	Gordon,	Saulsbury,	Wallace,
Dawes,	Ingalls,	Sharon,	Whyte.
Eaton,	Jones of Nevada,	Spencer,	
Garland,	Ransom,	Wadleigh,	

So the motion was agreed to; and (at five o'clock and seventeen minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, *May* 20, 1878.

The House met at eleven o'clock a. m. Prayer by Rev. S. DOMER, D. D., St. Paul's English Lutheran church, Washington, District of Columbia.

The Journal of Saturday was read and approved.

CONGRESSIONAL DELEGATE FROM INDIAN TERRITORY.

Mr. BOONE. I ask unanimous consent to present at this time the views of the minority of the Committee on Indian Affairs upon the bill (H. R. No. 4868) to authorize the appointment of a Delegate to the House of Representatives by the councils of the tribes resident in the Indian Territory.

The SPEAKER *pro tempore*, (Mr. SAYLER.) Leave was given at the time the majority report was submitted for the minority to submit their views, and they can be filed for printing at any time.

ORDER OF BUSINESS.

Mr. BRIDGES. The Committee on Foreign Affairs have instructed me to report a resolution calling upon the Secretary of State for information.

Mr. HALE. I must call for the regular order.

Mr. BRIDGES. This will take but a minute or two.

The SPEAKER *pro tempore*, (Mr. SAYLER.) The regular order being called for, the morning hour begins at twenty minutes past eleven o'clock a. m. This being Monday, the first business during the morning hour is the call of States and Territories, beginning with the State of Maine, for bills and joint resolutions for introduction and reference to appropriate committees. During this call memorials and joint resolutions of State and territorial Legislatures are in order for reference.

Mr. PRICE. I ask unanimous consent that the call of States and Territories for the introduction of bills and joint resolutions be continued until all the States and Territories have been called.

Mr. GLOVER. I object.

LIGHT-HOUSE ON LAKE MEMPHREMAGOG.

Mr. HENDEE introduced a bill (H. R. No. 4889) authorizing the construction of a light-house or beacon-light on Lake Memphremagog, Vermont; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

CHANGE OF NAME OF A STEAMBOAT.

Mr. BUTLER introduced a bill (H. R. No. 4890) to change the name of the steamer City of Frederickton; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MICHAEL SCHAFFEL.

Mr. HARDENBERGH introduced a bill (H. R. No. 4891) granting a pension to Michael Schaffel; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TAX ON STATE BANKS.

Mr. HARRIS, of Virginia, introduced a bill (H. R. No. 4892) to repeal sections 3412 and 3413 of the Revised Statutes, imposing a tax of 10 per cent. on State banks; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

ELISHA FRANKLIN.

Mr. PRIDEMORE introduced a bill (H. R. No. 4893) directing that a bounty land warrant for one hundred and sixty acres of land be issued to Elisha Franklin for military services in the war of 1812; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

TAX ON SPIRITUOUS AND MALT LIQUORS.

Mr. PRIDEMORE also (by request) introduced a bill (H. R. No. 4894) to levy a tax on the sale of spirituous and malt liquors in bar-rooms and all places where intoxicants are sold by the drink in the District of Columbia; which was read a first and second time, referred

to the Committee for the District of Columbia, and ordered to be printed.

MASTER W. M. WOOD.

Mr. GOODE (by request) introduced a bill (H. R. No. 4895) to place Master W. M. Wood, United States Navy in his proper position on the Navy Register; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

TENTS AND CAMP EQUIPAGE.

Mr. SCALES introduced a bill (H. R. No. 4896) to supply the State of North Carolina with tents and camp equipage, for the use of the militia while in camp for drill and for other purposes essential to their discipline, organization, and efficiency; which was read a first and second time, referred to the Committee on the Militia, and ordered to be printed.

HARMON VANN.

Mr. CAIN introduced a bill (H. R. No. 4897) granting a pension to dependent father Harmon Vann, of Huntsville, Madison County, Alabama; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOEL S. HANKINS AND WILLIAM BOYD.

Mr. HEWITT, of Alabama, introdnced a bill (H. R. No. 4898) for the relief of Joel S. Hankins and William Boyd, citizens of Lamar County, Alabama; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

EMANUEL JONES.

Mr. JONES, of Alabama, introduced a bill (H. R. No. 4899) for the relief of Emanuel Jones, a British subject; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

GOVERNMENT AID TO CERTAIN COMPANIES.

Mr. SHELLEY (by request) introduced a bill (H. R. No. 4900) granting aid by the National Government to certain companies incorporated by State authority for works of internal improvement; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

FRONTIER PROTECTION, ETC.

Mr. ELLIS introduced a bill (H. R. No. 4901) to secure frontier protection, and to promote international and domestic commerce; which was read a first and second time.

Mr. ELLIS. I move that the bill be referred to the Committee on Railways and Canals, and be printed.

Mr. THROCKMORTON. I move to amend that motion so as to refer it to the Committee on the Pacific Railroad, and that it be ordered to be printed.

The amendment was agreed to; and the bill was referred to the Committee on the Pacific Railroad, and ordered to be printed.

THE CENSUS.

Mr. GARFIELD introduced a bill (H. R. No. 4902) to provide for the taking of the tenth and subsequent censuses; which was read a first and second time, referred to the Select Committee on the Tenth Census, and ordered to be printed.

JOHN GROPPER.

Mr. McMAHON introduced a bill (H. R. No. 4903) granting a pension to John Gropper; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MARY KENNEALLY.

Mr. BANNING introduced a bill (H. R. No. 4904) granting a pension to Mary Kenneally; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

HENSON SHORT.

Mr. KNOTT introduced a bill (H. R. No. 4905) for the relief of Henson Short, a soldier of the war of 1812; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

UNITED STATES COURTS IN KENTUCKY.

Mr. CARLISLE introduced a bill (H. R. No. 4906) in relation to the circuit and district courts of the United States in the State of Kentucky; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MRS. ANN SHEFFIELD.

Mr. WILLIS, of Kentucky, introduced a bill (H. R. No. 4907) granting a pension to Mrs. Ann Sheffield, of Louisville, Kentucky; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JESSEE M'COY.

Mr. WILLIS, of Kentucky, also introduced a bill (H. R. No. 4908) for the relief of Jessee McCoy, of the city of Louisville, State of Kentucky; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

SOLDIERS OF WAR OF 1812.

Mr. BLACKBURN introduced a bill (H. R. No. 4909) extending the provisions of the act of March 9, 1878, to certain soldiers of the war of 1812; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CLEMENT FISHER.

Mr. CALDWELL, of Kentucky, introduced a bill (H. R. No. 4910) for the relief of Clement Fisher, of Simpson County, State of Kentucky; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

WILLIAM M. BARNETT.

Mr. CALDWELL, of Kentucky, also introduced a bill (H. R. No. 4911) for the relief of William M. Barnett, of Simpson County, State of Kentucky; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN JINNETT.

Mr. CALDWELL, of Kentucky, also introduced a bill (H. R. No. 4912) for the relief of John Jinnett, of Simpson County, State of Kentucky; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

DISTRIBUTION OF APPOINTMENTS AMONG CONGRESSIONAL DISTRICTS.

Mr. ATKINS introduced a bill (H. R. No. 4913) to require all appointments in the civil service to be distributed equally among the congressional districts of the United States; which was read a first and second time, referred to the Committee on Civil-Service Reform, and ordered to be printed.

JOHN B. LYNCH.

Mr. FULLER introduced a bill (H. R. No. 4914) granting a pension to John B. Lynch, late private Company D, Third Indiana Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EDWARD F. KAVENAUGH.

Mr. SEXTON introduced a bill (H. R. No. 4915) granting a pension to Edward F. Kavenaugh, of Madison, Indiana; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. CRITTENDEN introduced a bill (H. R. No. 4916) to amend the third paragraph of section 4693 of the Revised Statutes; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

Mr. CRITTENDEN called for the reading of the bill, and it was read at length.

APALACHIAN MINING ASSOCIATION.

Mr. MORGAN (by request) introduced a bill (H. R. No. 4917) to incorporate the Apalachian Mining Association of the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

ANDREW J. BOWZER.

Mr. REA introduced a bill (H. R. No. 4918) to authorize the Secretary of War to remove the charge of desertion from Andrew J. Bowzer, late a private in Company G of the Twelfth Regiment of Missouri Cavalry Volunteers, and to grant him an honorable discharge; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

JOSEPH BROWN.

Mr. STONE, of Michigan, introduced a bill (H. R. No. 4919) for the relief of Joseph Brown, postmaster at Coopersville, Ottawa County, Michigan; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

DR. C. H. LATHROP.

Mr. PRICE introduced a bill (H. R. No. 4920) granting a pension to Dr. C. H. Lathrop, late a surgeon in the First Iowa Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PROHIBITION OF LOTTERY CIRCULARS.

Mr. OLIVER introduced a bill (H. R. No. 4921) to amend section 3894 of the Revised Statutes; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

ESTHER LIEURANCE.

Mr. BOUCK introduced a bill (H. R. No. 4922) granting a pension to Mrs. Esther Lieurance; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FORT SNELLING BRIDGE.

Mr. STEWART introduced a bill (H. R. No. 4923) to provide for the construction of a bridge across the Mississippi River from the military reservation of Fort Snelling, in the State of Minnesota; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PAGOSSA HOT SPRINGS.

Mr. PATTERSON, of Colorado, introduced a bill (H. R. No. 4924) relating to the Pagossa Hot Springs, in the State of Colorado; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

WILLIAM GILPIN.

Mr. PATTERSON, of Colorado, also introduced a bill (H. R. No. 4925) for the relief of William Gilpin, of Denver, Colorado, and for other purposes; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

BLACK HILLS NARROW-GAUGE RAILWAY COMPANY.

Mr. KIDDER introduced a bill (H. R. No. 4926) granting right of way over the public domain to the Black Hills Narrow-Gauge Railway Company; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

UTAH AND NORTHERN RAILWAY COMPANY.

Mr. MAGINNIS introduced a bill (H. R. No. 4927) creating the Utah and Northern Railway Company a corporation in the Territories of Utah, Idaho, and Montana, and to grant the right of way to said company through the public lands; which was read a first and second time, referred to the Committee on Railways and Canals, and ordered to be printed.

F. E. WARREN.

Mr. CORLETT introduced a bill (H. R. No. 4928) for the relief of F. E. Warren; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

ALPHONSE DESMARE.

Mr. GIBSON (by request) introduced a bill (H. R. No. 4929) for the relief of Alphonse Desmare, of Louisiana; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

JAMES RYBARK.

Mr. GIBSON also (by request) introduced a bill (H. R. No. 4930) for the relief of James Rybark; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

ELECTION FOR CONGRESS, WEST VIRGINIA.

Mr. WILSON introduced a bill (H. R. No. 4931) to provide for the election of Representatives to the Forty-sixth Congress in the State of West Virginia; which was read a first and second time, referred to the Committee of Elections, and ordered to be printed.

J. H. JOHNSON.

Mr. KENNA (by request) introduced a bill (H. R. No. 4932) for the relief of J. H. Johnson; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

WESLEY M'COY.

Mr. KENNA also introduced a bill (H. R. No. 4933) for the relief of Wesley McCoy, late a private in Company E, Seventh Regiment West Virginia Veteran Cavalry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

ARMY AND NAVY LIFE INSURANCE COMPANY.

Mr. RICE, of Ohio, (by request,) introduced a bill (H. R. No. 4934) to incorporate the Army and Navy Life Insurance Company of Washington, District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

JAMES H. ANDERSON.

Mr. MANNING introduced a bill (H. R. No. 4935) for the relief of James H. Anderson, of Tunica County, Mississippi; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

ALFRED G. HOLCOMB.

Mr. EICKHOFF introduced a bill (H. R. No. 4936) for the relief of Alfred G. Holcomb; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

SALE OF DETROIT ARSENAL.

Mr. WILLIAMS, of Michigan, introduced a bill (H. R. No. 4937) to amend an act entitled, "An act to provide for the sale of the building and grounds known as the Detroit arsenal, in the State of Michigan, and for other purposes;" which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

HOMESTEAD SETTLERS.

Mr. WARD presented joint resolutions of the Legislature of Pennsylvania in favor of governmental aid for homestead settlers; which was referred to the Committee on Public Lands.

EDWARD E. WILCOX.

Mr. WAIT introduced a bill (H. R. No. 4938) authorizing and directing the Secretary of the Interior to restore to the pension roll the name of Edward Eugene Wilcox, a demented child of Leonard Wilcox, late a private of Company E, Twenty-first Regiment Connecticut Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

CHANGE OF NAME OF YACHT.

Mr. VEEDER introduced a bill (H. R. No. 4939) to change the name of the yacht Emma T of New York, to Evangeline; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ANDREW J. MIFFORD.

Mr. TIPTON introduced a bill (H. R. No. 4940) for the relief of Andrew J. Mifford; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

GILBERT KING.

Mr. LATHROP introduced a bill (H. R. No. 4941) to grant a pension to Gilbert King, of Kane County, Illinois; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BOUNTY.

Mr. SAMPSON introduced a bill (H. R. No. 4942) to provide for the payment of bounty to Union soldiers in certain cases; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ALLEGED FRAUDS IN PRESIDENTIAL ELECTION.

The SPEAKER *pro tempore*. At the request of the Speaker, the Chair desires to announce the following select committee on alleged frauds in the late presidential election:

Mr. CLARKSON N. POTTER of New York, Mr. WILLIAM R. MORRISON of Illinois, Mr. EPPA HUNTON of Virginia, Mr. WILLIAM S. STENGER of Pennsylvania, Mr. JOHN A. MCMAHON of Ohio, Mr. THOMAS R. COBB of Indiana, Mr. JOSEPH C. S. BLACKBURN of Kentucky, Mr. JACOB D. COX of Ohio, Mr. BENJAMIN F. BUTLER of Massachusetts, Mr. THOMAS B. REED of Maine, and Mr. FRANK HISCOCK of New York.

Mr. GARFIELD. As the name of Governor Noyes was mentioned in the resolution appointing the committee just announced, I ask leave to have referred to that committee a cable dispatch which I have received from him this morning.

The SPEAKER *pro tempore*. If there be no objection the dispatch will be referred to the committee.

Mr. GARFIELD. I ask to have it read.

The Clerk read as follows:

[Cable message, received at Washington, May 20, 1878.]

To JAMES A. GARFIELD, *Washington, D. C.:*

When investigating committee is organized have me subpœnaed.

PARIS. NOYES.

The SPEAKER *pro tempore*. If there be no objection the reference will be made as requested.

There was no objection.

Mr. GARFIELD. I have no doubt the committee will do Governor Noyes the justice to have him subpœnaed.

COMMITTEE ON TENTH CENSUS.

The SPEAKER *pro tempore*. The Chair desires also to announce on the joint select committee on the tenth census the name of Mr. ALVAH A. CLARK, of New Jersey, in place of Mr. WILLIAM S. STENGER, of Pennsylvania, resigned.

ORDER OF BUSINESS.

Mr. ATKINS. I move that the rules be suspended and the House resolve itself into Committee of the Whole for the purpose of proceeding with the consideration of the Army appropriation bill until two o'clock when, under the rules of the House, the Committee for the District of Columbia will be entitled to the floor.

The SPEAKER *pro tempore*. The Chair will state to the gentleman from Tennessee that on Monday this can only be done by a suspension of the rules by a two-third vote.

Mr. ATKINS. I am aware of that.

Mr. BLAND. I rise to a question of order. I understand the Speaker has a list of gentlemen to be recognized for motions to suspend the rules on Monday. I make the point of order that those gentlemen should be recognized in regular order.

Mr. FRANKLIN. That does not prevent the Chair from recognizing the gentleman from Tennessee to move to suspend the rules to proceed with the consideration of an appropriation bill.

Mr. ATKINS. It is competent, I suppose, for the House to decide what business it will entertain.

The SPEAKER *pro tempore*. The Chair will state to the gentleman from Missouri [Mr. BLAND] that it has been customary for the Speaker to recognize motions in favor of appropriation bills in preference to others; otherwise the Chair would recognize the gentlemen in order on the list presented to him by the Speaker's clerk. The Chair understands that the Speaker always gives preference to a motion from an appropriation committee in regard to a general appropriation bill. The Chair therefore recognizes the gentleman from Tennessee, but with the understanding that it will require a two-third vote on the part of the House for the House to resolve itself into Committee of the Whole.

Mr. PAGE. I ask unanimous consent——

Mr. ATKINS. I have declined the requests of several friends on this side to yield to them and I cannot yield to the gentleman from California.

Mr. FRANKLIN. I call for the regular order.

The question being taken, the rules were suspended, (two-thirds voting in favor thereof,) and the motion of Mr. ATKINS was agreed to.

Accordingly the House resolved itself into Committee of the Whole, (Mr. SPRINGER in the chair.)

ARMY APPROPRIATION BILL.

The CHAIRMAN. The House is now in Committee of the Whole until two o'clock for the purpose of proceeding with the bill (H. R. No. 4867) making appropriations for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes. The gentleman from Maryland, [Mr. KIMMEL.]

Mr. KIMMEL. Mr. Chairman, I trust I am properly impressed with the importance of the subject of which I am about to speak. I believe I approach it without partisan bias. I have the deepest conviction that upon a proper adjustment of it depends the peace and, I fear, the liberties of the people. I confess that the more deeply I inquire into the steady growth of the standing Army and the uses to which it has been applied, the stronger my conviction becomes that the highest patriotism demands the wisest precautionary measures.

Reviewing the past and attentively considering the present, I conclude that this is a time most auspicious for considering such measures.

The cause which selfish politicians so sedulously used as a means for cultivating sectional hate has ceased to exist. The statesmen whose skill was inadequate to the demands of the situation which those politicians had created have passed or are passing away. The people demand repose. Party pride finds but little inspiration from the qualities of its respective leaders, so that the good men of both the great parties may and do mingle in friendly counsel. Soldiers who crossed their swords in deadly conflict now interchange friendly greetings, and widows and orphans bedeck with flowers and bedew with tears the graves of those by whose hands their husbands and fathers fell. It seems as though the past is to be remembered only for its glories and the lessons to be learned from its teachings. This condition seems to assure that calm consideration by which statesmanship triumphs over the arts of the demagogue and the violence of the partisan.

THE DREAD OF STANDING ARMIES—COLONIAL TIMES.

Let us see by the broad light of history how fatal standing armies have been to liberty, and profiting by these examples learn how well these justify the distrust of the fathers. This dark cloud cast its shadow across their path and seems to have been their constant dread. Many of them were learned men, most of them wise men, patriots all. The records of their statesmanship show that they sought and found light in the experience of every government that preceded the one they were ushering into existence. They found—

That even Tacitus, the friend and servant of Roman emperors in the worst period of Roman history, when the pretorian guard sold and resold the Roman crown exclaimed, "Is there any escape from a standing army but in a well-disciplined militia?"

That in all the States of Western Europe, the shattered fragments of the Roman Republic, after the lapse of many centuries there remain recognizable vestiges of Roman freedom. Aragon was freer than England; Castile as free; the governments of the north almost patriarchal, and that even in France the king was far from absolute. That in all these there were restraints on the prerogative of the crown in fundamental laws and representative assemblies, and that by the force of standing armies all these constitutions, except that of England, had been crushed before the convention of 1787 had formed the Constitution of the United States.

That the history of England, their mother country, with which they were so loath to part, teemed with accounts of stern resistance to standing armies.

That Lord Bacon, the wisest although the meanest of mankind, had the courage in the time of the tyrant Tudors to declare that a "mercenary army is fittest to invade a country but a militia to defend it."

That the attempt to create a standing army under Charles I cost Strafford his head and eventually cost Charles himself, first his throne and then his life.

That General Monk, a republican general, with six thousand men, the remnant of Cromwell's republican army, overthrew the commonwealth of England by restoring Charles II to the throne.

That during the reign of this same Charles II this feeling of the English people found expression in the action of a grand jury which presented the standing army, and the pension Parliament, as it was called, voted that army a nuisance, and sent a member to the tower for saying "the king might keep guards for the defense of his person."

That when William of Orange desired to import into England the continental system, the consent of Parliament to the establishment of a standing army was obtained only by the passage of the mutiny act, which limited its existence to a single year.

That in the short period of one hundred years from the date of its establishment this army had increased to eighteen thousand men, and that part of that army was being employed for the subjugation of the colonies, so that in the immortal Declaration of Independence, when summing up the wrongs of years, they charged that "He (the king) has kept among us in times of peace standing armies without the consent of our Legislatures."

DREAD OF STANDING ARMIES DURING THE REVOLUTION, 1776 TO 1789.

This dread and detestation of standing armies appears on every page of their progress toward independence and the establishment of the Constitution of 1789.

On this subject the constitutions of the several States used emphatic language. The constitutions of Pennsylvania, North Carolina, and Vermont declared that "as standing armies in times of peace are dangerous to liberty, they ought not to be kept up." The constitutions of Virginia, Delaware, and Maryland declared that "standing armies are dangerous to liberty." New Hampshire declared that "standing armies are dangerous to liberty." Massachusetts declared that "as in times of peace armies are dangerous to liberty they ought not to be maintained."

Several of the States objected to the Articles of Confederation of 1776 because those articles did not deny the power of the confederation to maintain a standing army. In the debates in the conventions which adopted the Constitution of 1787 the spirit of resistance to standing armies is ever present.

Patrick Henry, the soul of the Revolution, in expressing his utter detestation of standing armies, said, as with prophetic eye he foresaw the future, "A standing army we shall also have to execute the execrable demands of tyranny. And how," he asked, "are you to punish them? Will you order them to be punished? Who will execute your commands? Will your mace-bearer be a match for a disciplined regiment?" (See Virginia Debates, 1787, page 66.)

Page 286, George Mason said:

I abominate and detest a government where there is a standing army. * * * When once a standing army is established in any country the people lose their liberty.

Page 287, Mr. Madison, the Father of the Constitution, said:

A standing army is one of the greatest mischiefs that can possibly happen.

Page 446, Mr. Grason said:

We ought, therefore, strictly to guard against the establishment of a standing army—whose only occupation would be idleness, whose only effort would be the introduction of vice and dissipation, and who would at some future day deprive us of our liberties as a reward for past favors by the introduction of some military despot.

In the Federalist where Mr. Madison, the Father of the Constitution, and Mr. Alexander Hamilton, the great advocate of its aristocratic and centralization features, in carefully prepared essays advocated its adoption, are to be found the truest expositions of its meaning.

On page 174, Mr. Madison wrote:

Not less true is it that the liberties of Rome proved the final victim of her military triumphs, and that the liberties of Europe, as far as they ever existed, have with few exceptions been the price of her military establishments. A standing force is therefore a dangerous at the same time it may be a necessary provision. On the smallest scale it has its inconvenience. On an extended scale its consequences may be fatal. On any scale it is an object of laudable circumspection and precaution.

Page 31, Mr. Hamilton wrote:

Standing armies, it is said, are not provided against in the Constitution, and it is therefore inferred that they will exist under it. This inference, from the very nature of the proposition, is at best but problematical and uncertain.

This record attests the deep detestation the fathers felt for a standing army; that if provided for at all by the Constitution it was only in the last resort. That they could have contemplated such a peace establishment as this Government now maintains I cannot believe any honest man will aver.

It was intended by the fathers that the militia should be a substitute for a standing army. (Elliott's Virginia Debates, 1785 to 1789.)

Page 285, Mr. Madison, the Father of the Constitution, said:

If insurrections should arise or invasion take place, the people ought unquestionably to be employed to suppress and repel them rather than a standing army. The best way to do these things was to put the militia on a good and sure footing and enable the Government to make use of their services when necessary.

Page 287, Mr. Madison said:

The most effective way to guard against a standing army is to render it unnecessary. The most effective way to render it unnecessary is to give the Government the power to call out the militia.

Page 309, Mr. Madison also said:

The Constitution does not say a standing army should be called out to execute the laws. * * * The militia ought to be called out to suppress smugglers. Will this be denied? If riot should happen, the militia are proper to quell it to prevent resort to another mode.

Page 286, Mr. Mason said:

If they, the Government, ever attempt to harass and abuse the militia they may easily abolish them and raise a standing army in their stead. There are various ways of destroying the militia. A standing army may be perpetually established in their stead. Should the General Government wish to render the militia useless, they may neglect them and let them perish, in order to have a pretense for establishing a standing army.

In the Federalist, page 121, Mr. Hamilton wrote:

The attention of the Government ought particularly to be directed to the formation of a select corps of militia of moderate size, upon such principles as would fit it for service in time of need. * * * This appears to me the only substitute for a standing army, and the best possible security against it, if it should exist.

How plainly the purpose is expressed by these, the fathers of the Constitution. The militia to be a substitute for a standing army. The militia was to be called out to execute the laws, to suppress smugglers and insurrection, to quell riot and repel invasion. Does any man question this interpretation of the instrument these, its architects, framed?

THE IMPORTANCE OF THE MILITIA.

Every State shall always keep up a well regulated and disciplined militia.—*Articles of Confederation*, 1776, article 6.

The militia of this country must be considered the palladium of its liberties.—*Washington's Circular Letter to Governors*, 1783.

A well-regulated militia being necessary to a free State, the right of the people to keep and bear arms shall not be infringed.—*Constitution*, 1789, amendment 2.

AFTER THE ADOPTION OF THE CONSTITUTION, 1789.

President Washington, in his message, June, 1789, urged the necessity of organizing the militia in these words:

It is unnecessary to offer arguments in recommendation of a measure on which the honor, safety, and well-being of our country so evidently and so essentially depend.

January 8, 1790, he said to Congress:

A free people ought not only to be armed, but disciplined, to which end a uniform and well digested plan is necessary.

January 18, 1790, General Knox, then Secretary of War, in his famous plan transmitted to Congress, said:

The idea is therefore submitted whether an efficient military branch of Government can be invented with safety to the great principles of liberty, unless the same shall be formed of the people themselves, and supported by their habits and manners. * * * An energetic national militia is to be regarded as the capital security of a free republic; and not a standing army, forming a distinct class in the community.

December 8, 1790, President Washington again pressed on Congress the importance of the militia.

October 25, 1791, he said to Congress:

The first (the militia) is certainly a subject of primary importance, whether viewed in reference to the national security, to the satisfaction of the community, or to the preservation of order.

May, 1797, President Adams urged upon Congress a revision of the laws organizing the militia "to render that natural and safe defense of the country efficacious."

CONGRESS AND THE MILITIA—NEGLECT OF THE MILITIA PREDICTED—1790 to 1803.

In the debate on the second amendment to the Constitution Mr. Gerry, of Massachusetts, used this language:

What, sir, is the use of the militia? Is it to prevent the establishment of a standing army, the bane of liberty? * * * Whenever governments mean to invade the rights and liberties of the people, they always attempt to destroy the militia in order to raise an army upon their ruins This was actually done by Britain at the commencement of the Revolution. They used every means in their power to prevent the establishment of an effective militia at the eastward. The Assembly of Massachusetts, seeing the progress that the administration were making to divest them of their inherent privileges, endeavored to counteract them by organizing the militia; but they were always defeated by the influence of the Crown.—*Annals of Congress*, 1789-1791, First Congress, page 778.

Mr. Jackson said:

The Swiss Cantons owed their emancipation to the militia establishment, the English cities rendered themselves formidable to the barons by putting arms in the hands of the militia, and when the militia united with the barons they extorted the Magna Charta from King John. * * * In England the militia has of late been neglected and the consequence is a standing army. In a republic every man ought to be a soldier and prepared to resist tyranny and usurpation as well as invasion, to prevent the greatest of all evils, a standing army.—*Ib.*

Mr. Burke said:

He knew it was the policy of the day to make the militia odious.—*Ib.*, volume 11, page 1869.

THE MILITIA ORGANIZED AND CALLED OUT IN VIEW OF INDIAN HOSTILITIES.

Congress passed an act to provide for the national defense by establishing a uniform militia throughout the United States; a very elaborate and carefully detailed act, the foundation of our present militia system, to which but little has been added. (See Annals of Congress, 1791-1793, Second Congress, vol. 1, page 1392.)

Congress passed an act authorizing the President "to require the executives of the several States to take effectual measures, as soon as may be, to organize, arm, and equip according to law, and hold in readiness to march at a moment's warning, the following proportions, respectively, of eighty thousand men," in view of Indian hostilities. (See Annals of Congress, 1793-1795, Third Congress, vol. 1, page 1446.)

Each Congress exercised this power for this same purpose. (See Annals of Congress, 1795 to 1803.)

Thus it is evident that during this period, when there existed the most extensive Indian invasion, actual and threatened, the country had ever known, the militia was relied on for defense, the regular Army at no time exceeding 3,578 officers and men, and often not two thousand.

OPPOSITION IN CONGRESS TO A STANDING ARMY.

The dread of a standing army so distinctly and constantly apparent throughout the history of the colonies and the confederation, from 1775 to 1789, was not allayed by the adoption of the Constitution. The establishment of an army, however small, met with constant and determined opposition. The purpose for which the small army of the earlier period was raised is always most carefully set forth. (Annals of Congress and American State Papers.)

August 10, 1789, six months after his inauguration, President Washington, in his message to the Senate, said:

I have directed a statement of the troops in the service of the United States to be laid before you for your information. These troops were raised by virtue of the resolves of Congress of October 10, 1786, and October 3, 1787, in order to protect the frontiers from the depredations of hostile Indians.—1 *American State Papers*, page 5.

This Army consisted of 840 men.

Congress passed an act regulating the military establishment of the United States, approved April 30, 1790, section 1 of which act raised the Army to 1,216 non-commissioned officers, privates, and musicians, and section 15 reads:

For the purpose of aiding the troops now in service, or to be raised by this act, in protecting the inhabitants of the frontiers of the United States.—*Annals of Congress*, 1789-1791, First Congress, volume 11, pages 2282 and 2283.

Congress passed an act for raising and adding another regiment to the military establishment of the United States and for making further provision for the protection of the frontier, of which act section 1 enacts that there shall be raised an additional regiment of infantry, which, exclusive of commissioned officers, shall consist of 912 non-commissioned officers, privates, and musicians. (See Annals of Congress, 1789-1791, First Congress, volume 2, page 2415.)

According to the American State Papers, 1807, volume 1, page 223, the total force of the Army was 2,418. By the same authority, 1810, volume 1, page 251, the total force of the Army was 4,189.

On the motion to strike out the second section of the bill, which contemplated the raising of four additional regiments, the debates exhibit vigorous opposition. (See Annals of Congress: Protection of the frontiers, 1792, Second Congress, page 337.)

Page 673, Mr. Steel, of North Carolina, said:

He was certain neither the secretary nor any other person could account rationally for the occasion of such establishment; * * * neither was it contemplated in the Constitution of the United States. Yet it has, in the short space of three or four years, been imposing on the country burdens which the people have at length expressed their abhorrence of. It has been increased from $137,000 in 1789 to the extravagant demand now required of $1,171,719, and $50,000 contingencies for the support of 1793.

Page 765, Mr. Parker said:

He always abhorred the idea of keeping up standing armies in this country.

Mr. Giles objected to the retention of a major-general, (Anthony Wayne,) saying:

It would be the commencement of sinecures in the military department.—*Annals of Congress*, 1796, Fourth Congress, first session, page 1420.

In 1795 Mr. Madison moved an amendment to the act for raising a legion:

That these troops should be employed only for the protection of the frontier.

Mr. Randolph said:

The most popular act would be to put down the Army of the United States and arm the militia.—*Annals of Congress*, 1809, Eleventh Congress, part 1, page 61.

Mr. Potter, (Rhode Island,) speaking of the Army, said:

Give them power and they will generally go to the extent of it, if not abuse it.—*Annals of Congress*, 1810, Eleventh Congress, part 2, page 1590.

Thus, sir, it will be seen the dread of this Army found expression in Congress as late as 1810. After this period either the supineness of the people or their confidence in their strength seems to have made them indifferent to its existence. Later events demonstrate how rational was the dread of the fathers, and admonish us that "the price of liberty is eternal vigilance."

THE STANDING ARMY—ITS ORIGIN, GROWTH, AND STRENGTH AT PERIODS STATED—AND THE SUBSTITUTION OF THE ARMY FOR THE MILITIA.

Now, sir, I propose to exhibit the origin, growth, and strength of the standing Army and the gradual substitution of the Army for the militia despite the dread, detestation, and warning of the fathers:

[From the Annals of Congress.]

1789.—The Army of the United States consisted of 840 men, cost $137,000.
1790.—The Army was increased to 1,216 men, &c.
1791.—One regiment was added, 912 men, &c. Cost $1,171,719.
1794.—One regiment of artillerists and engineers was added, 992 men, &c.
1794.—Total army, 3,120 men, &c.
1795.—All former acts repealed and an act passed to increase the Army to 5,793 of all arms.
1796.—An act reorganized the Army so that it consisted of 3,620 men of all arms.
1798.—An act added 744 men, &c., making total strength 4,364 men, &c.
1800.—An act authorizing the President to reduce the Army.

The above was the authorized strength of the Army at the period stated.

[From the American State Papers.]

Page 48.—From 1802 to 1808, inclusive, the average strength of the Army was 2,726 men and non-commissioned officers.

The average cost of the Army for the same period was $798,194.98.

The cost per man, including officers, was, $292.80½.

Page 46.—Average strength of the Army, including officers, non-commissioned officers, musicians, and privates, during the three years 1809, 1810, and 1811 was 6,000.

Average cost of the Army for the same period was $2,301,621.48.

Annual expense per man, including officers, was $383.60.

[From Reports of the Secretary of War.]

1844.—Strength of the Army, 8,573; cost, ————.
1859.—Strength of the Army available, 11,000; cost, $13,098,725.
1877.—Strength of the Army, 25,000; cost, $31,597,270.68.
1877.—Annual cost per man, including officers, $1,263.80.

MILITIA INTENDED AS A SUBSTITUTE FOR A STANDING ARMY—HOW IT HAS DECAYED FROM NEGLECT.

We have seen, sir, how great was the hope of the fathers that militia, "the natural defense of a free state," would save the country from the dangers of a standing army, "the bane of liberty." And we have seen how baseless was their hope; how, as a peace establishment, it was destroyed by neglect within twenty years after the adoption of the Constitution, so far at least as a national institution; how all the influence of Washington could not arouse the people to sustain "this palladium of their liberty;" how the well-digested plan of General Knox, Washington's able Secretary, failed in peace though effective in war. We have seen, sir, how Congress has chosen to forget the existence of the militia, so that the law remains to-day as it was enacted in 1792. The law provides now, as it provided then, that the militiaman, officer and private, shall supply all things necessary to the service, his horse and accouterments; the officer shall have now, as in 1792, "a hanger and a spontoon," and the private shall have a "firelock and two spare flints," and for the reimbursement to the militiaman for the expense of this outlay Congress appropriates now, as in 1808, the sum of $200,000 each year—about two and a half cents apiece for each militiaman, officer and man, in the

United States of America, for discipline assembled; most certainly not a very extravagant allowance. Two hundred thousand dollars a year for the militia; $31,597,270 a year for a standing army. Two and a half cents a year for a militiaman, "the natural defense of a free state;" $1,263 a year for a regular soldier, "the bane of liberty." Sir, I will not weaken this statement by a word of comment.

STANDING ARMY NOT TO BE EMPLOYED FOR THE ENFORCEMENT OF THE LAWS.

Throughout the entire discussion of the standing army, it is clear that the American spirit would not tolerate the possibility of employing that army for the execution of the laws. The opinion of the times was distinctly and unanimously against it. This opinion is embodied in the Constitution. It is evident in the grouping of the powers conferred on Congress. The war power is given in article 1, section 8, in clauses numbered 11, 12, 13 and 14. These are:

11. To declare war, grant letters of marque and make rules concerning captures on land and water;
12. To raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;
13. To provide and maintain a Navy; and
14. To make rules for the government and regulation of the land and naval forces.

This is too plain for argument. In these four clauses is conferred the power to declare war and the power to obtain the means for carrying on the war. Then another power is given, separate and distinct from the war power. The power to execute the laws, suppress insurrections, and repel invasions is given in clauses 15 and 16. These are:

15. To provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions;
16. To provide for organizing, arming, and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the States, respectively, the appointment of the officers, and the authority of training the militia according to the discipline, prescribed by Congress.

In these two clauses is conferred the power to execute the laws of the Union, suppress insurrections, and repel invasions, and the means for exercising this power. These two powers are as distinct as are the means to be employed for the exercise of them, the Army for defense against external foes, the militia for the suppression of internal resistance, the Army to be created by Congress, because war is a subject of national jurisdiction only; the militia to be created jointly by Congress and the States, because the execution of the laws of the Union and the suppression of insurrections may involve questions of disputed jurisdiction. By these provisions the people were to be protected from interference by such army as Congress might maintain. By this cautious adjustment of these balances did the fathers not only provide against intervention by the standing army, if such should exist, in the internal government of the country, but they also provided that the General Government should, by organizing, arming, and disciplining the militia, supply to the States the uniform means of resisting its own aggressions.

That this is the true interpretation of the Constitution is evident not only by the declarations, acts, and circumstances of the period of its formation, but also by the act and by the manner of the act of President Washington in the suppression of the only insurrection which occurred, or which had threatened to occur, during the first half century after the adoption of the Constitution.

In 1794 inhabitants of Western Pennsylvania resisted the collection of the tax on whisky. The United States court of that district was powerless to execute the law and appealed to the United States Government for aid. President Washington, before resorting to force, issued his proclamation commanding the insurgents to disperse. The proclamation failing of effect, the President, in obedience to the Constitution and the law made in pursuance thereof, called forth the militia of Pennsylvania and the adjoining States for the execution of the laws of the Union and the suppression of the insurrection. After the restoration of order Congress manifested its approval of the acts of the President and of the militia by passing the following resolution:

Resolved unanimously, That the thanks of this House be given to the gallant officers and privates of the militia of the States of New Jersey, Pennsylvania, Maryland, and Virginia, who on the late call of the President rallied around the standard of the laws, and in the prompt and most severe service which they encountered bore the most illustrious testimony to the value of the Constitution and the blessings of internal peace and order.

The language of this resolution embodies the whole spirit of the Constitution on this subject. It thanks the militia who rallied around the standard of the laws, and bore illustrious testimony to the value of the Constitution.

Here, sir, is testimony, in letters of living light, to the correctness of this interpretation of the Constitution, by many of the very men who framed that unequaled instrument, given within six years after its adoption, expressive of their satisfaction with its adaptability to the demands of that critical emergency, the first trial of its strength. The instrument, moved by its constructors, proved the harmony of its powers by the unity of its strength.

RÉSUMÉ AS TO THE INTENTION OF THE FATHERS IN REGARD TO THE STANDING ARMY AND THE MILITIA.

This evidence establishes—

First. That the fathers knew that history recorded the fact that standing armies destroy the liberties of the people.

Second. That dread and detestation of standing armies were the most prominent characteristics of the colonial and revolutionary period.

Third. That this dread of standing armies found expression in every governmental instrument touching this subject recorded by them.

Fourth. That a standing army was not intended by the framers of the Constitution, and that, if it existed under it, it was to be only in the last resort.

Fifth. That a standing army, if it existed, was to be used only for war, the defense of the frontier against the incursions of Indians, and for manning the forts.

Sixth. That a standing army should not be used for the execution of the laws, nor for suppressing insurrection.

Seventh. That the fathers relied on the militia as the natural defense of a free state, and that they so declared in every governmental paper relating to the subject put forth by them.

Eighth. That they intended the militia to be used as a substitute for a standing army.

Ninth. That they intended the militia should be employed to execute the laws of the Union and to suppress insurrection.

Tenth. That the militia, as a national institution, has been destroyed by neglect.

Eleventh. That a standing army has been raised on the ruins of the militia.

These, sir, are startling facts. Would it not be well now, during this lull in the storm of party strife, for the representatives of the people to ponder them deeply, and inquire whether there is not danger, immense and imminent, in this heedless disregard of the warnings of the fathers and the mandates of the Constitution they framed?

The standing Army as now employed is violative of the Constitution and of the law, which directs the manner of the employment of it. Notwithstanding this plain intent of the Constitution, the standing Army has been largely employed in all sorts of uses, at the request of all sorts of people, without regard even to such law as has been enacted for the direction of its employment in these unconstitutional uses. Generals commanding military departments, north, south, and east, report the employment, hundreds of times, of hundreds of detachments of the standing Army in the suppression of strikes, in the execution of the local laws, in the collection of the revenue, the arrest of offenders, &c., at the request of governors, sheriffs, and other local State civil authorities and United States attorneys, marshals, assistant marshals, and internal-revenue officers, in such open and flagrant violation of law that these generals suggest the enactment of such laws as will define the duties of the soldiery; in evidence of which I now read to the House the following extracts from the report of the General of the Army and of the generals of departments:

NEW YORK, *October* 8, 1870.

General McDowell, commanding the Department of the East, reports as follows: "On 3d December, in compliance with instructions from the Adjutant-General's Office, Major Abbot, with two companies of engineers, troops from Willet's Point; Major C. L. Beat, with two companies from Fort Hamilton, one from Fort Wadsworth, and one from Fort Schuyler; and Lieutenant-Colonel Kiddoo, with four companies from Fort Columbus, all under command of Colonel Vogdes, First United States Artillery, proceeded to Brooklyn to assist Colonel Pleasanton, collector of internal revenue, in the execution of his duties."

LOUISVILLE, KENTUCKY, *October* 26, 1871.

General Terry, commanding Department of the South, reports as follows: "More than two hundred temporary detachments have been made from garrisons of posts for the purpose of aiding civil officers. These detachments have been made upon the request of governors of States, sheriffs, and other local State civil authorities and United States district attorneys, marshals, and officers of the Internal Revenue department."

DETROIT, MICHIGAN, *September* 27, 1872.

General Crook reports as follows: "In May last fifteen hundred of these miners in the vicinity of Houghton combined in a strike; they became nearly all armed and at last not only defied the civil authorities but rescued prisoners, disarmed the sheriff's posse, and threatened the peaceably disposed. The governor of the State presenting to me official proof of this state of things, received by telegraph May 11, made very urgent application for military assistance. The emergency appearing great, I determined to give the immediate aid of a military posse."

LOUISVILLE, KENTUCKY, *October* 1, 1872.

General Terry reports one hundred and sixty temporary detachments as in 1871, for these purposes.

LOUISVILLE, KENTUCKY, *September* 30, 1874.

General Terry reports forty-two temporary detachments to aid revenue officers.

LOUISVILLE, KENTUCKY, *October* 19, 1875.

General McDowell reports thirty-seven detachments to aid revenue officers.

ATLANTA, GEORGIA, *September* 30, 1876.

General Ruger reports seventy-one detachments to aid civil officers. Hundreds more have been made. So glaring and frequent had the violations of all law become that the generals, in defense of their honor and interests, made earnest protests against these practices, recommending the passage of laws defining more accurately the duties of the soldiery. An educated soldier could not fail to understand the immense responsibility he incurred not only to a newly elected President whose more acute understanding of the law would compel him to take measures for the removal of such officers as had thus defiantly violated it, but also to local authorities within whose jurisdiction these violations occurred. Therefore the General of the Army, Sherman, in his report of June 10, 1870, says: "In the examination of the reports herewith I invite your attention to the recommendation of General Halleck, which refers to the use of troops in assisting the civil authorities in maintaining peace, collecting the revenue, &c., which has become so common of late. The duties of the soldiery in this connection are not prescribed by statute so clear that the officers can understand their rights and duties, and the civil agents and authorities often expect more than can be rightfully and lawfully done. I think that soldiers ought not to be expected to made individual arrests, or to do any act of violence except in their organized capacity as a *posse comitatus* duly summoned by the United States marshal, and acting in his presence."

LOUISVILLE, KENTUCKY, *October* 24, 1870.

General Halleck in his report said: "I respectfully repeat the recommendation of my last annual report that military officers should not interfere in local civil differences, unless called out in the manner provided by law, and that requisitions of revenue officers should be accompanied by affidavits or some other proofs that the case comes within the provisions of the law authorizing or requiring military interference. As the case now is the revenue officer is the judge of the necessity of military guards and escorts. * * * When United States marshals and assistant marshals call for military aid to execute the process of the courts there should be an order of court authorizing such requisition on the ground that no proper *posse comitatus* could be obtained. Such restriction on the use of military force in civil matters would in my opinion not only afford a large saving in military expenditure but relieve Army officers from much of the responsibility which they are now obliged to incur in the performance of disagreeable duties which can hardly be said to legitimately belong to the military service. It may be proper to remark in this place that I have been assured by Federal civil officers that the use of troops in executing judicial process and enforcing the revenue and other civil laws, seems to increase rather than diminish the necessity of resorting to such force in civil matters. The ill-disposed become more and more exasperated by being coerced by force which they think has been unconstitutionally employed against them, and the better disposed relax their efforts to punish local crimes on the plea that this duty now devolves on the military. Hence in the case of a robbery or murder there is a call on Federal troops to arrest and guard the criminals. It is therefore a question well worthy of consideration, whether the military in civil matters should not be limited to a few well-defined cases, such as riots and insurrections, which cannot be suppressed by local and State authorities."

October 27, 1871, General Halleck again reiterated these recommendations.

Here spoke a soldier whose cultivation, sense of duty, and exalted patriotism impelled him to an independent expression of a well considered opinion. His proud spirit towered above the debasement which would have degraded him to the level of a pliant tool in obedience to the power by which his fortunes might rise or fall. These reports exhibit that not only have hundreds of detachments of an unconstitutional force, the standing Army, been precipitated on the States, but that these detachments have been used in a manner violative of the law intended to restrain the use of the constitutional force, the militia.

The law of 1792, under which President Washington called out the militia to suppress the whisky insurrection, (resistance to the collection of the tax on whiskey,) was re-enacted by sections 5297, 5298, 5299, and 5300 of the Revised Statutes; to which, however, is appended an unconstitutional amendment. This law of 1792 prescribed the conditions on which the constitutional force, the militia, could be used for the execution of the laws and the suppression of insurrection; not one of which were complied with before these detachments of the standing Army were precipitated on the people. No application had been made to the President, as prescribed by the law of 1792 and the law of to-day. No proclamation was made as required by the law of 1792 and the law of to-day. Governors, sheriffs, and other State and local civil officers, and United States district attorneys, assistant marshals, marshals, collectors of revenue, and other revenue officers, requested these generals, and these generals at the request of these officers precipitated these troops upon the people.

If this may be done in one district may it not be done in all the districts? If so, and the interest of a President demands, may he not use this power for his own purposes? May he not by this means subject every reluctant commander to the order of any political miscreant he may choose to make an assistant collector of revenue, until the whole Army is under his control, and then provoke the resistance he seeks for the employment of force and in the name of order substitute his will for law?

On what pretense will this practice be defended? The life of the Republic is no longer imperiled. The surrender at Appomattox concluded the case which passion had appealed to the court of arms; the contestants on the southern side of the record had accepted the decision in good faith, and history attests the scrupulous honor with which they obeyed the authority of the court. The generals report these practices as occurring between 1870 and 1877, five years after the surrender and continuing until now. Moreover, some of them occurred in Michigan, some in New York; certainly these States never imperiled the life of the Republic. What statute authorizes the practice? If there be such a statute, if the law has authorized such practice, then the Republic has descended to the lowest depth—a despotism sanctioned by law and accepted without protest by the people, the gloom of despair. No, sir; I thank God that no such statute exists, and I trust the day may never arrive when a Congress of the United States will become so servile as to enact such a law.

No, sir, this is not sanctioned by any statute of the United States, but practiced under a misconstruction of a statute, by which it is attempted to use the standing Army as a *posse comitatus*. It is provided by the Revised Statutes, section 788:

That marshals and their deputies shall have in each State the same powers in executing the laws of the United States that the sheriffs and their deputies may have, by law, in executing the laws thereof.

Under the laws of the several States the sheriffs have the power to summon the *posse comitatus*, which posse consists of all knights, gentlemen, yeomen, husbandmen, laborers, tradesmen, servants, and apprentices, and all other such persons above the age of fifteen years that are able to travel, (Dalton's Office Sheriffs, 354,) which definition existed from the earliest to the present time. No one, I presume, will attempt to maintain that a sheriff has the right to summon the Army of the United states to serve as a posse. If the sheriff cannot, how can the marshal? The authority is exactly the same. Fortunately the interpretation of the statute was made by those who framed it in 1795. The section 788 of the Revised Statutes is section 9 of the law of 1795, which law of 1795 is entitled "An act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions." The action of President Washington was in perfect accord with this interpretation during the whisky insurrection. The revenue laws (the tax on whisky) were resisted. The court of the district was powerless; it notified the President; the President called out the militia, and Congress thanked the militia—not the standing Army summoned as a posse, but the militia called forth by the President.

This attempt to clothe the marshals, the lowest officers of the United States courts, with authority to use a standing army as a *posse comitatus* had its origin in an opinion of Mr. Attorney-General Cushing. (6 Opinions of the Attorneys-General.)

It must forever be regretted that this learned lawyer should so far have forgotten what was due, alike to the cause of liberty, to the fathers who framed the Constitution, and to his own honor, as to write an opinion so utterly without foundation in law, which sought to facilitate the use of a standing army against his fellow-countrymen. Who reads this opinion in the light of the attending circumstances, as shown in the history of the times, will learn how a great lawyer may warp the law and the Constitution of his country to answer the demands of an emergency threatening to destroy the hopes of his unprincipled ambition.

In all the law of all the past, whose treasures are said to be obedient to his demand, this learned lawyer could find in support of this opinion, so pregnant with evil, not one enactment, not one judicial decision. His sole authority is Lord Mansfield, not as a judge, but as a statesman; not his decision on the bench, but from a debate in the House of Lords on the Gordon riots, when nearly eighty years had impaired his understanding, when the burning of his vast library had roused his anger, and threats against his life had quickened his fears. On this mere assertion Mr. Cushing has based this infamous opinion, although he must have known that in that very debate the Duke of Richmond, Lord North, and Mr. Fox suggested an act of indemnity to hold harmless the soldiers whose employment in the suppression of the mob had violated the law and offended the spirit of English liberty. And he knew further that the riot which occasioned that debate was of such proportions as to be treated as treason; that more than one hundred thousand men participated in it, and its leader, Lord George Gordon, was tried for treason and was saved by the influence of a strong family and the plea of a weak brain. This riot occurred nine years prior to the adoption of the American Constitution, and the employment of the army for its suppression may have been one of the uses of a standing army against which the fathers sought to provide when they indicated that a standing army, if it existed, was to be used only for defense in war, and the militia for the execution of the laws in peace.

If, sir, under this statute, as interpreted by Mr. Cushing's opinion, the standing Army of the United States can be used as a *posse comitatus* for the execution of the laws, we are living under a military despotism unqualified and absolute, for what is military despotism but the use of troops against the people without due authority of law? It matters not how many the troops, nor by whom commanded, whether a platoon by a corporal or an army by a general, whether directed by a deputy collector of revenue or the President of the United States; nor, sir, is the tyranny to be measured by the number of its victims; whether one person or one million have suffered, the Constitution is equally violated, the spirit of liberty equally offended. Disguise it as we may the despotism is as thorough as that attempted by Strafford and accomplished by Monk. Resistance cost Strafford his head, submission cost the people their liberty. In the short space of twenty years the liberty-loving compeers of Hampden had degenerated into the luxury-loving slaves of Charles. It is to be feared that the heroes on both sides of the line have in a short time, from 1860 to 1878, given signs of the same degeneration. It is not the fear of bodily harm, but love of luxury that makes men cowards and slaves.

MR. HAYES'S SECRETARY OF WAR, THE STANDING ARMY, AND THE WORK PEOPLE.

Hon. George W. McCrary, Mr. Hayes's Secretary of War, in his report of June 30, 1877, thus expresses the policy of the present administration:

Furthermore, it must now be accepted as a fact, which experience has demonstrated, that Federal troops may be required not only for the protection of our frontiers, but also to preserve peace and order in our more populous interior. * * * The Army is to the United States what a well-disciplined and trained police force is to a city, and the one is quite as necessary as the other. Those who oppose any increase in the Army do so upon the theory that the local militia is sufficient for all the purposes of preserving the peace and suppressing local uprisings. * * * Our fathers who framed the Constitution, and who were not without experience on this point, doubted the wisdom of relying upon the militia and so provided for the employment of the Federal troops for this purpose. If this seemed necessary to them in the early period of our history, when our population was largely rural, and the spectacle seldom or never witnessed of large masses of men idle, suffering, and desperate, how much more necessary is the same thing now. As our country increases in population and wealth, and as great cities become numerous, it must be clearly seen that there may be great danger of uprisings of large masses of people for the redress of grievances real or fancied; and it is a well-known fact that such uprisings enlist in a greater or less degree the sympathies of the communities in which they occur.

In view of these considerations, it is respectfully recommended that authority be given to the President to increase the strength of the depleted companies now embraced within the Army organization.

This open avowal by this fearless War Secretary of an administration distinguished for its peculiar disregard of the interests of the

people is too defiant of the American spirit of public liberty to be permitted to pass unrebuked, and demonstrates but too plainly how a pretended representative of the people may become so hardened by his votes in support of unconstitutional measures as to be the fittest instrument for the execution of them.

I thank this Secretary of this non-elected President, this war minister of the crown, for this bold attempt to justify the unconstitutional means by which his master was enabled to usurp the place he holds. Again and again I thank this undisguised advocate of imperial power for this unmistakable declaration of his purpose to employ the same means, the standing Army, to reward those who assisted at the consummation of that loathsome wrong. I thank him too that, in this attempt to justify that wrong and to reward those who assisted at its perpetration, he has appealed to "our fathers who framed the Constitution" in support of the dangerous doctrine that a standing army was intended to police the States, and by asserting that they ("the fathers") doubted the wisdom of relying upon the militia and so provided for the employment of the Federal troops for this purpose.

Here, sir, and now, in the presence of these the Representatives of forty-eight millions of people claiming to be free I join issue with this Secretary, who so unpardonably misrepresents the intent of "our fathers who framed the Constitution." I proclaim that not only did "our fathers who framed the Constitution" not intend that the standing Army, if it existed, should be used for the execution of the laws of the Union and the suppression of insurrection, but that they did intend it should not be used for that purpose, and also that they did intend that the local militia should be the only reliance for the suppression of domestic violence, and further that they did intend to obviate necessity for a standing army by organizing, arming, and disciplining the militia.

In the earlier part of this argument I quoted largely and with distinct references the exact language of "our fathers who framed the Constitution" in evidence of their dread of and hostility to standing armies. In every page of the history of the earlier period, long before, at the time of, and long after the adoption of the Constitution, the warnings against the dangers of standing armies are loud, distinct, and constant. Everywhere these warnings appear. In the controversies between the mother-country and the colonies, in the Declaration of Independence, in the constitutions of the States, in the Articles of Confederation, in the debates in the conventions which adopted the Constitution, in the Constitution, in the letters of Washington, in the speeches of the members of the earlier Congresses, in the enactments of those Congresses, in the history of the whisky insurrection of 1794, in the reluctance with which the earlier Congresses consented to the formation of a standing army—first only eight hundred and forty, privates, non-commissioned officers, and musicians; next twelve hundred and sixteen; next nine hundred and ninety-two—limiting the employment of them to the defense of the frontier, in the aversion to the employment of a major-general, (if only for a few months,) in the repeated declarations that standing armies were not to be employed for the execution of the laws, nor for the suppression of insurrection, in the emphasis with which it was insisted that the militia was to be used for this purpose, in the doubt as to whether the Constitution contemplated a standing army in peace at all, in the advocacy of conferring power on the United States Government to call out the militia, that it might be made a substitute for a standing army, and especially in these words of the "Father of the Constitution," Mr. Madison:

> A standing army is one of the greatest mischiefs that can possibly happen. * * * The Constitution does not say a standing army shall be called out to execute the laws. * * * The militia ought to be called out to suppress smugglers. Will this be denied? * * * If riot should happen the militia are proper to quell it, to prevent resort to another mode. (2 Elliott, 287.)

And in these words of Mr. Alexander Hamilton, the aristocrat and centralizationist of the Constitution:

> It is said standing armies are not provided against in the Constitution, and hence it is inferred they would exist under it. This inference, from the very form of the proposition, is at best but uncertain and problematic. * * * The attention of the Government ought particularly to be directed to the formation of a select corps of militia of moderate size, upon such principles as would fit it for service in time of need. This, it appears to me, is the only possible substitute for a standing army and the best possible security against it if it should exist.—*Federalist.*

As late as the Congress of 1809, John Randolph expressed the same dread of a standing army in these words:

> I believe that they (the people of the United States) are not content and never would be content to see a standing army, fully equipped, armed, and disciplined, while the militia, our defense against internal as well as external enemies, remained unarmed and defenseless * * * The people who will consent to remain unarmed while arms are put in the hands of a standing army, governed by martial law, are ripe for a master.

In the Congress of 1810 Mr. Potter, of Rhode Island, expressed like apprehension. Speaking of the militia, he said:

> If this shall not be found to answer the expectation of military men, and we shall hereafter have a President of more military habits, the next change would be a large standing army. And this is the way republicanism usually slides into despotism.

I will not cumulate more testimony. Already this astute and able lawyer is overwhelmed. On this record I claim an acquittal of "our fathers who framed the Constitution" of the heinous charge he has attempted to fix upon their hitherto unblemished reputation, and I demand that the Government be administered according to their intention, and that, in obedience to the plain letter of the Constitution, the militia of the country be organized, armed, and disciplined, that, according to the intent of that instrument, it may be employed when necessary for the execution of the laws and the suppression of insurrection; and the standing army be not used to "suppress the uprising of large masses of people for the redress of grievances, real or imaginary, enlisting in a less or greater degree the sympathies of the communities in which they occur."

How slight, sir, is the partition between this power claimed by this war minister of the Crown and that which merges the political rights of the citizen in the divine right of kings. It behooves this House to take care that his means be reduced and his powers be circumscribed.

DEFENSE OF THE MILITIA.

The use of the standing army and the increase of it as practiced and advocated by the administration of Mr. Hayes and its friends lead to a review of the events which gave rise to that argument.

The reckless extravagance ever engendered by civil strife culminated in the crash of 1873. The contraction which ensued compelled reduction in the wages of many of the working people and the discharge of many others. The high rate of taxes caused by increased debt and the high price of bread and meat, caused by large exports of these necessaries, worked hardship. The masses became discontented and sought redress through strikes.

Associated capital, burdened by responsibilities incurred during inflation, attempted to maintain its dividends on extravagant investments by transferring those burdens from the corporations to their servants, and further reductions ensued. These servants inquiring as to the necessity for these hardships were surprised to learn that not only was it sought to maintain those dividends on the original stock and on the stock created out of the earnings of these corporations, known as watered stock, but that the amount of those dividends in excess of the legal interest of the States in which these corporations were located would in some cases, if applied to the pay-roll, admit an increase of wages of more than 30 per cent. This knowledge intensified the discontent. These faithful servants could not consent that unmarried men should be induced to accept the wages which hungered their own families, and disorder ensued. Unfortunately for themselves, the corporations, and society, these men overstepped the limits of the law, which indiscretion resulted in what Mr. Secretary McCrary describes "as uprisings of idle, suffering, desperate men for the redress of grievances, real or fancied, having the sympathies of the communities in which they occur," and for the suppression of which he asks an increase of the standing army to police the States, meaning thereby to transfer the terror of his bayonets from the South to the North.

In some of the States where these disorders occurred, as in West Virginia, where no police existed and the militia had decayed, the civil authorities were powerless. But it must be remembered that that State had not recovered from the disorganization consequent on the war. Moreover, militia organization at the South might have been misconstrued.

In Pennsylvania, where the greatest disorder existed, political interest had subordinated public safety and blinded the civil authorities to the growing lawlessness of sworn associations, until immediate restraint by the militia, inadequately officered, became impossible. In New York, New Jersey, Ohio, and Indiana the civil authority, and its subordinate, the militia, preserved or soon restored the peace.

In Baltimore City, the metropolis of Maryland, a police force of five hundred men, composed of the best possible material, organized and disciplined and led by officers whose capacity, courage, fidelity, and humanity commanded the respect of the most lawless, by temperate and judicious exercise of their power checked the violence of the misguided men whom the ill-judged policy of associated capital had exasperated to madness. This triumph of the civil authorities by means of the police, a citizen soldiery, is the highest evidence of the capabilities of a well-trained militia for suppression of domestic violence.

Unfortunately that same capital became needlessly alarmed at imaginary dangers in a distant part of the State and demanded military aid. The military alarm was sounded. Less than five hundred militia, the entire force of the city, and more than five thousand exasperated men answered that call. It is much and deeply to be regretted that some of the members of the less-disciplined regiment, without orders, but in self-defense, fired on the mob, and loss of life ensued. The better-disciplined regiment marched, amid the most exasperating demonstrations, with the courage and precision of veterans to the depot of the railroad company, then threatened by countless numbers, protected the endangered property, and guarded the prisoners captured by the police without the loss of a single life. Thus five hundred police and three hundred militia, all citizen soldiery, held at bay the turbulent element of a city of four hundred thousand inhabitants, proving themselves efficient conservators of the peace, in a violent conflict between labor and capital, until the body of the people were enrolled to prevent a recurrence of the disorder and the passions of the mob had cooled. Soon the sober second thought set in. To their credit be it spoken, many of those very men whom exasperation had driven to the front of the strike were foremost at the restoration of the order they had so inconsiderately disturbed. An acknowledgment of the sufficiency of the citizen soldiery of Baltimore, its police and militia is to be found in the modest assumption of the Secretary of War in his report before referred to.

This incident attests the wisdom of "our fathers who framed the Constitution" in assigning to the militia the high function of executing the laws and suppressing insurrection. Nor can the advocates of the use of a standing army for policing the States nor of the despotic government which that army is intended to establish, whether they be high functionaries of the government or not, break the force of these examples by proclaiming the insufficiency of the militia, except in those instances where it has been weakened by political demagogues or neglected and repressed by the national administration.

It will not be maintained that the militia has always been equal to every occasion. What soldiers have? But he has read the history of his country in vain who has not learned that its military character has been formed on the achievements of its militia.

The colonist, whether of English, Celtic, or German blood, brought with him the love of liberty and hatred of tyranny that marked his life in the elder land. Life in the wilderness cultivated these virtues. Want compelled labor, labor gave strength, strength courage, so that whether he landed at Jamestown, Plymouth, or Saint Mary's he became the militia-man of freedom. The pioneer, of whatever period, has been the militia-man of the frontier. His was the mission to subdue, not only the wilderness, but its savage inhabitant. The rifle was his means of subsistence and defense. To the hunter, the woodsman, the plowman, it was his constant companion. His house became his fort—the defense of his wife and children the object of his utmost vigilance. The minute-man of his home was well trained to become the minute-man of the State. The Indian wars of two hundred years prove the efficiency of his education. King Philip, Tecumseh, Black Hawk, and their dusky following, yielded by slow but sure retreat a continent to their prowess. The militia won the liberties of their country. They fought the battles of the Revolution. Every field from Lexington to Yorktown attests their devotion. Sometimes reluctant, sometimes in panic, but through all suffering and through all disaster triumphant, and the world breathes freer for their sacrifice. The war of 1812 was fought mainly by the militia. The most brilliant of its victories were won by militia alone over the best regulars the world has ever seen, the soldiers of Wellington, commanded by the ablest of his generals. Plattsburgh and New Orleans will live forever. Washington and Greene, Jackson and McComb, and their hero comrades were militia all, whose glories are bright and enduring as those of the ablest mercenary that ever fought for pay.

The militia-man is part of his country; he is identified with it by all his interests, feelings, and ambitions; his home, wife, and children are among its treasures; he rests in its peace and thrives in its prosperity; he finds protection under its Constitution, assists at its government, and abides by its laws; he contributes to its support and offers his life in its defense; its history is the record of the achievements of his fathers; he shares its glory and its shame. If he survives the danger that called to the field he returns to the body of the people, resumes the duties of civil life, and again contributes to the taxes he does not consume. Such is the militia-man this Government, the agent of the people, refuses to organize, arm, and discipline for the execution of the laws and the suppression of insurrection.

"Our fathers who framed the Constitution" thought the militia had been "the natural defense of a free State," whether as Roman citizen, member of a European guild, or of a train band of Londontown; or whether as a Swiss mountaineer, a Saxon forester, or an English yeoman, king, or baron, had found in him a friend when king or baron was friend of freedom. But the militia has none of the personal inducements that tempt the administrators of government to assist at its support, therefore it has been neglected or repressed and a standing army raised on its ruins.

A regular is the reverse of all this. He is a soldier by trade; he lives by blood! His is a business apart from the people. His condition works a severance of interest. He consumes what they create. He seldom marries; nor does he accumulate property, nor form and continue social relations; his habits unfit him for the relations of civil life; he enlists and re-enlists, becomes a permanent part of the military establishment of the country, and looks to its bounty for pension or asylum as the refuge of his old age. The order of his superior is his only law. At the command of that superior he fights for or against the laws, the constitution, the country under which or in which he lives, in turn its master or its slave. He sacks, desecrates, indulges when and where he dares. He serves, obeys, destroys, kills, suffers, and dies for pay. He is a mercenary whom sloth, luxury, and cowardice hires to protect its ease, enjoyment, and life. Such is the soldier whom "our fathers who framed the Constitution" refused to intrust with the execution of the laws and the suppression of insurrection. "Our fathers who framed the Constitution" thought him "dangerous to public liberty" and dreaded and detested him, and declared he ought not to exist. The danger of standing armies they learned both from their own experience and from the lessons history taught; whether as Roman legions, pretorian guards, or janizaries they oppressed the people; whether the instruments of German or Russian emperors or of French or Spanish kings they riveted the chains of nations. Whether great or small the fathers sought to avoid their existence and restrain their use. Mr. Madison said, "If small they are inconvenient, if large they may be fatal."

Yet despite the dread, the detestation, and warnings of "our fathers who framed the Constitution," a standing Army exists, and it has its uses too; albeit neither the Army nor its uses were contemplated by them. Cadetships for sons, employment for dependents, commands for friends, contracts for retainers, pensions for the disabled, retired lists for the superannuated, the pomp and circumstance of war, the pride and power of social intercourse, and the intermarriage that constitutes a governmental aristocracy, and hence the munificence of the appropriations—all these constitute the standing Army, the creation, the favorite, the instrument of the Government, and explain why the militia has been neglected or repressed and this dangerous power erected on its ruins. The future Gibbon, pondering our past from this early present, as he writes the decline and fall of this vast Republic, will fail to find an adequate reason why the descendants of Otis and Henry, Mason and Gerry, should, within so short a time, have substituted a dangerous Army for a safe militia, and will start at the rapid strides so young a people had made from the principles of liberty as taught and practiced by the administration of George Washington to the principles of despotism as taught and practiced by the administration of Rutherford B. Hayes. Let it never be forgotten that it was the velvet foot of the politic Augustus which softly stole from the tribune to the throne, nor that the pretorian guard, the standing Army of Rome, sold and resold that gorgeous throne. Well will it be for the future if in this lull of party strife, not long to be continued, we, the Representatives of the people, dignified by their confidence and responsible for its abuse, examine the fearful progress we have made and retrace our steps to the paths we have left.

THE FRONTIER, THE INDIANS, THE STANDING ARMY.

In order to approximate sound conclusions as to the number of troops necessary to repel Indian invasion it is important to review, as fully as time will permit, the defense of the frontier from the early period.

In 1789, the first year of the administration of President Washington, the territory of the United States consisted of somewhat more than eight hundred thousand square miles, containing less than four million inhabitants—about five to a square mile. The whites occupied a territory along the Atlantic, extending less than two hundred miles inland, being about one fifth of this area and less than twenty-five persons to a square mile, the great majority of them living near the Atlantic coast. The remaining four-fifths of this territory was inhabited by nearly two hundred thousand Indians, the most warlike on the continent. Except at some forts in the Northwest, a few missionary stations, and trading posts, the white man was unknown. It was a trackless wilderness. The Spanish possessions on the south and west extended from the mouth of the Saint Mary's on the Atlantic westerly along the northern boundary of Florida to the Mississippi River, thence northerly along the river and across the land to the Lake of the Woods on the Canada line. The English possessions, then as now, extended from the Lake of the Woods to the southeast corner of what is now the State of Maine, making a frontier thirty-five hundred miles long.

These two powerful nations, hating democratic institutions, struggling for commercial supremacy, traded with the Indians within and without the United States, and supplied them with arms, munitions, and whisky, and instigated them to depredations, arson, and murder.

Sustained by them and allied with kindred tribes, these Indians were formidable foes. War between them and the whites was unremitting and merciless. The war-whoop was heard even east of the Blue Ridge; and the settler often found the family he left a few hours before, brained and scalped, and his house in ashes. No time, no place, no condition was safe.

Exposed to the attacks of these formidable foes, open and secret, the infant Republic emerged from an exhaustive war and entered upon an experimental government with neither money nor credit. The trackless wilderness extending from the Alleghanies to the Mississippi was known only to a few daring hunters and trappers. Undismayed it met and overcame every difficulty. Without roads, without any but the most cumbrous means of transportation, without any but such rude rafts or boats as could not be made to ascend the streams; for fourteen years, until the period of the cession of Louisiana, hardy pioneers pushed on the settlements. Every advance was defended with stubborn courage, the frontiersmen being their own militia, aided at times by the few enlisted men whom Congress could be induced reluctantly to employ. The number of these enlisted men, according to such information as can now be obtained, did not average for the fourteen years more than twenty-five hundred men.

In this connection I have read with great attention the very able and elaborate argument in support of this large standing Army made by the distinguished soldier and statesman, late a governor of the State of Texas and now an influential member of this House. I have derived much information from the great array of statistics he presents; but I confess to great surprise when he attempts to justify this large standing Army by an exhibition of its proportion to the number of his fellow-citizens. In how far he can measure the necessity for a standing Army by the number of the citizens of his country, I am utterly at a loss to comprehend, unless he proposes to use that army against those citizens. Has that distinguished soldier and statesman, heretofore the proclaimed friend of liberty, become a convert to the published theory of Mr. Hayes's Secretary, the war minister of the crown, Hon. George W. McCrary, that "it must now be accepted as a fact, which experience has demonstrated, that Fed-

eral troops may be required, not only to protect the frontiers, but also to preserve peace and order in our own more populous interior?" If so distinguished a friend of liberty, whose home is so far removed from the corrupting influences of the Capitol, has become a convert to such doctrines, then this House may take warning of the danger impending by the facility with which this doctrine of centralization promulgated here has found echo from the frontier. It was the Gallic legions Cæsar led to Rome.

The only foe against which "our fathers who framed the Constitution" intended the standing Army, if it existed, should be used was a foreign foe. The only foreign foe these United States will ever have to meet is the Indian, if foe the poor Indian may be called. Therefore I prefer to measure the Army, not as against my fellow-citizens, but as against the Indian. To do this I propose to exhibit the strength of the Army at those periods when neither apprehension of foreign war, existing war, nor the result of war increased its strength.

During the fourteen years extending from 1789 to 1803, the period of the cession of Louisiana, the standing Army of the United States did not exceed an average of twenty-five hundred men. During the same period the Indians, men, women, and children, south of the Saint Lawrence and east of the Mississippi, were variously estimated at upward of one hundred and eighty thousand. These Indians had the secret aid of England and Spain and the open aid of all the Indians within communication. As 2,500 soldiers were to 180,000 Indians so was 1 soldier to that proportion of Indians, which was 1 soldier to 72 Indians. The cession of Louisiana added more than a million of square miles to the United States, more than doubling the size of its territory. The Indians who roamed that immense domain increased the number of Indians within the United States largely beyond the original number. Yet the American State Papers exhibit that the average strength of the standing Army from 1803 to 1809, inclusive, did not exceed 2,726 men; certainly no increase in the proportion of soldiers to Indians.

In 1820, when after the war with England the Army was adjusted to a peace establishment, it numbered 6,000 men; estimating the Indians at a mean between the 180,000 of 1789 and 290,000 of to-day they number 230,000, making the proportion of soldiers to Indians about 1 soldier to 40 Indians.

In 1860, twelve years after the peace with Mexico, which added another million of square miles to the United States and its proportion of Indians, the Army was 13,000 strong. Assuming that the Indians have not decreased since then the proportion of soldiers to Indians was 1 soldier to 22 Indians.

In 1878 the Army is 25,000 strong. The Indians, men, women, and children, after deducting 60,000 civilized, are only 230,000, making the proportion of soldiers to Indians 1 soldier to 9 Indians.

This mode of adjusting the size of the Army to the number of its foes has, I believe, been the usage of all the great captains, albeit the result of the process is not very flattering to the capacity of the Army of to-day.

This comparison of the past with the present shows that in 1818 1 soldier was equal to 70 Indians, and that in 1878 1 soldier is equal to only 9 Indians.

And although economy is not exactly the object of this argument, I may be pardoned for showing that in 1808 it cost less than $5 to keep one Indian in subjection, and that in 1878 it cost $137 to effect the same object; although modern invention has converted the mobilized soldier into a migratory citadel and multiplied indefinitely his death-dealing power.

It does seem to me that with the money appropriated for the Indian Bureau, to be applied to the irritation of poor Lo by withholding his supplies, and the money appropriated for the War Department, to be applied for his pacification by the distribution of powder and ball, he might be accommodated at our comfortable hotels and thus avoid all excuse for maintaining the Army, which Mr. Hayes's amiable Secretary, Mr. McCrary, proposes to apply to the suppression of the "uprisings of large masses of idle, suffering, and desperate men, sympathized with by the communities in which these occur."

The expenditures for these humane purposes have been enormous.

For the twenty-eight years from 1851 to 1878, inclusive, the appropriations for the Indian Bureau amount to about	$98,000,000 00
For the ten years before the war, 1851 to 1860, inclusive, the appropriations for the Army, including rivers, harbors, and fortifications, amounted to	141,911,051 12
For ten years after the war, 1868 to 1878, inclusive, appropriations for the Army, exclusive of rivers, harbors, and fortifications, amounted to	297,260,325 21
Making the total for irritation of the Indian by the bureau and his pacification by the Army	537,171,376 33
To which add for that part of the Army employed in observing the Indians from 1861 to 1868, inclusive, at the rate only which the Army cost from 1851 to 1860, say $14,000,000 for eight years	112,000,000 00
Making a total for the irritation of the Indian by the bureau and his pacification by the Army for twenty-eight years	649,171,376 33

about one-third of the amount of the great national debt. Certainly the Indian has proved to be a very extravagant luxury.

The analysis of these figures shows another condition not altogether unworthy of notice:

The cost of the Indian Bureau for the ten years from 1851 to 1860, inclusive, under democratic administration, amounted to something more than	$20,000,000 00
The cost of the Indian Bureau for ten years from 1869 to 1878, inclusive, under republican administration, amounted to something more than	54,000,000 00

being thirty-four millions or 170 per cent. more under republican than democratic rule for the same number of years.

The cost of the Army, including river, harbor, and fortifications, for the ten years from 1851 to 1860, inclusive, under democratic rule, amounted to nearly	$142,000,000 00
The cost of the Army, exclusive of rivers, harbors, and fortifications, for ten years from 1869 to 1878, inclusive, under republican rule, amounted to more than	297,000,000 00

being one hundred and fifty-five millions or about 112 per cent. more under republican than under democratic rule for the same number of years.

Making the cost of ten years of republican administration over the cost of ten years of democratic administration of these two Departments, the Indian Bureau and War Department, both periods of profound peace, the enormous sum of $189,000,000—or more than 116 per cent. more than it cost under democratic rule—a loss of $189,000,000 to the labor of the country.

CONCLUSION.

That the people of this country, who within one hundred years have increased its area from eight hundred thousand to thirty-six hundred thousand square miles, its population from four millions to forty-eight millions, its States from thirteen to thirty-eight; who have organized governments over all its territory, bridged its broadest rivers and ascended to their highest sources, leaped its valleys, crossed its deserts, pierced, cleft, and climbed its mountains, compelled the earth to yield from its surface food for distant millions and from its bowels precious stores for their use, and in a frenzied revelry sent millions of brothers to meet in mortal strife—that they should permit two hundred and thirty thousand Indians, men, women, and children, without the means to conduct or prolong an earnest war, to compel them to maintain an army of twenty-five thousand soldiers, at a cost of nearly $32,000,000 per annum, seems to be an incomprehensible absurdity, and indicates such utter indifference to the affairs of the Government as to make it possible for its administrators to perpetuate any condition for purposes not too broadly seen. That practices existed in connection with the Indian Bureau and War Department by which immense sums were squandered was well understood; but these little extravagances were of too small consequence to rouse the facile servants of a too prosperous people. Besides, it was good for trade! But now that other practices and recent declarations indicate worse purposes of the greatest magnitude, public safety demands a change of system for the management of this stupendous business—that we return to the ways whereby our fathers set us free.

If this army of twenty-five thousand soldiers be enough for war, then it is too much for peace. In peace the only use for soldiers is to care for the forts. If twenty-five thousand soldiers are necessary to care for the forts, then there are none for the field and the Indians may depredate unchecked, unless the militia be called out. If from twenty-five thousand men troops can be spared for the field, then there are too many for the forts and the excess ought to be discharged. In the days of our fathers, when Indians threatened invasion the militia were called out, and such men as Harrison and Johnson taught these Indians that war was made to secure peace, and peace was secured. No Sitting Bulls escaped from them! When peace was secured the militia returned to their homes and the little army returned to the forts. No Indian Bureau and War Department demanded the cultivation of the Indian that the bureau and Department might have excuse to exist. War meant war. Peace meant peace; compliance or annihilation. Immeasurably better that no Indian roamed the forest or no white man intruded on his range, than the frontier be used as an apology for maintaining an army which, according to recent practices and declarations, may be let loose upon the people at the demand of a class or whenever popular sentiment disputes a usurper's will.

Let the Indian be compelled to make war or keep the peace. Let the Indian Bureau do justice or cease to be. "Our fathers who framed the Constitution" devised the way and set the example; wise will it be to follow in the one and imitate the other. Eleven millions of white people live west of the Mississippi. These afford one million militia, brave, hardy, willing. Twenty thousand of these in the field will in a single campaign settle the peace forever. The interest of militia is peace. The safety of their families and homes demands peace, and peace they will have. Let the representatives of the people take care that they have the opportunity to compel it. The expense of a single soldier is more than $1,200 a year; of 5,000 soldiers six millions a year; half of this sum three, millions a year, will give to each of the three hundred congressional districts $10,000 each; $10,000 will be $20 a piece for 500 militia-men; $40 will arm and equip a man. In two years 150,000 militia-men will be ready for discipline; $20 per

man each year will pay all expense of disciplining this force. West Point can educate more than the necessary officers. By this means the States and the General Government will have 150,000 militia identified with the peace, order, and liberty of the country. The facility and certainty with which this may be done is attested by the condition of the militia in most of the old States north of Mason and Dixon's line, whose efficiency was so clearly demonstrated during the late disorders.

By this means the purpose of "our fathers who framed the Constitution" will be effected, $3,000,000 will be saved to the public Treasury, and a force constituted upon which to formulate, drill, and discipline the great body of the militia, so that no public enemy, be it white or red, one man or thousands, regulars or mobs, will attempt to obstruct the operation of law. Thus every citizen of whatever condition, secure in all his rights, may peacefully await the correction of every evil subject to amendment by the ballot. This is the theory of this Government as declared by the men who won the liberty of the country and framed the organic law on which it rests. The experience of the present attests their wisdom, and the immediate future commands us to profit by its lessons. They knew the safety of the militia and the danger of standing armies. Large or small, they knew and dreaded their power. They knew that Cæsar conquered the liberties of Rome with five thousand legionaries; that the pretorian guard which sold and resold the Roman throne numbered not more than eight thousand men. They knew that Cromwell, in the sacred name of liberty, with republican soldiers, dispersed the Parliament of England, and as Lord Protector governed what he was pleased to call the commonwealth without assembling the legislative power of the realm; that Monk, a republican general, restored the monarchy he had aided to overthrow with only six thousand troops; that standing armies sustained thrones, compelled conscience, and enslaved the people; and we, their degenerate and irreverent sons, know that, shielded by the power of standing armies, tyrants have reconstructed the governments of States, imposed constitutions on unwilling people, obstructed the ballot by soldiers at the polls, protected minorities in their usurpations, taxed the people without representation, encouraged and defended extortion, maintained thieves and plunderers of the public Treasury, placed soldiers in the capitols of States and excluded the representatives of the people, empowered a corporal to visé the credentials of members of a Legislature, constituted returning boards whereby elections are made void, encouraged and facilitated false returns of an election for President and Vice-President of the United States, conspired to count the electoral votes of the States for these high offices in a manner violative of the Constitution, law, and usage, overawed the House of Representatives so that it consented to postpone the rights of nearly five millions of freemen and seated a man, without color of title, as President of the United States, who is assisted in the administration of the office by the men who aided and abetted the unlawful means by which he obtained unlawful possession. And we know, too, that the General of the Army declared that without a standing army the citizens of the United States are a mob, and that the Lieutenant-General announced his desire to treat the citizens of a State as banditti, and that they have permitted the use of their Army as a *posse comitatus* to invade the homes, seize the property, imprison the person, and take the lives of citizens. And we know that this war minister of this intruding President, encouraged by the supineness of the people, promulgates the doctrine that a strong Federal force is to be stationed in the neighborhood of the large cities to repress the uprisings of "idle, suffering, and desperate" men for the redress of grievance, well knowing that the vote of these large cities control the political power of such States as New York, New Jersey, Pennsylvania, Ohio, Illinois, Missouri, and Maryland, where resides one-third of the political power of the country, thus erecting a military despotism under the form of but upon the ruins of the Republic.

Disorder, or the fear of disorder, is necessary to the success of this despot scheme for the establishment of a stronger Government as it is mildly called. The dormant violence of the party must be aroused in order to assure disturbance among the people. Anarchy is the tyrant's opportunity. Born of a false construction of the Constitution, nurtured into artificial existence by measures at war with the laws of trade, nursed by statesmen who aspired only to success, sustained in its youth by vigorous fanaticism, made corpulent by the spoils of war, enfeebled by too long possession of power, its appetite palled by indulgence, this late powerful republican party languishes for want of stimulating food. Restoration of self-government has given to the South peace, contentment, prosperity. The races live in the harmony which springs from memory of kind association, and sense of mutual dependence. This unwelcome change of condition compels the republican party to look elsewhere for the excitement necessary to its life, other subjects in other localities. The distressed condition of the work-people at the North supplies opportunity for the experiment. The isms which sprang, ready-armed, from the brain of republicanism are concentrating for a feverish existence in communism. This monster seeks to force or rend its mother. Alarmed at its frantic folly, the immense wealth of the party trembles at its rage, while the subtle leaders laugh at their fear and magnify the danger in justification of this demand for an increase of the Army. Hence the quickening cry of commune. That this vulture is made to gnaw at the vitals of our liberty is shown by the haste with which dupes echo the voice of the incendiaries directed to alarm capital by this senseless cry, and by the persistency with which the pensioned press misrepresents the assemblages of "idle, suffering, desperate men," supplicating for work, at almost any price, as organizations for the destruction of society. Disturbed at imaginary danger, every goose gabbles an alarm for the safety of property, as though communism could exist in a country where the people make the laws and land is to be had on credit at one dollar and a quarter per acre. Communism is the distorted offspring of hopeless oppression, suffering, and want. It sickens and dies in the presence of free institutions.

Thanks to "our fathers who framed the Constitution," the people have peaceful means for the redress of grievance. By intelligent exercise of the ballot at the frequently recurring elections they may change both the law-making and law-executing power. Thanks to their intelligence, the work-people awake to their sense of this power. The action of their late most important convention indicates that they comprehend the situation; that they have learned that peace, not violence, is the condition and means of their triumph; that lawful power is their weapon and shield; that theirs is not only the "might that slumbers in the peasant's arm," but the force that acts through a freeman's vote; that by an intelligent exercise of the ballot they may reduce the cost of the Government to the lowest possible cent by reduction of salaries and abolishment of sinecures, enforce just taxation, repeal and prevent class legislation, remove imposts from raw material, establish ocean lines to profitable ports, so that by reducing the cost of American manufactures, without reducing American wages, the products of American labor may compete for the markets of the world and thus revive the languishing industries of the land. Imperious want compels the study of their interests. Organized power will compel official obedience and make their ballots the fiats of their will. They will not be induced, instigated, or provoked to check by violence the sure but slow return of better times by those whose lust for power prompts them to evoke disorder that they may offer to property the protection of force.

Fear of the people is the chronic cowardice of luxurious civilization. It seeks to be saved from the just burdens of government. It prefers bullets to ballots, mercenaries to militia, and demands for a class the protection of a throne. For this to-day it raises or echoes the cry of commune, that out of the dread disorder, felt or feigned, it may find the opportunity to retain, strengthen, and consolidate the power it has usurped. Disguise it as we may, this one great truth is indisputable: the man who holds the Presidency of the United States against the will of the people, clearly expressed according to law, is as surely a monarch as he who by birth or force holds a throne, sways a scepter, or wears a crown. Republicans may fret and democrats may fawn, but so long as the usurper holds his power he is master and they are slaves.

By whatever name history may describe the electoral commission, its birth, life, and death, the motives, conduct, and benefits which governed, characterized, or attached to the actors and beneficiary of that most solemn farce, it will forever debate whether submission to its finding was the result of the most heroic patriotism or of the most abject cowardice the world has ever seen. This one fact, however, it will never deny. The silent soldier who commanded the standing Army riveted the chains which the people drag along in lengthening disgrace.

I know we cannot hope to do more now than to assist at the reduction of the Army, and, at the passage of the amendment I offer, to restrain the Army so that it may not be used as a *posse comitatus* without even the color of law. I trust, however, at the next session we may obviate all necessity for any but a very small standing Army by the passage of a law to organize, arm, and discipline the militia to be used to execute the laws of the Union and suppress insurrection as was intended by "our fathers who framed the Constitution."

Men of New England, the history of whose fathers glows bright with the love of liberty, ye who are next of kin to James Otis and Samuel Adams, and the rightful inheritors of their immortal renown, hearken to the echo of the mighty past:

Standing armies are dangerous to liberty and ought not to be maintained.

I offer the following amendment:

Provided, That from and after the passage of this act it shall not be lawful to use any part of the land or naval forces of the United States to execute the laws either as a *posse comitatus* or otherwise, except in such cases as may be expressly authorized by act of Congress.

Before the conclusion of Mr. KIMMEL'S remarks his hour expired and the hammer fell.

Mr. HUMPHREY obtained the floor.

Mr. BANNING. I ask unanimous consent that the time of the gentleman from Maryland be extended.

Mr. FOSTER. I dislike very much to object, but the arrangements are such that if the gentleman's time is extended other gentlemen will be precluded from an opportunity to address the committee.

Mr. HUMPHREY. I must object.

Mr. SINGLETON. There is but half an hour remaining before the business of the District of Columbia will come up, and the gentleman from Maryland might as well be allowed to occupy that time.

Mr. WHITE, of Pennsylvania. I hope there will be no objection to the extension of the time of the gentleman from Maryland.

Mr. KIMMEL. I want only ten minutes.

Mr. HUMPHREY. I cannot yield from the fact that the District

of Columbia business comes up at two o'clock, and I have only this half hour in which I can speak.

The CHAIRMAN. The Chair would state that the gentleman from Wisconsin [Mr. HUMPHREY] has a right to speak in the time of the gentleman from Pennsylvania, [Mr. SMITH,] and this is the only time under the rules that he will be entitled to speak, and if he yields the floor now there will be no time which the Chair can assign to him for debate upon this bill.

Mr. HUMPHREY. Mr. Chairman, I am sorry to have to take from the gentleman from Maryland any time that he desires upon this question. If I had been in a position to make my remarks without giving them in an extemporaneous manner I should have gladly yielded to him; but it is understood that there are very few of us who get an opportunity to speak upon these bills and upon questions that come before the House unless we do it at an opportune moment; and as I have had no opportunity to put in writing what I desired to say in the short time I have, I am obliged to occupy that time which is conceded to me.

It is not my desire, Mr. Chairman, to antagonize in any manner the bill that has been presented to the committee. It has many features that are exceedingly in advance of the law as it stands at present. There are many excellent features connected with the bill; but I desire, before proceeding further, to meet an idea that has been so often advanced upon the floor of this House, that a standing army is a menace to the liberties of the people.

I desire for a few moments to call the attention of the House to the time when the first standing army sprung into existence, and the causes and the reasons given in the history of the time for that which resulted in the Old World in having what is now understood to be a standing army. It is a well known matter of history that the first standing army recognized by any law in England was in the commencement of the reign of William and Mary.

It is also a well known fact of history, that prior to that time the very small standing army which was organized in the time of Charles I was never recognized as a standing army, but was nothing more than the trained bands or militia of the nation; and after the revolution of 1745, when an attempt was made and carried into effect to organize a national militia, the popularity of that measure, brought forward by the statesmen at that time, was exceedingly great; but they lived to see the day when the national militia fell into ridicule, and a standing army became the rule in England.

I desire now to call attention to why this was. Before the time of the restoration, before the time of the revolution, long back to the days of Henry V, when the feudal tenure existed in England, there could have been no such thing as a standing army. The tenant *in capite*, or the lord of the fief, owed vassalage and service to the monarch, and was called upon to furnish a quota of men. When thus called out he could not be compelled to leave the country nor to remain in the service more than ninety days at one time, so that unless the tenant *in capite* or lord of the fief was in unison with the spirit of the monarchy, which was absolute at that time I may say, there could be no rule of action by which the king himself could bring about that state of things which would lead to the establishment of an army. No such thing as a standing army was known; and why? Because under the feudal tenure it could not exist.

We come down now to the time when all such service was commuted to the Crown, and when troops were put in action by the Crown by means of commutation made by the *tenant in capite* or the owner of the fief who owed service to the lord or service to the Crown. And when that service came to be commuted, then was the first idea entertained that a standing army could be maintained in place of those trained bands, in place of that vassalage which the vassal owed to the *tenant in capite* or the owner of the fief which he owed to the monarch. Then the idea of a standing army sprang into existence, because the old service was commuted by the payment of money, which was used for the purpose of supplying the army with its regiments and battalions.

We now come down to the time to which I referred a few moments since, when Charles I raised the seven thousand men, and when it was said, as it is to-day, that a standing army was a menace to the liberties of the country. Mind you, Mr. Chairman, I do not stand here to-day to argue that a standing army must necessarily exist for the purpose of protecting our liberties; I am not here to urge that. I am here simply to withstand the idea that even in the case of a constitutional monarchy a standing army is necessarily a menace to the liberties of any people.

I desire to call attention to the difference between those times and the present. When the standing army was first organized in England, which is provided for in the mutiny bill passed yearly by the commons, providing that no man shall be court-martialed unless the mutiny bill should be passed annually and until the passage of the bill, no man who committed a crime in the military service could be punished except by civil power. They have passed that bill every year, and appropriations for the army are made every year. This provision of the British constitution we have taken for our model, making appropriations for the Army every year. When such was the rule of action in England the danger had passed, if there ever was any, arising from a standing army under a constitutional monarchy; for the history of England since that day shows conclusively that under her constitution the largest liberty and pure freedom are compatible with the existence of a standing army.

The national militia, as it was called, and which it was supposed would bring about a state of things in England that would save the necessity of a standing army—the national militia fell into disuse, for the very reason which we saw in this country last summer, when it was found that the militia was not fitted to take the place of the regular troops. Those who form the national militia are born and live among those with whom they are to contend; they are organized for certain purposes in case of emergency. They never are in such a position that they can have the drill, the experience, and the training which will fit them, when the emergency arises in the history of the nation, to withstand the onset required of them, when they had to fight on the continent under the banner of William or the Duke of Marlborough. For, adverting to the difficulties of last summer, it was then clearly proven that regular troops were much more effectual, and their duties more respected, than the State militia. They knew no country except the Union of these States; they fought under no flag but the "Stars and Stripes." No State boundaries constrained them, or limited their duties. They were soldiers of the Republic, and nobly sustained their reputation as such.

Recurring to British history, as the prerogatives of the Crown were yielded by William and Mary a standing army sprung into existence which had certain limits recognized by the constitution of England as that constitution was perfected during the reign of William. From that day to this England has stood first as a nation of prosperity, a nation that has supported a standing army from 1688 until to-day, and which has never in any instance found occasion to fear that her standing army would forswear its allegiance to the country or the Crown.

The trouble is we forget that England the moment she began to assume that shape under her constitution which she has at present, the moment that her institutions became molded into permanent form, the moment there was such a change in the constitution and manners of her people—because her constitution was written in the hearts and the lives of the people—that moment the change in her constitution led England to stand forth as a nation whose liberties were guarded by her Magna Charta and were not to be trenched upon in any case by any danger that could arise from a standing army.

It may be answered that France, in her great system of national militia, for the last three centuries has presented a case where a national militia in the hour of difficulty and emergency was able to withstand the onset of a foreign or a domestic foe. But I would call your attention to the fact that in France the monarchy was absolute; and where a monarchy is absolute and the militia is under the eye and guidance of the emperor, whose power and whose word is law, it may well be that in such case a national militia for the national defense might have its power and its strength uncrippled through all ages.

But how is it in the case of a constitutional monarchy or of a republic? Take, for instance, our own land. We have, as has been stated by the gentleman from Maryland, [Mr. KIMMEL,] provided in our Constitution that no appropriation shall be made for a standing army except at stated times, as therein enumerated. We have made provisions in our Constitution as stringent as those in the constitution of England; so that at all times, except in one emergency, the standing army is in subordination to the civil power. And if in that emergency the civil power stands aside for the military power experience has shown that in a country like ours there is no danger. Experience has shown that when our citizen soldiery shouldered their knapsacks and took their muskets in hand and came to the front they lost none of their patriotism, none of their allegiance and fidelity to the Government, which they had when they enlisted; because it was patriotism and love of country and love of law and order that induced them to throw aside their hoe, their plow, and their pursuits of civil life and shoulder the knapsack and step forward in the defense of their country.

In 1868 what was the footing of the Pentarchy on the continent? France had 1,200,000 men, and this was in time of peace. Austria had 800,000 men; Italy, 500,000; Russia, nearly 1,000,000; Prussia, about 1,000,000. Thus we see that in time of peace here were nearly 5,000,000 men in the military service under the Pentarchy in Europe, saying nothing about the 300,000 men that England at that time had in her regular army.

I do not bring forward these considerations as any reason why we should augment our Army. It was at that time a fact, (and as Motley says no epigram could be terser than the fact,) it was in 1868 a fact that the United States had an Army of but 40,000 men, while that European Pentarchy had nearly 5,000,000. Could there be a greater contrast between monarchical and republican institutions? Our Republic, with this small military force, had a border extending thousands of miles, that border infested by savages, liable at any time to break forth into a state of war. But with us, relying upon the intelligence and virtue of our people, an Army of 40,000 men sufficed. It is upon popular intelligence and political virtue that we must ever rely, for when these die out in a republic nothing is left to take their place. So long as the citizen of the Republic feels within his breast the love of country and the determination to do his duty honestly and fearlessly, we need never apprehend that an Army of 30,000 or 40,000 men is dangerous to our liberties.

Why, Mr. Chairman, during the last year we had a standing Army of twenty thousand or twenty-five thousand men. During a part of the year this Army was without any appropriations for its support.

If there was ever a time when we might expect the men and officers of our Army to show insubordination or want of patriotism it was then when proper appropriations had not been made for their support, and when they were called upon to travel from the Rocky Mountains to the cities of the East and the West to protect property and life from violence during the "strikes." But no truer patriotism, no stronger love of country, no sweeter incense upon the shrine of liberty was ever poured out than during that time when the soldiers' certificates for their pay had to be cashed by Drexel & Co., the soldiers paying the interest thereon because the Government had failed to make the necessary appropriations. Though their necessities had to be provided for in this irregular and uncertain way they stood their ground bravely, nobly, and did not even murmur.

To determine the question whether a standing army such as any we are likely to have in this country is dangerous to our liberties, we have only to address the question to our own hearts. All of us have friends, many of us have relatives in the Army, and we have only to ask ourselves this question: if we were called upon to-day to leave civil life and take part in repelling any foreign foe, would not our love of country be as strong, would not our hearts in that hour of national trial beat in unison with the demands of our country just as much as if we were in civil life?

Why, sir, the republic that existed longest in history was the Republic of Sparta, which endured eight hundred years; yet no such thing as constitutional monarchy or anything else than civil rule obtained in those times. The German historian informs us that when at the close of the Roman republic the German youth who had been brought under subjection by the Romans entered Rome (and at that time the Roman civil law obtained all over the continent of Europe) they saw meanness by the side of avarice; they saw nothing to attract the eye of a man who loved liberty in his native home. This was one reason why Germany threw off the yoke and regained her liberties, detaching herself from that empire. It was because Rome had lost her political virtue; because she had nothing left except her army, and that had become corrupt for the reason that no love of country could survive in any people who had become the slaves of absolute power which had been fastened upon them.

Turn to France in her early days; and in this connection I desire to meet the argument of the gentleman from Maryland [Mr. KIMMEL] who states that a standing army must inevitably be a menace to the liberties of any country. Take a rapid glance at the history of France from the eighth to the fourteenth or fifteenth century. The feudal tenure had been fastened upon France, as it then prevailed in Germany and in Italy. But that system did not extend to Spain. It is a remarkable fact that Spain in the eighth century had greater freedom than she has in the nineteenth. In the eighth century Spain stood forth as a nation in which the freedom of every man was kept intact by that power which gentleness and truth will always give. Spain, before the invasion of the Moors, had a military and a civil government fully constituted and her liberties were better guarded than those of any other nation on the face of Europe.

I now call particular attention to France, when the Dukes of Burgundy were at the height of their power and figured brilliantly upon the page of history. When those dukes were called upon by the king to aid in suppressing insurrection or to resist the invasion of a foreign foe, Burgundy stood like any separate State of this Union; the army of the dukes, if you please, was like the militia of the States, and the dukes yielded to the demand of the king or not, just as it suited them, for their power was such that they could even resist the monarch of France. In one instance, which all will remember, the Duke of Burgundy sided even with the King of England against the King of France. We read that on the banks of the Rhine a Duke of Anjou plucked the plant which gave the name of Plantagenet to the holders of the English crown; and long the royal house of England bearing that name shed a luster over the English monarchy by the brightness of its coming. I say that in that day and generation the French monarchy was powerless by reason of these fiefs held by the powerful Dukes of Burgundy and Anjou, held from the French crown, but in reality at times more powerful than the crown itself, for they refused to yield to the demand of the king to join in the war against his enemies. I speak of this to show in that day and in that time there was no love of union, no love of country; there was consequently no power which was able to cement the nation irresistibly against its enemies foreign or domestic. It was through the disintegration of the Empire of France, because of the defection of the Dukes of Burgundy and others, that England was able to secure unquestioned grasp of power over France and elsewhere throughout Europe for so many centuries.

My argument, Mr. Chairman, is that in a country like this, a Union composed of sovereign States, the power of the General Government being defined by the Federal Constitution—I say, and say it respectfully, in answer to the objections of the gentleman from Maryland, [Mr. KIMMEL,] that if our Constitution contemplated anything it contemplated a standing Army; because one, in fact, existed under the articles of confederation. We had the common law of England as our guide. We had heard and seen the efforts of Walpole, Pitt, and the great men of that day to bring the finance into proper order and condition, and we had beheld the power to which England in consequence had risen. We had all that light shed upon us at the time our Constitution was framed by the fathers. We had the whole example of England before us, and we had seen she had a standing army from 1688 to the very hour in which our Constitution was framed. Our Constitution was framed exactly with a view of providing for a standing army, so that the General Government should not be compelled to depend altogether at all times and in all emergencies upon State militia alone. We have recognized that fact for the last century. We have never yet seen any evil to flow from it. We have never yet known the liberty of a single citizen invaded by it. And let me say, Mr. Chairman, that I would rather have our liberties to-day protected upon the deck of an American ship with the old flag floating over it, even though the citizen whose rights were to be protected had merely declared his intention to become a citizen of the United States, I would rather risk them upon an American ship, under the American flag, commanded by an American officer, than in any State of the United States; because the General Government has shown when the rights of an American citizen were threatened it would put forth its entire power to protect them at every hazard. It can never be forgotten that such was the course pursued in the case of Louis Koszta, who, although he had merely declared his intention to become a citizen of the United States, was, by the exhibition of the power and energy of an officer of the Government, freed from a prison-hold in the Adriatic and restored to all his rights.

I am in favor, therefore, of granting to the General Government whatever share of power may be necessary. I am not afraid of a certain degree of centralization being accorded to the General Government. I am not afraid of granting to it the regulation of suffrage or of national banking, or indeed any power necessary for the maintenance of a strong and successful Government. The sovereignty of the States will not be lessened, but on the contrary the people will rise to bless and not to curse. I say that it is just as much the duty of the Government to provide and care for the people of the country as it is the duty of a father to preserve, protect, and care for his children. If a father brings up his children in idleness he must expect nothing but "tramps," he must expect nothing but to fill the penitentiaries; and if this Government shall pursue the same policy, if it shall not provide labor for its citizens, if it shall not see to it that the wants of the millions who are crying for bread to-day and who are willing to work are supplied by giving them employment, it must expect the sad results which most inevitably follow. It must expect that if it sows to the wind it must reap the whirlwind, and that consequently "tramps" will infest the country, idleness will beget crime, and the Government will but reap the necessary result of those crimes for which it is in a certain degree responsible.

Other nations recognize this principle. Germany educates her citizens for war and for peace. She sees to it that her youth imbibe habits of industry, are trained in the schools to perform intelligently the duties which she expects them to assume on reaching manhood, in middle age, and to the end of life. And she is not ashamed to copy from any nation, be it a monarchy or a republic, any principle or idea which will add to her social order, to the well being of her people, to redound to the honor and the glory of a united Germany. Consequently she is constantly, since her unification and the formation of her parliament, copying from the rules and modes of procedure of our American Congress.

Mr. Chairman, I have called attention to these historical facts for the purpose of showing that one of our dangers may be that in guarding too closely the rights of the States, as distinguished from the rights of the central Government, and by too narrow a construction of our Constitution we may fasten upon ourselves as a Republic, a modern feudalism more dangerous to the people of these United States than any benefit that can possibly flow to the individual citizen of a State. If we insist upon reducing our Army until in fact nothing shall remain but the militia in the States, we shall then have placed ourselves in the position of claiming to exist as a Union of States with no central power to exert itself when the whole of this Republic shall be menaced by a foreign foe. It is true we are now only looking for quietness on our borders; but one of the great States of this Union is constantly in a condition of ferment to-day, her citizens in fear, with nothing at hand to stay an invasion daily apprehended on her borders; and in the face of the fact that the pioneers of Texas are constantly menaced, we are contemplating a reduction of our Army.

As I have said, there are many good features in the bill brought forward; but in my judgment, in view of what I have just stated, and the extent of our borders, our Army should be kept on a footing of at least thirty thousand men. In fact, Mr. Chairman, I would utilize as far as possible in the present depressed state of the country all the idle, unskilled labor of the country. I would repair our posts and our fortifications wherever needed. I would favor the carrying on of a system of public works in addition, to utilize the skilled labor of the country, and thus provide bread for the hungry and clothing for the needy. I would make the waste places to rejoice, and the wilderness to blossom as the rose. It is economy, Mr. Chairman, in this Government or any government to do this, and thus prevent a repetition of those disgraceful outbreaks which not only menace the peace of the whole country but foster a feeling alien to the Government and to the prosperity of the nation.

The spirit of our laws, the spirit of our Constitution, and the spirit of our civilization, which is a civilization peculiarly American in its character, would dictate that at this day and age, when the mind of this country is struggling for supremacy in popular education, in general intelligence, and in inventive genius, we should not

allow ourselves to be drawn away from the grand destiny which awaits us in the dim distance, if not in the near future. For certain it is that if the spirit of the laws is any indication of the march of a people, we must fully realize the fact that for social order and the means of life being easily produced, this Republic furnishes an instance without parallel of a nation that can cultivate the arts of war and the arts of peace, without the slightest menace or danger to the liberties of the Republic.

In fact of all the petitions that have been placed before the present Congress not one has been found asking for a reduction of the Army. On the contrary within the last year more than one "sovereign State" has called for help, has petitioned the central Government for regular troops because she was unable to restrain domestic violence within her borders. Even "Maryland, my Maryland," within the last year, has sent frantic dispatches invoking the national power to repress that unwonted enthusiasm resulting from the very causes I have been detailing. While so many petitions are being laid before both Houses of Congress asking for relief by an amelioration of the condition of the masses asking for succor, setting forth the dangers that menace us and the evil that lies before us, while not one petition has been laid before either House intimating that our standing Army is endangering the rights and liberties of the people, or that the people are suffering or will suffer, or can suffer from an Army of even forty thousand men, why not then let well enough alone and turn our attention to those petitions which lie before us, and give, so far as we can do so under the Constitution and the laws, that aid and succor to the people which shall take distress from their minds and famine from their doors?

Mr. SINGLETON obtained the floor.

Mr. WILLIAMS, of Michigan, moved that the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker *pro tempore* having resumed the chair, Mr. SPRINGER reported that according to order the Committee of the Whole on the state of the Union had had under consideration a bill (H. R. No. 4867) making appropriation for the support of the Army for the fiscal year ending June 30, 1879, and for other purposes, and had come to no resolution thereon.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The hour of two o'clock having arrived, the Chair recognizes the chairman of the Committee for the District of Columbia.

REFUND OF TAXES.

Mr. WILLIAMS, of Michigan, from the Committee for the District of Columbia, reported back, with a favorable recommendation, the bill (S. No. 933) to authorize the commissioners of the District of Columbia to refund certain taxes erroneously collected, and for other purposes.

The bill was read. It authorizes and empowers the commissioners of the District of Columbia to refund to any persons who have heretofore been erroneously assessed for special improvement taxes on property not belonging to them, such moneys as they shall be found to have paid as taxes upon such erroneous assessment; and the said commissioners are empowered to correct any assessment so found to have been made, and collect the tax from the rightful owners of the property.

Mr. WILLIAMS, of Michigan. If no member desires an explanation of the bill I will ask the previous question.

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

Mr. WILLIAMS, of Michigan, 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.

COLUMBIAN COLLEGE, DISTRICT OF COLUMBIA.

Mr. WILLIAMS, of Michigan, also, from the same committee, reported back, with amendments, the bill (H. R. No. 4713) supplementary to the act of February 9, 1821, incorporating Columbian College, District of Columbia, &c.

The bill was read. It so modifies the act of March 3, 1873, ratifying and confirming the act for the relief of the Columbian College in the District of Columbia, enacted by the Legislative Assembly of the said District, and approved July 25, 1871, as to authorize the trustees and overseers of the Columbian University to hold their annual meeting on such day in May or June preceding the annual commencement of the college and the other schools of the university as the said trustees and overseers shall appoint, instead of being held on the Tuesday next preceding the last Wednesday in that month.

The amendments reported by the committee were read, as follows:

Strike out all after the word "June," in line 10, to and including the word "university," in line 11.

Strike out the words "that month," and insert in place thereof the word "June," in line 14.

Amend the title so that it shall read:

Supplementary to the act of March 3, 1873, entitled "An act supplemental to the act of February 9, 1821, incorporating Columbian College, District of Columbia."

Mr. WILLIAMS, of Michigan. I move the previous question on the bill and amendments.

The previous question was seconded and the main question ordered.

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

Mr. WILLIAMS, of Michigan, 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.

SALE OF COAL AND BUILDING REGULATIONS.

Mr. WILLIAMS, of Michigan, also, from the same committee, reported a bill (H. R. No. 4943) to authorize the commissioners of the District of Columbia to make and enforce regulations relative to the sale of coal, and also building regulations; which was read a first and second time.

The bill, which was read, authorizes and directs the commissioners of the District of Columbia to make and enforce such rules and regulations relative to the sale of coal in the District of Columbia as shall insure full weight to purchasers of coal, also such building regulations for the said District of Columbia as they may deem advisable.

The bill, in its second section, enacts that such rules and regulations made as above provided shall have the same force and effect within the District of Columbia as if enacted by Congress.

Mr. WILLIAMS, of Michigan. There have been many complaints in the District as to the light weight of coal delivered by dealers. The commissioners desire authority to make regulations relative to the sale of that article. They recommend also that they have authority to make regulations in regard to building. They make them now, but they do not have the force of law.

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

Mr. WILLIAMS, of Michigan, 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.

NATIONAL FAIR GROUNDS ASSOCIATION.

Mr. BLACKBURN, from the Committee for the District of Columbia, reported back, with a favorable recommendation, the bill (H. R. No. 4616) to incorporate the National Fair Grounds Association.

The bill was read, as follows:

Be it enacted, &c., That John S. Barbour, Edmund F. Beale, Richard Wallach, John A. Baker, S. V. Niles, J. O. P. Burnside, Fred. B. McGuire, Marshall Brown, D. C. Forney, William H. Phillip, Richard Smith, I. N. Burritt, A. C. Buell, S. L. Phelps, J. F. Ennis, J. G. Berret, E. F. Riggs, T. L. Hume, J. M. Mason, T. E. Roessle, L. B. Cuttler, W. B. Todd, H. H. Blackburn, R. K. Elliott, R. W. Tyler, Levi Woodbury, J. W. Boteler, William G. Moore, Thomas O. Hills, J. L. Barbour, S. H. Kauffman, Thomas Russell, J. W. Thompson, William Thompson, H. W. Hamilton, W. B. Reed, W. H. Claggett, W. R. Smith, A. Middleton, S. C. McDowell, L. G. Hine, L. A. Gobright, C. M. Alexander, and their associates and assigns, be, and they are hereby, created a body-corporate under the name of the National Fair Grounds Association, with authority to purchase and hold in fee-simple not exceeding two hundred acres of land anywhere in the District of Columbia, without the limits of the cities of Washington and Georgetown, and to erect suitable buildings and make suitable improvements thereon, for the care, preservation, improvement, and exhibition of products of the soil, of domestic animals, and of the products of mechanical, scientific, and artistic skill, ingenuity, and invention.

SEC. 2. That the capital stock of said corporation shall be not less than $25,000 nor more than $200,000, divided into shares of $100 each.

SEC. 3. The persons hereinbefore named, or a majority of them, shall, within ten days after the approval of this act, open books and receive subscriptions for such capital stock at such time or times and place or places as they shall deem proper; and may appoint persons to superintend the receiving of subscriptions and to receive money payable thereon; may call a meeting of subscribers at such time and place and with such notice as they shall deem proper, af er the minimum amount of capital aforesaid shall be subscribed; and may do all other acts necessary and proper to constitute and organize the said corporation until the first board of directors shall be elected, including the power in person, or through persons appointed by them, or a majority of them, to superintend, conduct, and certify that election.

SEC. 4. That at the meeting of subscribers to be called as aforesaid, or at any meeting called by adjournment thereof from time to time, there shall be elected a board of five directors; and from the time of such election the said corporation shall be completely organized and constituted, with all the faculties, rights, and privileges which lawfully belong to corporations generally, so far as the same shall be necessary for the purposes of its incorporation, including perpetual succession; the right to have and use a common seal, and to change the same at pleasure; the power to purchase, receive, acquire, hold, lease, dispose of, and manage real estate in the District of Columbia outside the limits of the cities of Washington and Georgetown not exceeding two hundred acres, and personal property not exceeding $200,000 in value; the right to sue and be sued, and to transact its business in the said corporate name; the power to appoint officers, agents, and servants; the power to make contracts, and to make all by-laws, rules, and regulations which may be deemed expedient and not contrary to law; and to prescribe the sources from which revenue may be derived, not inconsistent with law. The board of directors shall hold their offices for one year and until their successors shall be elected by the stockholders in general meeting. A majority of said board shall be a quorum, and all shall be stockholders of the corporation. They shall elect one of their number president and another vice-president, and a secretary, whose terms of office shall be the same as the board of directors. The board may call a general meeting of the stockholders at any time, or the same may be done by persons holding one-third of the stock of the corporation, and any officer of the corporation may be removed on vote of a majority of the stock thereof represented at such meeting, and his successor elected to fill his place. One week's notice in some newspaper of general circulation in said District shall be required to call said meeting.

SEC. 5. That the said shares of stock shall be personal property to all intents. Certificates thereof may be issued in such form as the board of directors may prescribe, and may be transferred in such manner as the by-laws may prescribe, but no share shall be transferred until all calls or assessments previously made thereon shall have been paid up. There shall be paid on each share of stock not less than $5 at the time of subscribing, and the residue shall be paid from time to time when-

ever assessed or called for by the board of directors. Upon default in the payment of any sum due on any subscription, the stock may be forfeited and sold for the payment thereof, with interest and expenses, under such regulations as the by-laws may prescribe, or the corporation may, by suit, recover the same from the holder of the stock at the time of the assessment thereof, or at any subsequent time.

SEC. 6. That this act may be amended or repealed at any time, and shall take effect from the date of its approval.

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

Mr. BLACKBURN 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.

ADVERSE REPORTS.

Mr. BLACKBURN, from the same committee, reported back, with adverse recommendations, bills of the following titles; and the same were laid upon the table, and the accompanying reports ordered to be printed:

The bill (H. R. No. 2344) to provide for the conveyance of the low grounds in the city of Washington under the provisions of the act of Congress approved May 7, 1872; and

The bill (H. R. No. 3697) authorizing the commissioners of the District of Columbia to purchase the Seaton House.

PENNY-LUNCH HOUSE.

Mr. BLACKBURN also, from the same committee, reported a joint resolution (H. R. No. 182) for the benefit of the penny-lunch house of the city of Washington, District of Columbia; which was read a first and second time.

The joint resolution was read. It appropriates the sum of $1,500 for the benefit of the penny-lunch house in the city of Washington, and authorizes and directs the Secretary of the Treasury, out of any moneys in the Treasury not otherwise appropriated, to pay the said sum of money to George Riggs, of Washington, District of Columbia, to be by him, the said Riggs, paid over to Mrs. Julia A. Roberts, of said city of Washington, in sums not exceeding $100 in any one month, for the maintenance of said lunch house.

Mr. BLACKBURN. This joint resolution proposes an appropriation of $1,500 in aid of the charity designated in the resolution, which has been established and in operation here in the city of Washington during the past winter and spring. I apprehend that there will be no objection to the passage of the joint resolution, and I therefore ask a vote.

The question was on ordering the joint resolution to be engrossed and read a third time.

Mr. CRITTENDEN. I desire to ask the gentleman from Kentucky whether this is money which has already been expended.

Mr. BLACKBURN. I will state in answer to the gentleman from Missouri that it is not. This charity has not been aided by the Government in any way. It has been conducted altogether by contributions made for its support by private citizens.

Mr. CRITTENDEN. I ask the gentleman if this joint resolution is for the purpose of carrying on further this system of liberality toward the poor.

Mr. BLACKBURN. That is the purpose; and the gentleman from Missouri by reading the joint resolution will see that it is properly guarded; that it requires this money shall be paid out in sums of not more than $100 per month; and that the depository named in the resolution is the banking-house of Mr. Riggs.

Mr. HEWITT, of Alabama. On whose order is the money to be paid?

Mr. BLACKBURN. It is to be paid upon the requisition of the lady who originated the institution and has successfully conducted it without assistance, except from private persons, to the infinite relief of the suffering classes of Washington City for the last six months; and I may say in addition that it has tended to decrease the amount of beggary in the city.

The joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

PERFECTION OF TITLE TO REAL ESTATE.

Mr. HUNTON, from the Committee for the District of Columbia, reported back the bill (H. R. No. 2915) to perfect the title to certain real estate in the District of Columbia, with a recommendation that it do pass.

The bill was read. It provides that the United States hereby quitclaim and release, in favor of George W. Watson, his heirs and assigns, any and all claim or title which they, the United States, have in or to lot No. 8, and the north thirty-four feet of lot No. 7, in square No. 996, situate in the city of Washington, District of Columbia; and that the United States hereby quitclaim and release, in favor of William H. Tyler, his heirs and assigns, any and all claim or title which they, the United States, have in or to the south thirteen feet of lot No. 7, in square No. 996, situate in the city of Washington, District of Columbia.

Mr. HUNTON. I would like to say in explanation of the bill that it was referred to the commissioners of the District of Columbia for a report, and through their attorney they make the following report:

Watson makes an equally clear case. A purchase of the lots described was made of the commissioners of the public grounds, paid for, and the party went into possession and so remained ever since, paid taxes and improved; would have a perfect title by prescription against any person but the United States. This case is full of merit.

It seems from this report that the commissioners of public grounds sold this lot to the parties named in the bill. They paid for it and took possession of it, but they neglected to get a title and the object of the bill is to give them a quitclaim title from the United States.

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

Mr. HUNTON 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.

APPOINTMENT OF JUSTICES, ETC., FOR THE DISTRICT OF COLUMBIA.

Mr. HUNTON, from the Committee for the District of Columbia, reported back the bill (H. R. No. 3969) regulating the appointment of justices of the peace, commissioners of deeds, and constables within and for the District of Columbia, and for other purposes, with the amendments of the Senate thereto, with a recommendation that sundry amendments of the Senate be concurred in and sundry other amendments be non-concurred in.

The report of the Committee for the District of Columbia was agreed to.

Mr. HUNTON moved to reconsider the vote by which certain amendments of the Senate were concurred in and certain other amendments were non-concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HUNTON. I move that a committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill be appointed.

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had passed, without amendment, the bill (H. R. No. 314) to confirm the term, for a period of seventeen years from the date of its original grant, of the patent of Thomas A. Weston.

The message further announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. No. 77) to provide the times and places of holding the circuit courts of the United States of the district of Iowa and the appointment of an additional judge in said district; and

A bill (S. No. 1184) to amend the one hundred and third article of war.

CAPITOL, NORTH O STREET, AND SOUTH WASHINGTON RAILWAY COMPANY.

Mr. HENDEE, from the Committee for the District of Columbia, reported, as a substitute for House bill No. 1537, a bill (H. R. No. 4944) amendatory of an act to incorporate the Capitol, North O Street, and South Washington Railway Company; which was read a first and second time.

The bill was read, as follows:

Be it enacted, &c., That the act to incorporate the Capitol, North O Street and South Washington Railway Company, approved March 3, 1875, be, and the same is hereby, amended so as to authorize said company to lay a single or double track and run its cars from its present line on E and Eleventh streets, northwest, eastward on E street to Tenth street, thence south on Tenth street to D street, thence eastward on D street to Eighth street, thence south on Eighth street to Market Space, thence eastward on said Market Space to Seventh street, thence across Seventh street and the intervening public space to Louisiana avenue, thence eastward on Louisiana and Indiana avenues, to connect with the tracks of said company on First street; also to construct a single or double track as a branch of its present line, from a point on Boundary street adjacent to what is known as Saint Patrick's Cemetery, along the valley east of Howard University, to the southern boundary of Soldiers' Home, near to Harewood entrance.

SEC. 2. That said company shall complete the track and run its cars along the streets and spaces first named, without additional fare, within eighteen months; and complete the branch last named, and run cars thereon, during such time and at such intervals as they may deem expedient within two years; and for riding over this branch or extension of the road the company may charge an additional fare not exceeding five cents: *And provided*, That the tracks shall be laid along said streets and avenues and spaces where the commissioners of the District shall direct: *And provided*, That said company shall be subject to all the restrictions and requirements in the construction required and the operation of the additional road hereby authorized set forth in the original charter of said company, except as hereinbefore provided.

Mr. HENDEE. I call the previous question upon the bill.

The previous question was seconded and the main question ordered.

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

Mr. HENDEE moved to reconsider the vote by which the bill was passed, and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PRESERVATION OF GAME, ETC., IN THE DISTRICT.

Mr. CLAFLIN, from the Committee for the District of Columbia, reported, as a substitute for House bill No. 3832, for the preservation of

game and protection of birds in the District of Columbia, a bill (H. R. 4945) of the same title; which was read a first and second time.

The substitute was read, as follows:

Be it enacted, &c., That no person shall kill or expose for sale, or have in either his or her possession, either dead or alive, any partridge, otherwise quail, between the 1st day of February and the 1st day of November, under a penalty of $5 for each bird so killed or in possession.

SEC. 2. That no person shall kill or expose for sale, or have in his or her possession, either dead or alive, any pheasant, otherwise ruffed grouse, between the 1st day of February and the 1st day of September, under a penalty of $5 for each bird so killed or in possession.

SEC. 3. That no person shall kill or expose for sale, or have in his or her possession, either dead or alive, any woodcock between the 1st day of January and the 1st day of July, under a penalty of $5 for each bird so killed or in possession.

SEC. 4. That no person shall kill or expose for sale, or have in his or her possession, either dead or alive, any prairie-chicken, otherwise pinnated grouse, between the 1st day of February and the 1st day of September, under a penalty of $5 for each bird so killed or in possession.

SEC. 5. That no person shall kill or expose for sale, or have in his or her possession, either dead or alive, any snipe or plover between the 1st day of May and the 1st day of September, under a penalty of $5 for each bird so killed or in possession.

SEC. 6. That no person shall kill or expose for sale, or have in his or her possession, either dead or alive, any wild duck, wild goose, or wild brant, between the 1st day of April and the 1st day of October, under a penalty of $5 for each bird so killed or in possession.

SEC. 7. That no person shall kill or expose for sale, or have in his or her possession, either dead or alive, any water-rail or ortolan or reed-bird or rice-bird between the 1st day of February and the 1st day of September, under a penalty of $2 for each bird so killed or in possession.

SEC. 8. That no person shall expose for sale, or have in his or her possession, any deer meat, or venison, between the 1st day of January and the 1st day of September, under a penalty of twenty cents for each and every pound of deer meat so exposed for sale or had in possession.

SEC. 9. That no person shall kill or expose for sale, or have in his or her possession, dead, at any time, any turkey-buzzard, wren, sparrow, blue-bird, hummingbird, blue-jay, robin or migratory thrush, wood or song robin, martin, mocking-bird, swallow, oriole, red or cardinal bird, cat-bird, pewit, whip-poor-will, gold-finch, sap-sucker, hanging-bird, wood-pecker, crow black-bird, or any other insect-ivorous bird save as herein provided, under a penalty of $2 for each bird so killed or in possession dead.

SEC. 10. That no person shall rob the nest of any wild bird of eggs or young, or destroy such nest, unless in the necessary prosecution of farming business, under a penalty of $2 for each egg or bird so taken and under a penalty of $5 for each nest so destroyed.

SEC. 11. That no person shall trap, net, or insnare any wild bird or water-fowl, or have in possession any trap, net, or snare, with the intent to capture or kill any wild bird or water-fowl, under a penalty of $5 for every bird or water-fowl so trapped, netted, or insnared, and under a further penalty of $20 for having in possession any such net, trap, or snare; and such net, trap, or snare shall be forfeited and destroyed.

SEC. 12. That no person shall at any time kill or shoot at any wild duck, wild goose, or wild brant with any other gun than such as are habitually raised at arm's length and fired from the shoulder, under a penalty of $5 for each and every wild fowl so killed, and under the further penalty of $25 for firing such gun at any wild fowl as aforesaid or having said gun in possession; and such gun when found shall be forfeited and destroyed.

SEC. 13. That no person shall kill or shoot at any bird or wild fowl in the night-time, under a penalty of $25 for every bird or wild fowl so killed, and under the further penalty of $10 for shooting at any bird or wild fowl in the night-time as aforesaid.

SEC. 14. That any person who shall knowingly trespass on the lands of another for the purpose of shooting or hunting thereon, after due notice, or notice as provided for in the following section, by the owner or occupant of lands, shall be liable to such owner or occupant in exemplary damages to an amount not exceeding $100, and shall also be liable to a fine of $10 for each and every trespass so committed. The possession of implements of shooting on such lands shall be presumptive evidence of the trespass.

SEC. 15. That the notice referred to in the preceding section shall be given by erecting and maintaining sign-boards at least eight by twelve inches in dimension on the borders of the premises, and at least two such signs for every fifty acres; and any person who shall maliciously tear down or in any manner deface or injure any of such sign-boards shall be liable to a penalty of not less than $5 nor more than $25 for each and every sign-board so torn down, defaced, or injured.

SEC. 16. There shall be no shooting or hunting, or having in possession in the open air the implements for shooting, on the first day of the week, called Sunday; and any person violating the provisions of this section shall be liable to a penalty of not more than $25 nor less than $10 for each offense.

SEC. 17. That all acts or parts of acts now in force in the District of Columbia inconsistent with the provisions of this act be, and the same are hereby, repealed.

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

Mr. CLAFLIN 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.

CONVICTS SENTENCED TO HARD LABOR.

Mr. CLAFLIN also, from the same committee, reported back, with a favorable recommendation, the bill (H. R. No. 4805) to provide that persons sentenced to hard labor by the courts of the District may be confined in the jail in said District, and for other purposes; which was referred to the Committee of the Whole on the state of the Union, and the accompanying report ordered to be printed.

SEWERAGE OF WASHINGTON.

Mr. MAYHAM, from the Committee for the District of Columbia, reported back, with amendments, the bill (H. R. No. 4785) for the improvement of the sewerage of the city of Washington, in the District of Columbia, and for other purposes; which was referred to the Committee of the Whole on the state of the Union.

OUTSTANDING CLAIMS AGAINST THE DISTRICT.

Mr. MAYHAM also, from the same committee, reported back, with amendments, the bill (H. R. No. 4810) to provide for the settlement of all outstanding claims against the District of Columbia, and conferring jurisdiction on the Court of Claims to hear the same, and for other purposes.

Mr. EDEN. I make the point of order that this bill makes an appropriation from the Treasury and must receive its first consideration in Committee of the Whole.

Mr. COX, of New York. I hope that will be done.

Mr. MAYHAM. The amendments proposed to the bill by the committee will remove the objection raised by the gentleman from New York [Mr. COX] and the gentleman from Illinois, [Mr. EDEN.] It is true that this bill provides for the payment in the first instance of judgments rendered by the Court of Claims by the Treasury of the United States, but it also provides that the Treasury shall be reimbursed out of any funds in the Treasury belonging to the District.

Mr. EDEN. I have not seen the amendments.

The SPEAKER *pro tempore*. It is in the power of the House at the present time, on motion, to refer this bill to the Committee of the Whole.

Mr. COX, of New York. I make that motion.

The motion was agreed to, upon a division—ayes 45, noes 7; no further count being called for.

NEUFCHÂTEL ROCK PAVING COMPANY.

Mr. HENKLE, from the Committee for the District of Columbia, reported adversely House bill No. 1942, for the relief of the North American Neufchâtel Rock Paving Company, and House bill No. 3230, for the relief of the Neufchâtel Rock Paving Company; and the same were laid upon the table, and the accompanying report ordered to be printed.

BALTIMORE AND OHIO RAILROAD.

Mr. DAVIS, of California, from the Committee for the District of Columbia, reported back, with amendments, the bill (H. R. No. 4069) requiring the removal of the tracks of the Baltimore and Ohio Railroad from certain streets in the city of Washington, and for other purposes.

Mr. HUNTON. I desire to call the attention of the gentleman from California [Mr. PAGE] to the understanding had in committee that this bill was not to be reported until all the rest of the business of the committee was disposed of.

The SPEAKER *pro tempore*. That is a matter of agreement in committee over which the Chair has no authority.

Mr. DAVIS, of California. I was not aware that there was such an understanding in the committee. If that is the case I will withdraw the bill until the other business of the committee has been brought before the House.

The bill was accordingly withdrawn.

RECORDER OF DEEDS AND REGISTER OF WILLS.

Mr. BRENTANO, from the Committee for the District of Columbia, reported, as a substitute for House bill No. 4734, to amend chapter 15 of the Revised Statutes of the United States relating to the District of Columbia, and House bill No. 4828, to amend chapter 27 of the Revised Statutes relating to the District of Columbia, a bill (H. R. No. 4946) to amend chapters 15 and 27 of the Revised Statutes of the United States relating to the District of Columbia, and to consolidate into one the offices of recorder of deeds and register of wills of said District; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read, as follows:

Be it enacted, &c., That the offices of recorder of deeds and register of wills, as provided for in sections 467 and 929 of the Revised Statutes of the United States relating to the District of Columbia, be, and are hereby, consolidated into one, and that the incumbent of said office shall be known as the recorder of deeds and register of wills of the District of Columbia.

SEC. 2. Said recorder of deeds and register of wills shall have charge and custody of all the records, papers, and property pertaining to both of said offices therein consolidated, and shall perform all the duties now required by law of said recorder of deeds and register of wills respectively, with all the powers and privileges pertaining to said offices according to law. He shall be appointed by the judges of the supreme court of the District of Columbia, and before entering upon the duties of his office shall take an oath that he will faithfully and impartially perform the same according to law; and shall give a bond to the United States, with two or more sureties to be approved by the chief-justice of the supreme court of the District, in the sum of $25,000, faithfully to discharge the duties of his office and to record all deeds and other instruments in writing authorized to be recorded according to law, also the decrees and orders of the justices of the supreme court holding the special term for the orphan's court business for the District, and all wills proved before him or the court, and all other matters directed to be recorded in the court or in the office of register, or required by them to be there recorded; and to make returns quarterly into the treasury of the District of all fees which may have been collected by him, or which may have come into his hands during the preceding three months, which bond shall be entered in full upon the minutes of the court and the original filed with the records thereof.

SEC. 3. The recorder of deeds and register of wills herein provided for shall be a citizen of the United States and shall have been a *bona fide* resident of said District for at least three years previous to his appointment. He shall be considered a subordinate officer of the supreme court of the District of Columbia, and shall be responsible to said court for his official acts, and for good cause shown shall be subject to removal from office by the said supreme court of the District.

SEC. 4. The recorder of deeds and register of wills shall hold his office for four years and until his successor is appointed and qualified, unless sooner removed by an order of the supreme court of the District of Columbia as hereinbefore provided for. He shall be entitled to a salary of $3,500 per annum. He shall make quarterly returns supported by his oath of all the fees received in accordance with sections 470 and 931 of the Revised Statutes relating to the District of Columbia to the chief-justice of the supreme court of the District; and all fees so received by him during the three months preceding in excess of one-fourth of his annual salary and the expenses

for clerk hire and disbursements for blank books, stationery, and postage-stamps as herein provided, he shall at the time of making such report pay into the Treasury of the District.

SEC. 5. The recorder of deeds and register of wills of said District shall have power to appoint deputies of like powers and privileges with himself, and for whose official conduct he shall be responsible. He shall receive such deputy and clerk hire as the supreme court of the District shall allow and as he shall necessarily expend, together with the necessary disbursement for blank books, stationery, and postage-stamps.

SEC. 6. Immediately after the passage of this act the offices of recorder of deeds of the District of Columbia and of register of wills of said District shall be deemed vacant: *Provided, however*, That the present incumbents shall perform the duties of the said offices respectively, and receive the fees for their services as provided by sections 470 and 931 of the Revised Statutes relating to the District of Columbia, till their successor is appointed and qualified.

SEC. 7. That all acts and parts of acts inconsistent with this act be, and the same are hereby, repealed.

Mr. DUNNELL. Is this a unanimous report from the Committee for the District of Columbia?

Mr. BRENTANO. It is.

Mr. DUNNELL. How is the recorder of deeds now appointed?

Mr. BRENTANO. By the President.

The question being taken on ordering the bill to be engrossed and read a third time, there were—ayes 24, noes 14; no quorum voting.

Mr. PAGE. This is an important bill. I think there ought to be a quorum voting upon it.

The SPEAKER *pro tempore*. No quorum having voted, the Chair orders tellers and appoints the gentleman from Illinois [Mr. BRENTANO] and the gentleman from Minnesota, [Mr. DUNNELL.]

Mr. DUNNELL. There has been no explanation from the committee as to the necessity for this measure.

Mr. HANNA. I ask that the bill be again read.

The SPEAKER *pro tempore*. The bill, which is a long one, has already been read once.

Mr. PAGE. Has the bill ever been printed?

The SPEAKER *pro tempore*. The bill now under consideration is a substitute for two other bills which were referred to the committee. Its comes regularly before the House.

Mr. HUNTON. If the House will indulge me a moment I will give an explanation of the bill.

The SPEAKER *pro tempore*. It can only be done by unanimous consent as the House is dividing. As very little attention seems to have been paid to the bill when first read, it will, if there is no objection, be read again as requested by the gentleman from Indiana, [Mr. HANNA.]

The bill was again read.

Mr. DUNNELL. I make the point that this bill should be first considered in Committee of the Whole.

The SPEAKER *pro tempore*. The gentleman is too late in raising that point. The bill is now before the House; and the question is on ordering it to be engrossed and read a third time, on which question the Chair has ordered tellers, pending which the gentleman from Virginia [Mr. HUNTON] rises to make some explanation of the measure. The Chair will hear the gentleman if there is no objection.

Mr. HUNTON. I only need say a word or two in explanation of the bill. There is now in the District of Columbia an officer called the recorder of deeds, whose salary and fees, as we are informed in the committee, amount to more than $10,000 a year. There is also an officer called the register of wills, who is entitled to all the fees of his office, which we are informed amount to more than $10,000 annually. The committee believed that these two offices might be consolidated and the duties discharged by a single officer, whose annual salary is fixed by the bill at $3,500, and who is authorized to employ clerks to assist him. We believed that if this consolidation should be made, these two offices would be as well conducted as at present, while there would be a saving to the District of Columbia of $15,000 or $16,000 a year.

Mr. DUNNELL. Why has it been considered necessary to change the appointing power? The recorder of deeds is now appointed by the President. A gentleman has recently been appointed to that position and confirmed by the Senate.

Mr. HUNTON. I presume that this is a matter about which the committee would not be very strenuous, but the gentleman will recollect that our committee all through the present Congress have taken the ground that appointments of District officers ought not to be made by the President of the United States; that these merely municipal officers, discharging duties in which only the people of the District are interested, ought to be under the control and subject to the appointment of the District authorities.

Mr. DUNNELL. Will the gentleman consent to an amendment striking out the words "chief-justice of the supreme court of the District" and inserting "the President of the United States?"

Mr. HUNTON. No, sir; I will not accept the amendment. In the first place, I am not authorized by the committee to do so, and, in the next place, we believe that, as these are officers of the court, the court ought to have the power of appointment as well as removal, as provided for in the bill.

Mr. HANNA. What has that court to do with the recording of deeds of parties in this District?

Mr. HUNTON. All questions as to the proper recordation of deeds come before this court; and, as to wills, all questions of probate come before it.

Mr. HANNA. A question as to the recording of a deed could not possibly come before the court except in some special case where the question of authentication might arise.

Mr. HUNTON. And in such cases that very question comes before this court.

Mr. KELLEY. It could only come before the court in an action for failure to make a proper record.

Mr. HUNTON. I think that is true.

Mr. KELLEY. And that would be only an incident to general litigation. That court can have no special supervision over the recorder of deeds in any way; and I do not see why the power of appointment should not as well be given to any other officer of the District as to the judge of that court.

Mr. HUNTON. The gentleman will recollect that the bill provides for the appointment not only of a recorder of deeds, but also of a register of wills; and the latter officer records the opinions of the probate court. To this extent he is the servant and officer of the court.

Mr. KELLEY. I have not studied the judicial system of this District; but I do not see how the chief-justice of the supreme court of the District has any special relation to the office of register of wills.

In the case of a question arising on a will it may get before the justice of the supreme court of the District of Columbia, but certainly on no original jurisdiction. The chief-justice of the supreme court of this District is not a probate judge. It had better be given, therefore, to the probate judge, whoever he may be, and then there would be some relation between the office and the thing the officer is to do. There is none between the chief-justice and this officer.

The SPEAKER *pro tempore*. The Chair is not inclined to indulge this debate longer, as it is not in order during a division of the House. Before the House proceeds further the Chair desires to know exactly the situation of the bill. Has the gentleman from Illinois demanded the previous question?

Mr. BRENTANO. I did not demand it, but I will demand it now.

Mr. DUNNELL. I rise to move an amendment to the bill, as I understand the substitute is before the House as an original bill.

The SPEAKER *pro tempore*. If the gentleman from Illinois did not demand the previous question on the bill, the amendment of the gentleman from Minnesota is clearly in order if offered before the House divided. The Chair desires to protect the rights of all parties. If the amendment was offered before the division the gentleman from Minnesota does not require unanimous consent to offer his amendment. Objection, however, is made that the House is dividing.

Mr. REAGAN. I should like to ask why this is made a salaried officer, instead of being paid by fees. If this salary is to be paid by the Government, what then is to become of the fees?

Mr. HUNTON. They are to be paid into the Treasury and the salary is to be paid out of the fees.

Mr. DUNNELL. I did not suggest my amendment until after the House was dividing.

The SPEAKER *pro tempore*. The question before the House, then, is on ordering the bill to be engrossed and read a third time. As there was no quorum on the last vote, the Chair appoints Mr. BRENTANO and Mr. DUNNELL tellers.

The House again divided; and the tellers reported—ayes 65, noes 74.

So the House refused to order the bill to be engrossed and read a third time.

The SPEAKER *pro tempore*. The bill is now open to the amendment suggested by the gentleman from Minnesota.

Mr. DUNNELL. I move to strike out the words "chief-justice of the supreme court of the District of Columbia" and in lieu thereof to insert "the President of the United States, by and with the advice and consent of the Senate."

The SPEAKER *pro tempore*. The gentleman will reduce his amendment to writing.

Mr. BRENTANO. While the gentleman from Minnesota is reducing his amendment to writing, I wish merely to say a word. This is nothing but an office properly belonging to the court in this District. In no State of the Union is the recorder of deeds appointed by the governor, but everywhere it is considered a local office and the recorder is elected by the people of the county in which he acts. Therefore, to place the appointing power in a court of this District is entirely in accord with the constitutional provision—article 2, section 2—which says:

> But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments.

The recorder of deeds and register of wills are by this bill consolidated, and the officer is declared to be subordinate to the court of the District. He is responsible to the court, and therefore ought not to be appointed by the Chief Executive of the nation, but by the court to whom he belongs.

The object of the bill is twofold. It is to do away, likewise, with an office paid by fees. It has been found to be the source of all corruption where officers are allowed to retain the fees, thereby receiving what is in disproportion to the labor performed. If we want real reform in the civil service, Mr. Speaker, then these officers who receive fees should be made salaried officers and the fees should go into the Treasury. And when we make this a salaried office there is no reason why the appointing power should be vested in the Chief Executive of the United States. This officer is a local officer and should

be appointed by the department to which it belongs, which is the judicial department of the District.

Mr. KEIFER. I understand the proposition is to vest the power in the chief-justice of the court of the District.

Mr. BRENTANO. No; in the court.

Mr. KEIFER. Is it in the judges or in the court?

Mr. BRENTANO. In the judges.

Mr. KEIFER. I understood the motion of the gentleman was to strike out "chief-justice," and insert "the President of the United States."

The SPEAKER *pro tempore*. The Clerk will read the amendment as it has been reduced to writing.

Mr. KEIFER. How does the bill read?

The SPEAKER *pro tempore*. The bill reads "shall be appointed by the judges of the supreme court of the District of Columbia." It is proposed to strike out "judges of the supreme court of the District of Columbia" and insert "shall be appointed by the President, by and with the advice and consent of the Senate."

Mr. KEIFER. Then, Mr. Speaker, the point I was about to make I still insist upon. That is that there is no constitutional power to vest in the judges of a court as distinguished from the court itself the right to make any such appointment as this. The distinction is very plain, and certainly will be very well understood by lawyers, that power cannot be conferred upon a judge or all judges that constitute a court unless it be conferred upon them as constituting the court itself.

Now, it is attempted here, as I maintain, in violation of the second section of article 2 of the Constitution of the United States, to confer a power upon judges, not upon the court. That section has reference to the powers and duties of the President, and the clause I call attention to reads thus:

> But the Congress may by law vest the appointment of such inferior officers, as they think proper, in the President alone, in the courts of law, or in the heads of Departments.

Not in the judges of the courts, but in courts acting as courts; and I insist, so far as concerns this vesting of appointment in the judges, this act would be held to be a nullity, being a violation of the Constitution. I am in favor, therefore, of the amendment submitted by the gentleman from Minnesota.

I wish to state another thing. I am unable to say why it is that the committee desire to change the mode of appointment of this particular officer; a higher officer than many others that are required to be appointed by the President of the United States and confirmed by the Senate of the United States. It is sought here to consolidate two offices, to bring them together, and to vest in certain judges of the District an appointing power over which there is no review, of which no confirmation is required. It looks to me as if there was a singling out of this office for some special reason.

Mr. CLAFLIN. There is no objection, I think, to the amendment of the gentleman from Minnesota.

Mr. KEIFER. Let me just add that I always find that where there is special legislation sought there is something wrong about it. It may not crop out on the surface, but sooner or later you find there is an ulterior purpose in it.

Mr. BRENTANO. I demand the previous question on the bill and pending amendment.

Mr. DUNNELL. There is another amendment that I desire to offer, to strike out of the third section the requirement of the three years' residence.

The SPEAKER *pro tempore*. Does the gentleman from Illinois yield for that amendment?

Mr. BRENTANO. I do. I now move the previous question on the bill and the two pending amendments.

The previous question was seconded and the main question ordered.

The question was first on the following amendment, offered by Mr. DUNNELL:

> In section 2 strike out the words "the judges of the supreme court of the District of Columbia" and insert "the President, by and with the advice and consent of the Senate."

The question being taken, there were—ayes 65, noes 44.

Mr. FINLEY. No quorum has voted.

Mr. SPARKS. Let tellers be ordered.

The SPEAKER *pro tempore*. A quorum not having voted, the Chair will order tellers, and appoints the gentleman from Minnesota [Mr. DUNNELL] and the gentleman from Illinois, [Mr. BRENTANO.]

The House again divided; and the tellers reported—ayes 88, noes 75.

So the amendment was adopted.

The question was next on the following amendment, offered by Mr. DUNNELL:

> In section 3 strike out the following words: "and shall have been a *bona fide* resident of said District for at least three years previous to his appointment."

The amendment was adopted.

Mr. DUNNELL moved to reconsider the votes by which the amendments were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

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

The SPEAKER *pro tempore*. The question recurs on the passage of the bill.

Mr. PAGE. I call for a division.

The question being taken, there were—ayes 114, noes 16.

Mr. PAGE. A quorum has not voted.

Tellers were ordered; and Mr. DUNNELL and Mr. PAGE were appointed.

The House again divided; and the tellers reported that there were—ayes 123, noes 19.

So (further count not being demanded) the bill was passed.

Mr. BRENTANO moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. WILLIAMS, of Michigan. I move that the House resolve itself into Committee of the Whole for the purpose of considering District business referred to the Committee of the Whole.

Mr. EDEN. Pending that, I move that the House do now adjourn.

Mr. HUNTON. I hope the House will not adjourn. The committee has only one day in the month.

ENROLLED BILL SIGNED.

Mr. RAINEY, 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. 314) to confirm the term of the period of seventeen years from the date of its original grant of the patent of Thomas A. Weston.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. MAISH for three days.

WITHDRAWAL OF PAPERS.

On motion of Mr. POLLARD, by unanimous consent, leave was given to withdraw from the files of the House papers accompanying House bill No. 2515, granting a pension to the heirs of Lattern Herrington, there being no adverse report thereon.

STEAMSHIP LINE TO BRAZIL.

Mr. SWANN, by unanimous consent, presented a resolution passed by the Merchants' Exchange of Baltimore against the granting of a subsidy to the Roach line of steamships to Brazil; which was referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The question recurs on the motion of the gentleman from Illinois, [Mr. EDEN,] that the House do now adjourn.

Mr. WILLIAMS, of Michigan. I hope the motion to adjourn will not prevail. The Committee on the District of Columbia have but one day in the month, and to-day have had but two hours.

Mr. FRANKLIN. I object to debate.

The question being taken on Mr. EDEN'S motion, there were—ayes 47, noes 106.

So the House refused to adjourn.

The question recurred upon the motion of Mr. WILLIAMS, of Michigan, that the House resolve itself into Committee of the Whole on the state of the Union, for the purpose of considering bills relating to the District of Columbia.

Mr. BRENTANO. I desire to make a further report from the committee, and I hope the chairman of the committee will yield to me for that purpose.

Mr. WILLIAMS, of Michigan, I yield for that purpose.

PRACTICE OF PHARMACY IN THE DISTRICT OF COLUMBIA.

Mr. BRENTANO, from the Committee for the District of Columbia, reported back, with a favorable recommendation, the bill (H. R. No. 3708) to regulate the practice of pharmacy in the District of Columbia.

The bill was read, as follows:

Be it enacted, &c., That from and after the passage of this act it shall be unlawful for any person, not a registered pharmacist within the meaning of this act, to conduct any pharmacy or store for the purpose of retailing, compounding, or dispensing medicines or poisons, for medicinal use, in the District of Columbia, except as hereinafter provided.

SEC. 2. That it shall be unlawful for the proprietor of any store or pharmacy to allow any person, except a registered pharmacist, to compound or dispense the prescriptions of physicians, or to retail or dispense poisons for medicinal use, except as an aid to, and under the immediate supervision of, a registered pharmacist. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be liable to a fine of not less than $25 nor more than $100 for each and every such offense.

SEC. 3. That immediately after the passage of this act, and biennially thereafter, or as often as necessary, the commissioners of the District of Columbia shall appoint three pharmacists and two physicians, all of whom shall have been residents of the District of Columbia for five years and of at least five years' practical experience in their respective professions, who shall be known and styled as commissioners of pharmacy for the District of Columbia, who shall serve without compensation, and who shall hold office for two years, and until their successors are appointed and qualified. Said commissioners shall, within thirty days after the notification of their appointment, each take and subscribe to an oath to impartially and faithfully discharge their duties as prescribed by this act. The position of any commissioner who shall fail to so qualify within the time named shall be vacant, and the vacancy or vacancies so occurring, or any vacancy or vacancies that may occur, shall be filled by the commissioners of the District of Columbia.

SEC. 4. That the commissioners of pharmacy shall keep a book of registration open at some convenient place within the city of Washington, of which due notice shall be given through the public press, and shall record therein the name and place of business of every person registered under this act. It shall be the duty

of said commissioners of pharmacy to register, without examination, as registered pharmacists, all pharmacists and druggists who are engaged in business in the District of Columbia at the passage of this act as owners or principals of stores or pharmacies for selling at retail, compounding, or dispensing drugs, medicines, or chemicals for medicinal use, or for compounding and dispensing physicians' prescriptions, and all assistant pharmacists, twenty-one years of age, engaged in said stores or pharmacies in the District of Columbia at the passage of this act, and who have been engaged as such in some store or pharmacy where physicians' prescriptions were compounded and dispensed for not less than five years prior to the passage of this act: *Provided, however*, That in case of failure or neglect on the part of any such person or persons to present themselves for registration within sixty days after said public notice, they shall undergo an examination such as is provided for in section 5 of this act.

SEC. 5. That the said commissioners of pharmacy shall, upon application, and at such time and place as they may determine, examine each and every person who shall desire to conduct the business of selling at retail, compounding or dispensing drugs, medicines, or chemicals for medicinal use, or compounding and dispensing physicians' prescriptions within the District of Columbia as pharmacists; and if a majority of said commissioners shall be satisfied that said person is competent and fully qualified to conduct said business of compounding or dispensing drugs, medicines, or chemicals for medicinal use, or to compound and dispense physicians' prescriptions, they shall enter the name of such person as a registered pharmacist in the book provided for in section 4 of this act.

SEC. 6. That no person shall be entitled to an examination by said commissioners of pharmacy for registration as pharmacist unless he present satisfactory evidence of being twenty-one years of age, and having served not less than four years in a store or pharmacy where physicians' prescriptions were compounded and dispensed, or is a graduate of some respectable medical college or university.

SEC. 7. That all graduates in pharmacy having a diploma from an incorporated college or school of pharmacy that requires a practical experience in pharmacy of not less than four years before granting a diploma, shall be entitled to have their names registered as pharmacists by said commissioners of pharmacy.

SEC. 8. That the commissioners of pharmacy shall be entitled to demand and receive from each person whom they register as pharmacists, without examination, the sum of $3, and from each person whom they examine the sum of $10. And in case the examination of said person should prove defective and unsatisfactory, and his name not be registered, he shall be permitted to present himself for re-examination within any period not exceeding twelve months next thereafter, and no charge shall be made for such re-examination. The money received under the provisions of this section shall be applied to the payment of such expenses as the commissioners may incur in executing the provisions of this act.

SEC. 9. Every registered pharmacist shall be held responsible for the quality of all drugs, chemicals, and medicines he may sell or dispense, with the exception of those sold in the original packages of the manufacturer, and also those known as "patent medicines;" and should he knowingly, intentionally, and fraudulently adulterate, or cause to be adulterated, such drugs, chemicals, or medical preparations, he shall be deemed guilty of a misdemeanor, and, upon conviction thereof, be liable to a penalty not exceeding $100, and, in addition thereto, his name shall be stricken from the register.

SEC. 10. It shall be unlawful for any person, from and after the passage of this act, to retail any poisons enumerated in Schedules A and B, as follows, to wit:

SCHEDULE A.

Arsenic and its preparations, corrosive sublimate, white precipitate, red precipitate, biniodide of mercury, cyanide of potassium, hydrocianic acid, strychnia, and all other poisonous vegetable alkaloids and their salts, essential oil of bitter almonds, opium and its preparations, except paregoric and other preparations of opium containing less than two grains to the ounce.

SCHEDULE B.

Aconite, belladonna, colchicum, conium, nux vomica, henbane, savin, ergot, cotton-root, cantharides, creosote, digitalis, and their pharmaceutical preparations, croton-oil, chloroform, chloral hydrate, sulphate of zinc, mineral acids, carbolic acid and oxalic acid, without distinctly labeling the box, vessel, or paper in which the said poison is contained, and also the outside wrapper or cover, with the name of the article, the word "poison," and the name and place of business of the seller. Nor shall it be lawful for any person to sell or deliver any poisons enumerated in schedules A and B, unless, upon due inquiry, it be found that the purchaser is aware of its poisonous character, and represents that it is to be used for a legitimate purpose. Nor shall it be lawful for any registered pharmacist to sell any poisons included in schedule A without, before delivering the same to the purchaser, causing an entry to be made, in a book kept for that purpose, stating the date of sale, the name and address of the purchaser, the name and quality of the poison sold, the purpose for which it is represented by the purchaser to be required, and the name of the dispenser; such book to be always open for inspection by the proper authorities, and to be preserved for reference for at least five years. The provisions of this section shall not apply to the dispensing of poisons, in not unusual quantities or doses, upon the prescriptions of practitioners of medicine. Nor shall it be lawful for any licensed or registered druggist or pharmacist in the District of Columbia to retail, or sell, or give away any alcoholic liquors or compounds, as a beverage, to be drunk or consumed upon the premises. And any violation of the provisions of this section shall make the owner or principal of said store or pharmacy liable to a fine of not less than twenty-five and not more than one hundred dollars, to be collected in the usual manner.

SEC. 11. Any itinerant vender of any drug, nostrum, ointment, or appliance of any kind, intended for the treatment of disease or injury, or who shall, by writing, or printing, or any other method, publicly profess to cure or treat diseases, injury, or deformity by any drug, nostrum, manipulation, or other expedient, shall pay a license of $200 per annum into the treasury of the District of Columbia, to be collected in the usual way.

SEC. 12. That any person who shall procure, or attempt to procure, registration for himself or for another under this act by making, or causing to be made, any false representation, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof, be liable to a penalty of not less than twenty-five nor more than one hundred dollars, and the name of the person so fraudulently registered shall be stricken from the register. Any person not a registered pharmacist, as provided for in this act, who shall conduct a store, pharmacy, or place for retailing, compounding, or dispensing drugs, medicines, or chemicals for medicinal use, or for compounding or dispensing physicians' prescriptions, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be liable to a penalty of not less than $50.

SEC. 13. That all fines and penalties under this act shall be collected in the same manner that other fines and penalties are collected in the District of Columbia; and it shall be the duty of the United States district attorney for the District of Columbia to prosecute all violations of this act.

SEC. 14. That all acts and parts of acts inconsistent with this act be, and the same are hereby, repealed.

Mr. BRENTANO. I move the previous question on the passage of the bill.

Mr. FINLEY. I hope the gentleman will allow me to ask him a question, or if he will not yield for that purpose that the previous question will be voted down.

Mr. BRENTANO. I will yield for a question.

Mr. FINLEY. I have not had an opportunity of examining this bill and know nothing of it except from hearing it read at the desk, but I desire to inquire of the gentleman from Illinois why it is that in the ninth section you except patent medicines?

Mr. BRENTANO. He is not liable for the sale of patent medicines.

Mr. FINLEY. Does not the bill provide that all persons now engaged in the business of pharmacy in the District of Columbia shall be exempt from the provisions of the bill, and that they shall only apply to those who come hereafter?

Mr. BRENTANO. The bill is only prospective. I ask the previous question.

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

The question recurred upon the passage of the bill; and being put, there were—ayes 90, noes 18.

Mr. BROWNE. No quorum has voted.

Tellers were ordered; and Mr. BRENTANO and Mr. BROWNE were appointed.

The House again divided; and, before the result of the vote was announced,

Mr. BROWNE said: I will not insist upon a further count.

Mr. BRAGG. The result of the vote has not been announced.

The SPEAKER *pro tempore*. No further count was demanded.

Mr. BRAGG. But I desire to raise the question of no quorum.

The SPEAKER *pro tempore*. The Chair will then announce the vote now. There were 109 in the affirmative and 14 in the negative. The gentleman who represented the negative stated that no further count was demanded, and thereupon the Chair recognized that the opponents of the bill had conceded the point.

Mr. BRAGG. I insist that under the rules the Chair must announce the vote and that we have a right to raise the question of no quorum.

The SPEAKER *pro tempore*. The tellers will resume their places and the count will be continued; the Chair will not interfere with any of the gentleman's rights.

The tellers resumed their places; and the count having been continued and concluded, they reported—ayes 122, noes 26.

So the bill was passed.

Mr. BRENTANO 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.

Mr. WILLIAMS, of Michigan. I move that the House resolve itself into the Committee of the Whole on the state of the Union.

Mr. FINLEY. I move that the House do now adjourn.

LEAVE TO PRINT.

Mr. HUNTER. Pending that motion, I ask unanimous consent to print some remarks in the RECORD.

There was no objection, and the leave was granted. [See Appendix.]

Mr. SINGLETON. I desire to make a report from the Committee on Appropriations. [Cries of "Regular order!"] I appeal to the gentleman from Ohio to allow me to make this report.

The SPEAKER *pro tempore*. The regular order is demanded by several gentlemen, and the Chair will have to put the question on the motion of the gentleman from Ohio.

The question was put on Mr. FINLEY's motion; and on a division, there were—ayes 57, noes 76.

So the House refused to adjourn.

EADS JETTIES.

On motion of Mr. SINGLETON, by unanimous consent, the Committee on Appropriations was discharged from the further consideration of a letter from the Secretary of the Treasury with a communication from Captain Eads with regard to the jetty system, and the same was referred to the Committee on Commerce.

Mr. CANNON, of Illinois. I move that the House do now adjourn.

The question was taken; and on division, there were—ayes 64, noes 81.

So the House refused to adjourn.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The question now recurs upon the motion of the gentleman from Michigan [Mr. WILLIAMS] that the House resolve itself into Committee of the Whole on the state of the Union.

Mr. ELAM. I ask unanimous consent to make a report from the Committee on Pacific Railroads for printing and recommittal.

The SPEAKER *pro tempore*. Does the gentleman from Michigan [Mr. WILLIAMS] yield for that purpose?

Mr. WILLIAMS, of Michigan. There are several gentlemen here who desire to present matters for consideration, and if I yield to one I will have to yield to all; I cannot yield.

The question was taken upon the motion of Mr. WILLIAMS, of Michigan; and upon a division there were—ayes 89, noes 34.

Mr. BRAGG. No quorum has voted.

Tellers were ordered; and Mr. WILLIAMS, of Michigan, and Mr. BRAGG were appointed.

The House again divided; and the tellers reported that there were—ayes 79, noes 26.

Mr. BRAGG. No quorum has voted.

Mr. RANDOLPH. I move that the House do now adjourn.

The question was taken upon the motion to adjourn; and upon a division there were—ayes 86, noes 66.

Before the result of this vote was announced,

Mr. HUNTON called for the yeas and nays on the motion to adjourn.

The question was taken upon ordering the yeas and nays; and there were 34 in the affirmative.

So (the affirmative not being one-fifth of the last vote) the yeas and nays were not ordered.

The result of the vote was announced as above stated; and accordingly (at four o'clock and thirty minutes p. m.) 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 the Soldiers' and Sailors Memorial Association of Hamilton County, Ohio, for the early passage of the bill (H. R. No. 389) for the equalization of bounties—to the Committee on Military Affairs.

By Mr. BAYNE: A communication from John H. Clancy, favoring the passage of the House bill now pending which proposes to subject insurance companies of other nations to a tax on their business done in competition with companies chartered under the laws of our National and State Governments—to the Committee of Ways and Means.

By Mr. BUTLER: The petition of Moses H. Gale, in behalf of the national workingmen's greenback party, for the reduction of the Army to the lowest possible number—to the Committee on Military Affairs.

By Mr. CORLETT: Papers relating to the claim of F. E. Warren—to the Committee of Claims.

By Mr. DAVIDSON: The petition of citizens of Gainesville, Florida, in reference to the seminary and agricultural-college funds of the State of Florida—to the Committee on Education and Labor.

By Mr. GOODE: The petition of Mrs. C. P. Hartt, for a pension—to the Committee on Invalid Pensions.

By Mr. HARDENBERGH: The petition of Michael Schaffel, for arrears of pension—to the same committee.

By Mr. MORGAN: The petition of F. A. Jones, A. Gilmartin, and other citizens of Barton County, Missouri, for the enactment of a law prohibiting the introduction of Texas cattle into Missouri during the summer—to the Committee on the Judiciary.

By Mr. PRIDEMORE: The petition of Elisha Franklin, for bounty land—to the Committee on Revolutionary Pensions.

By Mr. RICE, of Massachusetts: The petition of E. W. Bullard, for an extension of his patent for a hay-tedder—to the Committee on Patents.

By Mr. SAPP: The petition of citizens of Lennox, Iowa, against the passage of the bill in reference to the transportation of animals in cars—to the Committee on Agriculture.

By Mr. SPRINGER: The petition of James N. Brown's sons, De Witt W. Smith, and other citizens of Sangamon County, Illinois, of similar import—to the same committee.

By Mr. TIPTON: The petition of Andrew J. Mefford, for a pension—to the Committee on Invalid Pensions.

By Mr. TUCKER: The petition of citizens of Botetourt County, Virginia, for the passage of the Texas and Pacific Railroad bill—to the Committee on the Pacific Railroad.

By Mr. VANCE: The petition of George Allen, for the repeal of the tax on State bank circulation—to the Committee of Ways and Means.

By Mr. WILLIS, of Kentucky: The petition of Jesse M'Coy, for the payment of a certain amount due his mother before her decease—to the Committee of Claims.

By Mr. WILLIS, of New York: The petition of Major Alvin Walker, late paymaster United States Army, for a pension—to the Committee on Invalid Pensions.

IN SENATE.

TUESDAY, *May* 21, 1878.

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

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

HOUSE BILL REFERRED.

The bill (H. R. No. 4874) for the relief of the sureties of John McNellis was read twice by its title, and referred to the Committee on the Judiciary.

HAYDEN'S GEOGRAPHICAL ATLAS.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution, received yesterday from the House of Representatives; which was read, and referred to the Committee on Printing:

Resolved by the House of Representatives, (the Senate concurring,) That there be bound 500 copies of the Geological and Geographical Atlas of Colorado and portions of the adjacent territory under the Hayden survey; one copy for distribution to each Senator and Member of the House of Representatives and Delegate from the Territories; the balance for distribution by the office of the survey; the style of binding to be determined by the joint committee of the two Houses on printing.

TIMBER CULTURE ON PUBLIC LANDS.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. No. 393) to amend section 2464 of the Revised Statutes, in relation to the cultivation of timber on the public domain; which, on motion of Mr. PADDOCK, was referred to the Committee on Public Lands.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Navy, transmitting, in compliance with a resolution of the 16th ultimo, copies of the records showing the proceedings of the several boards of medical officers in the case of Captain William N. Jeffers.

Mr. SARGENT. Let the documents be referred to the Committee on Naval Affairs. In the judgment of many Senators after a board has been duly constituted and has discharged its duty and reported upon the physical condition of a candidate, there is no power to set aside the action of the board and order another. The statute reads as follows:

> No officer shall be promoted to a higher grade on the active list of the Navy until he has been examined by a board of naval surgeons and pronounced physically qualified to perform all his duties at sea.

The object of this statute is obvious. It is to secure to the public service sound and efficient officers. It cannot be disregarded safely or wisely, and Congress looks to the executive officers to execute this and all laws conscientiously, without evasion or favoritism. The board should be free from bias, of competent qualifications, and deal justly with the Government as well as by the candidate. If there is power to appoint a new board after setting aside the proceedings of the first, and then a third after a second, to give additional chances to pass to an applicant, it would seem that disinterested men should be selected as the jury. In this case the proceedings of the second board, which are made up with great particularity and care, with scrupulous attention to legal requisites, probably because the proceedings of the first board had been set aside for an alleged disregard to forms, are set aside on the ground of informality and that the adverse finding is against the evidence before the board. This latter point makes the revising power the judge of the qualifications of an officer, and it is not apparent why the board could not be dispensed with. It is at best, under such practice, an empty form. The third board, consisting of three, was made up of two medical officers who had testified in favor of the applicant, and the only ones who had, and a third who does not seem to have so or otherwise expressed an opinion. This would be called "packing" if it had been done by politicians. It is needless to say that the proceedings of this board were approved, and the officer is nominated to the Senate.

I desire to thus briefly direct attention to the construction of this statute, in favor with the Navy Department. I dissent from the law, but I more decidedly dissent from the practice. Either the Government has an interest in having these boards impartially, disinterestedly perform their functions, or it has not. If it has, men in a condition of mind to impartially examine should be appointed to perform the duty, and the witnesses and advocates of a candidate hardly come under this category. I move that the papers be printed and referred to the Naval Committee.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. THURMAN presented the petition of James A. Barr, of Champaign County, Ohio, late a second lieutenant Company I, Twenty-sixth Ohio Volunteers, praying for the passage of an act authorizing the Adjutant-General of the Army to correct his muster; which was referred to the Committee on Military Affairs.

He also presented the petition of Thomas Smith and others, citizens of Ohio, praying for the passage of a law providing for the equalization of bounties; which was referred to the Committee on Military Affairs.

Mr. FERRY (Mr. ANTHONY in the chair) presented the petition of Dr. C. H. B. Kellogg and 84 others, citizens of Michigan, praying for the passage of an act to reimburse persons for money spent in defending their homesteads; which was referred to the Committee on Public Lands.

Mr. JOHNSTON presented the memorial of H. L. Pelouze & Son, manufacturers of and dealers in type, &c., of the city of Washington, remonstrating against the passage of a bill to refund to Miller & Richards a fine of $3,183 imposed upon them for undervaluing a lot of goods passed through the custom-house at San Francisco; which was referred to the Committee on Finance.

Mr. GROVER presented the memorial of S. B. Kidder and others, citizens of Oregon, engaged in sheep-farming, remonstrating against the repeal of the tariff on wool; which was referred to the Committee on Finance.

He also presented the petition of Joseph Lane McDonald, of the Territory of Alaska, praying for the repeal of the law to protect fur-bearing animals; which was referred to the Committee on Commerce.