

State authorities from citizens of the South, under the denomination of captured or abandoned property—to the Committee on War Claims.

By Mr. CARLISLE: The petition of W. W. Hanes, for an extension of patent No. 36295, for improved percussion projectiles—to the Committee on Patents.

By Mr. DEERING: The petition of citizens of Worth County, Iowa, for the amendment of the patent laws—to the same committee.

By Mr. DWIGHT: The petition of Mrs. Marie K. A. Benchley, for the removal of her political disabilities—to the Committee on the Judiciary.

By Mr. FENN: Papers relating to the public buildings in the Territory of Idaho—to the Committee on Public Buildings and Grounds.

By Mr. FORT: The petition of Mary E. Marsh and others, for the enforcement of the law against polygamy—to the Committee on the Judiciary.

By Mr. HARMER: The petition of Elizabeth McFarland, for an increase of pension—to the Committee on Invalid Pensions.

By Mr. HUBBELL: The petition of Mrs. James Ross, Mrs. E. R. Stiles, and 120 other ladies, of Hancock and Houghton, Michigan, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. JOYCE: The petition of Loren H. Baker, for restoration to the pension-roll—to the Committee on Invalid Pensions.

By Mr. KEIGHTLEY: The petition of Cornelia U. Parrey and 189 others, of Three Oaks, Michigan, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. KELLEY: The petition of William H. Richardson, for a pension—to the Committee on Invalid Pensions.

By Mr. LINDSEY: The petition of Elizabeth F. Chaffee and other women, of Winslow, Maine, for legislation to make effective the anti-polygamy law of 1862—to the Committee on the Judiciary.

By Mr. MCKINLEY: The petition of M. V. B. King and 20 others, citizens of Canfield, Ohio, for a commission of inquiry concerning the alcoholic liquor traffic—to the same committee.

By Mr. McMAHON: The petition of William L. Johnson, for a pension—to the Committee on Invalid Pensions.

By Mr. PRICE: The petition of the Women's Christian Temperance Union, Rev. B. F. W. Crozier, and 30 others, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Judiciary.

By Mr. STRAIT: The petition of Mary J. Ward and others, of Minnesota, for legislation to make effective the anti-polygamy law of 1862—to the same committee.

By Mr. WARNER: The petition of Julia M. Benedict and 14 others, of similar import—to the same committee.

On motion of Mr. WINDOM, it was

*Resolved*, That the Senate insist upon its amendments disagreed to by the House of Representatives and ask a conference with the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

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

The VICE-PRESIDENT appointed Mr. WINDOM, Mr. ALLISON, and Mr. WITHERS as the conferees on the part of the Senate.

#### EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of War, transmitting a letter from the Chief of Engineers and a report of Major Godfrey Weitzel, Corps of Engineers, relative to the transfer by the State of Michigan to the United States of the Saint Mary's Falls Canal; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the river and harbor act of June 18, 1878, a report from Major W. P. Craighill, Corps of Engineers, on the survey of New River, Virginia; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with the river and harbor act of June 18, 1878, reports from Captain W. H. H. Benyard, Corps of Engineers, on examinations of the Big Sunflower, Coldwater, and Tallahatchie Rivers, Mississippi, the Upper Red River, Louisiana and Texas, and of the Little River and Fourche la Féve River, Arkansas; which was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with section 229 of the Revised Statutes, statements showing the contracts made by the bureaus of the War Department on behalf of the United States during the year 1878; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### PETITIONS AND MEMORIALS.

Mr. MATTHEWS presented the petition of Mrs. Mary H. Thistle, widow of the late Captain Hezekiah L. Thistle, a soldier in the war of 1812, praying for a pension; which was referred to the Committee on Pensions.

He also presented the petition of Mrs. Harriet Ross, widow of Thomas R. Ross, praying for a pension on account of services rendered by her late husband during the war of 1812; which was referred to the Committee on Pensions.

Mr. MITCHELL. I present a joint memorial passed by the Legislative Assembly of the State of Oregon, at the tenth regular session, 1878, in which they represent that the Umatilla Indian reservation is one of the most valuable and fertile portions of the State of Oregon; that it contains about five hundred thousand acres, and is now occupied by only about four hundred Indians; that if it were thrown open to settlement by the whites, it could sustain a population a hundred-fold greater than it now does; that the Indians residing on it have lately been acting in a hostile manner toward the whites, and that they are deteriorating by contact with the large white population by which they are now surrounded. Twenty years nearly have expired, during which, by the terms of the treaty made with them, they are to draw annuities from the Government, and the memorialists affirm that the best interests of humanity and civilization demand that the Indians should now be removed to some more secluded portion of the country; wherefore they most respectfully pray that measures may be taken to extinguish the title to the lands which the Indians now occupy, and to remove them to a suitable place in some Indian Territory. I move the reference of the memorial to the Committee on Indian Affairs.

The motion was agreed to.

Mr. MITCHELL presented the petition of the mayor and common council of the city of Seattle, Washington Territory, praying for an appropriation for the construction of a steamer for the revenue marine service for service in the Alaska waters, and for the passage of a law providing a civil government for the Territory of Alaska; which was referred to the Committee on Commerce.

He also presented the petition of Robert C. Corbaley and others, citizens of Oregon, praying for an appropriation for the improvement of the entrance to Coos Bay and harbor; which was referred to the Committee on Commerce.

Mr. MAXEY presented the petition of Peter Eldridge, a soldier and pensioner of the war of 1812, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. WITHERS presented the petition of Mrs. Jane Dulany, widow of the late Colonel William Dulany, of the United States Marine Corps, praying for an increase of pension; which was referred to the Committee on Pensions.

#### WATER SUPPLY OF WASHINGTON.

Mr. DORSEY. I present a communication from Colonel Casey, of the Engineer Corps, in relation to the Washington Aqueduct, which I shall be glad to have read and printed.

The VICE-PRESIDENT. It will be read at length.

#### POWELL'S REPORT ON ARID REGION OF UNITED STATES.

The VICE-PRESIDENT laid before the Senate the following concurrent resolution of 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 printed 5,000 copies of the report on the lands of the arid region of the United States, by J. W. Powell; 1,000 for the use of the Senate, 2,000 for the use of the House of Representatives, and 2,000 for the use of the Department of the Interior.

#### INDIAN APPROPRIATION BILL.

The Senate proceeded to consider its amendments to the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1880, and for other purposes, disagreed to by the House of Representatives.

The Secretary read as follows :

OFFICE OF WASHINGTON AQUEDUCT,  
Washington, D. C., January 22, 1879.

SIR: I have the honor to acknowledge the receipt of your letter of the 20th instant informing me that the Senate Committee on the District of Columbia have instructed you to call my attention to the following resolution adopted by the Senate on the 17th instant, and to request me to submit to them my views on the subject contained therein:

"Resolved, That the Commissioners of the District of Columbia be, and they hereby are, directed to report to the Senate what action by Congress, if any, is necessary to secure to the residents of Capitol Hill and other elevated portions of the city of Washington a proper supply of water, what appropriation of money, if any, is required, and to transmit to the Senate such facts relating thereto as they may deem important."

In compliance with the request of the committee I submit the following statement:

The Potomac water that is supplied to the cities of Georgetown and Washington is brought by the conduit of the Washington Aqueduct from the Potomac River, above the Great Falls, to the distributing reservoir.

This conduit is circular in section, nine feet in diameter, and has an uniform grade of nine and one-half inches to the mile. Its length from Great Falls to the distributing reservoir is twelve miles, and it can discharge into the reservoir about eighty million gallons in twenty-four hours.

The distributing reservoir, situated two miles west of Washington, is a basin of forty-four acres, and its flow line is one hundred and forty-five feet above tide, water at the Navy-Yard, an elevation sufficient to supply by gravity any point in Washington.

From the distributing reservoir the Potomac is brought to Georgetown and Washington by three iron mains of twelve, thirty, and thirty-six inches in diameter respectively.

The twelve and thirty inch mains were furnished and laid by the United States. The thirty-six inch main was furnished and laid by the District of Columbia.

The mains distribute about twenty-five million gallons every twenty-four hours. The population of Georgetown and Washington is about one hundred and forty-six thousand, and if the supply of water were equally distributed, the daily consumption per head would be one hundred and seventy-one gallons, which is more in proportion to the population than that of any other city in the United States. But the supply is not equally distributed, and with the present system of mains and pipes, it cannot be.

When the Potomac water was first introduced the supply was abundant, and but little attention was given to distributing it equally. In Georgetown four-inch pipes and in Washington six-inch pipes were connected here and there with the nearest mains, without reference to a well-planned system, and it has resulted in a network of pipe-connections delivering the water without uniform pressure.

Comparatively uniform distribution of water would have been insured if each city had been divided into districts, each district mapped in reference to altitude and provided with a main proportionate to its area.

The simplest and easiest method of increasing the pressure in the pipes upon the high grounds is to lay another main from the distributing reservoir to Capitol Hill.

This main should be connected with the present system of pipes only on Capitol Hill and other portions of Washington of equal or higher altitude. It should be three feet in diameter, and located on a route to be determined from a careful survey. It would convey to Capitol Hill, at an elevation of one hundred and twenty-five feet above tide, ten million United States gallons in twenty-four hours.

The taking of water from this main to supply the northwest portion of Washington, which is higher than Capitol Hill, would not materially diminish the pressure and, consequently, the supply on Capitol Hill.

The following is an approximate estimate of the cost of furnishing and laying a cast-iron main, three feet in diameter, from the distributing reservoir to Stanton Place, on Capitol Hill, a distance of about twenty-eight thousand feet:

12,040,000 pounds of cast-iron, at 12 cents	\$210,700
Hauling and distributing, laying and jointing, including excavation and back-filling, lead and gaskets, stop-valves, masonry, &c.	132,680
Engineering and superintendence	15,000
Advertising, rent of wharf, and miscellaneous	4,300
	362,680
Add 10 per cent. for contingencies	36,268
	398,948

And the total will be.

The furnishing of this additional quantity of water to Washington in the manner herein recommended would render the completion of the Potomac dam at Great Falls a necessity.

The dam is now built only across the Maryland channel of the Potomac River, and for several years past the consumption of water in Washington and Georgetown has amounted to more than the minimum flow of the Maryland channel.

During the season of drought, when the river is at its lowest stage, the supply of water to Washington cannot be materially increased until the Potomac dam is built entirely across the river to the Virginia shore.

I inclose with this a map of the Washington Aqueduct, extending from Great Falls to the Washington navy-yard.

Respectfully submitted,

THOS. LINCOLN CASEY,  
Lieutenant-Colonel of Engineers,  
in charge of the Washington Aqueduct.

To Hon. S. W. DORSEY,

Chairman Senate Committee on District of Columbia.

The communication was referred to the Committee on the District of Columbia, and ordered to be printed.

#### REPORTS OF COMMITTEES.

Mr. BUTLER, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1054) to authorize the United States to secure a title to certain military and timber reservations, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. BURNSIDE, from the Committee on Education and Labor, to whom was referred the bill (H. R. No. 4228) to promote the education of the blind, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. SARGENT, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 5180) to abolish the volunteer Navy of the United States, reported it with an amendment.

He also, from the same committee, who were instructed by a resolution of the Senate to inquire into the expediency of enacting that the selection of the chiefs of the Bureaus of Steam Engineering, Provisions and Clothing, and Medicine and Surgery, be made from offi-

cers whose relative rank is not below that of captain, submitted a report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the subject.

He also, from the same committee, to whom was referred the bill (S. No. 578) for the relief of Edwin M. Hart, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 884) for the relief of William H. Varney, reported adversely thereon; and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Surgeon George F. Winslow, United States Navy, praying that the date of his commission may be changed from the 2d of April, 1875, to May 27, 1871, submitted an adverse report thereon; which was ordered to be printed, and the committee were discharged from the further consideration of the petition.

Mr. SARGENT. The subject of the bill (S. No. 1622) appropriating money for payment of bounty to officers and men of Flag-Officer Farragut's fleet, which was referred to the Committee on Naval Affairs, is pending by previous reference before the Committee on Appropriations. I report the bill back, therefore, and ask that it be referred to the Committee on Appropriations.

The VICE-PRESIDENT. The Committee on Naval Affairs will be discharged from its further consideration and the bill will be referred to the Committee on Appropriations.

Mr. MORRILL, from the special Committee on the Tenth Census, to whom the subject was referred, reported a bill (S. No. 1685) to provide for taking the tenth and subsequent censuses; which was read twice by its title.

Mr. MORRILL. I desire to give notice that I shall endeavor to call the bill up on Tuesday next after the morning hour, with a view to its passage on that day.

Mr. DAWES, from the Committee on Finance, to whom was referred the bill (S. No. 1263) to provide for the adjustment and settlement of certain internal-revenue taxes erroneously assessed and collected from the Cumberland Valley Railroad Company, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. WHYTE, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1292) for the relief of Elias D. Brunner, reported adversely thereon, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the bill (S. No. 1497) to authorize the President to appoint George Glass a master in the Navy, not in the line of promotion, reported adversely thereon, and recommended its indefinite postponement.

Mr. WITHERS. I ask that the bill be placed on the Calendar. The precedent has already been established in such cases. One or two persons have been appointed under precisely similar circumstances, and it would be a hard measure to make a discrimination against this man. I hope to bring the bill before the Senate for its favorable action for these reasons.

The VICE-PRESIDENT. The bill will be placed on the Calendar with the adverse report of the committee.

Mr. CAMERON, of Pennsylvania, from the Committee on Public Buildings and Grounds, to whom was referred the bill (S. No. 1624) to authorize the Secretary of the Treasury to purchase land adjacent to the custom-house in the city of Providence, Rhode Island, reported it without amendment.

#### AMENDMENT TO AN APPROPRIATION BILL.

Mr. FERRY, from the Committee on Post-Offices and Post-Roads, reported an amendment intended to be proposed to the bill making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880; which was referred to the Committee on Appropriations, and ordered to be printed.

#### BINDING FOR THE DEPARTMENTS.

Mr. ANTHONY. The Committee on Printing, to whom was referred the bill (H. R. No. 5655) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878, have had the same under consideration, and instructed me to report it favorably, and I ask for its present consideration.

Mr. EDMUND. Let us hear the bill read for information. I reserve the right to object.

The bill was read.

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

Mr. ANTHONY. Mr. President, the act to which this is an amendment provided that all binding at the Government Printing Office should be in plain sheep or cloth, except record and account books; but it excepted from the provisions of that law the Congressional Library. The object of this bill is also to except the library of the Surgeon-General's department.

Mr. EDMUND. Why?

Mr. ANTHONY. Because there are a number of series in the library; there are about six hundred series there; and they have been bound in a peculiar way, that is, in half binding, with morocco backs and tips in red, which is the best color for resisting insects and gas. It is desirable to have the series continued in the same way. These books are for permanent use and preservation, and not for distribution.

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

## BILLS INTRODUCED.

Mr. BURNSIDE (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1686) for the relief of Sarah E. Rose; which was read twice by its title, and referred to the Committee on Claims.

Mr. WINDOM asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1687) authorizing the appointment of E. F. Wenckebach to a second lieutenancy in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1688) for the relief of the Menomonee Indians in the State of Wisconsin; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1689) granting the right of way and depot grounds to the Sioux City and Pembina Railroad Company through the public lands of the United States, from Beloit, in the State of Iowa, to the Missouri River, in the Territory of Dakota, at or near the mouth of White River; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. VOORHEES (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1690) to provide for the distribution of land patents to certain States where the local land offices have been closed; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. WHYTE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1691) giving the consent of Congress to an agreement or compact entered into between the States of Virginia and Maryland respecting the boundary between said States; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. MAXEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1692) authorizing the President to nominate Herman Biggs to a second lieutenancy in the Army; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MATTHEWS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1693) to grant to the American Ocean Cable and Telegraph Land Wire Association, of Philadelphia, the right of way and privilege to lay, land, and operate submarine telegraph cables on the Atlantic and Pacific coasts of the United States and establish telegraphic communication between the United States, Europe, and Asia; which was read twice by its title, and referred to the Committee on Foreign Relations.

Mr. SPENCER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1694) to guarantee to the people of the several Territories the right to elect certain territorial officers; which was read twice by its title, and referred to the Committee on Territories.

## AMENDMENTS TO POST-ROUTE BILL.

Mr. COCKRELL and Mr. ALLISON submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 5218) to establish post-routes herein named; which were referred to the Committee on Post-Offices and Post-Roads.

## AMENDMENT TO RIVER AND HARBOR BILL.

Mr. PADDOCK submitted amendments intended to be proposed by him to the bill making appropriations for the construction, repair, preservation, and completion of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

## SENATOR FROM SOUTH CAROLINA.

On motion of Mr. WADLEIGH, it was

Ordered, That 100 copies of the minority report of the subcommittee on Privileges and Elections in the case of Messrs. BUTLER and Corbin be printed for the use of the committee.

## COSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. WINDOM. I submit a report from the conference committee on the consular and diplomatic appropriation bill.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1890, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 39 and 44.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 45, 46, 47, 48, and 50, and agree to the same.

That the Senate recede from its amendment numbered 12, with an amendment striking out lines 8 and 9, page 2 of the bill; and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 24, and agree to the same, with an amendment striking out lines 24 and 25, page 12 of the bill; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 49, and agree to the same, with an amendment adding, after the word "Hong-Kong," "Ottawa," and the Senate agree to the same.

WILLIAM WINDOM,  
W. B. ALLISON,  
R. E. WITHERS,  
Managers on the part of the Senate.  
O. R. SINGLETON,  
EUGENE HALE,  
Managers on the part of the House.

Mr. WINDOM. I ask that the report lie upon the table for one moment until I ascertain whether the original bill is here. It is possible that the report should be presented first in the House of Representatives.

Mr. EDMUND. If I correctly understand the Senator from Minnesota, the Senate asked a conference on this bill. That being so, the report with the bill should go to the House of Representatives for their action, and we have no regular possession of the bill at this time in that case.

Mr. WINDOM. I have ascertained the fact that the report should be made in the other House first, and I ask leave to withdraw the report.

The VICE-PRESIDENT. The report will be withdrawn for the present.

Mr. WINDOM. It can be presented again after we hear from the House of Representatives.

## ROSA VERTNER JEFFREYS.

The VICE-PRESIDENT. The Senate will resume the consideration of the calendar of general orders at the point where its consideration was left off yesterday, under the resolution of the Senator from Rhode Island, [Mr. ANTHONY.] The bill under consideration yesterday was the bill (S. No. 819) for the relief of Rosa Vertner Jeffreys.

The Senate, as in Committee of the Whole, resumed the consideration of the bill. It directs the Secretary of the Treasury to pay to Rosa Vertner Jeffreys \$844, the balance in full compensation for the use and occupation by the military authorities of the United States, in the years 1862, 1863, 1864, and 1865, of certain property in Lexington, Kentucky, devised to her, and formerly owned by Daniel Vertner, now deceased.

Mr. EDMUND. The report was read yesterday, I believe.

Mr. BECK. The report was partly read yesterday.

Mr. EDMUND. I do not ask to have it read. I read it myself afterward. What I should like to ask, in order to be perfectly sure about this business, is whether the evidence was absolutely complete before the committee that this lady has the legal title to this money? The property it appears was the property of some other person while the United States used and occupied it.

Mr. BECK. Only for the first month or two. The property belonged to Daniel Vertner who was a very old man and died in 1861, leaving by his will the property for life to his wife, a very old lady also, with the reversion to Mrs. Jeffreys, their adopted child. On the 1st of January, 1863, Mrs. Vertner made a conveyance of all her life estate to Mrs. Jeffreys, and from that time on she was the absolute owner of the property. These papers were all before the committee. The Senator from Oregon [Mr. MITCHELL] had them before him a year or two ago I remember. The reversion was in Mrs. Jeffreys from the time of Mrs. Vertner's death, and the life estate was transferred to her on the 1st of January, 1863, and she held it until May, 1865.

Mr. EDMUND. What period of time was covered by the occupation of the United States before this lady's title accrued?

Mr. BECK. From October, 1862, until the spring of 1865 the property was occupied by the Government, so that for the first two months of the occupation the life estate was in old Mrs. Vertner, but all rights, rents, and everything reverting to Mrs. Jeffreys after the death of old Mr. Vertner were transferred by his widow to Mrs. Jeffreys on the 1st of January, 1863.

Mr. EDMUND. Was the widow the executrix of the will?

Mr. BECK. I think she was. I have not the will before me.

Mr. EDMUND. Of course the Senator, being a good lawyer, is perfectly aware of the fact that this claim for the use and occupation of land would not descend to the heir, but would be personal assets and would have to be disposed of by the executor. If the committee are satisfied that we are perfectly secure on that point, I have nothing else to say.

Mr. BECK. I am perfectly satisfied.

Mr. MITCHELL. I will state that I examined this matter very carefully when it was before me at a former Congress. I reported a bill on the same subject over a year ago, having examined the points carefully. I do not report the bill now and cannot state the facts, but at that time I gave it special attention and am satisfied the claim is correct.

Mr. BECK. I desire to amend the bill by striking out "844" and inserting "5,000" before the word "dollars." I think that is the amount which ought to be paid; and if the Senate will allow me a moment I will state the reason why. The property of Mrs. Jeffreys was worth \$20,000 at the time of the occupation. It was one of the largest and handsomest residences in Lexington, and furnished completely. The personal property was shown by the valuation of our most intelligent and respectable persons to be worth at least \$9,000. The real estate alone, the personal property being all gone, either taken or destroyed by use during its occupation by the Federal officer, was sold immediately after the war for \$9,000. The use and occupation of the premises by the Army for the three years that they had it, furnished as it was, not holding them responsible for damages, could not have been less than \$2,500 a year. That would be a reasonable rent for the house and furniture, used as it was, for the ordinary wear and tear of the premises, real and personal. In the Forty-third Congress this matter was carefully considered, and the Senator from Oregon [Mr. MITCHELL] made a very careful report upon the

case. Mr. Scott, of Pennsylvania, who was then a very prominent republican member of the Committee on Claims, made the following statement to the Senate in regard to the bill for the relief of Mrs. Jeffreys then pending:

Mr. SCOTT. I can state very briefly about this claim. The house occupied was one of the finest in the city of Lexington, and it was filled with a library, plate, very fine furniture, and many other appliances of luxury used by the family to which it belonged. If it were possible to allow for the whole extent of valuation that was destroyed in that property \$20,000 would not pay the owner, and I regret very much that it was not in the power of the Committee on Claims to allow the full amount, and I regret just as much that the War Department has not seen proper in many instances to take the shoulder-straps from some officers who permitted such spoliations as the evidence showed were permitted in that house and on that property, where very valuable carpets, libraries, &c., in a house occupied as the headquarters of a high commanding officer, were permitted to be despoiled and carried away. The amount allowed, after very great contest in the committee, is not more than one-fourth of the damages suffered, and all such items were excluded. This amount is for rent and actual damages, and it was the result of a very protracted consideration in the committee. I think the claim is entirely just and ought to be paid.

That was on a report for the payment to this claimant of \$5,000. The bill passed the Senate without any serious opposition. It also passed the House; but it passed the House within ten minutes of the time of the final adjournment. If it reached the President before the House adjourned he had not time to look at it, and therefore it did not become a law. The report on the bill now before us was made by the Senator from Minnesota [Mr. McMILLAN] and agrees in all the facts stated by the Senator from Oregon in the former report. The Senator from Minnesota in his report says the testimony establishes the fact "that when the property was abandoned, about April, 1865, the house was greatly injured, wholly unfit for a residence, and its furniture, library, and other property almost entirely destroyed or gone, and that all this damage was done while in the possession of and under the control of the United States authorities." But at the end of his report he says that, as the commanding officer agreed to allow \$1,000 a year for rent, therefore the committee would not go beyond that amount. I hardly think the Senate, when it is very evident that the use and occupation alone was worth at least \$6,600, and only \$1,600 were paid, will fail to do what a former Congress did, and what I understand a minority of the committee think ought to be done now, and what the Senator from Oregon in a very able report set forth, and Mr. Scott and Mr. Pratt, and all the other members of the Committee on Claims of the Senate, as well as the House, awarded. Therefore I hope the amendment I suggest will be adopted.

I do not seek to make myself a personal witness, but the house is within a few hundred yards of where I live, and it is known to my colleagues as well as myself to be what Mr. Scott says it is—one of the finest residences there. The premises were used not in connection with active war, not during the occupation of the city of Lexington, which I think after 1863 never was invaded by any hostile forces, as I remember, except that some raiding party was in there occasionally for a short time. Occupied as the town was, the United States was compelled to provide a furnished house for the accommodation as headquarters for the officers of the staff stationed there, and pay at least as much as \$6,600 therefor, and Mrs. Jeffreys will not get, if she is allowed \$5,000, more than one-fourth of what was lost by her by the occupation and use of her property as proved.

Mr. EDMUND. I see that the chairman of the committee who made this report is absent; and if it is to be proposed to upset the report, then I object to the consideration of the bill. I do not think it right to go on in his absence and upset the report.

The VICE-PRESIDENT. The bill goes over.

Mr. BECK. I did not observe that the Senator from Minnesota was absent, but I hope the Senator from Vermont will not insist that it shall lose its place after he comes in. He asked me to go on with it yesterday, but not in his absence. I did not observe his absence. I hope it will only go over temporarily, subject to be called up again when the Senator from Minnesota comes in.

Mr. EDMUND. That we shall have to determine afterward, Mr. President.

The VICE-PRESIDENT. The call of the Calendar will proceed.

#### ASBURY DICKINS.

Mr. MITCHELL. I desire to submit a motion by unanimous consent of the Senate in relation to a claim that is not on the Calendar but ought to be on it. On November 15, 1877, the honorable Senator from Massachusetts [Mr. HOAR] submitted a report of the majority of the Committee on Claims in the case of the heirs and legatees of Asbury Dickins. There was a minority report from the committee, but for some reason the bill was not presented with the minority report. For that reason the case was not put upon the Calendar. I now ask to have it placed on the Calendar *nunc pro tunc*.

Mr. EDMUND. It may be placed at the foot of the Calendar; but otherwise I insist on the regular order.

Mr. MITCHELL. I hardly think that would be fair. The report was presented on the 15th of November, 1877.

The VICE-PRESIDENT. Accompanied by a bill?

Mr. MITCHELL. The bill did accompany the minority report, or was not noticed perhaps by the Clerk. The bill is printed with the minority report in full. It seems to me it ought to go on the Calendar.

Mr. HOAR. I do not understand that that requires a direction of

the Senate. It is simply a matter of order of the Calendar. As I understand, it belongs on the Calendar.

Mr. EDMUND. That depends. If the bill was not reported from the committee it does not belong to the Calendar.

The VICE-PRESIDENT. The Chair is informed by the Secretary that the bill was appended to the minority report at the end of it.

Mr. MITCHELL. At the end of the minority report.

The VICE-PRESIDENT. It was not reported as a separate measure.

Mr. EDMUND. A minority report is no report at all.

Mr. HOAR. I should like to inquire of the Senator from Vermont, who is of course very much more experienced than I am in these matters, whether if an adverse report is made in the Senate and objection is made to its consideration at the time it is made it does not go on the Calendar under this rule?

Mr. EDMUND. That depends on whether a bill is reported. No mere report goes on the Calendar; bills go on the Calendar. If a committee has a bill before it that has been referred to it, and reports adversely on that bill, the bill goes on the Calendar as a matter of course unless everybody consents to have it indefinitely postponed.

Mr. HOAR. But this was a bill, as I understand.

Mr. MITCHELL. There was a bill before the committee.

Mr. HOAR. And the report was adverse on the bill.

Mr. EDMUND. Let that be reserved until we see what bill it was, and whether it was ever introduced by anybody, or whether it was the recommendation of a minority of the committee.

The VICE-PRESIDENT. The Chair has before him the minority report, and at the end of that minority report is this bill.

Mr. MITCHELL. That is the fact; but there was a bill before the committee; the judgment of a majority of the committee was against the bill, and so it was reported adversely, but the understanding of the committee was that the bill should go on the Calendar for consideration.

Mr. HOAR. Let me see the majority report.

The VICE-PRESIDENT. The bill would have no right on the Calendar without an order of the Senate.

Mr. HOAR. I see the report is on a petition, not on a bill.

Mr. EDMUND. Let it stand undisposed of for the present.

Mr. MITCHELL. Very well.

Mr. ANTHONY. There was a bill before the committee; my recollection is that I introduced it myself and that it was referred to the committee. If it was reported back from the committee adversely, it should have gone to the Calendar except by unanimous consent.

Mr. EDMUND. The report itself states that it is on a petition. At this Congress I am informed there never has been any bill introduced into this body by anybody for the relief of these parties. It was a petition and the report so states:

The Committee on Claims to whom was referred the petition of the legatees of Asbury Dickins, deceased.

Then the minority, as a part of their report, say that "a bill of the following character ought to be passed."

Mr. ANTHONY. I may be mistaken. I know I introduced the bill at a previous session of Congress at any rate.

Mr. EDMUND. That was it as I am told.

The VICE-PRESIDENT. It has no right on the Calendar.

#### MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed a bill (H. R. No. 6126) to establish post-routes in the several States herein named; in which it requested the concurrence of the Senate.

The message also announced that the House had concurred in the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes.

#### DEATH OF REPRESENTATIVE BEVERLY B. DOUGLAS.

The message further announced that the House had passed resolutions in regard to the death of BEVERLY B. DOUGLAS, late a member of the House from the State of Virginia.

Mr. JOHNSTON. A message has come from the House in regard to the death of Mr. DOUGLAS. I ask that the resolutions of the House lie on the table, subject to be called up by me hereafter.

The VICE-PRESIDENT. That course will be pursued. The call of the Calendar will be resumed.

#### NEW RIVER CANAL.

The next bill on the Calendar was the bill (S. No. 820) to authorize the Secretary of War to purchase from the New River Canal Company, for military purposes, the free use of an inland canal and water-roads between Pamlico Sound, North Carolina, and Charleston, South Carolina, paying for the same by installments, as the work is completed between certain navigable bodies of water.

Mr. MERRIMON. I ask that that be passed over.

The VICE-PRESIDENT. The bill goes over.

#### TERRITORY OF LINCOLN.

The next bill on the Calendar was the bill (S. No. 144) for establishing the Territory of Lincoln, and to provide a temporary government therefor.

Mr. EDMUND. I think that may as well go over.  
Mr. SAUNDERS. I hope that bill will not go over.

The VICE-PRESIDENT. The bill is objected to, and goes over under the terms of the order.

Mr. SAUNDERS. How does it go over?

The VICE-PRESIDENT. On the objection of the Senator from Vermont.

Mr. SAUNDERS. I had not heard the objection. I was in hopes the Senate would allow a vote to be taken on the bill, at least.

Mr. EDMUND. It requires discussion.

Mr. SAUNDERS. It has been thoroughly discussed. It was brought up on the last night of the session, and on account of the lateness of the hour it was asked by some that it be postponed until the first Monday in December. This is the first opportunity we have had to get it up at this session. We have not asked to take it up out of its order; it comes up now in regular order, and I hope the Senate will allow a few minutes to be devoted to it.

Mr. EDMUND. Nothing would give me greater pleasure than to oblige my honorable friend from Nebraska; but the object of this rule-allowing objection and five minutes' debate is to take up those cases that may pass by unanimous consent, matters of private right and claim that everybody agrees to. Now the propriety of establishing a Territory, which means a future State, is a matter of grave public importance that ought to be considered in time. I unhappily was ill on the 19th of June when the matter was up and did not hear the discussion. That was my only reason for objecting now.

Mr. SAUNDERS. That is the very reason I have for asking either for action now or the fixing of a time. If the Senate would fix a time for considering it, I certainly should not insist on action this morning.

Mr. EDMUND. The Senator can move any day to take it up.

Mr. SAUNDERS. There is, I think, a great necessity for this bill or some other bill of this kind. There are more than twenty thousand people in the Black Hills country that have to go by the way they travel over eight hundred miles to get to their capital. They could go in about three hundred miles if they could pass through the Indian reservations; but they would have to pass by the Red Cloud and Spotted Tail reservations. The people will not do that, and consequently they travel about eight hundred miles to get to the capital of the Territory. It is settling up rapidly. The people ask for a separate territorial organization. We have agreed generally on lines for the Territory, and a very fair boundary, I think—about two hundred miles one way and three hundred and sixty the other, containing about one hundred and eight thousand square miles.

If there were any real objections to this bill being taken up now, I would not insist on it; but I think a few minutes spent on it would not be time lost to the Senate looking to the interest of our people and the whole country.

The VICE-PRESIDENT. The Secretary will report the next bill.

Mr. SAUNDERS. Inasmuch as objection is made to taking up the Lincoln bill this morning, if I can get the consent of the Senate to take it up on Tuesday or Wednesday of next week after the morning hour, and give a short time to it, I will let it go now.

Mr. PADDOCK. I would suggest to my colleague to name Wednesday. There is already a special order for Tuesday.

Mr. EDMUND. We ought not to make any more special orders; but if the Senator gives notice that he will move to take up that bill then, he will get the floor for that purpose and will get ahead quite as fast as he can by having a special order.

Mr. SAUNDERS. Inasmuch as there are other bills pressing I do not wish to be captions about this matter at all, and therefore I am disposed to be liberal and let other bills come up; but I give notice now that on Wednesday next after the morning hour I will move to take this bill from the table.

The VICE-PRESIDENT. The Chair will recognize the Senator at that time for that purpose. The Secretary will resume the call of the Calendar.

#### BILL INTRODUCED.

Mr. ANTHONY. I ask permission to introduce a bill for the relief of the heirs of Asbury Dickins; and I ask that it be put on the Calendar.

The VICE-PRESIDENT. Is there objection to allowing the Dickins bill to be placed on the Calendar without a reference?

Mr. EDMUND. Let it have its first reading.

The bill (S. No. 1695) for the benefit of the legal representatives of Asbury Dickins was read the first time by its title.

The VICE-PRESIDENT. Shall the bill be read the second time?

Mr. EDMUND. Only once now. We will look into it.

#### CONSULAR AND DIPLOMATIC APPROPRIATION BILL.

Mr. WINDOM. As the Calendar has been suspended for a moment, I ask leave to make a report from the committee of conference on the consular and diplomatic appropriation bill, which has already been read, but a little prematurely.

The VICE-PRESIDENT. The report was read at length on a former occasion. The question is on the report.

Mr. WINDOM. I will state very briefly the result of the conference. The bill, as it passed the House, appropriated \$1,045,735; the amount added by the Senate was \$82,100; making a total, as it passed the Senate, of \$1,127,835.

The amendments of the Senate were all agreed to in conference,

with amendments striking out from the bill the following items, namely:

For chargés d'affaires <i>ad interim</i> and diplomatic officers abroad.....	\$20,000
For diplomatic and consular service, to be expended in the discretion of the President.....	20,000

Total.....	40,000
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Making total of bill, as agreed to, \$1,087,835—an increase over act of 1879 of \$10,200.

The increase is made up of the following additional items, namely:

For salaries of second secretaries of legation at Great Britain, France, and Germany, at \$2,000 each.....	\$6,000
For clerk to legation at Spain.....	1,200

For revising and editing Consular Regulations.....	3,000
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Total.....	10,200
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Deduct from this amount \$10,000, in sundry civil act for 1879, for expenses of foreign intercourse and all missions abroad, &c.....	10,000
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And this bill exceeds act for 1877.....	200
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Mr. President, the bill as agreed to by the conference is precisely the appropriation for the current year, except the little additions I have named.

The report was concurred in.

JOHN C. BIRDSELL.

The bill (S. No. 501) for the relief of John C. Birdsell was announced as next in order on the Calendar.

Mr. JOHNSTON. I object to that bill.

The VICE-PRESIDENT. Objection is made.

Mr. WHYTE. I hope the Senator from Virginia will withdraw his objection.

The VICE-PRESIDENT. The bill is objected to and goes over.

#### NATIONAL CAPITAL INSURANCE COMPANY.

The next bill on the Calendar was the bill (S. No. 502) repealing the charter of the National Capital Insurance Company.

Mr. DORSEY. The Senator who has had charge of that bill, and who is familiar with all the facts relating to it, the Senator from Kansas, [Mr. INGALLS,] is not in his seat. I suggest that it go over.

The VICE-PRESIDENT. The bill will be passed over.

WARREN MITCHELL.

The next bill on the Calendar was the bill (S. No. 855) for the relief of Warren Mitchell, which was considered as in Committee of the Whole. It provides for the payment to Warren Mitchell, out of any moneys in the Treasury derived from the proceeds of captured and abandoned property, of \$128,692.22, being the proceeds of cotton taken from Mitchell at Savannah, Georgia, which proceeds have been paid into the Treasury.

Mr. EDMUND. Let us hear the report read.

The VICE-PRESIDENT. The report will be read.

The Secretary read the following report, submitted by Mr. McMILLAN on the 6th of March, 1878:

The Committee on Claims, to whom was referred the memorial of Warren Mitchell, of Louisville, Kentucky, praying to be refunded the amount of proceeds of certain cotton seized and held by the Government of the United States and paid into the Treasury, have considered the same, and submit the following report:

The memorialist, Warren Mitchell, is a resident of Louisville, Kentucky. At and prior to the commencement of the rebellion he was engaged in business in said city and was a partner in two firms doing business there, namely, Armstrong & Co. and Mitchell & Armstrong; the first-named firm consisting of Charles Q. Armstrong, Warren Mitchell, and Isaac Russell, the last-named firm being composed of Charles Q. Armstrong and Warren Mitchell. The firm of Mitchell & Armstrong dissolved on the 1st of November, 1861. The firm of Armstrong & Co. continued until Armstrong's death, in 1862. At the commencement of the rebellion there was due to these two firms from southern debtors \$116,421 or about that sum. Armstrong, whose sentiments were with the South in the rebellion, went South into the confederate lines early in 1861, and died, as it is believed, at Atlanta, Georgia, in 1862.

In July, 1861, Mitchell procured from General Anderson, the commander of the department of Kentucky, a military pass permitting him to go through the United States military lines into the insurrectionary district. The purpose of his going South, as represented to General Anderson, was to collect debts due to the firms above mentioned, of which he was a member. Under the pass thus obtained he went into the insurrectionary States in July, 1861, and remained within the military lines of the confederacy until the latter part of the year 1864, when, after the capture of Savannah, he returned to his family at Louisville.

While within the confederate lines he collected debts in confederate money, and was engaged principally in trading in the currency of the country and investing his means in cotton for himself and his Louisville firms. (*Vide affidavit of Charles Estes.*) In October, November, and December, 1864, Mitchell purchased and had in store in Savannah 738 bales of cotton, with marks and weights given, all of which was seized by General Sherman upon the surrender of Savannah to him, and was afterward sold; the net proceeds of which, after deducting the expenses, amounted to \$128,690.22, and were paid into the Treasury of the United States.

On the 3d of July, 1865, Mitchell received from the President of the United States a full pardon and amnesty for all offenses by him committed, arising from participation, direct or implied, in the rebellion. The pardon was granted upon certain conditions which were complied with by Mitchell.

Mitchell brought an action in the Court of Claims to recover the proceeds of this cotton. The court was equally divided in opinion as to his right to recover, and dismissed the case. Thereupon Mitchell removed the case by appeal to the Supreme Court of the United States.

The Supreme Court, affirming the judgment of the Court of Claims, held that Mitchell was domiciled in a loyal State when he bought the cotton in question; that the laws of war applied to all intercourse between the inhabitants of the loyal and disloyal States, and that, according to the law of nations, all contracts of the inhabitants of the loyal States with the inhabitants of the insurgent States were illegal and void; the purchase of the cotton in question by Mitchell, an inhabitant of a loyal State, from the inhabitants of the disloyal States was illegal and void, and consequently he acquired no title to it.

At the first session of the Forty-fourth Congress, Mitchell presented his claim

to Congress, and the Committee on Claims having considered the same, reported it back recommending the disallowance of the claim.

The claim was again presented at the second session of the same Congress, and a report was made recommending the payment of \$128,692.62 to the claimant.

It appears from the journal of the committee that but five members of the committee were present when this action was taken, of whom one opposed the report and two others concurred in the direction to report, but without committing themselves upon the merits of the case. The report was recommitted by the Senate to the Committee on Claims March 2, 1877.

In urging the recommittal of the claim the Senator from Wisconsin, [Mr. CAMERON.] a member of the Committee on Claims, said:

"It was referred to me for special examination. I made such examination and reported adversely. The report was concurred in by this committee, and concurred in by the Senate, and the bill was indefinitely postponed. Subsequently the bill was recommitted to the committee. It was again considered by the Committee on Claims, and a majority of the committee reported in favor of the bill. In examining another case referred to the Committee on Claims since that time, the committee have discovered some very important evidence bearing upon this claim. It was claimed that this claimant, Warren Mitchell, was loyal during the late civil war. In examining the case of Conner Brothers, we had occasion to look into certain testimony taken before the district court for the district of Kentucky, and it appears from that testimony that this same claimant, Warren Mitchell, was employed by the confederate government, at Nashville, prior to the occupation of Nashville by the Federal forces, for the purpose of packing meat for the confederate government. He had a contract with the confederate government by which the live hog was furnished to him, he agreeing to slaughter the hog and return the hams, sides, and shoulders to the confederate government, and retain the rest of the hog for his pay."

The report having been recommitted, no further action was taken at that session of Congress.

At the present session of Congress, Mitchell again presented his claim, accompanied by additional affidavits of himself, Thomas M. Morgan, John B. Lewis, and a letter from V. McKnight, in support of his claim. Mr. Mitchell, in his additional affidavit, referring to the above statement made in the Senate, says:

"The commissary of the confederate government had made a contract with one R. F. Wilson of the character above stated; the said Wilson had made a subcontract with E. M. Bruce & Co., and in my absence and without my knowledge or consent, Mr. Armstrong, my Louisville partner, who was at Nashville, entered into a contract with said E. M. Bruce & Co., in relation to the business aforesaid. At this time I was in Memphis, Tennessee, engaged in making collections of indebtedness, for which purpose I had gone south under a permit from General Anderson, given me for that purpose, with a full knowledge of the object of my going, as in the papers already before you more fully set forth.

"It was not until a considerable time after the contract last named had been entered into that I returned to Nashville, and I had no knowledge of it whatever until my return. Upon being informed that it had been entered into I objected to it, and protested against it, and at first refused to have anything to do with it; but Mr. Armstrong insisted that we would be compelled to carry it out, and in pursuance of it I did for about six weeks assist in its execution by purchasing hogs and superintending a slaughter-house at Clarksville, Tennessee. I give this statement to my relation to said contract with this particularity to the end that the committee and Congress shall know the precise facts, whatever may be the consequences. My connection with that transaction never was concealed or attempted to be. It was mentioned, as will be seen, in the testimony in the Court of Claims. The assertion that I followed the confederate army south from Nashville when it went is an entire mistake, nor did I accompany it. I was not at Nashville when it left, nor was I at any time at Nashville while that army was there. I never was with it at any time during my stay in the South, except passing through it in going from place to place, and only went to such places as my business of collecting called me. I went from Nashville to Huntsville, and thence to Atlanta by rail, where I found my old partner, Armstrong, who died in April, 1862.

"In making collections I received cotton for debts; also purchased cotton as a mode of ultimately getting good money, and as the cotton thus acquired could not be taken through the Federal lines, I sold, bought, and sold again from time to time. I sold some in the interior, and repurchased in Savannah, and some I shipped to Savannah. These transactions continued until I had accumulated at Savannah the cotton that was seized and for which this claim is presented."

Mr. Thomas S. Morgan in his affidavit states:

"In the fall of 1861 I was cashier and book-keeper for E. M. Bruce, at Nashville, Tennessee. I know that Warren Mitchell did not have a contract with the so-called confederate government to pack meat—beef and pork. Mr. R. F. Wilson had the contract to pack meat for the said confederate government, and I know he (Wilson) made a subcontract with E. M. Bruce & Co. to pack some meat at Nashville and Clarksville. Mr. C. Q. Armstrong, Mitchell's copartner, while he was absent in the Southern States on a collecting tour, took an interest in the subcontract with E. M. Bruce & Co., in the firm-name of Mitchell & Armstrong, of three-twelfths, and I do not think Mitchell had been consulted or knew anything about said contract until he returned to Nashville, some time after the subcontract had been made with Armstrong for or in the name of Mitchell & Armstrong. I also know that Mr. C. Q. Armstrong died in April, 1862, at Atlanta, Georgia. I know that Mitchell was at no time, directly or indirectly, connected with the army of the confederate government nor with said government, but that Mitchell was occupied in attending to the collection of his own and his firm's claims, and in looking after and attempting to secure the cotton he had taken and had on hand."

Of the cotton seized by General Sherman's army at Savannah, Mr. Mitchell, in October, 1864, shipped to D. H. Baldwin, at Savannah, four hundred and eighty-seven bales from Griffin, Georgia, to be sold on his account and others; in this cotton Mr. A. L. Tyler, superintendent of the Macon and Western Railroad, was interested in the profits to pay him for his aiding in the transportation to Savannah. (Baldwin's affidavit, page 8 of proofs.)

From the proofs submitted it appears that Mr. Mitchell passed through the confederate lines soon after the breaking out of the war, and remained within the insurrectionary States until the war practically closed, passing from State to State collecting debts in money or cotton, buying and selling cotton, and shipping it from place to place, as his convenience required, on his own account and on joint account with others, adherents of the insurrectionary government. It appears that during this time Mitchell not only collected the entire amount of the indebtedness due to both firms of which he was a member, but secured cotton the net proceeds of which at New York amounted to \$128,692.62, or \$12,000 more than the entire indebtedness to both firms. To have accomplished such a result as this under such circumstances casts much doubt upon the loyalty of the claimant.

The transaction at Nashville, however, puts the matter beyond doubt. Mr. Armstrong, the partner of Mitchell, was, without doubt, a secessionist and sympathizer with the confederacy. Mitchell not only recognized but by his personal labors assisted in the execution of the subcontract to supply the confederate government with pork. He knew what the contract was, and is too intelligent not to have known his rights and duties in the premises. That the execution of this contract was an act of disloyalty there can be no doubt.

Robert Floyd, in his affidavit submitted in this case, speaking of the claimant, Mitchell, says:

"I regarded him as a true Union man and supporter of the Government until the leading public men of Kentucky published an address to the people announcing a neutral position. After that I think Mr. Mitchell held that doctrine, but was quiet and unobtrusive. I so regarded him when he left for the South."

Hon. Bland Ballard, in a letter submitted among the papers, dated May 30, 1876, addressed to Hon. John W. Stevenson, then a Senator from Kentucky, says:

"I do not know what were Mr. Mitchell's views of the rebellion. If he sympathized with it, and I have heard and believe he did, I regret it."

The decision of the Supreme Court that the purchase of the cotton in question by Mitchell, an inhabitant of a loyal State, from the inhabitants of the disloyal States, was illegal and void, and that he acquired no title to such cotton, settles the question that Mitchell has no legal claims whatever against the Government. The testimony submitted shows that claimant was not loyal to the Government, but being permitted to pass into the confederate lines by the order of a general of the United States Army, that he rendered aid and sympathy to the confederate government. There are no equitable circumstances in the case upon which the claim should be allowed.

The committee therefore recommend that the claim be disallowed and that this report be adopted by the Senate.

Mr. EDMUND. Now let the views of the minority be read.

The Secretary read as follows:

#### VIEW OF THE MINORITY.

At the beginning of the war, in 1861, the memorialist was, and for years had been a merchant and resident citizen of the city of Louisville and State of Kentucky, having large transactions with, and large debts due to the firms of which he was a member, from the people of the Southern States.

The said firms with which he was connected were largely indebted to the Bank of Kentucky and other banks in Louisville.

In this condition of affairs he consulted Virgil McKnight, president of the Bank of Kentucky, and other creditors, who advised him to go South and endeavor to collect or secure the debts due said firms, as the only means of enabling said firms to pay their creditors.

For this purpose the said McKnight went with petitioner to General Anderson, then in command at Louisville, introduced him to that officer, and procured for him a pass to go South, explaining to General Anderson fully at the time the object and purpose for which the petitioner proposed to go South.

Under this pass the petitioner went into the States in insurrection in the latter part of the month of July, 1861, and remained there until the latter part of the year of 1864. During this period he collected a large amount of debts due said firms, and purchased seven hundred and thirty-four bales of cotton, which were delivered to him, and then stored in the city of Savannah. The cotton was purchased in the months of November and December, 1864. When Savannah was captured by the United States Army under General Sherman, this, with a large amount of other cotton, was seized by the military authorities, turned over to the agents of the Treasury, and then sold. The net proceeds of the petitioner's cotton, after deducting all expenses of sale, shipment, &c., as appears from the books of the Treasury, amounts to the sum of \$128,692.22.

That petitioner devoted his time while in the South to collecting and securing, and in efforts to collect and secure, the debts due to his said firms, with the exception of about six weeks, which were devoted to superintending a slaughter-house at Clarksville, in the State of Tennessee, under the following circumstances:

One R. T. Wilson had made a contract with the commissary-general of the Confederate States to slaughter and pack meat. Said Wilson made a subcontract with E. M. Bruce & Co., and in the absence and without the knowledge of petitioner, one Armstrong, who was one of petitioner's Louisville partners, entered into a contract with said E. M. Bruce & Co., in the name of the firm, to take an interest of three-twelfths in said subcontract.

When this contract was made by Armstrong with Bruce & Co. petitioner was at Memphis, engaged in the collection of the debts he had gone South to collect, and had no knowledge of this contract until some considerable time after, when, in the course of his business, he went to Nashville, where he met Armstrong and was by him informed of it. Petitioner "objected to and protested against it and refused to have anything to do with it," but Armstrong had made the contract in the name of the firm, and assured petitioner that they were bound and would be compelled to carry it out. Upon that assurance he did, for the six weeks aforesaid, assist in its execution.

He then proceeded to the States of Alabama and Georgia upon his original mission of collecting and securing the debts due his firms, and in the latter part of the year 1864, as before stated, he invested his collections in cotton, as the surest if not the only means of making said collections available to his creditors who resided beyond the limits of the Confederate States.

After his said cotton was seized by the officers of the Government, under the advice of Hon. James Speed, then the Attorney-General of the United States, and an old and valued friend of petitioner, he applied for, and on the 3d July, 1865, received from the President of the United States, a full pardon for all offenses committed by him by reason of any participation on his part in the insurrection.

He then instituted suit in the Court of Claims to recover the proceeds of the sales of his cotton from the Government, but that tribunal being equally divided in opinion upon the question as to whether his contract of purchase vested the title to the cotton in him because of his residence in a loyal State, and the technical enemy relation existing between him and his vendors, who were citizens of the Confederate States, his case was dismissed and he appealed to the Supreme Court.

That court found that he had purchased the cotton, that it was captured by the officers of the Government, and that the proceeds of its sale were in the Treasury, but decided that he acquired no title by his purchase, because his domicil was in Louisville, in a loyal State, while that of his vendors was in the insurrectionary States, and that a contract made under such circumstances was void. (See 21 Wallace, p. 350.)

In arriving at this conclusion, the court held that the permit given to the claimant by General Anderson conferred no rights upon him; but your committee are constrained to think, without questioning the law as laid down by the court, that no advantage ought to be retained by the Government which resulted from the void and illegal act of its own officer. Admitting to the fullest extent the unauthorized and illegal character of the pass given to the claimant by General Anderson, after a full disclosure of the object of the former's mission, is it not plain that Mr. Mitchell would not have gone to the South at all if the pass had not been given to him? The circumstances under which the application was made and the permit granted show most conclusively that the officer and claimant were both ignorant, the one of his power, the other of his duty. General Anderson represented the Government in a high military station. The claimant was a loyal citizen, anxious to save the bulk of his fortune, about to be lost, as he thought, by the civil war then commenced. The law of nations, which was applied by the court very rigorously in this case, is founded on wise and just principles. It prohibits all commercial intercourse between the citizens or subjects of countries at war with each other, because it would tend to strengthen and increase the power of the public enemy, which it is ever the object of war to destroy.

But the object of the petitioner in this case was to collect and draw from the public enemy rather than to furnish the sinews of war, or in any manner strengthen him, and to save from destruction what had been honestly earned and accumulated before hostilities began.

Why is it that the most enlightened writers on the laws of war have lauded the humane usage which permits the citizens or subjects of one nation to withdraw their property from another on the eve of hostile relations? And has it not always been an object of importance, on the conclusion of peace, to save to the subjects of the belligerent power their rights of property which were suspended during the heat of battle? We know, too, that when the private property of a citizen or subject is recaptured from an enemy by the forces or cruisers of that nation to which

such subject belongs, that it is restored to him. The principles which uphold this practice spring from the reciprocal duties of allegiance and protection which constitute the most important relations in the state.

It is clear, and not disputed, that petitioner purchased and took possession of the cotton. It is equally clear that by the officers of the Government it was seized, taken from his possession, sold, and the net proceeds of the sale, amounting to \$128,692.23, paid into the Treasury.

The ground, and the only ground, upon which he lost his case in the Court of Claims and the Supreme Court is, that his purchase and payment failed to vest the legal title in him, because the laws of nations prohibit all commercial transactions and intercourse between belligerents. He, a citizen of a loyal State, having purchased from citizens of a disloyal State, the contracting parties, each taking character from the State of which he was a citizen, were, in legal contemplation, enemies, and, therefore, could not legally contract. For this reason his purchases failed to vest in him such legal title as he could enforce in a court.

This contract failing to vest title in the petitioner, because it was void, certainly did not vest it in the Government, because, to make the property confiscable, it must have been purchased "with intent to use or employ the same, or to suffer the same to be used or employed, in aiding, abetting, or promoting such insurrection." (See section 5308, Revised Statutes.)

So far from any such intent appearing in this case, it clearly appears that he purchased the cotton for the purpose and with intent to send it to a loyal State to pay debts due to his loyal creditors.

Neither the purchaser nor the Government having acquired title to the cotton, the title remains with the vendors, who may, under the rulings of the Supreme Court, recover the proceeds now in the Treasury, but for the statute of limitations.

If the petitioner had been a citizen of a disloyal instead of a loyal State, his contract of purchase would have been legal, valid, vested title in him, and he would have recovered in his suit, without regard to the loyalty of either the vendor or vendee, because, in that case, the technical enemy relation would not have existed.

Contracts made between citizens of the Confederate States, even though payable in confederate treasury-notes, are held valid unless they are designed to aid the insurrectionary government.

(See Confederate Note Case, 19 Wallace, 556; Hanauer *vs.* Woodruff, 15 Wallace, 448; Thornton *vs.* Smith, 8 Wallace, 1.)

To withhold from the petitioner the proceeds of the sale of this cotton, will apply to him, whose sympathies and influence the proof shows to have been from the beginning to the end of the struggle entirely with the Union cause, a harsher and more rigorous rule than can be applied to the commanding generals of the confederate armies, under the law as interpreted by repeated decisions of the Supreme Court, and upon the sole ground that he was a citizen of a loyal State.

For, if the confederate general, being a citizen of one of the Confederate States, had brought this action at the same time it was brought by the petitioner, for the proceeds of this identical cotton, on precisely the same facts, he must have recovered.

In the case of *Pargoud vs. United States*, the court says:

"We have recently decided in the case of *Armstrong vs. United States* that the President's proclamation of December 25, 1868, granting pardon and amnesty unconditionally and without reservation to all who participated, directly or indirectly, in the late rebellion, relieves claimants of captured and abandoned property from proof of adhesion to the United States during the late civil war. It was unnecessary, therefore, to prove such adhesion or personal pardon for taking part in the rebellion against the United States."

(3 Wallace, 157, 158; *Armstrong vs. United States*, 13 Wallace, 154; *United States vs. Kline*, 13 Wallace, 128.)

The minority of the committee are of opinion that the Government cannot afford to avail itself of a harsh technical rule of law to appropriate to its own use the property of its citizens which appropriation has not, and cannot have, the sanction of equity, justice, or moral right.

For it is not pretended by any one that the Government has any title to this cotton or the proceeds of its sale. Hence, if the Government holds it, it is simply because there is no power to compel its surrender to the rightful owner.

The petitioner's contract of purchase being void, leaves the title in the persons of whom he bought the cotton. They, having been fully paid for it by the petitioner, do not complain or seek to defeat his title, and in justice and good morality no one else has a right to do so.

The minority of the committee, therefore, report the accompanying bill for the relief of Warren Mitchell, and respectfully recommend its passage.

ISHAM G. HARRIS.  
FRANK HEREFORD.  
JOHN H. MITCHELL.

The VICE-PRESIDENT. The time within which the Calendar of general orders is to be considered under this special order of the Senate has expired, and the Senate resumes the consideration of its unfinished business, being the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes, pending which the Senator from Vermont [Mr. EDMUND] moves that the further consideration of the bill be laid aside, and that the Senate now proceed to the consideration of the resolutions introduced by him.

Mr. EDMUND. Mr. President, I find by the vote last night that a majority of the Senate appears to be adverse to considering my resolutions, and as it is useless to waste the time of the Senate in insisting upon the motion, I withdraw it.

The VICE-PRESIDENT. The motion is withdrawn.

#### REVISION OF THE PATENT LAWS.

The Senate resumed the consideration of the bill (S. No. 300) to amend the statutes in relation to patents, and for other purposes.

The VICE-PRESIDENT. The Secretary will report the pending amendment.

The SECRETARY. The question is on concurring in the amendment made as in Committee of the Whole: in section 2, line 4, after the word "pronounced," to insert "as well as in all suits hereafter instituted;" so as to read:

In all suits for the infringement of a patent, in which, at the date of the passage of this act, no final verdict has been rendered or no decree for an account or assessment of damages has been pronounced, as well as in all such suits hereafter instituted, the measure of the plaintiff's recovery shall be the same, both in law and in equity.

The amendment was concurred in.

Mr. WINDOM. Are amendments in order until the committee's amendments are acted upon?

The VICE-PRESIDENT. They are not, strictly.

Mr. WINDOM. I will then reserve the amendments I desire to offer until the amendments of the Committee of the Whole are disposed of.

The VICE-PRESIDENT. An amendment made as in Committee of the Whole can be amended.

Mr. WINDOM. It is not an amendment to an amendment that I desire to offer. It is an independent matter.

The Secretary read the next amendment made as in Committee of the Whole, which was, in section 2, to strike out from line 30 to line 35, inclusive, and in lieu thereof to insert:

And whenever the court shall be of opinion that the suit of the plaintiff or the defense of the defendant was vexatious or malicious or the infringement was willful, the court may award against the party guilty of such vexatious or malicious conduct or of such infringement such sum, by way of counsel fees and expenses of suit, as it shall deem just and reasonable.

The amendment was concurred in.

The next amendment was, at the end of line 13, section 3, to insert:

Provided, however, Where an appeal is allowed from an interlocutory decree establishing the validity of a patent or its infringement, the complainant may be permitted, in the discretion of the court, to go on and take his account, subject to payment of costs and counsel fees, if the decree is reversed, and on giving security therefor.

Mr. WINDOM. I believe that separate action on each of the amendments of the Committee of the Whole was ordered at my request.

The VICE-PRESIDENT. It was.

Mr. WINDOM. Or at least on my objection. I desire to withdraw that objection so that the amendments may be acted on as a whole.

The VICE-PRESIDENT. Is a separate vote demanded on any of the further amendments made as in Committee of the Whole? If not, will the Senate agree to them in gross?

The amendments were concurred in.

Mr. WINDOM. Now Mr. President, I propose an amendment, to come in at the end of the second section. I will say, with the permission of the Senate, before it is read that it is the amendment offered the other day with material modifications. As the amendment was proposed the other day, the plaintiff could recover no costs unless his judgment for damages exceeded \$50. This amendment reduces it to \$20. And also the provision which required that the defendant should have actual knowledge that he was infringing the patent is stricken out; so that it is very materially modified, and I hope in this form it may meet the approval of the Senate. It will accomplish the results desired, and I think will not be objectionable.

The VICE-PRESIDENT. The amendment will be read.

The SECRETARY. It is proposed to insert after the second section:

SEC. —. In any suit brought in any court now having jurisdiction in patent cases for an alleged infringement of any patented article, device, process, invention, or discovery, where it shall appear that the defendant purchased the same from the manufacturer thereof, or from a person or firm engaged in the open sale or practical application thereof, or that he manufactured or applied the same for and to his own use, and not for sale nor for making a product for sale, if the plaintiff shall recover a judgment for merely nominal damages, the court shall adjudge that he pay all the costs of the suit; and if the plaintiff shall not recover the sum of \$20 or over, the court shall adjudge him to pay his own costs, unless it shall also appear that the defendant, at the time of such purchase, manufacture, or practical application, had knowledge or actual notice of the existence of such patent.

Mr. HOAR. I move to amend the amendment by adding after the words "purchased the same" the words "in good faith." I presume there will be no objection on the part of the gentleman offering the amendment.

Mr. WINDOM. Not at all.

Mr. HOAR. So that the purchase shall appear to be in good faith.

The VICE-PRESIDENT. The Senator from Minnesota accepts the modification.

Mr. WADLEIGH. I move to amend the amendment of the Senator from Minnesota by adding:

Or unless the court shall certify that the suit was brought in good faith and upon reasonable cause, for the purpose of trying the validity of the patent or the question of infringement, and that such question was actually in issue considered by the court or jury and determined.

Mr. WINDOM. I hope that amendment will not be agreed to. I think it substantially invalidates the amendment proposed by myself, and I think there is no necessity for it. The patentee or his assignee has ample opportunities to test the validity of the patent as against the manufacturer or the vendor; and I think that this would substantially destroy the amendment proposed by myself. I hope it will not be agreed to; but this bill has been debated so much that I will not take any more time to discuss it at present.

Mr. WADLEIGH. I will state the object of my amendment. It is to provide a means whereby the patentee may be able to settle his rights and the validity of his patent or the question of infringement by any given machine or any other invention, without paying the costs of that proceeding himself. Under the amendment proposed by the Senator from Minnesota, if the plaintiff in perfect good faith brought a suit for the sole purpose of determining his rights, he would be compelled to pay the costs of that suit although he was successful.

Mr. BECK. I agree with the Senator from Minnesota that the amendment offered by the Senator from New Hampshire to his amendment would virtually destroy all the beneficial effect of the amendment proposed by the Senator from Minnesota. The object of the amendment of the Senator from Minnesota, as I understand it, is to prohibit the great multiplicity of suits which are being brought all over the country against persons who are in good faith using patented articles which they have purchased in good faith, many of them

of very insignificant character. If the amendment now proposed by the Senator from New Hampshire be adopted it allows all the character of suits Senator WINDOM wishes to guard against to be continued, because in every case the party will of course be able to show that he was trying to maintain the validity of his patent.

The other day when the question was up and just after the vote was taken, a letter was received by the Senator from Pennsylvania [Mr. WALLACE] and handed to me with authority to read it, stating that it was from one of the most intelligent men in Pennsylvania, setting forth fully the evils of which the Senator from Minnesota complains, and which I think can alone be removed by his amendment. It is this:

JANUARY, 18, 1879.

DEAR SIR: I notice that there is at present some discussion in Congress relating to the patent laws. I would like to see our laws relating to patents changed in one particular, namely, relieving the innocent purchasers of articles made in violation of a patent from suits for infringements, or, in other words, make the actual manufacturer and vendor of articles made in violation of the patent laws liable, but not the persons who use or consume such articles when they are purchasers from others, excepting machinery, &c.

The people in the oil-producing section of Pennsylvania would profit greatly by such a law. About one-half of the oil production is the result of the use of nitro-glycerine torpedoes. They are used very extensively in all the oil counties, and there has been about a dozen different patents granted by the Patent Office department for torpedoes, but Roberts, of Titusville, has succeeded in getting injunctions on all of them from time to time as infringements on his patent, but as a general thing does not enforce his injunctions, but lets the different patentees go on, under color of law, and sell and explode torpedoes, and after the producers have settled or paid for these torpedoes Roberts then sues every man in the United States courts who has used torpedoes other than his, and compels them to pay over again to him, and thus he gets the money without any service or the use of any material. The records at Pittsburgh show really thousands of suits of this kind—a species of blackmail.

Roberts's patent is only on the fluid in the bottom of the oil-well. This may seem ridiculous, but it is true that his patent has been superseded on every point but the explosion of the shell under the natural incoming fluid. Now, the amendment that I suggest would protect the producer and leave the litigation among the patentees themselves.

The producers of our State have been robbed out of thousands of dollars by this duplicate patent business. I might say safely that not one has escaped, and a law to protect them would be hailed with joy. There are a thousand contemptible things about patent robbery as applied here.

Hon. W. A. WALLACE,  
United States Senate, Washington, D. C.

That letter presents forcibly the objection I have to the present bill unless it is amended by the amendment of the Senator from Minnesota; and I have no doubt that the patentee spoken of and others of that sort go into combination with other patentees, and rather than contest with them and determine who has the true valid right they allow the other patentees, spurious patentees, if you please, to go on and sell to private parties all over the country; and those fellows, when they get their pay, furnish the original patentee with a list of all they have sold to, and he sues them again and makes them pay double, with costs and expenses of suit if they refuse. There is no effort on the part of the original patentee to sue the other patentees as infringers, but he goes into partnership with them and thus avoids all costs of litigation between them, and robs the people by combinations, and requires them to pay penalties, or sues them and drags them into the courts all over the country. It is no uncommon thing for men claiming to have patents to go over whole districts, get all the money they can out of the people, and the moment they disappear with the money in their pockets another man comes claiming to be the real patentee, and, showing an injunction against the other fellows from some court, requires them all to pay over again; and the information on which he gets his double pay comes from the very men who have robbed the people in advance. They give him information on which he can sue. They prove the facts for him and he lets them keep the money they have stolen. That is the working of it. The amendment of the Senator from Minnesota deprives these men of the power of forming combinations like this, and, as I said, it is the only amendment I have seen that is in the interest of the honest purchaser of a patent, who believes that he holds it in good faith, that he has bought it in good faith, and does not seek to sell it to anybody else.

When this question was up the other day I was amazed that the Senate of the United States should vote down an amendment like that, intended for no other purpose than to give relief, leaving to the genuine patentee the right to sue all manufacturers, vendors, and all other inventors; in short, all men who used his patent for merchandise, all the known violators of law. Let him deal with the vendors and manufacturers, instead of oppressing the mere user of things, and making combination with men whom he ought to sue. There are so many complicated suits and so many technicalities and so many unnecessary patents and so many fraudulent patents covering the same thing that these various patentees are afraid to sue each other. Perhaps they are all wrong, and somebody else has a better right than any of them have; and they avoid all this by following the thing into the hands of the person who uses it, and dividing the profits among themselves. That is the main reason why I favor the amendment of the Senator from Minnesota, and hope it will not be embarrassed by any other amendment.

Mr. WADLEIGH. Mr. President, I have but a word to say in answer to the remarks of my friend the Senator from Kentucky. The letter which my friend has read shows that one-half the produce of the oil region is due to the inventions to which he refers.

Mr. BECK. There are twelve different patents for this thing.

Mr. WADLEIGH. But one-half the produce of the oil region, which is immense in value, not only to the individuals concerned in it but also to the country, is due to some dozen patented inventions; and that is spoken of as a very annoying thing to those gentlemen who could not get any oil at all but for those inventions. All the oil they get is due to patents. Now, this amendment of the Senator from Minnesota permits any one of those oil companies to go into the business of manufacturing these patented articles and using them themselves without paying a cent for them. The provision of the amendment applies to any case where the infringer "manufactured or applied the same for and to his own use." That is when an inventor has by years of toil and great expense accomplished an invention which gives to this country and to these oil-well owners millions upon millions of dollars annually, the Congress of the United States is asked to pass an amendment which allows the oil men to manufacture that invention and use it in their wells without paying a cent for it. Nothing could more forcibly show the injustice of the amendment in very many cases than a simple statement of this fact.

Another thing, Mr. President. If there is any such understanding or combination between the owners of patents as the Senator from Kentucky has charged, (and I presume that neither he nor the correspondent of the Senator from Pennsylvania would charge it if it could not be proved,) that is a complete defense to any suit the patentee may bring. Such a conspiracy would operate as a license, and proof of it would furnish a complete answer to any suit by the patentee. More than all that, such an arrangement would constitute a criminal conspiracy punishable at common law and by statute in nearly all the States of this Union. If proved, an indictment would lie for it and the conviction of the guilty parties could be secured.

The VICE-PRESIDENT. The question is on the amendment of the Senator from New Hampshire [Mr. WADLEIGH] to the amendment of the Senator from Minnesota, [Mr. WINDOM.]

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

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

Mr. ALLISON, (when Mr. KIRKWOOD's name was called.) On this question my colleague, who is absent, [Mr. KIRKWOOD,] is paired with the Senator from Maryland, [Mr. DENNIS.] My colleague would vote nay and the Senator from Maryland would vote yea.

The roll-call having been concluded, the result was announced—yeas 19, nays 24; as follows:

YEAS—19.

Anthony,	Conkling,	Kernan,	Sargent,
Barnum,	Davis of Ill.,	Morgan,	Voorhees,
Booth,	Eaton,	Morrill,	Wadleigh,
Burnside,	Garland,	Patterson,	Whyte,
Chaffee,	Hear,	Rollins,	

NAYS—24.

Allison,	Grover,	McCreery,	Mitchell,
Bailey,	Harris,	McMillan,	Ransom,
Beck,	Hereford,	McPherson,	Sanisbury,
Cockrell,	Hill,	Matthews,	Thurman,
Davis of W. Va.,	Howe,	Maxey,	Windom,
Ferry,	Johnston,	Merrimon,	Withers,

ABSENT—33.

Armstrong,	Conover,	Jones of Florida,	Randolph,
Bayard,	Dawes,	Jones of Nevada,	Saunders,
Blaine,	Dennis,	Kellogg,	Sharon,
Bruce,	Dorsey,	Kirkwood,	Spencer,
Butler,	Edmunds,	Lamar,	Teller,
Cameron of Pa.,	Eustis,	McDonald,	Wallace,
Cameron of Wis.	Gordon,	Oglesby,	
Christiansen,	Hamlin,	Paddock,	
Coke,	Ingalls,	Plumb,	

So the amendment to the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the amendment proposed by the Senator from Minnesota.

Mr. WINDOM. Before the amendment is acted upon, I should like to propose an amendment to it, which I know will meet the concurrence of my friend from New Hampshire, to add to the end of the section:

This provision shall not apply to purchases from foreign manufacturers or dealers.

Mr. WADLEIGH. Let me ask the Senator from Minnesota to accept this instead:

Provided, That nothing contained in this section shall apply to articles manufactured outside of the United States.

Mr. WINDOM. I accept the amendment proposed by the Senator from New Hampshire.

The VICE-PRESIDENT. The question is on the amendment of the Senator from Minnesota as modified.

Mr. KERNAN. I wish to favor the amendment of the Senator from Minnesota, and yet before I sit down I desire to suggest one amendment that I hope he will accept.

I think this amendment as now modified will to a large degree protect innocent purchasers who buy an article patented, for their own use and not for sale, from those petty litigations which are complained of. The amendment is quite in the spirit of the laws of many of the States, my own included, whereby persons are protected from trifling assault and battery suits, trifling slander suits, and other suits of that character, which cannot be brought in the courts, that are not courts of record, and yet our laws provide that if they

do not recover \$50 or more they do not get what are called costs. Where they recover nominal damages they get no more costs than damages by those State laws. If a man sues for an assault upon his person which is of a trifling character, and the jury give him six cents, as they must give something, he gets no more costs than damages. In a word, he has to pay his own costs; and that relieves us from a great deal of litigation.

So I think here that we may justly enact that where a man buys a machine or an article patented in public market, buys it from those who are selling it in business, merely for his own use, if the patentee sees fit to sue that man and does not get \$20 damages he should not get any costs at all, and if he gets merely nominal damages, I think he can very well be made to pay the costs. Yet I desire to call the attention of the Senator from Minnesota to an amendment which I desire to have made to his amendment, and it is to strike out from and including the word "or," in the sixth line, to and including the word "or," in the seventh line, after the word "manufactured." You will observe that it stands now that if a man finds that his neighbor has invented a very valuable machine and got a patent for it he may build one for his own use, and use it and defy him. I do not think that is quite right. I will read it both ways. It now reads:

In any suit brought in any court now having jurisdiction in patent cases for an alleged infringement of any patented article, device, process, invention, or discovery, where it shall appear that the defendant purchased the same from the manufacturer thereof, or from a person or firm engaged in the open sale or practical application thereof, or that he manufactured or—

Where he makes one himself—  
applied the same for and to his own use.

If you strike that out—

Mr. WINDOM. Let me understand the Senator distinctly. I do not know what words he wishes to strike out.

Mr. KERNAN. I propose to strike out from the word "or," at the end of line 6, to and including the word "or," in line 7, striking out "or that he manufactured or." It will leave it, then, I think, protecting everybody that ought to be protected, because I do not think a man, where his neighbor has invented a machine, should be shielded if he builds one of these expensive manufactured articles for himself and escape paying costs. So it seems to me; and with that clause left out I think this amendment will protect all who buy in the market for their own use. I will read it as it would read if this were stricken out:

Where it shall appear that the defendant purchased the same from the manufacturer thereof, or from a person or firm engaged in the open sale or practical application thereof, and—

Inserting the word "and" in place of the words stricken out—  
and applied the same for and to his own use, and not for sale nor for making a product for sale.

Then the costs shall be as specified. In a word, I desire to protect not a man who will manufacture for his own use a patented article, but one who buys it for his own use in the market from those manufacturing and selling it openly. I think he should be protected, as the amendment does protect him, from petty litigation for the infringement. Therefore I suggest the amendment in the interest of making this section so that it will protect all those who buy in the market for their own use against costs.

Mr. WINDOM. I rather think the Senator is right.

Mr. KERNAN. I hoped the Senator would agree with me. With that amendment I feel that I can very properly, as I shall, vote for the Senator's amendment.

Mr. WINDOM. I accept the amendment.

Mr. WADLEIGH. I am glad that amendment is proposed and accepted. It removes the objection I just now made in the case of an oil-well owner. It also prevents the manufacture by large companies engaged in manufacturing patented articles that they use in their business, while the amendment as it was originally drawn would protect them.

The PRESIDING OFFICER, (Mr. EATON in the chair.) The amendment of the Senator from Minnesota is modified accordingly. The question is on the amendment as modified.

Mr. ALLISON. I should like to hear the amendment read as it now stands.

The PRESIDING OFFICER. The Secretary will report the amendment as modified.

The Secretary read as follows;

SEC. —. In any suit brought in any court now having jurisdiction in patent cases for an alleged infringement of any patented article, device, process, invention, or discovery, where it shall appear that the defendant purchased the same in good faith from the manufacturer thereof, or from a person or firm engaged in the open sale or practical application thereof, and applied the same for and to his own use, and not for sale nor for making a product for sale, if the plaintiff shall recover a judgment for merely nominal damages, the court shall adjudge that he pay all the costs of the suit; and if the plaintiff shall not recover the sum of \$20 or over, the court shall adjudge him to pay his own costs, unless it shall also appear that the defendant at the time of such purchase, manufacture, or practical application had knowledge or actual notice of the existence of such patent: *Provided*, That nothing contained in this section shall apply to articles manufactured outside the United States.

The PRESIDING OFFICER. The question is on the amendment just read.

The amendment was agreed to.

Mr. WHYTE. Mr. President, I desire to offer an amendment which in no way conflicts with the integrity of the bill and will not affect

any other branch of the subject disposed of in all the sections of this bill. It is in reference solely to the matter of limitation. Under the law as it now stands, there is no period of time which bars the right of a party to recover for an infringement upon a patent during the life of the patent. After the expiration of the patent there is by the act of 1870, I think, a provision that no suit shall be brought at the end of six years. Under the act of 1870 there was a provision that no suit should be brought after six years subsequent to the expiration of the patent, but my friend from New Hampshire informs me that is one of the *casu omisso* of the Revised Statutes. It is left out, so that there is to-day no limitation whatever to the period of time when a party can bring a suit for an infringement of his patent. The committee have therefore introduced a new element in the patent system, that of a statute of limitations. Probably that is correct; but the difficulty with me is as to the period; the time seems to be too short—four years.

The committee recognize the necessity of allowing a sufficient length of time for a party to maintain his patent in the circuit court; but that does not strike me to be ample enough to protect him. He may have his case tried in the circuit court after two or three years of effort; it may be decided against him, and he may be compelled to take the case to the Supreme Court of the United States. Well we know that in the crowded condition of that court's docket it takes a man at least two years to get a case tried there, so that it will require at least, in a thoroughly contested case, six years for the final adjudication of the patentee's right. I move, therefore, to give the party ample time to maintain his patent, that on line 6 of the first section the word "four" be stricken out and "six" inserted in lieu of it.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Maryland.

The question being put, there were on a division—ayes 11, noes 17; no quorum voting.

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

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 23; as follows:

YEAS—15.			
Barnum,	Dennis,	Lamar,	Voorhees,
Burnside,	Eaton,	Morrill,	Wadleigh,
Butler,	Edmunds,	Rollins,	Whyte,
Davis of Illinois,	Kernan,	Sargent,	

NAYS—23.			
Allison,	Dawes,	McCreery,	Saunders,
Beck,	Ferry,	McMillan,	Sharon,
Booth,	Garland,	Maxey,	Windom,
Cameron of Pa.,	Gordon,	Merrimon,	Withers,
Chaffee,	Grover,	Mitchell,	
Cockrell,	Harris,	Morgan,	
Davis of W. Va.,	Hereford,	Ransom,	

ABSENT—36.			
Anthony,	Conkling,	Johnston,	Paddock,
Armstrong,	Conover,	Jones of Florida,	Patterson,
Bailey,	Dorsey,	Jones of Nevada,	Plumb,
Bayard,	Eustis,	Kellogg,	Randolph,
Blaine,	Hamlin,	Kirkwood,	Saulsbury,
Bruce,	Hill,	McDonald,	Spencer,
Cameron of Wis.,	Hoar,	McPherson,	Teller,
Christianity,	Howe,	Matthews,	Thurman,
Coke,	Ingalls,	Oglesby,	Wallace.

So the amendment was rejected.

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

#### REORGANIZATION OF THE ARMY.

Mr. BURNSIDE. Mr. President, I now call up the bill (S. No. 1491) to reduce and reorganize the Army of the United States, and to make rules for its government and regulation.

Mr. SPENCER. I suggest to the Senator from Rhode Island that the bill had better be read. It has not been read yet.

Mr. BURNSIDE. It has not been read. I simply want it taken up for consideration, and I agreed with the Senator from Rhode Island, who is not now in his seat, my colleague, [Mr. ANTHONY,] that I would yield the remainder of the day to the Calendar, and to-morrow morning I will ask the Senate to proceed with the consideration of the bill. I merely want to get it up to-day and have it left as unfinished business for to-morrow.

I will now, in the absence of my colleague, move that this order be laid aside temporarily and that the Calendar be taken up.

The PRESIDING OFFICER. If there be no objection such will be the order of the Senate. The bill is laid aside temporarily and will come up as the unfinished business for to-morrow.

#### WARREN MITCHELL.

Mr. BURNSIDE. I now move that the Senate proceed to the consideration of the Calendar.

The PRESIDING OFFICER. The Senator from Rhode Island moves to take up the Calendar. Is there objection? There is no objection made.

Mr. BURNSIDE. Under the rule of my colleague, of course, allowing five minutes' debate and objection.

The PRESIDING OFFICER. That is the understanding. The bill (S. No. 855) for the relief of Warren Mitchell is first in order.

Mr. McMILLAN. I move that that bill be indefinitely postponed.

The PRESIDING OFFICER. The question is on the motion of the Senator from Minnesota that the bill be indefinitely postponed.

Mr. McCREERY. I call for the yeas and nays on that motion. The yeas and nays were ordered.

The PRESIDING OFFICER. The Secretary will call the roll.

Mr. HOAR. What is the pending motion?

The PRESIDING OFFICER. The pending motion is to indefinitely postpone the bill.

Mr. HOAR. Is the bill before the Senate in any parliamentary way?

The PRESIDING OFFICER. It came up regularly.

Mr. HOAR. I understand that the majority report was a report to indefinitely postpone a petition, and that there is no bill before the Senate except that the minority have moved to substitute one for the majority report.

The PRESIDING OFFICER. The Chair understood from the Secretary that it is a bill which is before the Senate.

Mr. DAVIS, of West Virginia. I believe a single objection carries the bill over. If so, I object, and that will carry over this question. Let us go on with the Calendar.

Mr. McCREERY. If the Senator from West Virginia insists upon that objection, I shall move for the postponement of all other orders and that the Senate proceed to the consideration of this bill. It has been delayed four or five years. We have now reached it upon the Calendar.

Mr. DAVIS, of West Virginia. I made the objection in the interest of the Senator from Kentucky. If I am mistaken, of course I will withdraw it. The Senator from Minnesota, I understand, had moved the indefinite postponement of the bill.

Mr. McCREERY. We want that motion rejected.

Mr. DAVIS, of West Virginia. Then let me say to my friend from Kentucky that if the Senator from Minnesota or any other Senator makes an objection that carries the bill over.

Mr. McCREERY. It will have that effect unless I make the motion I have indicated and get the concurrence of the Senate.

Mr. DAVIS, of West Virginia. I am with the Senator from Kentucky and do not want to interfere with him. So if he prefers to take the vote, I withdraw my objection.

Mr. McMILLAN. I understood the bill was before the Senate for its action.

Mr. HARRIS. The bill is before the Senate according to the regular rule and order of business. It was reached upon the Calendar. The majority and minority reports were read, and the hour expired, when the Senate proceeded to the regular order of business of the day. I understand the Senate has now taken up the Calendar again. If so, Senate bill No. 855 is the pending question.

The PRESIDING OFFICER. The Chair so understands.

Mr. McMILLAN. And under those circumstances I interposed the motion to indefinitely postpone the bill.

The PRESIDING OFFICER. The motion is entirely in order, and the yeas and nays have been ordered on that motion.

The question being taken by yeas and nays, resulted—yeas 14, nays 30; as follows:

YEAS—14.

Cameron of Pa.,	Edmunds,	Morrill,	Wadleigh,
Christianity,	Ferry,	Rollins,	Windom.
Davis of Illinois,	Hoar,	Sargent,	
Dawes,	McMillan,	Saunders,	

NAYS—30.

Beck,	Eaton,	Kernan,	Morgan,
Booth,	Garland,	Lamar,	Sharon,
Bruce,	Gordon,	McCreery,	Spencer,
Burnside,	Grover,	McPherson,	Voorhees,
Butler,	Harris,	Matthews,	Whyte,
Chaffee,	Hereford,	Maxey,	Withers.
Davis of W. Va.,	Jones of Florida,	Merrimon,	
Dennis,	Kellogg,	Mitchell,	

ABSENT—32.

Allison,	Cockrell,	Howe,	Patterson,
Anthony,	Coke,	Ingalls,	Plumb,
Armstrong,	Conkling,	Johnston,	Randolph,
Bailey,	Conover,	Jones of Nevada,	Ransom,
Barnum,	Dorsey,	Kirkwood,	Saulsbury,
Bayard,	Eustis,	McDonald,	Teller,
Blaine,	Hamlin,	Oglesby,	Thurman,
Cameron of Wis.,	Hill,	Paddock,	Wallace.

So the Senate refused to postpone the bill indefinitely.

Mr. EDMUND. Let the bill go over, Mr. President.

Mr. McCREERY. I did not hear the motion of the Senator from Vermont.

Mr. EDMUND. I did not make any motion. I objected to the further consideration of the bill at the present time.

Mr. McCREERY. I move to postpone all prior orders and proceed with the consideration of the claim of Warren Mitchell.

Mr. EDMUND. On that question I ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Kentucky moves to postpone all prior orders and proceed with the consideration of the bill (S. No. 855) for the relief of Warren Mitchell.

Mr. EDMUND. First I make the point of order that he can only move to postpone all prior orders under the rules, and then what the Senate will take up next remains to be determined.

The PRESIDING OFFICER. The Chair thinks the Senator from Vermont is right.

Mr. EDMUND. I think I am, sir.

Mr. McCREERY. I submit the motion according to the ruling of the Chair, to postpone all prior orders.

Mr. EDMUND. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. I ask that the question be stated. I do not understand what it is.

The PRESIDING OFFICER. The Chair was about to state the question. The motion is that the Senate postpone all prior orders.

Mr. EDMUND. The intention being then to move to take up the Mitchell bill.

Mr. BECK. I wish to understand the exact position of affairs. Is there any objection to proceeding with the present matter?

Mr. WHYTE. Yes; the Senator from Vermont objected.

Mr. BECK. I did not hear that. The objection is simply to taking it up. Is that it?

Mr. EDMUND. The objection was made under what is called the Anthony rule, under which one objection carries a bill over. That being the effect and we going on with the Calendar, the Senator from Kentucky, the colleague of my honorable friend, as he had a perfect right to do, moves to postpone all pending orders. That being done he gives notice he intends to move to take up this bill. He has a right to do that.

Mr. BECK. Would an objection, therefore, generally to the consideration of any further business on the Calendar dispose of the Calendar? I think if we are going on in this way, if we cannot act on cases when we reach them, I shall make a general objection to every other case on the Calendar and then go back and begin again.

Mr. BURNSIDE. I suggest to the Senator from Kentucky that his motion be to lay aside temporarily.

Mr. EDMUND. That motion is not in order.

Mr. BURNSIDE. If it was in order I think it would be better. I shall oppose this motion of the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky has moved to lay all prior orders on the table, and on that motion the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

The roll-call having been concluded, Mr. MITCHELL asked that his name be called, and voted in the affirmative.

Mr. McMILLAN. I think the Senator from Colorado [Mr. TELLER] was paired with the Senator from Oregon [Mr. MITCHELL] on this question. A memorandum of the pair was left with me.

Mr. MITCHELL. I did not so understand it; but if the Senator says so of course I shall so consider it. He spoke to me about it, but I understood the arrangement was not concluded. I will, however, withdraw my vote.

Mr. MATTHEWS, (after having voted in the negative.) On this question I am paired with the Senator from Indiana [Mr. McDONALD] who is absent. I am informed he would vote "yea" if he were here; I therefore withdraw my vote.

The result was announced—yeas 25, nays 20; as follows:

YEAS—25.

Bailey,	Garland,	Lamar,	Sharon,
Beck,	Gordon,	McCreery,	Voorhees,
Booth,	Grover,	Maxey,	Whitney,
Bruce,	Harris,	Merrimon,	Withers.
Chaffee,	Hereford,	Morgan,	
Davis of W. Va.,	Jones of Florida,	Ransom,	
Eaton,	Kellogg,	Saulsbury,	

NAYS—20.

Allison,	Conkling,	Hoar,	Plumb,
Anthony,	Davis of Illinois,	Howe,	Rollins,
Blaine,	Dawes,	Kernan,	Sargent,
Burnside,	Edmunds,	McMillan,	Wadleigh,
Cameron of Pa.,	Ferry,	Morrill,	Windom,

ABSENT—31.

Armstrong,	Conover,	Jones of Nevada,	Patterson,
Barnum,	Dennis,	Kirkwood,	Randolph,
Bayard,	Dorsey,	McDonald,	Saunders,
Butler,	Eustis,	McPherson,	Spencer,
Cameron of Wis.,	Hamlin,	Matthews,	Teller,
Christianity,	Hill,	Mitchell,	Thurman,
Cockrell,	Ingalls,	Oglesby,	Wallace,
Coke,	Johnston,	Paddock,	

The PRESIDING OFFICER. All prior orders are postponed.

Mr. HARRIS. I move that the Senate now proceed to the consideration of the bill (S. No. 855) for the relief of Warren Mitchell.

Mr. EDMUND. On that question I ask for the yeas and nays.

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

Mr. McMILLAN, (when Mr. TELLER's name was called.) The Senator from Colorado [Mr. TELLER] is absent in South Carolina. He is paired on this question with the Senator from Oregon, [Mr. MITCHELL.] If the Senator from Colorado were here, he would vote "nay."

The Secretary resumed and concluded the call of the roll.

Mr. ALLISON. I wish to say before the result of the vote is announced that my colleague [Mr. KIRKWOOD] is absent on public business and is paired on political questions, I believe, with the Senator from Arkansas, [Mr. GARLAND.] I merely make this statement with reference to the absence of my colleague.

Mr. GARLAND, (who had voted "yea.") I am paired with the Senator from Iowa, [Mr. KIRKWOOD,] as stated by his colleague, on all political questions; and if the Senator now on the floor will an-

nounce before the Senate that this is a political question, I shall withdraw my vote.

Mr. ALLISON. I only wished to state as to my colleague that he is absent and paired on political questions with the Senator from Arkansas.

Mr. GARLAND. I do not see any politics in this question, Mr. President, but if the Senator from Iowa now on the floor or any other Senator on the other side, or who has voted against the motion will say it is a political question, I shall withdraw my vote.

Mr. MERRIMON, (who had voted "yea.") I will state that I am paired with the Senator from Kansas [Mr. INGALLS] on political questions. If this is to be treated as a political question, I will observe my pair. I cannot conceive that it is a political question, for I think it is very probable I shall vote against the measure myself.

The result was announced—yeas 25, nays 22; as follows:

YEAS—25.

Bailey,	Gordon,	Lamar,	Sharon,
Beck,	Grover,	McCreery,	Voorhees,
Booth,	Harris,	Maxey,	Whyte,
Butler,	Hereford,	Merrimon,	Withers.
Davis of W. Va.,	Hill,	Morgan,	
Denis,	Jones of Florida,	Ransom,	
Garland,	Jones of Nevada,	Salsbury,	

NAYS—22.

Allison,	Conkling,	Howe,	Sargent,
Anthony,	Davis of Illinois,	Kernan,	Saunders,
Blaine,	Dawes,	McMillan,	Wadleigh,
Burnside,	Edmunds,	Morrill,	Windom.
Cameron of Pa.,	Ferry,	Plumb,	
Chaffee,	Hoar,	Rollins,	

ABSENT—29.

Armstrong,	Conover,	Kirkwood,	Randolph,
Barnum,	Dorsey,	McDonald,	Spencer,
Bayard,	Eaton,	McPherson,	Teller,
Bruce,	Eustis,	Matthews,	Thurman,
Cameron of Wis.,	Hamlin,	Mitchell,	Wallace.
Christianity,	Ingalls,	Oglesby,	
Cockrell,	Johnston,	Paddock,	
Coke,	Kellogg,	Patterson,	

So the motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill.

Mr. EDMUND. Mr. President, I should like to hear the Senator from Tennessee [Mr. HARRIS] who has charge of this bill, it never having been referred to a committee, explain to us at length the grounds upon which he thinks the bill ought to pass.

Mr. HARRIS. Mr. President, I have endeavored to explain to the Senator from Vermont and other Senators the ground upon which I think the bill ought to pass in the minority report which is printed and on the table of the Secretary. But in addition to what I said in that report, or in repetition of it, I will say that the books of the Treasury Department show that there is a fund there, the net proceeds of the sale of a lot of cotton that was taken from the possession of Warren Mitchell, this claimant, at Savannah, Georgia, in 1864. The papers in the case show that Warren Mitchell bought and paid for this cotton; that it was seized by the agents of the Government, it was shipped to New York, it was sold and a large proportion of it consumed in the expenses of shipment, commissions, and other charges. The net proceeds, however, are in the Treasury of the United States.

The claimant brought suit in the Court of Claims to recover the proceeds of the sale of this cotton. The Court of Claims were equally divided upon the question as to whether or not the purchase and payment for this cotton vested a legal title in the claimant, it being alleged as the claimant at the time of the purchase was a citizen of a loyal State and his vendors were citizens of confederate States disloyal the enemy relation existed. The Court of Claims were equally divided upon that question, which resulted in the dismissal of the petition; from which the claimant appealed to the Supreme Court. The Supreme Court decided that Warren Mitchell being a resident citizen of the State of Kentucky, a loyal State, having purchased this cotton from citizens of Georgia, a disloyal State, the enemy relation existed between the vendor and vendee, and under the laws of nations no title was communicated by reason of the fact that the contract was void. Hence, the Supreme Court affirmed the decision of the Court of Claims. The claimant then presented his petition here.

Mr. HOAR. Will the Senator from Tennessee allow me to call his attention to a fact? As he is making a statement of the case I ask him to make it full. He stated that the Court of Claims were equally divided upon the legal question involved. Is it not true that the Supreme Court determined the question against the claimant without division?

Mr. HARRIS. I have stated the fact that the Supreme Court decided the one single question that the enemy relation existed between vendor and vendee, and, by reason of that fact, the contract of purchase and of payment for this cotton was void. That was the decision of the Supreme Court of the United States, and no more than that.

I undertake to say that there is not a Senator on this floor who will deny these facts. Warren Mitchell bought and paid for the cotton. It was his by every consideration of justice, equity, and of moral right. The earnings of his life are to-day wrapped up in the proceeds of the sale of the cotton which was seized and taken from his possession,

shipped to New York and sold, and the proceeds are in the Treasury of the United States to-day. That he bought it, that he paid for it, that the money is now in the Treasury, no Senator will deny.

I will venture to say in addition that there is not a Senator upon this floor who will controvert the conclusion that, under the rulings of the Supreme Court of the United States in a number of cases, if Warren Mitchell had been the commanding general of the confederate armies at the time of this purchase and a resident of one of the Confederate States—

Mr. EDMUND. Instead of furnishing them with pork.

Mr. HARRIS. I am obliged to the Senator from Vermont for his kindly suggestion and the kindly manner in which it is made. In reply to the kindly suggestion of the Senator from Vermont, I beg him to look to the decision of the Supreme Court, and to answer as to whether or not the question of loyalty or disloyalty is a consideration that is weighed under the policy of this Government as expounded by its laws, when decided by the Supreme Court. The question of loyalty or disloyalty is wholly immaterial as a question of right, as held by the Supreme Court in the case of *Pargoud vs. the United States*, cited in the minority report.

But I was going on to say, when the Senator from Vermont made his kindly suggestion, that if Mr. Mitchell had been the commanding general of the confederate army and had brought this suit in the Court of Claims at the precise time that he did, and under the same circumstances, and upon exactly the same facts, the Supreme Court would have been bound to have decided and would have decided the case in his favor. The only reason that it was decided against him in the Court of Claims and in the Supreme Court was because he was a resident of a loyal State and technically held to be a loyal man, while the resident of a disloyal State was technically held to be a disloyal man, and hence the enemy relation existed between them.

The plain question in the case, for I do not propose to detain the Senate, narrows itself down to this: Can this Government afford to rest itself upon the cold technical question that notwithstanding this citizen has put the earnings of his life into this particular property and it is now in the Treasury of the United States, yet the enemy relation existing between him and the other contracting party at the time he bought the cotton he acquired no such legal title as he can enforce in the courts? Will any Senator claim that the Government has any title to the cotton; that there is a single fact or circumstance in the case that gives to the Government the title to one single pound of that cotton, or to a cent of the proceeds of its sale? I venture to say that there is not a Senator on this floor who will undertake to assert the title of the Government to the money that is now in the Treasury, the proceeds of the sale of this cotton, or its right to one pound of the cotton that resulted in those proceeds? If the contract of purchase was void because of the existence of the enemy relation between the contracting parties, it left the legal title in the vendor. The vendor has received the money of this claimant for the cotton. He asserts no title, presents no claim; he is satisfied, having been fully paid by the claimant for it. Yet, under the strict rule of law the legal title is in him, and but for the statute of limitations, under the rulings of the Supreme Court of the United States, the vendors could to-day go into your Court of Claims and compel the payment of the proceeds of the sale of the cotton to them, notwithstanding the fact that they had sold to this claimant and received payment. I do not think the Government can afford to stand upon that cold technical rule and to withhold from a citizen the earnings of his whole life. For myself I will say that I will certainly vote to return to the claimant this money because it justly and rightfully belongs to him.

Mr. McMILLAN. Mr. President, this claim received the very careful consideration of the Committee on Claims of the Senate, to which the petition of the claimant was referred at a former session. From the examination of the facts touching the claim which I was then called upon to make as a member of that committee, and which I did make, my conclusion is that if there has been a claim presented to Congress which should be rejected it is this one. The claim is a large one, the amount claimed being \$128,692.

The facts upon which the claim is based are stated in the report of the committee recommending that the claim be disallowed. Mr. Warren Mitchell, the claimant, was a member of two mercantile firms, doing business prior to the war in the city of Louisville, Kentucky; the firm of Mitchell & Armstrong, and the firm of Armstrong & Co., Charles Q. Armstrong, Warren Mitchell, the claimant, and Isaac Russell constituting these firms. The business of these firms seems to have been largely with the extreme Southern States, principally the Gulf States. The indebtedness in the South to these two firms at the time of the breaking out of the rebellion amounted to not more than \$116,421. In pursuing the history of these firms it is found that Mr. Armstrong turned up first during the rebellion in Tennessee, engaged as a subcontractor under a party who had made a contract with the southern confederacy to supply it with certain provisions—pork and other articles. The next heard of him is in one of the Gulf States, where he died; and the next event noticed is his death. At what time he passed through the lines of the United States Army nowhere appears, but one fact is clearly inferable, that his sympathies before and at the breaking out of the war were with the southern confederacy; and the subsequent fact of his presence fulfilling a contract with the confederate government to furnish it supplies of pork for

its army proves that he was disloyal at the very commencement of the war.

Mr. Mitchell obtained a pass from General Anderson to go through the lines of the armies of the United States shortly after the breaking out of the rebellion, early in the summer of 1861. It was nothing but a simple pass, no permit in any way, although it is stated that there was a verbal understanding that it was the purpose of Mr. Mitchell's visit to the South to collect debts due the firms of which he was a member.

Mr. EDMUND. That is what he professes?

Mr. McMILLAN. That is the profession, but the fact does not appear in the papers, as I understand. Mr. Mitchell proceeded through the lines and engaged, as he alleges, in the collection of the debts due these two firms. But shortly after his exodus from the North he is found in Nashville, Tennessee, superintending actively and engaged in the performance of the subcontract entered into by his partner, Mr. Armstrong, to supply the confederate government with pork and other articles. He alleges that he was informed that this contract having been made by his partner he was bound to fulfill it, and under that impression, although personally he was not in favor of the contract, he rendered his services under the contract in the performance of its terms.

Mr. Mitchell is supposed to be an intelligent merchant, and in the presence of such a contract, with his knowledge that an act of that kind upon the part of a citizen of a northern State was an act of treason, he yet undertook to perform this contract, and he sets up here as a defense that he supposed it would have to be performed because his partner had made it. It is utterly preposterous to suppose that Mr. Mitchell did not understand the character of his act in the performance of that subcontract, and to suppose that he did not by so doing lend aid and support to the rebellion then flagrant in the country. It is true that subsequently, when he returned to the North, a pardon was granted to him, a general pardon, for any act he might have committed during the rebellion. But that does not alter his relation to this claim, nor does it alter the attitude of this question as it is presented to us in the Senate to-day. Besides, Mr. Mitchell did not return to the North, so far as appears by the papers, until after the rebellion closed. Having with this pass from General Anderson passed into the Confederate States, he remained there during the whole period of the war, engaged, as he says, in collecting debts due to the two firms of which he was a member. It appears, as I have already stated, that the indebtedness to those two firms amounted to \$116,000, and the cotton which he alleges was taken, and for which his claim is here presented, amounts in value to \$128,000, \$12,000 more than the whole indebtedness which he claims and which the papers show was due to both the firms of which he was a member.

This cotton, then, could not have been taken merely in the collection of debts. The evidence shows that Mr. Mitchell spent that whole time in trading, in going from point to point, passing from Louisiana around through the Gulf States, and into Savannah, before he came North, engaged all that period in exchanging cotton or in buying and selling cotton and in making profit on cotton during the war. Yet he claims here to be a loyal man!

The proof shows that in the transportation of a portion of this cotton from one point to another in the South the officials of the railroad corporations had an interest in the cotton. It is plainly inferable from the facts and the testimony here that Mr. Mitchell spent that whole period in transacting business for his own profit, in buying and selling cotton, and in giving aid to the confederacy in the war which was then transpiring; and he made a profit, according to his own statement, upon this amount of cotton alone, of more than \$12,000, taking the whole as having been collected in the payment of the indebtedness; but it is reasonable to suppose that a large portion of this cotton was purchased by him, and was not received in the payment of debts.

Mr. President, the Senator from Tennessee has stated the history of this case in the courts. It is true that this claim was before the Court of Claims, and that the question passed upon there was whether Mitchell acquired a title to this cotton, he being nominally a resident of a loyal State and having procured the cotton from those who were in rebellion. The Court of Claims equally divided upon that question and the case was taken to the Supreme Court of the United States. The Supreme Court, that high tribunal, as we should reasonably anticipate, decided without division that no title passed to Mitchell. But it is claimed by the Senator from Tennessee that that is a mere technical question. The Senator remarked, if I recollect his words aright, that by all the principles of justice, equity, and morality the cotton was Mitchell's and that the question of title was a mere technical one, because under the law of nations he being a citizen of a loyal State could not trade with the enemy. Upon what principle is that law based? It is based upon the principle that a loyal citizen has no right to deal with an enemy; but here the application of the law is not as between foreign nations, for this was a rebellion in which the citizens of this country were involved on either side. If the rebellion was right, then the armies of the South were right. If it was treason, then the citizen of the North who would deal with the enemy violated all the principles of honor, all the principles of patriotism, and the technical question is resolved into one of great moral right. The man who lent his aid to the southern army was commit-

ting treason against his country, and the fact that no title passed shows that the principle of the law is sound and that there is no merit in the claim of Mitchell as he presents it here.

We had recognized the southern confederacy as a belligerent power, and the principles of the law of war applied to it as such; but the relations of the citizens of the same country were qualified greatly by the fact that this was a war between portions of the same country and not a war between this nation and a foreign nation. Mr. Mitchell knew that the existence and welfare of the country under whose benign laws he had been protected and aided in accumulating a fortune were about to be destroyed, and, nominally a loyal citizen, he deserts his own country and goes over to those who are in rebellion. Property acquired under those circumstances is said by the Senator from Tennessee to be property a title to which Mitchell had a right in justice, in equity, in morality. I apprehend that the law affirmed by the courts is in accordance with all the principles of equity, justice, and morality.

Mr. EATON. Will my friend allow me to ask him a question or two, for I have not determined how I shall vote on this bill, and his answer may have some effect on my vote? I ask him, first, if he objects to the payment of this claim because of the fact that after Mitchell had permission to enter the confederate lines he became somewhat in league with the confederate authorities? Is that the reason why the Senator opposes the claim?

Mr. McMILLAN. I oppose the claim because—

Mr. EATON. Perhaps I ought to ask one other question. Suppose my friend, the Senator from Minnesota, who was a loyal man, about whose loyalty there can be no question, had a claim against my friend, the Senator from Tennessee, [Mr. BAILEY,] for \$50,000. It formed his estate. He was desirous if possible to get that money. He received permission to go into the confederate lines from the Federal authorities. He received permission from the confederate authorities to remain within the lines of the confederacy. He found his debtor. He received from him the sum of \$50,000 in gold, I will say, instead of cotton. On his return the Federal Commander-in-Chief took from him his gold. Now, then, I beg to ask if that could be held in that case by the courts to be a valid seizure?

Mr. McMILLAN. The case stated by the Senator from Connecticut is wholly different from the case under consideration.

Mr. EATON. I ask the Senator's opinion on that case.

Mr. McMILLAN. I am replying now to the position of the Senator from Tennessee, [Mr. HARRIS.]

Mr. EATON. I should like to have an answer to my question. If my friend had received this permission from the Federal authorities and had received payment for his claim, would the Federal commander of the department have the power to take from him that money?

Mr. McMILLAN. That is a case not in point at all, and upon which there is no necessity or propriety in expressing an opinion at this time.

Mr. EATON. I think it is in point, and thinking it in point I should like a reply.

Mr. McMILLAN. The Senator will observe that Mr. Mitchell in this case passed through the lines, and, as I have endeavored to show, engaged in giving aid and support to the southern confederacy by actually engaging in the performance of a contract to supply the confederate government with pork and other supplies, his partner, who was also in the South, having made the contract. The case the Senator from Connecticut supposes is totally different. In this case all the *indicia* go to show that so far as Mr. Mitchell did anything in the South at all it was in aid of the southern confederacy. The fact is plainly inferable, it seems to me, not that he engaged in the South in collecting his debts merely, but that he engaged in the sale and in the purchase of cotton, because he passed from one part of the South to the other. The cotton seized was all in Savannah, and if he received any cotton in the payment of his debts it was not this identical cotton which was seized by the Government. It appears, as I have already said, that the amount of cotton for which he claims payment is greater in value than the whole amount of indebtedness due to both the firms, so that he must have engaged in trading with the enemy.

This case was before the Senate at a prior Congress. A favorable report was made upon it by the Committee on Claims, and it came before the Senate for action. Before the case was finally disposed of, however, in the examination of another claim before the same committee, the fact of Mitchell's engaging actively in the performance of a contract to supply the confederate government with pork was developed. That was the first information the Committee on Claims had upon that subject; and, upon that state of facts, after considerable discussion upon the matter, the bill was referred again to the committee for re-examination, and so disposed of for that Congress.

The Senator from Tennessee attempts to illustrate the mere technicality, as he terms it, in this case as to the title of the cotton by saying that if the cotton had belonged to a member of the confederacy his title to it would have been complete. In that case the transaction would have been wholly different. The citizens of the South were recognized enemies. They had a right to do what they pleased with their cotton. So far as the law of nations is concerned affecting this question, they had a right to render allegiance to the government which they claimed to have set up, and there was no disloyalty to

that government on their part, there was no treason to their government in purchasing cotton or in trading between their own citizens. We had recognized them as belligerents and given them the rights of war. But Mitchell left his own country, he left the Government that had protected him, and went to render aid and comfort to the enemy. In various forms, at various times through the whole war, he spent his time in aiding that confederacy, and when it terminated against the government there attempted to be set up, when this cotton was seized by the Federal Army, then he comes in and claims to be a loyal man. Why, Mr. President, a claim so utterly without foundation I think cannot be pointed to in the annals of the Senate.

Mr. HARRIS. Will the Senator from Minnesota allow me to ask him a question?

Mr. McMILLAN. Certainly.

Mr. HARRIS. Where is the legal title to that cotton or to the proceeds?

Mr. McMILLAN. It is not in Warren Mitchell.

Mr. HARRIS. Will the Senator be kind enough to tell me where it is?

Mr. McMILLAN. The Government of the United States has seized that property as a prize of war. Mr. Mitchell not only has no title to it technically, but he has no title to it under any view of the case you can take.

Mr. BOOTH. Will the Senator allow me to ask him a question for my own enlightenment?

Mr. McMILLAN. Certainly.

Mr. BOOTH. Would this cotton have been liable to seizure and confiscation if it still remained in the hands of Mitchell's vendors?

Mr. McMILLAN. No, sir; because his vendors were engaged in supporting the rebellion; they were citizens of the confederacy. That is the difference between his vendors and himself. They were doing acts which we recognized as being proper on their part to their own government.

Mr. BOOTH. But the question that I asked went to this effect: Would the United States have derived any different title by the seizure of the cotton in the hands of Mitchell's vendors from what they did by its seizure in Mitchell's hands?

Mr. HOAR. Will my friend from Minnesota allow me to propound a question to the Senator from California which perhaps will be an answer to his? Would he apply the same rule to a loyal citizen who went down and engaged in contraband trade with the enemy, and confirm a title gained by such a trade, in all cases where he would not have seized the property in the hands of a rebel? That is the point in this case.

Mr. BOOTH. I am not answering questions. I put one.

Mr. HOAR. This petitioner asks Congress to confirm a title which is void, because he was engaged in a contraband trade with his country's enemy, and he says, "You would not take the property away from an enemy under the circumstances, therefore confirm my illicit trade."

Mr. EDMUND. You always would take contraband of war from an enemy if you could take it, as Sherman did with his army after considerable trouble.

Mr. HOAR. That is another thing.

Mr. McMILLAN. Mr. President, in any view I can take of this claim, if I have correctly understood the facts here, (and I have given diligent attention to them,) it is utterly without foundation; and if this relief is granted to this claimant it is a reward for treason. There can be no doubt of his duty to the Government of the United States. There is no doubt that if he performed these acts he was lending aid to the enemies of his own country, and property acquired by him in the very act of treason it is claimed here is his by all the rules of justice, equity, and morality! I am unable to see the subject in any such light, and I trust the Senate will refuse to pass this bill.

Mr. HOAR. Mr. President, I think this whole case is in a nutshell, where it is properly understood, and it seems to me that it presents one single point, a point not presented, if I am right in my view, in the very ingenious and earnest argument of the Senator from Tennessee, [Mr. HARRIS.] He has undertaken to discuss the question whether the United States would have taken and held under the circumstances disclosed in the report the property of a rebel, and he says if they would not certainly they ought not to take and hold the property of this petitioner, concerning whom at least all you can say is that it is in doubt on the facts whether he was a rebel or not, and concerning whom the Senator from Tennessee affirms his belief that he was a loyal citizen.

Now, it seems to me that question is not presented by the case before the Senate. A citizen of a State not in rebellion got a pass—as it turned out an unauthorized pass, but that is not very important—from a general commanding a military district to go South and collect debts, and therewith on that pass he went South, remained three years, traveling about in the rear of the rebel armies, as much at home within the rebel lines as the general of the confederate forces, and dealt, buying at one end of the confederacy and selling at the other, or selling at one end of the confederacy and buying at the other, in cotton, which was contraband of war, every one of those dealings being in violation of the law of war and the law of nations.

Mr. EDMUND. And of the statute law of the United States.

Mr. HOAR. And of the law of the United States in such cases made and provided. Now, to violate the law which prohibits the citizen of a State from dealing with citizens of States at war with his own, has been for the first time within my knowledge spoken of as a technicality. It is not a technicality. It is one of the most important and necessary rules of public conduct for the safety of States in time of imminent peril and danger.

This man acquired by that illegal course of business one hundred and twenty-eight thousand dollars' worth of cotton, or thereabouts, and when General Sherman captured Savannah he captured that cotton and took it as booty or prize of war, and its proceeds were paid into the Treasury of the United States, and now this petitioner comes in and says, "Pay me the proceeds of that cotton; you would not have taken it away from a rebel at war with you under the circumstances;" which I by no means admit, but that is his claim; "now pay it over to me." To which the reply is, "You have not the least title to it in the world and never had. The laws of your country and the laws of all civilized countries at war prohibited you getting any title to it by such a transaction;" and the petitioner says: "I know it; that is true; I do not pretend to dissent from that proposition the least in the world. This was a prohibited transaction; it was in violation of the laws of war; it gives me no title whatever to the cotton; but I was led to think I had got a title or might get one, and to enter upon this course of trade, by a pass which I got from General Anderson, under which I went down for the purpose of collecting these debts and paying them over to my northern creditors." Well, the reply in the first place is, "General Anderson never had any authority to grant you such a pass," and so says the court. The reply in the next place is, "The pass that he did grant you was simply a pass to go within the rebel lines, and did not purport to be a pass even to collect your debts or give you any authority to that; and further, if you had done and rightfully done all that, General Anderson never contemplated that you were to engage in this course of trading which the evidence discloses."

Mr. EDMUND. It is the same pass he would have given to an enemy to go to his own country.

Mr. HOAR. It is the same pass he would have given an enemy to go home to visit his wife and children or to visit his plantation, and that is all. But he says "I was a loyal citizen meaning well to my Government, and I was a loyal citizen who got into this difficulty which I admit I am in, and who did not get any title to this property, as I admit I did not, by means of a mistake which it is not becoming a great government to insist upon." The answer to that proposition, even if it had weight and if the Government could undertake to correct mistakes of that kind in time of war with any safety to anybody, is "We do not believe one word of that story." It is not credible that a man living in Kentucky, where men knew whether their neighbors desired that this rebellion should succeed, or desired that this rebellion should fail, was permitted to spend three years trading in cotton within the confederate lines, he being in heart and soul loyal to this Government all the time. It is one of those stories not to be taken by sane men as true upon evidence, that that man did these things which the evidence discloses—a Kentuckian, an eminent, influential Kentucky merchant at the beginning of the war, and the men in authority and in power within the confederate lines did not know whether he was a loyal Union-loving citizen or not!

In the next place "it is inconsistent with your own conduct, Mr. Mitchell, because while you were down there you were engaged for money, for profit, in giving aid and comfort to the rebellion, in providing provisions under a contract for the support of its army in the field." Now what has Mr. Mitchell to say in reply to that? Why, he says, "I did execute a very large and lucrative contract to supply pork to the confederate armies; but I did it because my partner, who was a rebel at heart, had taken the contract in my name and his own, and I found that I was bound by it in law, and thought I had better carry it out. We should lose money, we should be held to damages if we did not." In other words he says, "I, the Union-loving citizen, the intelligent merchant loving my country and hating rebellion all the time, helped feed those armies for pay, because I was afraid I should lose some money if I did not by being held to have broken a contract which my partner had undertaken to make in my behalf."

Sir, I do not think that the fear of losing some money by being adjudged to have broken his contract with the confederate government is an excuse for treason, for giving aid and comfort to the rebellion, on the part of the citizen of a loyal State to be made to the representatives of men who were not only willing to lose their property, but to lose their lives to put down that rebellion.

Mr. President, if a southern man on a like pass from a southern general had come north out of their lines and into ours, and had done these same acts for the Union Government, he would have been shot or hung within twenty-four hours after he got back, if he had gone back while the rebellion had its head erect; and, although this Government has considered that if it be not a justification it is at least an excuse to a man that he went with his State, that he stood by his neighbors, that he believed he was right in making war upon the Government, I do not think we have until now been even asked from that side of the Chamber to say that for a loyal man, belonging to a loyal State, professing to be loyal in sentiment, it is a good justi-

fication or even a tolerable excuse that he was afraid he would lose a little money if he did not give aid and comfort to the enemies of his country and its flag!

Mr. WINDOM. Mr. President, I ask that this bill may be temporarily laid aside in order to appeal to the Senate to pass a little appropriation bill which the House is extremely anxious to have acted on to-day. I think it will not take five minutes, perhaps not three.

Mr. HARRIS. I have no objection to yielding to the desire of the Senator from Minnesota.

Mr. EDMUND. Mr. President, this is too good a bill, it seems to me, to be laid aside informally. There is so much of justice and honor, and high considerations in it, that it is rather a pity. I wish my friend from Minnesota could wait. I do not mean to interpose an objection, but this is one of the occasions when we can show our forgetfulness of what has passed, and act for all the future, that I think we ought to go on with it. It is rather too good to be lost just now.

Mr. DAVIS, of Illinois. I do not think this appropriation bill will occupy any time. It is absolutely necessary to pass it.

Mr. CONKLING. What is the appropriation bill?

Mr. DAVIS, of Illinois. The portion I feel interested in is to get money appropriated so that the committee appointed by the other House may go to Chicago to make an investigation.

Mr. WINDOM. I think there is no objection. The Senator from Vermont does not object; he only thinks he ought to object, to carry out his convictions this time.

Mr. EDMUND. This bill ought not to be delayed by any such thing as appropriations.

The VICE-PRESIDENT. Does the Chair understand the Senator from Vermont to object?

Mr. EDMUND. No, I do not object to the Committee on Appropriations at any time.

#### MISCELLANEOUS APPROPRIATIONS.

Mr. WINDOM. I am instructed to report back the bill with amendments which I shall offer after the bill is read.

By unanimous consent, the bill (H. R. No. 6141) making appropriations to enable the Secretary of the Treasury to carry out the provisions of section 254 of the Revised Statutes and to appropriate \$40,000 for the miscellaneous expenses of the House of Representatives was considered as in Committee of the Whole.

To enable the Secretary of the Treasury to meet the expense of the transportation of coin and bullion \$60,000 is appropriated. That the charges for the transportation of gold coin from San Francisco to New York shall not exceed one-fourth of 1 per cent., and for the transportation of silver 1 per cent., and for intermediate points at proportionate rates corresponding to the distance.

To meet the miscellaneous expenses of the House of Representatives, to be disbursed by the Clerk of the House, the sum of \$40,000 is also appropriated.

Mr. WINDOM. The committee move to strike out the word "charges," in line 5, and insert "amount paid;" so as to read: And that the amount paid for the transportation of gold coin, &c.

The amendment was agreed to.

Mr. WINDOM. I submit from the Committee on Appropriations an amendment to be added to the bill. We have ascertained from examination at the Secretary's office that there will be a deficiency to the extent named there in the last two cases, and that the amount mentioned in the first item will probably be needed before the close of the session, and this is probably the only opportunity we shall have to provide for it. The amendment is to add to the bill:

That the sum of \$10,000 be, and the same hereby is, appropriated out of any money in the Treasury not otherwise appropriated; which sum shall be placed to the credit of the contingent fund of the Senate, to be applied toward defraying the expenses of such investigations and inquiries as have already been, or may hereafter be, directed by the Senate during the Forty-fifth Congress.

For expenses of the joint committee to take into consideration the subject-matter of reform and reorganization of the Army, \$232.67.

For expenses of the joint committee to take into consideration the expediency of transferring the Indian Bureau to the War Department, \$953.60.

The amendment was agreed to.

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

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

The bill was read the third time, and passed.

On motion of Mr. WINDOM, the title was amended by adding "and for other purposes."

#### RECOMMittal OF A BILL.

Mr. BRUCE. I desire to ask unanimous consent of the Senate to recommit to the Committee on Pensions the bill (H. R. No. 3575) granting an increase of pension to Josephine Da C. Thomas.

The VICE-PRESIDENT. Is there objection? The Chair hears none and the order will be entered.

#### EXECUTIVE SESSION.

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

The motion was agreed to; there being, on a division—ayes 26, noes 15; and the Senate proceeded to the consideration of executive business. After nine minutes spent in executive session the doors were reopened, and (at four o'clock and five minutes p. m.) the Senate adjourned.

#### HOUSE OF REPRESENTATIVES.

THURSDAY, January 23, 1879.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. W. P. HARRISON, D. D.

The Journal of yesterday was read.

#### CORRECTION.

Mr. STEPHENS, of Georgia. I wish to correct the Journal. In the title of the bill which I introduced yesterday to define and prescribe the duties of the Secretary of the Treasury, in certain cases, and for other kindred purposes, the word "for" is omitted before the words "other kindred purposes." I also observe that in the RECORD, the words "Secretary of War" are inserted in the title, instead of "Secretary of the Treasury."

The SPEAKER. The necessary corrections will be made.

The Journal, as corrected, was approved.

#### SESSION FOR BUSINESS OF JUDICIARY COMMITTEE.

Mr. KNOTT. I ask unanimous consent that there be a session of the House to-morrow evening at half past seven o'clock for the consideration of reports from the Committee on the Judiciary.

Mr. HALE. Let it be understood that all points of order are reserved.

The SPEAKER. That is a matter of course. If this session be ordered, the business from the Judiciary Committee will be considered subject to all the rules of the House. If there be no objection, the session as requested by the gentleman from Kentucky [Mr. KNOTT] will be ordered.

There was no objection, and it was ordered accordingly.

#### USELESS PORTS OF ENTRY.

Mr. LUTTRELL, by unanimous consent, submitted the following resolution; which, without being read, was referred to the Committee of Ways and Means, and ordered to be printed in the RECORD:

Whereas the report of the Register of the Treasury shows receipts from customs at small ports during the fiscal years ending June 30, 1873, 1875, and 1878, and cost of collecting the same, as follows:

Custom-house collections and expenses for—	Receipts.	Cost of collection.
1873.		
Aroostook, Maine.....	\$13,117 01	\$11,720 00
Machias, Maine.....	3,048 56	6,868 72
Frenchman's Bay, Maine.....	36 45	6,783 00
Castine, Maine.....	376 54	8,562 25
Waldoborough, Maine.....	7,356 81	10,114 17
Wiscasset, Maine.....	633 61	4,074 47
Saco, Maine.....	53 10	1,318 00
Kennebunk, Maine.....	6 29	1,278 00
York, Maine.....	Not a cent.	368 39
Belfast, Maine.....	7,368 55	7,930 00
Gloucester, Massachusetts.....	5,662 36	18,911 00
Marblehead, Massachusetts.....	588 14	1,657 79
Barnstable, Massachusetts.....	2,855 38	8,095 00
Edgartown, Massachusetts.....	678 01	6,650 07
Nantucket, Massachusetts.....	Nothing.	1,866 28
Fernandina, Florida.....	1,650 24	6,218 15
Saint Mark's, Florida.....	592 16	7,540 00
Saint John's, Florida.....	581 83	6,341 65
Apalachicola, Florida.....	331 00	2,912 15
Saint Augustine, Florida.....	Nothing.	6,741 03
Bridgeport, New Jersey.....	Nothing.	849 39
Annapolis, Maryland.....	Nothing.	2,246 64
Town Creek, Maryland.....	Nothing.	165 00
Crisfield, Maryland.....	28 81	4,555 00
Cherrystone, Virginia.....	Nothing.	4,729 52
Wheeling, West Virginia.....	Nothing.	1,849 70
Parkersburgh, West Virginia.....	Nothing.	384 28
Bristol, Rhode Island.....	338 00	1,805 67
Newport, Rhode Island.....	2,350 82	7,465 12
Middletown, Connecticut.....	2,364 12	4,055 85
Stonington, Connecticut.....	1,719 50	1,960 86
Perth Amboy, New Jersey.....	892 65	7,915 43
Burlington, New Jersey.....	302 20	534 00
Newark, New Jersey.....	2,187 79	4,128 31
Georgetown, District of Columbia.....	6,584 64	7,010 28
Norfolk, Virginia.....	31,926 60	34,648 50
Tappahannock, Virginia.....	137 97	896 06
Alexandria, Virginia.....	4,555 06	5,503 63
Albemarle, North Carolina.....	80 08	5,873 22
Pamlico, North Carolina.....	2,137 39	7,964 63
Beaufort, North Carolina.....	121 90	2,391 72
Georgetown, South Carolina.....	422 79	2,889 50
Saint Mary's, Georgia.....	1,030 41	3,117 15
Pearl River, Mississippi.....	4 46	2,336 73
Sag Harbor, New York.....	Nothing.	2,739 14
Little Egg Harbor, New Jersey.....	Nothing.	4,324 00
Great Egg Harbor, New Jersey.....	Nothing.	1,656 58
1875.		
Bangor, Maine.....	754 72	10,725 96
Machias, Maine.....	1,873 96	3,923 00
Castine, Maine.....	1,113 00	7,473 00
Frenchman's Bay, Maine.....	4 40	6,124 00
York, Maine.....	30 28	373 00
Aroostook, Maine.....	5,935 33	6,889 18
Wiscasset, Maine.....	159 54	3,483 00
Newport, Rhode Island.....	433 51	3,483 58
Stonington, Connecticut.....	945 10	1,288 00
Dunkirk, New York.....	80 65	3,553 06

Custom-house collections and expenses for—	Receipts.	Cost of collection.
1875.		
Little Egg Harbor, New Jersey.....	\$39 50	\$4,537 22
Great Egg Harbor, New Jersey.....	118 66	2,438 65
Albemarle, North Carolina.....	543 91	5,912 45
Beaufort, North Carolina.....	485 35	1,945 07
Georgetown, South Carolina.....	52 20	2,675 00
Saint Augustine, Florida.....	46 72	5,815 00
Key West, Florida.....	33 24	27,405 71
Saint Mark's, Florida.....	46 52	7,769 56
Apalachicola, Florida.....	56 34	2,178 62
Pearl River, Mississippi.....	587 48	7,025 14
Paso del Norte, Texas.....	13 29	18,960 00
Evansville, Indiana.....	561 22	6,419 05
Burlington, Iowa.....	310 72	450 00
Alaska.....	405 89	13,018 59
1878.		
Belfast, Maine.....	1,445 02	4,569 00
Wiscasset, Maine.....	600 47	3,672 00
Waldoborough, Maine.....	900 10	6,636 00
Castine, Maine.....	888 82	5,849 11
Saco, Maine.....	32 40	776 00
Machias, Maine.....	449 18	3,035 00
Frenchman's Bay, Maine.....	85 76	4,497 00
Nantucket, Massachusetts.....	90 41	2,064 30
Barnstable, Massachusetts.....	922 97	8,018 29
Edgartown, Massachusetts.....	975 85	4,730 60
Newport, Rhode Island.....	210 16	4,123 90
Middletown, Connecticut.....	7,428 81	2,905 33
Stonington, Connecticut.....	206 42	1,513 00
Dunkirk, New York.....	107 92	1,564 00
Newark, New Jersey.....	1,916 50	3,931 17
Little Egg Harbor, New Jersey.....	7 00	2,221 00
Erie, Pennsylvania.....	766 50	3,894 59
Georgetown, District of Columbia.....	539 20	3,645 77
Cherrytree, Virginia.....	134 50	2,334 63
Beaufort, North Carolina.....	21 88	1,473 00
Georgetown, South Carolina.....	123 10	1,861 59
Saint Augustine, Florida.....	36 64	4,304 28
Fernandina, Florida.....	5 48	1,429 00
Tchó, Louisiana.....	27 36	7,086 07
Galena, Illinois.....	2 88	889 00
Burlington, Iowa.....	14 60	477 00
Dubuque, Iowa.....	1 95	264 00

showing that vast sums of money are expended to maintain useless ports of entry, that the Treasury is depleted in millions annually to maintain these ports of entry at the expense of the tax-payers of the country: Therefore,

*Be it resolved*, That the Committee of Ways and Means be, and are hereby, requested to report at the earliest day practicable a bill suspending or abolishing all ports of entry that are not self-sustaining.

#### DOCUMENTS IN HOUSE DOCUMENT-ROOM.

Mr. MONEY, by unanimous consent, submitted the following resolution; which was referred to the Committee on Rules:

*Resolved*, That hereafter no documents shall be delivered from the document-room of the House except upon the order of a member of the House or of the Senate.

#### BUSINESS FROM THE COMMITTEE ON FOREIGN AFFAIRS.

Mr. SWANN. By instruction of the Committee on Foreign Affairs I ask unanimous consent that Tuesday, February 4, after the reading of the Journal, may be devoted to the consideration of reports from the Committee on Foreign Affairs.

Mr. DUNNELL. I object.

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

Mr. BRIDGES. I ask the gentleman who objected to withdraw his objection. There are some bills of importance before the Committee on Foreign Affairs which ought to be considered, among others the Japanese question.

Mr. DUNNELL. It is true that every committee of the House has a large amount of business in its hands. The Committee on Commerce could occupy two or three evening sessions; but if we assign so many special orders, there will be no regular call of committees for reports.

Mr. SWANN. I will state for the information of the gentleman who opposes this resolution that the Committee on Foreign Affairs will be able to dispose of the whole business before that committee in a very short time, and will not occupy more than one evening session.

Mr. DUNNELL. I do not withdraw my objection.

Mr. HALE. Then I insist on the regular order of business.

#### CONSULAR AND DIPLOMATIC BILL.

Mr. SINGLETON. I submit the following privileged report.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 39 and 44.

That the House recede from its disagreement to the amendments numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 45, 46, 47, 48, and 50, and agree to the same.

That the Senate recede from its amendment numbered 12, with an amendment striking out lines 8 and 9, page 2 of the bill; and the House agree to the same.

That the House recede from its disagreement to the amendment numbered 24,

and agree to the same, with an amendment striking out lines 24 and 25, page 12 of the bill; and the Senate agree to the same.

That the House recede from its disagreement to the amendment numbered 49, and agree to the same, with an amendment adding, after the word "Hong-Kong," "Ottawa;" and the Senate agree to the same.

O. R. SINGLETON,  
EUGENE HALE,

*Managers on the part of the House.*

WILLIAM WINDOM,

W. B. ALLISON,

R. E. WITHERS,

*Managers on the part of the Senate.*

Mr. SINGLETON. One word of explanation and then I am done. This conference report gives us the bill of last session and the law as it was passed, with the exception of an amendment, which was put on by this House, retaining the second secretaries of legation at Paris, Berlin, and London. The Senate requested there might be allowed transfer of clerks of certain consulates from one to another, but it does not increase the expense. So it is the bill of last session with the amendment the House made to it. I demand the previous question.

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

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

The latter motion was agreed to.

#### ORDER OF BUSINESS.

The SPEAKER. The Chair asks unanimous consent to present certain executive and other communications.

There was no objection.

#### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage of a bill (H. R. No. 5808) to facilitate the refunding of the national debt, without amendment, and a bill (H. R. No. 5313) making appropriations for the naval service for the year ending June 30, 1880, and for other purposes, with amendments; in which concurrence was requested.

The message further announced the passage of the following bills; in which concurrence was requested:

A bill (S. No. 420) for the relief of Major P. P. G. Hall; and  
A bill (S. No. 195) to declare certain lands subject to taxation.

#### ORDER OF BUSINESS.

Mr. MILLIS. Is not the morning hour the regular order of business? The SPEAKER. The Chair was granted unanimous consent to present certain executive and other communications, which will not take long. Besides, the morning hour is not the first business in order this morning, as the gentleman from Virginia has notified the Chair he would press the special order to-day.

#### ANTI-POLYGAMY LAW.

The SPEAKER laid before the House the memorial of Euneline B. Wells and Zina Young Williams, of Salt Lake City, Utah Territory, asking for the repeal of the anti-polygamy law of 1862 and for legislation to protect the women and children of Utah Territory.

Mr. CLARK, of Missouri. I ask that the paper be read.

The paper was read, as follows:

*To the Senate and House of Representatives  
of the United States in Congress assembled.*

Whereas a recent decision of the Supreme Court of the United States has declared the anti-polygamy law of 1862 to be in accordance with the Constitution; and

Whereas we, and Mormon women generally, previous to that decision implicitly believed that this law was in violation of the Constitution, which says, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof;" and

Whereas under our present civilization we have a peaceful, prosperous, and healthy condition of society, our children are owned and supported by their fathers and are equally recognized as heirs to their father's estate, and our women are protected from the temptation to infanticide and kindred crimes; and

Whereas the enforcement of the law of 1862 would imprison our husbands, despoil and destroy our homes, render our children illegitimate before the world, and leave ourselves and many thousands of women desolate and unprotected; and

Whereas this example set by the United States would encourage mobs to violently assault and afflict us as in times past, when we were driven from State to State far out beyond the pale of this Republic; and

Whereas we went far out into the wilderness by the advice and at the suggestion of eminent American statesmen, that we might worship God according to the dictates of our own consciences, without fear or molestation, and at the same time extend to all, of whatever faith, the same precious privilege; and

Whereas, after the United States had taken possession of the land which our people had redeemed from the desert and made prosperous, and which the Mormon battalion under Colonel Philip St. George Cooke had, together with what is now known as California, Nevada, New Mexico, and Arizona, helped to conquer, President Fillmore, "by the advice and consent of the Senate," appointed Brigham Young, then a practical polygamist, governor of Utah, we had good reason to believe the Government would continue to protect us in our religious faith and its practice; and

Whereas harsh measures toward our people, such as destruction of families and homes, will have a tendency to drive many to desperation, while just and humane treatment will foster and strengthen love and affection for the Government, thereby securing a more peaceful issue of affairs now pending; and

Whereas we ourselves and a majority of our people are native-born citizens of the United States and desire to live in obedience to the laws of our country: There-

fore

We pray your honorable body to repeal the anti-polygamy law of 1862; and

We further pray you to enact such legislation as will securely legitimize our

children and protect our names from dishonor by preserving unbroken the existing relationship of families which are already bound together by the strongest ties of affection and whose lives would be forever wrecked through separation; and

We further pray that in any future legislation concerning the marriage relation in any Territory under your jurisdiction you will consider the rights, the hearts, and the consciences of the women to be affected by such legislation, and that you will consider the permanent care and welfare of children as the sure foundation of the state.

And your petitioners will ever pray.

EMMELINE B. WELLS,  
ZINA YOUNG WILLIAMS.

Mr. CANNON, of Utah. I move that the memorial be referred to the Committee on the Judiciary, with leave to report at any time.

Mr. TOWNSEND, of New York. I object to leave being given to report at any time. I do not object to the reference.

The memorial was referred to the Committee on the Judiciary.

#### ENFORCEMENT OF ANTI-POLYGAMY LAW.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting a number of petitions for the enforcement of the anti-polygamy law referred to that Department by the President; which was referred to the Committee on the Judiciary.

#### PRODUCTS OF FISHERIES.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, transmitting a draught of a joint resolution for securing reports of the products of the fisheries; which was referred to the Committee on Commerce.

#### DEFICIENCY ESTIMATES.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury supplementary to the deficiency estimates heretofore submitted; which was referred to the Committee on Appropriations.

#### SURVEY OF FLUSHING BAY, NEW YORK.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of Lieutenant Colonel John Newton, Corps of Engineers, of the result of a survey of Flushing Bay, New York; which was referred to the Committee on Commerce.

#### SUSPENDED LAND ENTRIES.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, transmitting two lists of suspended entries of lands under the pre-emption laws acted on by the board established by section 2451 of the Revised Statutes; which was referred to the Committee on Public Lands.

#### SURVEYS OF SALEM RIVER, ETC.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of Colonel J. M. Macomb, Corps of Engineers, on the surveys of the Salem River, Woodbridge Creek, Elizabeth River, and Rahway River; which was referred to the Committee on Commerce.

#### REPORTS OF GEOLOGICAL AND GEOGRAPHICAL SURVEYS.

The SPEAKER, by unanimous consent, laid before the House a message from the Senate, that the Senate agreed, with amendments, to the resolution of the House of Representatives for the printing of volumes 3, 8, and 13 of the final reports of the geological and geographical surveys of the Territories with the necessary illustrations.

The resolution and amendments of the Senate thereto were referred to the Committee on Printing.

#### REPORT ON FISH AND FISHERIES.

The SPEAKER also laid before the House a concurrent resolution of the Senate for printing 15,000 extra copies of the report of the Commissioner of Fish and Fisheries for the year 1877-78, with illustrations; which was referred to the Committee on Printing.

#### NARRATIVE OF POLARIS EXPEDITION.

The SPEAKER also laid before the House a concurrent resolution of the Senate for printing 1,000 copies of the Narrative of the Polaris Expedition for sale by the Public Printer, under the direction of the Joint Committee on Printing, at the cost of publication with 10 per cent. added thereto; which was referred to the Committee on Printing.

#### WALKER'S STATISTICAL ATLAS.

The SPEAKER also laid before the House a concurrent resolution of the Senate that the copies of Walker's Statistical Atlas heretofore ordered for the use of the two Houses of Congress be bound by the Public Printer; which was referred to the Committee on Printing.

#### REPORTS OF GEOLOGICAL AND GEOGRAPHICAL SURVEYS.

The SPEAKER also laid before the House a message from the Senate, that the Senate had agreed, with amendments, to the resolution of the House of Representatives to print 3,000 copies of the Report of the Geological and Geographical Surveys of the Rocky Mountain Region, relating to the geology of the high plateaus of Utah, in quarto form, with the necessary illustrations and charts.

The resolution and amendments of the Senate thereto were referred to the Committee on Printing.

The SPEAKER also laid before the House a message from the Senate, that the Senate had agreed, with amendments, to the resolution of the House of Representatives to print 3,000 copies of the Geographical and Geological Surveys of the Rocky Mountain Region,

being volume 2, Contributions to North American Ethnology, in quarto form.

The resolution and amendments of the Senate thereto were referred to the Committee on Printing.

#### POST-OFFICE APPROPRIATION BILL.

Mr. BLOUNT, from the Committee on Appropriations, reported a bill (H. R. No. 6143) making an appropriation for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. BLOUNT. I give notice that after the reading of the Journal on Saturday I shall make an effort to bring up this bill for action.

Mr. CONGER. I reserve all points of order on the bill.

#### FEDERAL CENSUS.

Mr. COX, of New York, from the Select Committee on the Census, reported a bill (H. R. No. 6144) to provide for taking the Federal census; which was read a first and second time, recommitted to the same committee, and ordered to be printed.

Mr. RYAN. I ask leave to present an amendment, which, when the bill just reported is considered, I propose to offer as the views of the minority. I ask that the amendments be printed with the bill.

There was no objection, and it was so ordered.

#### DOCTOR JUNIUS L. POWELL.

Mr. BANNING. I ask unanimous consent to report at this time a Senate bill from the Committee on Military Affairs.

Mr. GOODE. If it will take time, I must object.

Mr. BANNING. I think it will not take more than a few minutes. I ask leave to report back the bill (S. No. 1435) authorizing the appointment of Dr. Junius L. Powell an assistant surgeon in the United States Army.

The bill was read.

Mr. BREWER. I object to that bill.

Mr. BANNING. If the gentleman will allow me to explain for a moment, I think he will withdraw his objection.

Mr. BREWER. I understand what it is, and I object.

#### CHANGE OF REFERENCE.

Mr. HUBBELL, from the Committee on Commerce, reported back papers of the following titles, and asked that the committee be discharged from the further consideration of the same, and that they be referred to the Committee on Appropriations:

A memorial of the Legislative Assembly of Washington Territory, asking an appropriation for a steam fog-whistle at Foulweather Bluff;

Also, a report to accompany House bill 647, making an appropriation for the erection of a light-house at Little Traverse Bay, Michigan;

Also, a report to accompany House bill 5461, making an appropriation for the purchase of a site for the erection of a fog-signal on Sandy Point, Puget Sound, Washington Territory.

#### DOCTOR JUNIUS L. POWELL.

Mr. BREWER. I wish to withdraw my objection to the bill offered by the gentleman from Ohio, [Mr. BANNING.]

Mr. TOWNSEND, of New York. I renew the objection.

#### PUBLIC LANDS FOR EDUCATIONAL PURPOSES.

Mr. GOODE. I move that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the bill to apply the proceeds of the public lands to aid in the education of the people.

Mr. MILLS. I raise the question of consideration.

The SPEAKER. The Chair will cause the order of the House upon the subject to be read.

The Clerk read as follows:

JANUARY 10, 1879.

On motion of Mr. GOODE, by unanimous consent,  
Ordered, That Thursday, January 23, immediately after the reading of the Journal, be assigned to the consideration of the bill from the Committee on Education and Labor, to apply the proceeds of the sales of the public lands to the education of the people.

The SPEAKER. The gentleman from Texas now raises the question of consideration, and the Chair states that it is not competent for the gentleman to raise the question of consideration on this bill for the reason that the rule which gives him that right has been suspended by a vote of the House in fixing the consideration of this bill for to-day.

Mr. HOOKER. I rise to a point of order. It is decided by the Speaker that a prior-order of the House fixing the time for the consideration of a bill cannot be antagonized by any other order.

The SPEAKER. The order made by the House can be got rid of in two ways, either by laying the bill upon the table or by a motion to adjourn.

Mr. TOWNSEND, of New York. I desire to withdraw the objection I made to the motion of the gentleman from Ohio, [Mr. BANNING.] I made it under a misunderstanding of the nature of the bill.

The SPEAKER. The Chair will at the first opportunity recognize the gentleman to withdraw it.

Mr. CALKINS. Do I understand the Chair to hold that the rules were suspended by reason of the order made?

The SPEAKER. The Chair understands that the fact is as the gentleman states it.

Mr. CALKINS. That the rules were suspended by unanimous consent.

The SPEAKER. They were suspended by unanimous consent; at least the order was made by unanimous consent, and that has always been held to be equivalent to a suspension of the rules, only with more force than when the rules are suspended by merely a two-third vote, because it was a unanimous vote.

Mr. MILLS. I want to know under what rule of the House the consideration of this bill will be conducted.

The SPEAKER. The bill is before the House under a suspension of the rules.

Mr. MILLS. Then what rules have we for the consideration of a bill and for debate upon it?

The SPEAKER. The ordinary rules of the House would apply after the House got into Committee of the Whole.

Mr. MILLS. My understanding has always been that when a day was appointed for the consideration of a certain bill we suspended all the rules in the way of having that appointment made.

The SPEAKER. The bill will be considered under the rules of the House in Committee of the Whole.

Mr. GOODE. Pending my motion that the House resolve itself into Committee of the Whole on the state of the Union, I move that all general debate be limited to one hour.

Mr. DUNNELL. I hope that more time than that will be given for the discussion of so important a measure.

The SPEAKER. What limit does the gentleman from Minnesota suggest?

Mr. DUNNELL. I think two hours will be the least time that should be allowed.

Mr. GOODE. I accept that as an amendment.

Mr. MILLS. What is the amendment?

The SPEAKER. To allow two hours.

Mr. MILLS. I move to limit the debate to ten minutes.

The question was taken on Mr. MILLS' amendment; and it was not agreed to.

Mr. HALE. I presume that the motion to limit does not affect the five-minute debate?

The SPEAKER. Certainly not; the motion is to close the general debate.

Mr. CONGER. Will it be in order to move to postpone the consideration of this question?

The SPEAKER. Not while this motion is pending.

Mr. BURCHARD. If the motion to go into Committee of the Whole were voted down would not that bring up the morning hour?

The SPEAKER. It would.

The question was taken; and upon a division there were—ayes 85, noes 100.

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

The yeas and nays were ordered; 66 members voting therefor.

The question was taken; and there were—yeas 125, nays 108, not voting 55; as follows:

YEAS—125.

Aiken,	Davidson,	Jones, Frank	Sayler,
Atkins,	Dean,	Jones, James T.	Scales,
Banning,	Dibrell,	Kenna,	Singleton,
Bell,	Durham,	Kimmel,	Simmons,
Benedict,	Eden,	Knott,	Smith, William E.
Bicknell,	Eickhoff,	Landers,	Southard,
Blackburn,	Elam,	Lockwood,	Sparks,
Bliss,	Ellis,	Loring,	Springer,
Blount,	Evins, John H.	Luttrell,	Steele,
Bonck,	Ewing,	Mackey,	Stenger,
Bragg,	Felton,	Mash,	Stephens,
Bridges,	Finley,	Manning,	Throckmorton,
Bright,	Forney,	Martin,	Townshend, R. W.
Buckner,	Franklin,	Mayham,	Tucker,
Cabell,	Fuller,	McMahon,	Turner,
Caldwell, John W.	Garth,	Mills,	Turney,
Caldwell, W. P.	Gause,	Money,	Vance,
Candler,	Gibson,	Monroe,	Veeder,
Carlisle,	Glover,	Morgan,	Waddell,
Chalmers,	Goode,	Morrison,	Walker,
Clark, Alvah A.	Gunter,	Morse,	Warner,
Clark of Missouri,	Hamilton,	Muldrow,	Whitthorne,
Clarke of Kentucky,	Hardenbergh,	Patterson, T. M.	Wigginton,
Cobb,	Harris, Henry R.	Phelps,	Williams, James
Collins,	Harris, John T.	Potter,	Williams, Jere N.
Cook,	Harrison,	Pridemore,	Willis, Albert S.
Covert,	Hatcher,	Rea,	Wilson,
Cox, Jacob D.	Henry,	Reagan,	Wright,
Cravens,	Herbert,	Rice, Americus V.	Yeates,
Crittenden,	Hewitt, Abram S.	Robbins,	Young, John S.
Culberson,	Hewitt, G. W.	Robertson,	
Cutler,	Hooker,	Ross,	

NAYS—108.

Acklen,	Blair,	Chittenden,	Dwight,
Aldrich,	Brewer,	Clafin,	Eames,
Bacon,	Briggs,	Clark, Rush	Errett,
Bagley,	Brogden,	Cole,	Evans, James L.
Bailey,	Bundy,	Conger,	Fort,
Baker, John H.	Burke,	Cummings,	Foster,
Baker, William H.	Burdick,	Danford,	Freeman,
Ballou,	Cain,	Davis, Horace	Garfield,
Banks,	Calkins,	Deering,	Hale,
Bayne,	Cannon,	Denison,	Hanna,
Ebbee,	Caswell,	Dunnell,	Harmer,

Hayes,	Ketcham,	Peddie,	Starin,
Hazelton,	Killinger,	Pollard,	Stewart,
Hendee,	Lapham,	Pound,	Strait,
Henderson,	Lathrop,	Price,	Tipton,
Hubbell,	Lindsey,	Randolph,	Townsend, Amos.
Humphrey,	Majors,	Reed,	Townsend, M. I.
Hungerford,	Marsh,	Rice, William W.	Van Vorhes,
Hunter,	McCook,	Robinson, G. D.	Wait,
Ittner,	McKinley,	Robinson, M. S.	Ward,
James,	Mitchell,	Ryan,	Watson,
Jones, John S.	Neal,	Sampson,	White, Harry
Jorgensen,	Oliver,	Sapp,	Williams, Andrew
Joyce,	O'Neill,	Shallenberger,	Williams, U. G.
Keifer,	Overton,	Sinnickson,	Williams, Richard
Keightley,	Page,	Smalls,	Willits,
Kelley,	Patterson, G. W.	Smith, A. Herr	Wren.

NOT VOTING—55.

Beebe,	Ellsworth,	Ligon,	Sexton,
Bland,	Evans, I. Newton	Lynde,	Shelley,
Boone,	Frye,	McGowan,	Stone, Joseph C.
Boyd,	Gardner,	McKenzie,	Stone, John W.
Brentano,	Giddings,	Metcalfe,	Swann,
Browne,	Harris, Benj. W.	Muller,	Thompson,
Butler,	Hart,	Noxross,	Walsh,
Camp,	Hartzell,	Phillips,	White, Michael D.
Campbell,	Haskell,	Powers,	Willis, Benj. A.
Clymer,	Henkle,	Pugh,	Wood,
Cox, Samuel S.	Hiscock,	Rainey,	Young, Casey.
Crapo,	House,	Reilly,	
Davis, Joseph J.	Hunton,	Riddle,	
Dickey,	Knapp,	Roberts,	

So the motion of Mr. GOODE was agreed to.

During the roll-call the following announcements were made:

Mr. LIGON. I am paired with Mr. PUGH, of New Jersey. If he were present, I would vote "ay." I do not know how he would vote.

Mr. MILLS. With the expectation that there will be a morning hour to-morrow or the day after, I vote "ay."

Mr. STEELE. I desire to announce that my colleague from North Carolina, Mr. DAVIS, is absent by leave of the House.

Mr. STONE, of Michigan. I am paired with Mr. SHELLEY, of Alabama.

Mr. METCALFE. I am paired with my colleague, Mr. BLAND.

Mr. DUNNELL. I desire to state that Mr. PHILLIPS, of Kansas, is paired with Mr. HARTZELL, of Illinois. If present, Mr. PHILLIPS would vote "no."

Mr. ELLSWORTH. I am paired with Mr. DAVIS, of North Carolina. If he were present, I would vote "no."

Mr. HALE. I desire to announce that Mr. CLYMER and Mr. EVANS, of Pennsylvania, are absent and paired.

Mr. JONES, of Ohio. My colleagues, Mr. GARDNER and Mr. Dickey, are paired.

Mr. CALDWELL, of Kentucky. My colleague, Mr. BOONE, is sick and unable to be in the House.

Mr. REILLY. I am paired with my colleague, Mr. THOMPSON. I do not know how he would vote, if present. I therefore decline to vote.

Mr. EDEN. I desire to announce that my colleague, Mr. KNAPP, is absent on account of illness.

Mr. HARTZELL. I am paired with Mr. PHILLIPS, of Kansas. If he were here, I would vote "ay." I presume he would vote "no."

Mr. ATKINS. My colleague, Mr. HOUSE, is detained at his room by illness.

Mr. BLACKBURN. My colleague, Mr. BOONE, is absent on account of serious illness.

Mr. HENDEE. I desire to announce that Mr. STONE, of Iowa, is confined to his room by sickness.

Mr. SPRINGER, (entering the Hall.) I desire to vote. I was absent on a committee that has leave to sit during the sessions of the House.

Mr. TOWNSEND, of New York. I think I must object.

Mr. WHITE, of Pennsylvania. Will it change the result?

The SPEAKER. It will not.

Mr. SPRINGER. I do not desire to vote unless I have the right to vote.

The SPEAKER. That is a question of fact which may as well be settled now as at any time. The Clerk will read the resolution under which the committee is authorized to act.

The Clerk read as follows:

*Be it resolved*, That the committee upon the investigation of the electoral frauds, &c., be directed to inquire into the same (and into any other matter connected with the said election which in their judgment may be proper) and that they have power to send for persons and papers and to sit during the sessions of the House, with leave to report at any time, &c.

The SPEAKER. The Chair decides that the committee having leave to sit during the sessions of the House, the gentleman from Illinois [Mr. SPRINGER] is entitled to vote, although not present in the House when the last name on the roll was called.

Mr. GARFIELD. The gentleman was absent on the committee?

Mr. SPRINGER. I was.

The SPEAKER. The gentleman has the right to vote.

Mr. SPRINGER. I vote "ay."

Mr. POTTER. I was not within the bar of the House when the last name on the roll was called. I was absent on the committee to which reference has just been made. I vote "ay" on this question.

Mr. HISCOCK. On this question, I am paired with Mr. HUNTON,

of Virginia. If he were present, I would vote "no" and he would vote "ay."

The result of the vote was then announced as above stated.

MESSAGE FROM THE PRESIDENT.

A message from the President was communicated to the House by Mr. PRUDEN, one of his secretaries, who also informed the House that the President had approved and signed bills of the House of the following titles:

An act (H. R. No. 5067) to divide the western district of Missouri into two divisions, and to prescribe the times and places for holding courts therein, and for other purposes; and

An act (H. R. No. 5230) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1880, and for other purposes.

EDUCATION OF THE PEOPLE.

The House accordingly resolved itself into Committee of the Whole on the state of the Union, Mr. HOOKER in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering the special order, being the bill (H. R. No. 3542) to apply the proceeds of sales of public lands to the education of the people, &c. By order of the House all general debate upon this bill has been limited to two hours.

Mr. DUNNELL. I ask that the bill be read.

The bill was read, as follows:

*Be it enacted, &c.*, That the net proceeds of sales of public lands are hereby forever consecrated and set apart for the education of the people: *Provided*, That this act shall not have any effect to repeal, impair, or suspend any law now authorizing the pre-emption of public lands, or the entry of public lands for homesteads, nor as limiting in any manner the power of Congress to alter or extend the right of homestead upon such lands: *And provided further*, That nothing contained in this section shall be held to limit or abridge the power of Congress over the public domain, or interfere with granting bounty-lands.

SEC. 2. That the Secretary of the Interior shall cause an account to be taken upon the close of each fiscal year, and ascertain the total receipts from the sale or other disposition of the public lands of the United States, including all fees received at the general and district land offices during such year, and the amount of expenditures during said year incurred or occasioned by the survey, sale, location, entry, or other disposition of such lands, including appropriations for the expenses of the said officers, for said year, and shall certify to the Secretary of the Treasury the amount of the net cash proceeds from the sale, entry, location, or other disposition of such lands as aforesaid, after deducting expenses and expenditures.

SEC. 3. That upon the receipt of such certificate the Secretary of the Treasury shall, on or before the 31st day of July of each year, apportion to the several States and Territories and to the District of Columbia, upon the basis of population of the said States and Territories between the ages of five and twenty-one years, the net proceeds of sales of public lands for the previous year: *Provided*, That after five years one-half of said net proceeds, and after ten years the whole of the same, shall be set apart as an educational fund, which said funds shall be invested in the bonds of the United States bearing a rate of interest not less than 4 per cent. per annum, both principal and interest payable in coin, the interest on such educational fund only to be appropriated as above provided: *And provided further*, That for the first ten years the distribution of said net proceeds, and the interest on said fund, to and among the several States, Territories, and District of Columbia, shall be made according to the numbers of their respective population, of ten years old and upward, who cannot read and write, as shown, from time to time, by the last preceding published census of the United States.

SEC. 4. That the first apportionment under this act shall be made on or before the 31st day of July, 1878; and each of said States and Territories shall be entitled to receive its distributive share of each apportionment, to be paid by the Secretary of the Treasury to its treasurer or other officer authorized by its law to receive the same, whenever thereafter it shall file with the Secretary of the Treasury a certified copy of the law of such State or Territory accepting the provisions of this act, and undertaking that the funds provided by the same, whenever paid over to it as above provided, shall be faithfully applied to the free education of all its children, and to the endowment and support of such colleges as have been or may be hereafter established in accordance with the act of Congress approved July 2, 1862: *Provided*, That the Legislatures of said States and Territories shall have the power to determine whether any of said funds shall be given to said colleges and institutions of learning, and what amount thereof, the amount in no case to exceed one-half. The distributive share of the District of Columbia shall, from time to time, be paid over to the commission of said District created by act of Congress approved June 20, 1874, entitled "An act for the government of the District of Columbia, and for other purposes," or other officer or officers provided by law, and shall be applied in the same manner as above provided for the States and Territories.

SEC. 5. And if any State or Territory shall misapply, or allow to be misappropriated, or in any manner appropriated or used other than for the purposes herein required, the funds, or any part thereof, received under the provisions of this act, or shall fail to comply with the conditions herein prescribed, or to report, through its

proper officers, the disposition thereof, such State or Territory shall forfeit its right to any subsequent apportionment by virtue hereof until the full amount so misappropriated, lost, or misappropriated shall have been replaced by such State or Territory, and applied as herein required, and until such report shall have been made. And all apportionment so forfeited and withheld shall be added to, and become part of, the principal of the educational fund hereby created.

SEC. 6. That nothing contained in this act shall be so construed as to affect in any manner the existing laws and regulations in regard to the adjustment and payment to States of the per centum of the proceeds of the sales of the public lands within their respective limits, as provided in section 3689 of the Revised Statutes of the United States.

The amendment reported from the Committee on Education and Labor was read, as follows:

In the fourth section strike out the following:

*Provided*, That the Legislatures of said States and Territories shall have the power to determine whether any of said funds shall be given to said colleges and institutions of learning, and what amount thereof, the amount in no case to exceed one-half.

And insert the following:

*Provided*, That one-fourth of the moneys appropriated by this act to the several States and Territories shall be given to the said colleges and institutions of learning, unless in any case the State Legislatures shall otherwise direct.

Mr. GOODE. Mr. Chairman, the provisions of this bill are very plain and simple; and if the House will give me its attention for a few moments I will endeavor to explain them. The first section provides that the proceeds of the sales of the public lands shall be forever dedicated and set apart for the education of the people; but nothing in this section is to have the effect to repeal or impair or suspend any law now authorizing the pre-emption of the public lands or their entry for homesteads, or in any manner to limit or abridge the power of Congress over the public domain, or to interfere with the power of Congress to grant bounty lands.

The second section provides that the Secretary of the Interior shall take an account of the net cash proceeds from the sales of the public lands upon the close of each fiscal year. The third section provides that this fund shall be distributed to the several States and Territories and the District of Columbia upon the basis of population between the ages of five and twenty-one years. For the first five years the whole of the fund is to be distributed, after five years one-half thereof, and after ten years the whole is to be invested as a permanent educational fund in bonds of the United States bearing 4 per cent. interest, the interest only to be distributed. It is provided further that instead of a distribution upon the basis of population for the first ten years it shall be made upon the basis of illiteracy; that is, upon the basis of the number of persons ten years old and upward who are unable to read and write.

The fourth section provides that this fund shall be distributed to each of the States and Territories upon their filing with the Secretary of the Treasury a certified copy of the law of such State or Territory accepting the provisions of this act and stipulating that the fund so received shall be faithfully applied to the free education of all the children and to the endowment of the agricultural and mechanical colleges established under the act of Congress approved July 2, 1862. But a proviso is offered by the committee to the effect that one-fourth of this fund shall be given to the said agricultural and mechanical colleges, unless in any case the State Legislature shall otherwise direct.

The fifth section provides that if any State shall misappropriate or allow to be misappropriated the fund dedicated for this purpose, it shall forfeit its right to any subsequent apportionment until the amount so misappropriated shall be replaced and a report made that it has been disposed of as required by this law.

The sixth section provides that nothing in the act shall interfere with existing rules and regulations in regard to the adjudication and payment of the per centum of the proceeds of sales of the public lands to the different States and Territories as provided for by section 3689 of the Revised Statutes.

The following statement, furnished at my request by the Bureau of Education, will show the amount which would accrue to each State and Territory if the distribution should be based upon the number of illiterate persons ten years old and upward, as reported in the census of 1870:

*Statement of the amount accruing to each State and Territory from the proceeds of the sales of public lands under the bill introduced by Hon. John Goode.*

[Five amounts are divided pro rata.]

States and Territories.	Illiterate persons, ten years and over, 1870	Amount for each State and Territory if there be distributed—				
		\$500,000	\$750,000	\$1,000,000	\$1,500,000	\$2,000,000
Alabama	383,012	\$33,846.08	\$50,769.12	\$67,692.16	\$101,538.24	\$135,384.32
Arkansas	133,339	11,782.93	17,674.39	23,565.85	35,348.78	47,131.71
California	31,716	2,802.69	4,204.03	5,605.37	8,408.06	11,210.74
Colorado	6,923	602.94	904.40	1,205.87	1,808.81	2,411.74
Connecticut	29,616	2,617.11	3,925.67	5,234.22	7,851.33	10,468.45
Delaware	23,100	2,041.31	3,061.96	4,089.61	6,124.92	8,165.22
Florida	71,803	6,345.10	9,517.65	12,699.20	19,035.31	25,380.41
Georgia	468,593	41,408.72	62,113.08	82,817.44	124,226.16	165,634.88
Illinois	133,584	11,804.58	17,706.87	23,609.16	35,413.74	47,218.32
Indiana	127,124	11,233.79	16,850.58	22,467.44	33,791.16	44,934.88

Statement of the amount accruing to each State and Territory from the proceeds of the sales of public lands—Continued.

States and Territories.	Illiterate persons, ten years and over, 1870.	Amount for each State and Territory if there be distributed—				
		\$500,000	\$750,000	\$1,000,000	\$1,500,000	\$2,000,000
Iowa	45,671	\$4,035 86	\$6,053 80	\$8,071 73	\$12,107 59	\$16,143 46
Kansas	24,550	2,169 44	3,254 16	4,338 86	6,508 32	8,677 76
Kentucky	332,196	29,353 79	44,030 69	58,707 59	88,061 39	117,415 18
Louisiana	276,158	24,403 59	36,605 38	48,807 17	73,210 76	97,614 34
Maine	19,059	1,682 59	2,525 39	3,367 18	5,050 77	6,734 36
Maryland	135,499	11,973 80	17,960 70	23,947 61	35,921 41	47,895 21
Massachusetts	97,742	8,637 29	12,935 93	17,274 57	25,911 86	34,549 14
Michigan	53,127	4,694 74	7,042 11	9,389 47	14,084 21	18,778 95
Minnesota	24,413	2,157 33	3,236 00	4,314 67	6,472 00	8,629 33
Mississippi	213,310	27,686 64	41,529 96	55,373 98	83,059 92	110,746 56
Missouri	222,411	19,634 06	29,481 09	39,308 12	57,962 18	78,616 24
Nebraska	4,861	429 56	644 34	859 12	1,288 67	1,718 23
Nevada	872	77 06	115 59	154 11	231 17	308 23
New Hampshire	9,926	877 14	1,315 71	1,754 29	2,631 43	3,508 57
New Jersey	54,687	4,832 59	7,248 89	9,665 18	14,497 77	19,330 37
New York	239,271	21,143 95	31,715 92	42,287 89	63,431 84	84,575 79
North Carolina	397,690	35,143 15	52,714 72	76,286 30	105,429 45	140,572 60
Ohio	173,172	15,302 90	22,954 35	30,605 80	45,908 69	61,211 59
Oregon	4,427	391 21	586 81	784 41	1,173 62	1,564 82
Pennsylvania	222,356	19,649 11	29,473 67	39,298 23	58,947 33	78,596 44
Rhode Island	21,921	1,937 12	2,905 68	3,874 24	5,811 36	7,748 47
South Carolina	290,370	25,660 27	38,490 40	51,320 54	76,980 81	102,611 08
Tennessee	364,697	32,227 62	48,341 43	64,455 23	96,682 85	128,910 47
Texas	221,703	19,591 49	29,387 24	39,182 09	58,774 48	78,365 98
Vermont	17,706	1,564 65	3,346 97	3,129 20	4,693 94	6,258 59
Virginia	445,893	39,402 76	59,104 15	78,805 52	118,208 29	157,611 05
West Virginia	81,490	7,201 12	10,801 68	14,402 25	21,603 37	28,804 70
Wisconsin	55,441	4,899 22	7,348 83	9,798 44	14,697 66	19,596 89
Total		5,559,311				
Arizona	2,753	243 27	364 92	486 55	729 83	973 11
Dakota	1,563	138 12	207 18	276 24	414 36	552 49
District of Columbia	28,719	2,537 85	3,866 77	5,075 69	7,613 54	10,151 39
Idaho	3,388	299 39	449 09	598 78	898 17	1,197 57
Montana	918	81 12	121 68	162 24	243 37	324 49
New Mexico	52,220	4,614 59	6,921 88	9,229 17	13,843 76	18,458 35
Utah	7,363	650 65	975 98	1,301 31	1,951 96	2,602 62
Washington	1,387	119 97	179 96	239 94	359 92	479 89
Wyoming	602	53 20	79 80	106 40	159 59	212,79
Total		98,833				
Grand total		5,658,144				

Now, Mr. Chairman, it will be seen that the sole object of this bill is the dedication of the proceeds of the sales of the public lands to the education of the people; and I assume that the bill must receive the indorsement and support of every gentleman on this floor if it can be made satisfactorily to appear that we have the constitutional power to do what the bill proposes, that the distribution provided for is a just and fair one and made in a proper manner, and that the object contemplated by this bill is wise and beneficent. Let us examine these propositions very briefly.

The Constitution provides that Congress shall have power—

To dispose of and make all needful rules and regulations respecting the territory and other property belonging to the United States.

This language is too broad and comprehensive to admit of any doubt whatever as to its proper interpretation. The history of the Government shows that from its foundation down to the present time the policy of making liberal donations of the public lands for educational purposes in the new States has been uniformly adhered to.

In the report of the Commissioner of Education for 1876 is to be found a full and complete review of the action of the General Government in extending aid to education. He says:

The policy of extending aid to education by grants from the General Government dates from a period anterior to the adoption of the Federal Constitution.

In 1785 Congress established "An ordinance for disposing of the lands in the Western Territory," which contained the following provision: "There shall be reserved the lot No. 16 of every township for the maintenance of public schools within the said township."

The "ordinance for the government of the territory of the United States northwest of the river Ohio," was adopted July 13, 1787. Article 3 contains the following clause: "Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall be forever encouraged." What Congress meant by this clause is clearly defined in the act dated the twenty-third of the same month empowering "the board of treasury to contract for the sale of western territory." Referring to the ordinance of 1785, it continues: "The lot No. 16 in each township, or fractional part of a township, to be given perpetually for the purposes contained in the said ordinance; \*\*\* not more than two complete townships to be given perpetually for the purposes of a university, to be laid off by the purchasers or purchasers, as near the centre as may be, so that the same shall be of good land, to be applied to the intended object by the Legislature of the State." In the same year contracts which contained the above conditions were made under the above act for the sale to the Ohio company and to John C. Symes of large tracts of land within the limits of the present State of Ohio.

The policy thus inaugurated was not confined to the Northwest Territory. In the act approved March 3, 1803, providing for the disposal of lands belonging to the United States south of Tennessee, the reservation was made of lot No. 16 of each township and of an entire township for purposes of common-school and university education.

From that time until 1848, on the organization of each new Territory similar pro-

visions were made for public education. In that year, on the organization of the Territory of Oregon, the quantity of land reserved for the benefit of common schools was doubled; and to each new Territory organized and State admitted since, except West Virginia, the sixteenth and thirty-sixth sections of every township, one-eighth of the entire area, have been granted for common schools.

To each State admitted into the Union since the year 1800, except Maine, Texas, and West Virginia, and to the Territories of New Mexico, Utah, and Washington, have been granted two or more townships of land, to endow a university. The States that received more than two townships, or 46,080 acres are Ohio, 69,120 acres, Florida and Wisconsin, 92,120 acres each, and Minnesota, 82,640 acres.

In 1862 the law granting lands to each State to endow colleges of agriculture and the mechanic arts was enacted. The lands granted to the several States under this act aggregate 9,600,000 acres.

The State of Texas, on her admission into the Union, retained the title to her public land, and is consequently excepted from the grants to endow common schools and universities; but she shared the benefits of the act endowing colleges of agriculture, receiving as her share land scrip representing 180,000 acres.

Besides the general grants, there have been special grants of land and buildings to institutions of learning in several States and Territories, as follows:

	Acres.
Alabama.—Lafayette Academy	480
Connecticut.—Asylum for the education of the deaf and dumb	23,040
Dakota.—Holy Cross Mission	160
Florida.—Chattahoochee arsenal, buildings, land, &c., to State	
Georgia.—Dahlonega arsenal, grounds, buildings, &c., for agricultural college	10
Kentucky.—Asylum for the education of the deaf and dumb; benefit transferred to Centre College	23,400
Louisiana.—Pine Grove Academy, (quitclaim by United States)	4,040
Michigan.—Public schools, Sault de Ste. Marie	1,26
Michigan.—Public schools, Mackinac, lot and building	
Minnesota.—Domestic and Foreign Missionary Society of the Protestant Episcopal Church	80
Mississippi.—Jefferson College, outlot at Natchez	30
Tennessee.—Fisk University, Nashville, land and buildings	3,25
West Virginia.—Storer College, four lots and buildings at Harper's Ferry	
Missouri.—Under acts of June 13, 1812, May 26, 1824, and January 27, 1831, confirming to inhabitants of certain towns certain outlots, commons, &c., for purposes of education, as follows:	
Portage des Sioux	298,38
Saint Charles	68,79
Saint Louis	394,86
Saint Ferdinand	33,30
Villa A. Robert	12,39
Carondelet	37,10
Sainte Geneviève	561,68

The quantity of land thus granted, aside from lots the area of which is unknown, is 51,651.01 acres.

By an act of September 4, 1811, 500,000 acres of land were granted to each of the following States, for the purpose of internal improvement, namely: Alabama, Arkansas, Illinois, Indiana, Louisiana, Michigan, Mississippi, and Missouri; and the same grant has been made to each State since admitted into the Union, except Texas and West Virginia. The quantity of land thus granted is 9,000,000 acres. Six of the States since admitted into the Union—California, Iowa, Kansas, Oregon,

Nevada, and Wisconsin—have set apart the proceeds of the sales of these lands, by provisions in their respective constitutions, for the benefit of free schools.

By an act dated April 18, 1806, the following grants of land for educational purposes were made to the State of Tennessee:

1. For two colleges, one to be established in East and one in West Tennessee, 100,000 acres. 2. For academies, one in each county, 100,000 acres.

It was provided that one thirty-sixth of the above grants should be reserved for the purposes of common schools in the limits of the reserved tracts.

*Grants in aid of education from proceeds of sales of public lands.*—At an early period Congress inaugurated the policy of granting a portion of the net proceeds of the sales of public lands to the several States in which they were situated. Thus in 1803 an act was passed granting 3 per cent. of such net proceeds to the State of Ohio for "laying out, opening, and making roads within the said State, and to no other purpose whatever; and an annual account of the application of the same shall be transmitted to the Secretary of the Treasury." Similar grants (in some cases of 3 and in others of 5 per cent.) have been made to the States admitted into the Union since Ohio, except to Maine, Texas, and West Virginia, in none of which did the General Government possess any public land. In some States the grants were dedicated to purposes of internal improvement, in others to education. The terms of the grant to Illinois are as follows:

"*Sec. 1. Be it enacted, &c.* That the Secretary of the Treasury shall, from time to time, and whenever the quarterly accounts of public moneys of the several land offices shall be settled, pay 3 per cent. of the net proceeds of the lands of the United States lying within the State of Illinois which, since the 1st day of January, 1819, have been or hereafter may be sold by the United States, after deducting all expenses incidental to the same, to such person or persons as may be authorized by the Legislature of the said State to receive the same; which sums, thus paid, shall be applied to the encouragement of learning within said State, in conformity to the provisions on this subject contained in the act entitled "An act to enable the people of the Illinois Territory to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States," approved April 18, 1818, and to no other purpose; an annual account of the application of the same shall be transmitted to the Secretary of the Treasury by such officer of the State as the Legislature thereof shall direct; and, in default of such return being made, the Secretary of the Treasury is hereby required to withhold the payment of any sums that may then be due, or which may thereafter become due, until a return shall be made as herein required.

"Approved, December 12, 1820."

By the act of April 18, 1818, it was provided that one-sixth of the sums derived from the 3 per cent. of net proceeds of public land sales should "be exclusively bestowed on a college or university."

From 1821 to 1869 Illinois received under this law \$713,495.45.

The whole amount paid to the several States as percentages on the net proceeds of sales of public lands was \$6,508,819.11. How much of this sum has been devoted to educational purposes has not yet been ascertained; but the States named below have received the amounts named, respectively, which (either by the terms of the grant by Congress or by State constitutional enactment) are to be applied for the benefit of public education:

Illinois, from 1821 to 1869	\$713,495.45
Florida, from 1847 to 1872	28,098.07
Wisconsin, from 1850 to 1875	195,423.98
Iowa, from 1849 to 1874	630,627.38
Oregon, from 1866 to 1876	25,927.60
Kansas, from 1868 to 1876	53,626.15
Nebraska, from 1869 to 1876	113,591.90
Nevada, from 1872 to 1874	3,648.81

Making a total of 1,764,439.34

Besides this, the State of Arkansas has received from the same source \$224,473.15, which sum, by a provision of the State constitution adopted in 1868, was to be devoted to education, but respecting which the later constitution of 1875 is silent. Missouri has in like manner received under two acts, dated respectively March 6, 1820, and February 28, 1839, the sum of \$1,008,321.86. The constitution of Missouri adopted in 1875 establishes a school fund, one of the components of which is, in the words of a clause of section 6: "Also any proceeds of the sales of public lands which may have been, or may hereafter be, paid over to this State, (if Congress will consent to such appropriation.)"

Several of the States have devoted the net proceeds of the sales of swamp and saline lands to public education, but the amounts derived from these sources have not been generally ascertained.

In Ohio the amount realized from the sale of the saline grants and added to the common school fund was reported in 1850 at \$41,024; in Indiana the State school fund realized from the same source \$85,000.

The constitutions of the States of Louisiana, Mississippi, (with some unimportant reservations,) and Indiana contain provisions requiring that the net proceeds of the sales of swamp lands shall be used for the benefit of public education; and in several other States, as, for example, Missouri, Ohio, and Wisconsin, the same disposition has been made under general laws, without a specific constitutional enactment.\* The constitution of Alabama once contained this provision; the amendment of 1875 abrogated it. It appears from the report of the State superintendent of public instruction for 1875 that up to that date the sum of \$27,340.31 had been received into the State treasury on account of sales of swamp land, but it does not appear that this amount or the income thereof had ever been used for the benefit of public education.

The amount of swamp lands granted and patented to each of the States from the date of the first grant to June 30, 1876, is as follows:

	Acres.
Ohio	25,640.71
Indiana	1,256,631.96
Illinois	1,433,611.67
Missouri	3,185,479.44
Alabama	392,719.61
Mississippi	2,681,383.16
Louisiana	8,468,964.93
Michigan	5,864,669.55
Arkansas	7,059,827.68
Florida	10,735,403.21
Wisconsin	3,059,572.62
Iowa	1,166,917.34
California	1,308,295.65
Minnesota	1,143,153.63

Total 47,802,271.16

Official reports of the amounts received from sales of these lands and of the distribution of the proceeds are not easily accessible, and it is impracticable to present at this time any statement on these heads.

*Other aid to public education by the General Government.*—In 1836 there was a large sum in the Treasury of the United States, largely derived from the sales of public lands, which was not needed for the current expenses of the General Government, and a law was approved on June 23 which provided for a distribution of

the surplus among the twenty-five States of the Union on the basis of their respective representation in Congress. Afterward, the benefit of the act was extended to Michigan, which had just been admitted into the Union. This fund, amounting to \$28,101,644.91, has since been held by the several States admitted into the Union prior to 1837, subject to call by the General Government. Several of them have devoted a part or the whole of the income realized from this fund to public education.

The State of New York received as her allotment in the distribution the sum of \$4,014,520.71. The entire income of this fund, amounting to about \$236,000 yearly, has been bestowed on education. By a provision in the State constitution of 1846, after adding \$25,000 to the capital of the common-school fund each year, the remainder of the income is expended for the benefit of common schools and academies, apportioned as follows:

Support of common schools	\$165,000
Dividend to academies	22,000
Teachers' classes in academies	18,000

The average yearly income of the common-school fund of New York exceeds 5 per cent. of the principal, so that there have been realized from that portion of the fund derived from the income of the surplus revenue fund about \$600,000 in thirty-one years, and the present capital of the common-school fund is partly composed of the yearly sums set apart from the income of the revenue fund, which sums amount to \$775,000. Thus it appears that from this fund of about \$4,000,000 set apart by the United States for the benefit of the single State of New York that State has been able to realize for the benefit of public education the munificent sum of about \$7,916,000, of which more than three-quarters of a million form a permanent capital, bearing interest.

*Aid to colored schools.*—The General Government, on the organization of the bureau of refugees and freedmen in 1865, began to aid schools for the education of colored children. This aid amounted, so far as can be ascertained, to \$3,711,225.47. But this sum, large as it appears, does not include all, as some thousands of dollars paid out for the transportation of teachers and for other expenses connected with the schools cannot be separated from other items with which they are charged.

*Libraries, publications, and promotion of science.*—The amount expended and separately reported by the General Government for libraries up to and including the year 1874, was \$1,573,948.03. Besides this, large sums have been expended from time to time from general appropriations, the amount of which cannot be determined.

It is still less possible to show the much greater amounts that have been expended in conducting scientific explorations and surveys, and publishing the results, and in collecting and publishing other material covering a wide range of subjects. The amount so far as ascertained for the period above mentioned was \$1,752,549.67, but this is but a small fraction compared with the aggregate.

*Aid to Indian schools.*—The first appropriations to aid Indian schools by the United States were made under the government of the continental congress in 1776. In 1819 a law was enacted granting \$10,000 a year for the purpose of maintaining Indian schools and other agencies of civilization. This law was repealed in 1873. There was expended under its provisions while it remained in force, including an extra appropriation for the years 1856, 1857, and 1858, the sum of \$561,027.15.

This amount represents but a small fraction of the whole sum expended for Indian education since the policy of making treaties with the Indian tribes was inaugurated; but these expenditures are not included here, for the reason that, with other sums paid to the Indians under treaty stipulations, they formed the consideration given for certain concessions granted by the Indians, and not a gratuity to them.

*Cost of military and naval schools.*—As an item of interest in this connection, the following statement of the cost of maintaining the Military Academy at West Point to June 30, 1871, and the Naval Academy at Annapolis up to June 30, 1876, is included. The amounts cover all the expenditures from the date of organization, including buildings, libraries, instruments, instruction, &c. They are as follows:

United States Military Academy, West Point	\$6,801,482.73
United States Naval Academy, Annapolis	3,518,880.63

#### RECAPITULATION.

##### I.—Land grants.

	Acres.
Sixteenth and thirty-sixth sections for common schools	67,983,914
Seminary lands	1,082,880
Colleges of agriculture and mechanic arts	9,600,000
Special grants	51,651
Internal improvement grants, devoted to education in six States	3,000,000
For common schools and academies in Tennessee, act April 18, 1806	200,000
Swamp and overflowed lands bestowed on education by State action, so far as known	13,784,710
For Indian schools in Mississippi	34,560

Total 95,737,714

##### II.—Grants of money.

Percentages of net proceeds of public lands	\$1,764,439.34
Surplus revenue, act of 1836, income of which can be used by States at their pleasure for education	28,101,644.91
Schools for freedmen	3,711,225.47
For libraries and sundry publications	3,326,497.70
Indian schools, excluding all appropriations under treaty stipulations	561,027.15
United States Military Academy, West Point	6,801,482.73
United States Naval Academy, Annapolis	3,518,880.63

Total 47,785,197.93

Now, Mr. Chairman, let us inquire in the next place if the distribution provided for in this bill is made in a just and proper manner. How is it made? The bill provides that for the first five years the whole fund is to be distributed; for the next five years one-half and after the expiration of ten years the whole of it is to be converted into a permanent educational fund and invested in the bonds of the United States bearing 4 per cent. interest, and the interest only to be distributed. It is provided further that for the first ten years the distribution shall be made upon the basis of illiteracy; that is according to the number of persons ten years of age and over who are unable to read and write, and after that time upon the basis of population.

We have an immense national domain—not less than 1,150,000,000 acres. But, sir, notwithstanding the immensity of that domain, it is not inexhaustible. Judging the future by the past and remembering how this public domain has been squandered in grants to mon-

\* Not including any grant to Colorado, which, under the rule adopted in the cases of West Virginia, Nevada, and Nebraska, is entitled to 90,000 acres.

† American State Papers, Public Lands, vol. 5, p. 880.

ster railroad corporations, we cannot shut our eyes to the fact that the time may come when there will be no public domain from which to draw any revenue whatever.

Hence the committee thought it wise not to continue the expenditure from year to year in all time to come. But inasmuch as there is now a pressing necessity in many States in this Union for educational aid, we would give for the first five years the whole of this fund, and for the next five years one-half, and after the expiration of ten years the interest only of the fund.

Mr. FRYE. I should like to ask the gentleman a question.

Mr. GOODE. Certainly.

Mr. FRYE. I have not seen the bill and was not present when it was read. I understand the gentleman states it is to be distributed in proportion to illiteracy.

Mr. GOODE. For the first ten years.

Mr. FRYE. I understand that would give a larger amount to the South perhaps than to the North or to the Northeast, and the reason it would be because the colored people are as a general thing illiterate. Now are there provisions in this bill by which the white people of the South, if they should perhaps be unwilling, shall be compelled to give the black people their proportion of the money for the education of the black people?

Mr. GOODE. There is no provision compelling it; but let me assure the gentleman from Maine, and I know he is usually fair, that there is no disposition in any Southern State to discriminate in any way whatever between the white and colored children in regard to education. None, sir; but on the contrary the State constitutions, so far as I know, expressly provide there shall be no such discrimination.

One other word. Let me say to the gentleman this bill has been maturely considered. We have had the benefit of the labors of the National Educational Association. We have had in conference with the committee men of learning, college professors interested in this question, and on full consultation the committee were of opinion it would be unwise and unsafe to interfere in any manner whatever with the exclusive control of the State governments over their own local systems of education.

Mr. MONROE. Will the gentleman yield for a minute to me?

Mr. GOODE. Yes, sir.

Mr. MONROE. I wish to say in reply to my friend from Maine that I think the gentleman from Virginia, in his reply, has not done full justice to this bill. As the gentleman from Maine will see on reading it, there is a provision copied from like bills introduced in this House in former Congresses, for which he as well as I voted, that before any of this fund shall be paid over by the General Government to any State that State shall file with the Secretary of the Treasury a certified copy of a law by a previous Legislature whereby the State accepted the grant of money on condition of establishing free schools for all the children of the State of school age. Without a just and impartial law like this no State can obtain its share of the money.

Mr. FRYE. I hope the gentleman from Virginia will allow me to ask a question of the gentleman from Ohio.

Mr. GOODE. Certainly.

Mr. FRYE. I wish to ask him, he having examined the bill as a member of the committee, whether or not he is satisfied with the provision of which he speaks? If he is, then it satisfies me.

Mr. MONROE. I will say, Mr. Chairman, I understood the provision covered the ground which the gentleman from Maine states, and I the more readily so understood it because it was copied from former bills for which Mr. GEORGE F. HOAR, of Massachusetts, and myself had voted, believing it to be sufficient. But if it is not sufficient I want to make it so. That is all.

Mr. GOODE. And so do we. But I will state to the gentleman from Maine that while there was a strong sentiment in the committee that it would be unsafe and unwise on the part of Congress to undertake to control the educational systems of the States; or, in other words, the great interest of education would be better and more efficiently cared for by leaving it to the local and municipal power of each State; yet the committee recognized the fact that in making the grant the Congress of the United States had power to prescribe its conditions. If the gentleman will refer to the tenth and eleventh lines of section 4, on page 3, he will find it is provided this fund when distributed shall be faithfully applied to the free education of all the children, and each State is required to file with the Secretary of the Treasury a certified copy of the law accepting the provisions of this act and stipulating the fund so provided shall be faithfully applied and distributed in the manner herein required.

And furthermore, we provide if any State shall violate the provisions of this law, shall misapply this fund, or shall allow it to be misappropriated in any way, it shall forfeit its right to any subsequent apportionment until the amount so misappropriated shall be replaced.

Mr. KEIFER. Will the gentleman permit me to make an inquiry?

Mr. GOODE. Certainly.

Mr. KEIFER. Will the gentleman have any objection to have inserted at the proper place the words "without distinction of race or color?"

Mr. GOODE. I have no objection to that unless the gentleman means to provide for mixed schools. I am unalterably opposed to them, but I am willing to make it as plain as language possibly can that this fund is intended to be dedicated to the free education of all the children, white and colored; and if the gentleman is not satisfied

he may say both white and colored. But I repeat, I would oppose any proposition coming from any quarter to establish mixed schools in any part of this country, because I believe it would be ruinous alike to the colored and to the white, and so far as my information goes the most intelligent colored people are opposed to mixed schools.

Mr. KEIFER. I do not understand this bill is intended to regulate the school system of any of the States, and I agree with the gentleman so far as that is concerned.

Mr. GOODE. We have expressly provided against that. I wish to refer to one other statement made by the gentleman from Maine. He said it might possibly be that on the basis of illiteracy some of the Southern States might get an apparent advantage under the provisions of this bill. I beg the gentlemen of this House to remember that those States have been completely ruined and impoverished by the results of the late war, and that immense loads of public debt have been heaped upon them since. If the gentleman will examine the statistical tables on this subject which I propose to incorporate in my remarks he will see the unfortunate condition in which eleven of the Southern States were left by the results of the war; that from 1860 to 1870 they lost more than half their wealth; that during those ten years their losses amounted to about three billions; that during that decade the people of the North had their individual wealth doubled, while pecuniary ruin has been visited upon the people of the South. That notwithstanding their immense losses they have bravely undertaken the work of educating all their children of school age, without regard to race, color, or previous condition. But how is it possible for them to accomplish the herculean task without help? And why should not the Government extend to them the aid contemplated by the provisions of this bill?

Mr. FRYE. I ask the gentleman to allow me one moment, as I do not wish to be misrepresented. I know the gentleman does not mean to misrepresent me. I do not wish to be understood at all as reflecting in the slightest degree upon the South by the statement that there might be more illiteracy there. I explained it in the words which followed. I certainly desire this money to go, if it goes anywhere, where it is most needed. I did not mean to cast the slightest reflection on the South.

Mr. GOODE. I am glad I misunderstood the gentleman, and I re-echo the sentiment he has just uttered; the money, if it goes anywhere, should go where it will do the most good. I know the gentleman from Maine, and every intelligent gentleman on this floor will respond to the sentiment that when the curse of ignorance afflicts any part of the body-politic it exerts a deleterious influence upon the whole. I believe the interest of the Southern States in this respect to be the interest of all the States.

Permit me, in this connection, to introduce the tables to which I have already referred, which have been prepared by Dr. William H. Ruffner, superintendent of public instruction in Virginia:

TABLE I.—*Showing population of Northern and Southern States.*

Population.	White.	Colored.	Total.
<i>Whole population—</i>			
In eleven Southern States.....	5,544,488	3,939,032	9,487,386
In Kentucky, Maryland, Missouri, and West Virginia.....	3,731,318	533,653	4,265,213
	9,275,806	4,472,685	13,758,599
<i>School population—</i>			
In eleven Southern States.....	2,945,734	1,595,850	3,841,634
In Kentucky, Maryland, Missouri, and West Virginia.....	1,476,545	219,725	1,696,270
	3,722,329	1,815,575	5,537,904
<i>Whole population in Northern States.....</i>			
	23,927,272	362,422	24,363,097
<i>School population in Northern States.....</i>			
	8,673,643	127,751	8,837,394

*Per cent. of illiterates from 10-21 to population of same age.*

In Southern States (including Kentucky, Maryland, Missouri, and West Virginia)..... 44.08

In Northern States (including Western)..... 6.11

*Per cent. of illiterate males, 21 and over, to male population of same age.*

In the fifteen Southern States..... 33.19

In the twenty-two Northern States..... 7.43

• And the painful fact must be stated that even among the whites, in the eleven Southern States proper, the percentage of illiteracy increased from 7.1 in 1860 to 9.8 in 1870—owing no doubt to the war.

*THE COST OF THE EDUCATIONAL WORK NEEDED.*

Twenty-four per cent. of the whole population of the Northern States proper are enrolled in their public schools. To educate 24 per cent. of the population of the Southern States, for eight months in the year, at the rate of seventy-five cents per month for the tuition of each scholar enrolled, would cost annually as follows:

Alabama.....	\$1,435,668 48
Arkansas.....	697,638 24
Florida.....	270,357 12
Georgia.....	1,705,116 96
Louisiana.....	1,046,757 60
Mississippi.....	1,192,207 68
North Carolina.....	1,542,759 84
South Carolina.....	1,016,072 64
Tennessee.....	1,812,968 80
Texas.....	1,178,733 76
Virginia.....	1,764,234 72
Total.....	13,601,835 84

TABLE III.—*Value of property in the Southern States in 1860 and in 1870.*

States.	1860.			1870.			Real and personal estate.
	Assessed.		True.	Assessed.		True.	
	Real estate.	Personal estate.	Total.	Real estate.	Personal estate.	Total.	
Alabama .....	\$135,034,089	\$227,164,673	\$382,198,762	\$495,237,078	\$117,223,043	\$38,359,552	\$155,582,505
Arkansas .....	63,254,740	116,956,590	180,211,330	219,256,473	63,102,304	31,426,539	94,588,843
Florida .....	21,722,810	47,206,875	68,929,685	73,101,506	20,197,691	12,283,152	32,480,843
Georgia .....	179,801,441	438,430,946	618,238,387	645,895,237	143,948,216	83,271,303	227,219,519
Louisiana .....	280,704,988	155,082,277	435,787,265	602,118,568	191,343,376	62,023,514	253,371,890
Mississippi .....	157,836,737	351,636,175	509,472,912	607,324,911	118,278,460	59,000,430	177,278,890
North Carolina .....	116,366,573	175,931,029	292,297,602	358,739,399	83,322,012	47,056,610	130,378,622
South Carolina .....	129,772,684	359,546,444	489,319,128	548,138,754	119,494,675	64,418,682	183,913,337
Tennessee .....	219,991,180	168,504,020	382,495,200	493,903,892	223,035,375	30,746,786	253,782,161
Texas .....	112,476,013	155,316,322	267,792,335	365,200,614	97,186,568	52,546,361	149,732,929
Virginia .....	384,483,876	532,633,976	917,117,852	1,270,830,496	279,116,017	86,323,900	365,439,917
Total .....	1,821,445,131	2,722,409,327	4,543,854,458	5,679,746,652	1,456,247,737	567,461,809	2,023,709,546
							2,738,689,037

NOTE.—The counties now composing West Virginia were excluded from the calculation for 1860. Kentucky, Maryland, and Missouri are omitted because of the almost equally divided interests of the people during the decade under consideration.

To whom do the public lands belong and how have they been acquired? They belong in common to all the people. They have been acquired partly by cession, partly by purchase, and partly by conquest. The Government holds them in trust for the common use and benefit of all the people of all the States. But how has that responsible trust been administered? Has equal and exact justice been done to all the States of the Union? Have the older States, which made such liberal cessions for the common good and to sustain the waning credit of the Government in the beginning, received their just and fair proportion of this common fund? Nearly one hundred million of acres of the public lands have been donated to the new States and Territories for educational purposes, and more than two hundred millions of acres have been donated to monster railroad corporations existing within the limits of the same States. I submit the time has now arrived when something should be done by Congress to correct this great inequality and injustice. The great need of the South to-day is educational aid. Her people are doing all in their power to educate the rising generation, but they are too much impoverished to accomplish the work single-handed and alone. One of the results of the war was the emancipation of about four million of colored people. Was it right for the Government to enfranchise them, make them citizens and voters, without some adequate provision to qualify them for the proper discharge of the responsible duties incident to the new station to which they were suddenly elevated? Can the Government bestow civil and political rights upon these "wards of the nation" and at the same time avoid the solemn obligation to provide for their mental and moral improvement? This duty has been strongly urged by many prominent Northern gentlemen upon this floor during the last few years. The same recommendation has been made by the National Educational Association; and Rev. Henry Ward Beecher, in a speech delivered in New York before the American Missionary Association, enforced this obligation in the following emphatic terms:

We have done much for the freedmen of the South, but we have not done one tithe of what we should have done. \* \* \* The work of educating, and thereby elevating, the poor freedmen of the South is imperative. It must be done. We may labor for this from motives of benevolence or not, but we must do the work. Suppose we allow the element of selfishness to influence our action? The peace and order of the nation demand that every man shall be educated.

So much, Mr. Chairman, for the manner of this distribution among the several States and Territories. It is proposed to make it for the first ten years upon the basis of illiteracy, because in that way the greatest good will be accomplished and the most urgent need will be supplied. I am sure that neither the wealthy Northern States of the old thirteen, nor the new States which have been favored with such magnificent endowments, will interpose an objection.

Again, Mr. Chairman, I wish to call special attention to the fact that we do not propose by this bill to disturb in any degree the exclusive control of the State governments over their own local systems of education. Accordingly, this bill proposes to donate the proceeds of the sales of the public lands directly and at once to the States, upon the single condition that they will hold the fund and administer it as a sacred trust in the interests of education. This is a reasonable and proper condition, which Congress in making the grant may rightfully impose. I have no doubt the State governments would gladly accept the donation upon this condition, and that the trust devolved upon them would be faithfully and honestly administered.

Mr. REAGAN. I would like to ask the gentleman if it is intended to limit the powers of the Government to the disposition of the lands for the purposes mentioned in the two provisos alone.

Mr. GOODE. Noe whatever. We intend to leave the power of Congress over the public domain entirely unlimited. All we mean to say is that the net cash proceeds shall be dedicated to this purpose.

Mr. REAGAN. Is it understood by the committee that under those

provisos the Government would have the power to appropriate the public lands to aid public improvements?

Mr. GOODE. Unquestionably, for any purpose. We only take the money received from the sales of public lands and apply it to this purpose.

Mr. BUCKNER. What is the amount thus received from those sales?

Mr. GOODE. It has varied for several years past, and for the last decade the net receipts have been about \$1,500,000. Some years it amounted to \$3,000,000, some years to \$2,000,000, but my information is that for the last decade the total receipts have averaged about \$1,500,000 per year.

Mr. BUCKNER. The net proceeds?

Mr. GOODE. Yes; the net proceeds.

Now, ought not this bill to pass? I will not detain the committee much longer. I have shown that we have the constitutional power to do it. I have shown that the manner of distribution proposed is fair and just.

Now, the only question for gentlemen to consider is this: Is the object contemplated by the provisions of this bill a wise, humane, and beneficent one? In my humble judgment the proceeds of the sale of the public lands could not possibly be dedicated to any higher, nobler, or more beneficent purpose than for the free education of all the children.

Look at the census. I beg gentlemen upon this floor to look at the census of 1870, and see the appalling amount of ignorance in this country which is disclosed by it.

One-fifth of our population, or six millions of our people over ten years of age, are not able to read and write. Twelve millions of children, between the ages of five and eighteen, are growing up in ignorance and without any educational advantages whatever, and of the eight millions of the voters of this country who march up to the ballot-box from time to time and control our destinies politically and socially sixteen hundred thousand are unable to read what is printed upon the ballot which they cast into the ballot-box.

Sir, I will not insult the intelligence of this honorable body by enlarging upon the benefits of universal popular education. It is my deliberate judgment that upon it depends not only the prosperity but the perpetuity of the Republic.

I adopt the sentiment of that great German "reformer" Martin Luther, when he said that the prosperity of a State does not consist in its treasures, its strong walls, its beautiful mansions, and its brilliant decorations. The wealth of a State, its safety, and its force consist in an abundance of citizens who are honest, instructed, and educated. Ignorance is a more dangerous foe to any people than an army with banners.

Sir, I might occupy the time of the committee further upon this question, but there are other gentlemen who wish to speak.

We want a vote upon this question to-day if possible, and I hope that after the two hours' discussion shall have been had the members of the committee will remain and vote, because after to-day it is no longer a special order.

For the present I yield a portion of the time allotted to me to the gentleman from Georgia, [Mr. BELL.]

Mr. BELL. Mr. Chairman, the bill under consideration forever consecrates and sets apart the net proceeds arising from the sale of the public lands for the education of the people. It does not change, nor affect in any way whatever, any law now in force authorizing the pre-emption of public lands, nor the entry of public lands for homesteads, nor does it interfere in any manner with the power of Congress over the public domain. It provides, after paying the expenses of sale, that the whole of the net proceeds shall be distributed among the several States, Territories, and the District of Columbia upon the basis of population, between the ages of five and twenty-one years. For the

first five years the whole of said proceeds, and for the next five years one-half, to be apportioned to the several States and Territories and the District of Columbia according to the numbers of their respective population of ten years old and upward who cannot read and write, as shown from time to time by the last preceding published census of the United States. It further provides that one-fourth of the money appropriated by this act shall be given to the colleges known as agricultural colleges, established or hereafter to be established in accordance with the act approved July 2, 1862, unless in any case the Legislature of a State or Territory shall otherwise direct.

In a word, it gives three-fourths of the amount to the cause of popular education and one-fourth, subject to the control of the State and territorial Legislatures, to the aid of agricultural education. It provides that after ten years the whole amount shall be invested in bonds of the United States bearing a rate of interest at 4 per cent. per annum, principal and interest payable in coin. The interest thereon to be applied to free education in conformity with the provisions of the bill.

This bill contains ample provisions to secure the application of the fund to the object intended and appropriate penalties for its misapplication.

I apprehend that no great difference of opinion exists and that no controversy will arise upon the details of this measure. Nor can any question of constitutional power arise.

The second clause of section 3, article 4, of the Constitution declares that "The Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States, or of any particular State."

This provision grants plenary power to Congress to dispose of the public domain. No one will hazard his reputation for intelligence by denying that the power to dispose of the territory necessarily includes the power to dispose of the proceeds of the territory. The ownership of the territory necessarily involves the right and power, in the absence of any constitutional qualifications or limitations, to dispose of it and its proceeds.

But the question upon which a difference of opinion may exist is whether the disposition proposed by this measure is wise. And to the consideration of this great question the attention of the country is invited, and upon it the favorable action of Congress invoked. It has passed into a maxim that the preservation and perpetuity of our institutions depend upon the virtue and intelligence of the people. The question of man's capacity for self-government is still an unsolved problem. Every effort hitherto made has resulted in failure. We are now making the world's last experiment under conditions more favorable to success than any that history records. The recognition of power, of sovereign political power in the people, is the distinguishing attribute, the very genius of our system. The rights, duties, and powers of executive, legislative, judicial, and ministerial officers are all defined, prescribed, and limited by law. The untrammeled ballot—the sole peaceful instrument of original, inherent, political power—is the power behind the throne that is greater than the throne. Every ballot is a vital factor in determining the destiny of millions. It therefore follows that upon the intelligent and wise exercise of this power all the great moral, social, and civil interests of society in this country depend. This question is not ephemeral in its nature, sectional in its character, nor local in its influence. It is as wide in its range as the wants of humanity, enduring as the quenchless fires of intellect, and deals with the destiny of races. There is no question of public expenditure, except the expenses of administering the government and payment of the public debt, so purely national in its object as this.

"All expenditures for railways and canals, the improvement of rivers and harbors, the erection of public buildings, &c., contain local as well as national elements, and not unfrequently engender local and sectional prejudices and animosities. But every State, every section, and every individual in the Republic is deeply interested in the qualifications of every citizen to discharge the obligations and meet the high responsibilities of American citizenship."

The public domain was acquired by the common blood and the common treasure of the people, and it seems to me that there is a peculiar fitness in devoting it to their education. Then the basis of distribution is one of perfect equality—illiteracy for ten years and population thereafter. It may be urged that the basis of illiteracy is unequal because it gives the larger portion of this fund to the South for ten years. It is true that the South would get the larger portion for that period, but it does not follow that the distribution is unequal for that reason. Equality and justice consist in meeting the necessities of the case. The education of the illiterate is the object, and this distribution recognizes the right of every illiterate child to an equal participation in this benefaction. But this issue of inequality or injustice is an unfortunate one for the opponents of this bill to raise. While Georgia and Virginia, receiving only an equal amount *per capita* for their illiterate with all the other States, would receive in the aggregate more than any of the others, it may be interesting to inquire what contributions to the national Treasury these two States have made by the cession of their territory, and how they compare with the contributions of the other States, and also what States have been the beneficiaries of the Federal Government in the way of internal improvements and public works.

From 1789 to 1873 the Federal Government expended in public works, railroads, canals, and wagon-roads the sum of \$207,999,664.77. Of this \$18,594,049.46 was expended in the sixteen Southern and border States, \$174,885,371.21 in the Northern and Western States and Territories, and \$15,520,224 in the District of Columbia. Of the aggregate sum of \$207,999,664.77, \$103,294,501.35 were appropriated in bonds and money to public works from 1865 to 1873; the remaining \$104,705,163.43 to railroads, wagon-roads, and canals from 1789 to 1873. Of this sum neither Georgia, Texas, nor West Virginia received one dollar. Virginia, North Carolina, Florida, Alabama, Mississippi, Louisiana, Arkansas, Tennessee, Kentucky, and Missouri received \$5,480,172.94, while the other States and Territories received \$99,224,990.49.

Georgia ceded to the Federal Government the territory now constituting the States of Alabama and Mississippi with the express stipulation in the deed of cession that "it should be considered as a common fund for the use and benefit of the United States, Georgia included." The Government realized from this magnificent domain \$40,000,000 in cash, while in the distribution of \$104,705,163.43 for works of internal improvement among the other States Georgia did not receive one cent. Besides, the United States this day owe her \$36,000 for money she expended for the common defense in the Revolutionary war. The State of Virginia ceded to the Government the territory comprising the greater part of Ohio, Kentucky, Indiana, and Illinois, containing an area of 137,860 square miles, property worth \$10,329,669,974, while she has received, of the \$104,705,163.43 only \$57,538.27. The Government had received up to 1850 from the sale of public lands ceded by Virginia \$80,000,000.

This grand old Commonwealth, after having given away an empire, stands "like royalty in ruins," struggling with misfortune, poverty, and debt, with elevated crest and unbroken spirit. She urns in her heart the ashes of her heroes and statesmen; the lofty device of *sic semper tyrannis* still emblazons her shield. Wrapped in the imperial robes of her ancient sovereignty, she stands not at your door a mendicant asking alms, but the mother of States and of statesmen, demanding for her illiterate children an equal participation in the treasure her bounty bestowed.

Georgia shelters her two hundred and seventy-five thousand illiterate under her arch supported by wisdom, justice, and moderation, and in the calmness of conscious dignity points to the magnificent domain of Alabama and Mississippi and the forty millions the Government received from the gift as the evidence of her right to an equal share of this treasure. In the presence of these facts avarice itself must stand abashed, and no whisper of inequality or injustice be heard or breathed.

The last census discloses the humiliating fact that there are nearly six millions of children in the United States over ten years of age who can neither read nor write. Every chapter of our legislative history recognizes the constitutional power of Congress to aid the education of the people. Many laws have been passed and a vast amount of the public lands donated for this purpose. Individual effort and parental affection and solicitude have contributed much toward the intellectual development and cultivation of the people of this country. The different religious sects throughout the country, stimulated by a legitimate denominational pride, animated by a generous emulation and inspired by the loftier sentiment of Christian philanthropy, have employed all their energies and exhausted all their resources to promote the cause of education and advance the standard of a Christian civilization. Eight hundred and thirty-four thousand four hundred and eleven noble men and women, worthy to wear "the red wreath by martyrs won," instruct weekly in Sunday schools over six millions of children. States have endowed and maintained colleges and universities.

Every section and every State bristles with the spires of colleges, male and female. I believe every State in the Union now has established by organic law a system of free public schools supported by taxation; still the deplorable fact meets us everywhere, and at all times, that there are six millions unblessed by any and all of these agencies, with the light of learning, who are starving at a banquet and famishing at a fountain. And yet these children are soon in part to bear the ark that contains the oracles of popular liberty and the covenant of free institutions. The education of the masses in this country, at least in the rudimentary principles of learning, is demanded by every consideration that patriotism, philanthropy, and religion can urge. Neither denominational church enterprise nor private effort, much as they have done, can accomplish this most desirable object. Experience has shown that some system established by law, harmonious in its machinery, universal in its operation, and perpetual in its duration, is required. Experience has also demonstrated that the establishment and maintenance of such a system is an undertaking of the greatest difficulty, involving the utmost exercise of patience, the largest share of liberality, and the highest order of statesmanship; for the reason that its establishment and successful operation depend upon so many conditions rarely found to exist in combination.

The people of the Southern States are engaged in a heroic struggle with these difficulties, which are numerous and formidable. The system encountered at the threshold the opposition of enemies, the fears of the timid, the doubts of the faithless, the apprehension of friends, and the poverty of all. Every step taken discovered some new obstacle in the way of success. There are but comparatively few large towns and cities in the South; the greater part of that section of the

Union is rural, the people are engaged in agricultural pursuits, the population in the country is sparse, and great difficulty was found in the location of school-houses so as to accommodate the largest number and equally distribute the benefits of instruction. But the greatest difficulty with which they had to contend, and which it is the object of this bill to obviate, to some extent at least, was the want of means. All will readily recognize money as an indispensable element of success; and that we do not possess. The losses resulting directly and indirectly from the war, the overwhelming burden of debt, public and private, with which the people are crushed, and the enormous taxation necessarily imposed upon them, make it doubtful whether the system of free public schools in the Southern States, so courageously inaugurated, will not have to be abandoned in despair or left to languish and ultimately perish for want of support unless timely aid come from some quarter. Those who have not taken the trouble to examine into the extent of these losses have but little conception of their magnitude. Take, for illustration, the State of Georgia:

The taxable property in Georgia was valued under oath  
by the tax-payers in 1860 at..... \$672,322,777  
In 1868 it was valued at..... 191,235,520

481,087,257

A loss of.....

This includes 450,000 slaves, valued at \$302,694,833. The losses, aside from the slaves, amounted to \$188,392,424, an amount nearly equal to the whole taxable property in 1868. It will be borne in mind that this property was valued at a time when cotton brought a high price, when the volume of the currency was large, before the contraction policy of Secretary McCulloch was inaugurated and before the war values had shrunk to a normal condition. If we add to these losses the duplication of the public debt, the consequent increase of taxation, the subversion of our labor system, and the revolution in our modes, habits, industries, and economies, not only of a life-time but of time immemorial, some just judgment can be formed of our poverty and condition to commence and prosecute an expensive system of popular education. And yet Georgia probably suffered less than most of the Southern States. I have purposely refrained from any allusion to the crucifixion of reconstruction through which we passed. I have no fancy for rekindling the fires of hate and passion that deluged a continent in blood, nor have I any respect for the man who ignores the vital issues of the living present and coming future to indulge in crimination and recrimination for the low purposes of party or for any other purpose.

Under these circumstances of discouragement and difficulty we have inaugurated this system of public education, and are now struggling to maintain it and make it a success. It has in every Southern State the sanction of organic law. The provision upon this subject in the constitution of Georgia is as follows:

There shall be a thorough system of common schools for the education of children in the elementary branches of an English education only, as nearly uniform as practicable, the expenses of which shall be provided for by taxation or otherwise. The school shall be free to all children of the State, but separate schools shall be provided for the white and colored races. Authority may be granted to counties upon the recommendation of two grand juries, and to municipal corporations upon the recommendation of the corporate authority, to establish and maintain public schools in their respective limits by local taxation; but no such local law shall take effect until the same shall have been submitted to vote of the qualified voters in each county or municipal corporation and approved by a two-third vote of persons qualified to vote at such election, and the General Assembly may prescribe who shall vote on such questions.

Emancipation has immensely swelled the number to be educated, and therefore increased the demand for means. This increase in number occurred precisely at the time when the means were most diminished. The additional number brings no material aid, except perhaps the single item of poll tax levied upon the colored people. Under the educational system of every Southern State the colored people are entitled to an equal participation with the whites in the school fund. There is no distinction, except that the white and colored schools are separate.

Whatever differences of opinion may have existed, or whatever theories may have been advanced or speculations indulged respecting the capabilities of the negro race for intellectual development and distinction, with proper facilities for culture, it is clear that the truth can be ascertained by the test of trial. This experiment the white people of the South have determined, if possible, shall be made. In making it they discharge an obligation while they dispense a benefaction. The history of the negro race is a sad one. It has been the sportive plaything of capricious fortune. Its destiny has been wrought by agencies over which it had no control. Hugging for countless ages the torrid zone, the influences of habit and climate developed the animal nature and emasculated the intellectual and moral powers, leaving barbarism as the result. The contact of the negro with the white race has hitherto been, in the main, under conditions that confined the means of their advancement to imitation and observation. Neither history nor tradition brings from them any contribution to civilization in the achievement of arms, the discoveries of science, or the inventions of art. I have said that the white people of the South are but discharging an obligation to the negroes in their effort to educate their children. They served us before emancipation, they were faithful to us in the dark days of the war, and they have, under the circumstances and temptations surrounding them, demeaned themselves well since the surrender.

What were the circumstances surrounding them? They were suddenly transformed from slaves to freedmen; they did not and perhaps never will know who was responsible for their enslavement. They would naturally hold their former masters responsible and regard the agents of the Federal Government as their deliverers; and thus the avenues to their confidence and credulity were opened. The Freedman's Bank was established to be plundered by knaves, and the Freedman's Bureau organized to control their political affiliations under the pretext of managing their affairs. Artful villains appealed to their communistic instincts by false promises of an agrarian division of property. Infamous adventurers swore them to deadly hostility to the whites in secret conclaves in the darkness of midnight, and aroused their superstition by administering the oath over skeletons and coffins. Newly clothed with the rights, privileges, and immunities of citizenship, they were marched and countermarched on election days to the stirring music of drum and fife around the polls in the presence of disfranchised patriots and ostracised virtue and intelligence. They were elevated from prison cells to legislative halls, and converted from sweating convicts into pompous legislators, exchanging the humbler occupation of bearing burdens for the loftier business of making constitutions. And at last Federal legislation undertook to bridge the social gulf separating the races, established by nature and extending "down to earth profound and up to heaven," and invite them over to perfect social equality with the superior race.

Yet with all these powerful influences pressed upon them, let it be said to the infinite credit of the great mass of the colored people that they have conducted themselves with a propriety and exhibited a capacity for usefulness in society that has more than met the expectations of their most judicious friends. If occasional riots have attended or preceded elections, they have been instigated and manipulated outside of the South, or by the agents of parties outside, to inflame and control public opinion pending closely contested elections in other States, with the view of controlling important elections. And thus the colored people have been made the unwitting instruments of occasional disorders which have their conception in foul conspiracies outside of the South, and for which the white people of the South are falsely held responsible. The relations of friendship existing between the races in the South are not at all surprising; it is but the legitimate effect of obvious causes and results from traditional family attachments not in any wise incompatible with superior and subordinate relations. The races are identified in interest and in neighborhood. The dealings of the white race with the black have been characterized by the strictest justice, fairness, and honesty; the colored people have received from them sympathy in their sorrow, assistance in their misfortunes, and encouragement in their struggles; all of their political rights have been conceded with cheerfulness and enforced with fidelity; an upright and learned bench always assigns for the defense of the accused who are unable to employ counsel the ablest lawyers the bar supplies; and now, in almost hopeless poverty, the white people are paying heavy self-imposed taxes to test the experiment of their education.

If the colored people are the "wards of the nation," if the Federal Government is the guardian of these people, this bill and this occasion furnish the finest opportunity it will ever have to discharge the most important duty of the guardianship—the education of the wards. They stand here by the millions through their representatives and insist that the Government will at least aid their late owners in this humane effort to improve their condition; and this appeal they emphasize with the pathos of helplessness, of poverty. How far their general education, if it can be accomplished, would affect their inclination to manual labor and impair their capacity for its performance, is a question that may well excite serious apprehension. Living as they do in a purely agricultural section, and adapted as their labor is to the climate and productions of that section, their manual labor is not only indispensable to their own support, but of the first importance to the prosperity of the whole country. But the consideration of this question is foreclosed by the general judgment of the country that the experiment shall be made. The practical question now is, how to secure the means to make it. Since the organization of the Government, Congress has donated to the cause of education, under different acts, land amounting in the aggregate to 95,737,714 acres, and the sum of \$47,785,197.93 in money. The greater portion of the land was given to the Northwestern States by setting apart for educational purposes, in that section, sections 16 and 36. Upon her annexation to the Union the State of Texas reserved her public lands, and has therefore ample resources for the support of her educational system. But she stands the solitary exception among the Southern States, who have received only a trifling sum compared with the amount received by other States, Virginia and Georgia less than almost any of them, although each ceded to the General Government an empire in extent and wealth, and now in the extremity of their poverty, when the number of their illiterate population has been doubled, they invoke the aid which this bill proposes to extend. They do so in common with the other Southern States, not only to educate the white children within their borders, but to educate the ignorant colored race in which one-eighth of the sovereign political power of the Republic is vested by the Constitution and laws of the United States. Thirty-five Representatives of the American people on this floor symbolize the power of the

negro race, two-fifths of which—fourteen in number—accrued from emancipation; to say nothing of the improvement of their intelligence, their morals, and their elevation in the scale of civilization. Does not the qualification for citizenship, which education alone supplies, demand imperatively that speedy and ample provision be made for that education?

Are not the institutions of this country imperiled by the ignorance of so large a number with whom political power is deposited, whose votes, from ignorance, are liable to be controlled by prejudice or purchase? Is not the Government under some obligation to furnish the means to qualify these people for the enjoyment of the right and the exercise of the power which is so unceasingly and so bountifully thrust upon them? This bill provides that one-fourth of the money appropriated by it shall be given to the agricultural colleges unless the Legislatures of the States and Territories shall otherwise direct; thus devoting one-fourth of the sum to agricultural education. The judgment of Congress and the country has been made up upon the wisdom and propriety of fostering intelligence in the cultivation of the soil of this country. That judgment is recorded in the act establishing these colleges and appropriating a part of the public land to support them, and in the acts of the various Legislatures accepting the donation. The success of these institutions vindicates their claim to liberal support.

I but state what all know to be true when I assert that the agricultural is the paramount interest of this country, the basis of all prosperity, and the only original source from which subsistence and clothing come. There can be no reason why its votaries should not be as well educated as those of any other art or science, and there can exist no reason why cultivated intellect should not be employed in the discovery and the development of the resources of the soil. The North Georgia Agricultural College, established by the act of 1862, has accomplished more good in the few years of its existence than any two schools in the State within the same period: unfortunately its buildings were recently destroyed by fire.

To the products of the soil are we mainly indebted for the balance of trade in our favor, amounting for the last year to \$309,309,741. It is the labor employed in agriculture and the products of that labor that enable us to dispute commercial supremacy with Great Britain. This labor is productive in the proportion that it is guided by intelligence.

If experience should show that one-fourth of this money could be more usefully employed in other departments of education, then it is perfectly competent for the Legislatures of the States and Territories so to employ it. It is within the control and subject to the direction of the State and territorial authorities. There can therefore, as it seems to me, be no well-founded objection to the bill because it gives a part of the money to this particular class of institutions. While this is truly a national question, still, regarding it from a local and sectional stand-point; in view of the necessities for aid to public education in the South, it is important to inquire what amount this measure will supply. Assuming, as estimated by the Commissioner of Education, that the sales will amount annually to \$1,500,000, the amount that each of the Southern States would receive is exhibited in the following table:

Alabama	\$101,534 56
Arkansas	35,347 50
Florida	19,034 61
Georgia	134,221 66
Kentucky	88,058 19
Louisiana	73,208 10
Mississippi	83,056 90
Missouri	58,960 03
North Carolina	105,425 63
South Carolina	76,978 02
Tennessee	96,679 35
Texas	58,772 35
Virginia	118,203 99
West Virginia	21,602 58
	1,061,083 47

It will be seen that the State of Georgia would annually receive upon this basis \$124,221.66, one-fourth of which, or \$31,055.41, for five years would amount to \$155,277. This would endow the agricultural college, leaving to the cause of popular education in this State each year \$93,166.25, which amount would vary of course with the amount of the sales of the public land. We can form some estimate of the aid which this bill will render to the education of the people of the United States when it is remembered that the public domain, surveyed and unsurveyed, amounts to 1,154,471,762 acres. Whether this domain shall be wisely and humanely devoted to the education and elevation of the masses of the people of this country, distributed upon the basis of necessity and equality, or given to rich and powerful corporations, and thus increase their means of fixing the price of labor and controlling legislation, is not a debatable question.

Mr. Chairman, the first century of our national existence vindicates the wisdom that founded our institutions and the beneficence that distinguished their operation. Our career is the wonder and admiration of the world. We have extended our domain from a narrow strip along the Atlantic coast across a hundred degrees of longitude to the Pacific Ocean, increased the number of States from thirteen to thirty-eight and our population from three millions to fifty millions. We have a country that possesses every variety of climate and produc-

tion, soil and scenery. It combines in prodigal profusion every element of individual and national wealth. It opens an inviting field to every industrial enterprise and bestows the richest rewards upon the efforts of labor. It has given to immortality the names of Franklin, Fulton, and Morse, and bequeathed to mankind the triumphs of their genius. Its discoveries in science and inventions in art have revolutionized the industries and commerce of the world. Her iron ships float upon every sea and bear to every port the treasures of her mines, her fields, and her forests.

Our skill has unlocked the arcana of nature and utilized her physical forces in constructing the temple of freedom, and American genius has brought its trophies of sculpture, painting, and poetry to adorn its columns and festoon its arches. American orators have eclipsed the famous masters of antiquity. American literature has attained a range of thought, a felicity of expression, and a purity of sentiment unknown to other ages and countries. We have sent back to the birthplace of civilization the inspiration of a new national life and aroused the east from the slumber of ages. Hoary systems are dissolving in the blaze of the star of empire that "westward takes it way." Vitalized by contact with us, China and Japan have adopted systems of popular education abreast with the demands of the age that rival the best models of modern times. But while we are dazzled with the splendor of these achievements that cultivated intellect has done so much to secure, we are confronted with the melancholy fact that six millions of American children are unable to read and write the language in which the historian records and perpetuates them.

If so much has been accomplished in the brief period of a century under existing disadvantages, what hopes are the least sanguine not authorized to indulge of the future grandeur and glory of our common country? Each conquest in this aggressive march to national destiny enlarges the desire and augments the power for new and grander results, and each new acquisition imposes additional obligations.

Next in importance to the obligation to preserve public liberty is the duty of providing the means for popular education. These will be the two great agents of advancement in the future, as they have been of success in the past. The possibilities of our future promise more than the realization of Utopian dreams. They spread out over the vast West a population numbered by hundreds of millions, combining the strength of the Roman with the culture of the Greek, uniting the chivalry of Bayard with the benevolence of Howard, and exhibiting in blended harmony the best elements of the puritan and the cavalier; a wilderness reclaimed from primeval solitude, yielding to industry harvests that fill the marts of the world with commerce and appease the hunger of nations with bread; great national highways substituting the dim trail of the receding Indian, magnificent cities occupying the place of abandoned wigwams, and the light of council-fires paling before the superior light reflected from galleries of art, halls of learning, and temples of worship, realizing the fulfillment of prophetic prediction:

The wilderness shall be glad for them, and the desert shall rejoice and blossom as the rose.

This population under the protection of and this progress fostered by a Government under a written constitution, that explicitly defines the powers of the Government and expressly secures the rights of the people, we may here expect to witness the highest physical, social, moral, and political development of which the race is capable.

It was during the thousand years of darkness and blood, when cloistered monks monopolized the learning of Europe and Asia, leaving the masses in ignorance, that barbarous conquerors and ambitious prelates fastened upon the world the despotism of the feudal system and the horrors of the inquisition. Against this stupendous crime upon humanity its mind, heart, and conscience have never ceased to utter their protest. The revival of letters and the general diffusion of knowledge relaxed the grasp of the tyrant and broke the spell of tyranny; and cultivated intellect, inspired by patriotism, at the expense of blood has erected and consecrated upon American soil the sacred temple of liberty, rebuilt her ruined altars, installed her banished priestess, and restored the worship of her divinity. And here, under the patronage of republican institutions and universal education, liberty finds its freest expression, religion its purest model, and humanity its highest type.

#### MESSAGE FROM THE SENATE.

Here the committee informally rose; and the Speaker having resumed the chair, a message from the Senate, by Mr. SYMPSON, one of its clerks, announced that the Senate had agreed to the report of the committee of conference on the bill (H. R. No. 5312) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1880, and for other purposes.

The message further announced that the Senate insisted upon its amendments, disagreed to by the House, to the bill (H. R. No. 5534) making appropriations for the current and contingent expenses of the Indian department, and for fulfilling treaty stipulations with various Indian tribes, for the year ending June 30, 1880, and for other purposes, and asked a conference upon the disagreeing votes of the two Houses, and had appointed Mr. WINDOM, Mr. ALLISON, and Mr. WITHERS conferees on the part of the Senate.

The message further announced that the Senate had passed with-

out amendment the bill (H. R. No. 5655) to amend an act entitled "An act making appropriation for the sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878.

PUBLIC LANDS FOR EDUCATIONAL PURPOSES.

The Committee of the Whole then resumed its session.

Mr. DUNNELL: Mr. Speaker, I ought to have known that this bill had been assigned for this day, but I confess that I did not know the fact, and hence I am not prepared to express the opposition which I have to the bill as clearly and as fully as I otherwise might have done.

No one can feel a deeper interest in the question of free public education than I do myself. My experiences in connection with public schools in the past have given me a very deep interest in free education; and yet, sir, I have been one who has always believed that the common-school education of a State should be the creature of the State, should be fostered by the State, and that it is not the province of the General Government to foster or build up a system of public education in any State.

I remember, in the Forty-second Congress, a very elaborate, able, and convincing speech made by Mr. Kerr, of Indiana, afterward Speaker of the House. I sympathized with the arguments in that speech, because I believed that the system of public education in a State should be built up by the State itself, should be fostered by the State, and there should be a public sentiment in the State in harmony with a system of free education, otherwise the General Government may give and give, and yet there will be no healthy and vigorous school system in the State.

If the State of Virginia, for instance, at any time desires to have a public-school system as good as that of the State of Michigan, there must be in Virginia the same public sentiment that there is in the State of Michigan. They must as freely vote money in the one State as in the other; they must provide as liberally for the supervision of the schools in the one State as in the other; they must do as much for the cause of public education in the one State as in the other, else there will be no good system of public education in that State.

Now, sir, the friends of this bill very greatly overestimate the amounts that would come to the several States if it should become a law. The amount that would come to a State would be but a mere pittance. I intend to show that before the first five years have elapsed, during which time it is possible for the States to spend all the money to be derived under this bill, there would be substantially no money coming into the Treasury from the sales of the public lands.

I insist that we have reached almost the outer limit in the sales of public lands and in the receipt of revenue from the sales of public lands. While receipts were quite large last year, I shall be able from statistics to show that the receipts from the pre-emption law have been and are gradually and rapidly lessening; and that at the end of the five years there would be nothing left to go into this fund, and the amount distributed from year to year during those five years would be so very small that the States would get no benefit at all from this pretended or intended benevolence.

I am opposed to this bill because it will interfere with a free, untrammelled system of legislation in regard to the public lands. If this bill shall become a law it will be absolutely impossible to secure an amendment of the land laws of the United States such as I insist the interests of the country to-day call for. I allude now to the pre-emption laws.

For the last six or eight years the Commissioner of the General Land Office has repeated the recommendation of that department that the pre-emption laws of the United States should be repealed, and that the remaining arable agricultural lands of the United States should be open only and solely to homestead settlers. There is a bill now pending that provides that all acts and parts of acts relative to the pre-emption laws of the United States shall be repealed, and that henceforth and hereafter all the agricultural lands of the United States shall be open only to entry under the homestead and tree-culture acts.

Now, if we could get at the real statistics—and I certainly would have had them here if I had known beforehand of this discussion to-day—you would find that not one-twentieth part of the remaining public lands of the United States are agricultural lands; not one, twentieth part. And I desire to show that at the present time not simply in the West, but in the East and throughout the country there is a large demand for the unoccupied and unentered agricultural lands of the United States.

I insist that we shall interfere with what is a grandly hopeful outlook at the present time, if we enact this bill into a law. We shall interfere with legislation that would open up this agricultural domain to actual settlement. I wish to show from statistics (a single page of which has been brought to my attention since this debate commenced) the entries of the last year.

Mr. DWIGHT. From what is the gentleman now reading?

Mr. DUNNELL. From the Land Office Report of 1878. It will be noticed that the cash entries last year were in round numbers 877,000 acres; while the entries under the homestead laws amount to 4,418,000 acres, and under the tree-culture law to 1,870,000 acres. And there were other public lands entered.

Now, while this record shows that the entries under the pre-emption laws amounted to 877,000 acres, it must be remembered by the com-

mittee that parties entering under the pre-emption law are allowed at any time to change their entry to one under the homestead law or even under the tree-culture law.

But my objection to this bill is because of the fallacy of the sentiment that upholds this measure, which is that this law establishes a fund for education. Even if you let the pre-emption law remain, all or by far the greater part that will come to us under the operation of the existing law will have been received during the next five years; and that the entire amount would not exceed \$5,000,000. The amounts alluded to by the gentleman who spoke on the other side were gross receipts and not net receipts.

Therefore this fund which somebody speaks of as a great fund to be built up in the interest of popular education is a thing of the imagination entirely. It would never reach the amount of \$5,000,000. Divide that \$5,000,000 among all the States of the Union, and bear in mind that after five years the whole amount is to be expended, and then after another five years one-half of the amount is to be expended, and at the end of ten years you will find that there is no fund for investment. Two millions of dollars would certainly be fully equal to the fund that shall remain.

Invest that sum in 4 per cent. bonds and scatter the interest throughout all the States of the Union, to be subject to local legislation, and you will find that there will be no benefit at all to be derived from the fund. If the General Government ought to do something for the States in the South, as I have said once before on this floor, let us go directly to the Treasury. Our great material interests ought not to be jeopardized by this kind of legislation.

There are some interesting facts in connection with our agricultural development during the last two or three years. The great bulk of our exports last year over our imports were agricultural.

The sufferings in the East are being lessened and lightened by this outflow of extra population from it to the West. Will you close up these lands and leave them as now to be pre-empted? I hold and insist that all the remaining agricultural lands of the Republic, almost all of which have been taken up, shall be left for homestead entry by actual settlers seeking homes from the over-crowded cities and the over-populated States of the East. It is in the interest of the whole Republic. No great good can come from this attempt on the part of the Government to make provision for the great common school interest of all the States of the Union.

I wish again to call attention to some of the statistics which I have before me, as showing the increase during the past year in the entries. There was during the last year an increase over the previous fiscal year of 1,348,700 acres. It is this demand for public agricultural lands which I insist ought not at all to be interfered with by this kind of legislation; because I insist, Mr. Chairman, that when Congress shall have made provision in this way for a national educational fund it will be very unlikely to repeal the only way by which that fund can ever be made or increased. We get substantially no money into the Treasury now except under the pre-emption law. It is now proposed to create a fund growing out of the receipts of that item. Then Congress will say "We will keep that law un-repealed." The same votes that appropriated this fund in this way would vote against the repeal of the pre-emption law. I insist that the pre-emption law ought to be repealed. The very small quantity of public lands remaining to be taken up for agricultural purposes would surprise the gentleman from Virginia if I were to present the figures. Hon. George W. Julian caused to be published a year or two ago a statement with regard to the small remaining quantity of public lands adapted to agriculture. That statement startled the country. In Kansas, in Nebraska, and in Minnesota almost all of the lands have been taken up, and forty thousand or fifty thousand or sixty thousand people have under the homestead law gone to the Territory of Dakota during the last twenty-four months. When this agricultural portion of the frontier is occupied you have only the rocky and mineral lands of the country remaining.

When gentlemen picture to themselves a large fund for the purpose of popular education growing out of this measure, they are terribly mistaken; they terribly deceive themselves. The fund could never reach \$3,000,000, especially if you allow the whole fund to be spent for five years and one-half for the next five years. When ten years shall have rolled around, Mr. Chairman, if you and I are then cognizant of affairs going on in this country we shall find that the agricultural lands of the country have been taken up and that there is no longer any income from the sale of public lands. I venture to affirm that within ten years from this date thousands instead of millions will cover all returns from the Land Office.

Mr. Chairman I do not wish to speak further at present. Of my remaining time I yield ten minutes to the gentleman from Colorado, [Mr. PATTERSON.]

Mr. PATTERSON, of Colorado. Mr. Chairman, while I am not opposed to the principle of the bill, yet, representing in part the interests of the public domain west of the one hundredth meridian, I would be false to that interest if I failed to call the attention of the Committee of the Whole, and particularly of the Committee on Education and Labor, to amendments that are necessary if justice is to be done to the section of the country of which I speak.

The gentleman from Minnesota [Mr. DUNNELL] who has preceded me well stated that the limits of revenue from the sales of public lands had been reached years ago, and that from this time forward the annual proceeds must sensibly decrease. The reason of it is ap-

parent. It is that eight-tenths of the public lands remaining undisposed of cannot be successfully cultivated until large sums of money have been expended to place them in a condition to produce crops, by means of water brought upon their surface. The only practicable measure by which this vast area of arid lands can be made productive is by treating them as Congress in 1850 treated the swamp lands of the South, West, and Northwest; that is, by donating them to the several States within which they lie, that they may be made the means and agency of their own redemption. If a law is now passed which irrevocably disposes of this portion of the public domain so that the State may never through them have the means of constructing the works of which I speak, the traveler will find one hundred years from to-day the same vast extent of desert domain that now greets the eye from the Missouri River to the shores of the Pacific as we take the trip across the continent.

Why should not these arid lands be donated to the States before all of the lands are given for purposes of education? If this is not done, no person has the motive and no community has the incentive to furnish the means by which this vast extent of lands may be made productive. Certainly the Government of the United States will not make appropriations for the purpose of constructing canals, ditches, and reservoirs, and certainly the educational interests cannot afford to do it, because to do so would take from the fund the profits from which the good is expected to flow.

Mr. Chairman, under laws passed heretofore upward of fifty-one million acres of swamp lands have been donated to the States for the avowed reason that those lands could not be made productive without the expenditure of vast sums of money for drainage purposes. For the same reason, before the proceeds of the public lands are expressly set apart for any purpose, and before the lands are disposed of in such a way that the States containing arid lands have lost the hope of obtaining the proceeds by which this desert may be made a garden, by which this arid land may be made the best agricultural area upon the continent, it is due to the entire people, it is right and just that these lands should be granted to the States as I shall request.

Why, Mr. Chairman, in the State I represent, and in other States and Territories, on account of the peculiar nature of our lands and climate, we will be left practically without a school fund unless this and some other propositions I shall propose are adopted. You all know the small proportion of minors to adults in new countries. Men emigrate from the East, leaving behind their wives and children, and come to the West for the purpose of subduing the wilderness and preparing homes to receive them, and this is only accomplished after the lapse of years; and the result of this fact must inevitably be that while South Carolina, New York, Alabama, and other of the older States will receive large sums of these proceeds for the education of their children, Colorado, Nebraska, and Nevada, and the States yet to be carved out of the public domain will not only be left without a proper school fund, but they will be robbed of that which at least the spirit of our institutions has declared shall be set apart for this sacred purpose.

And, Mr. Chairman, I am safe in predicting that if these lands are not given to the States in which they are situated, that a part may be sold and the proceeds applied to the construction of the great irrigating works I have mentioned, the present arid and unproductive plains will continue for a century hence a monument to the ignorance and want of foresight and practical knowledge of the American Congress. And I give notice now that when this measure is being discussed by sections, I shall offer amendments which will exempt from the operations of this bill the arid lands west of the one hundredth meridian, lands which are absolutely worthless without irrigation, that would not bring for school or any other purpose five cents an acre if they were placed on the public market to-day. I shall ask these lands be given to the States, and to be set apart in the Territories to be given to them when they shall become States, so that those who emigrate to the West in future years may, instead of meeting a vast wilderness of non-agricultural lands, find homes prepared for them through the proper expenditure of the proceeds of these arid lands by the governments of the States in which they are situated.

Mr. DUNNELL. I yield now for five minutes to the gentleman from Ohio, [Mr. SOUTHARD.]

Mr. SOUTHARD. Mr. Chairman, I rise more for the purpose of stating as a member of the committee I object to the bill than for the purpose of stating my objections. It will be utterly impossible for me to do that in the limited time allowed me.

I am opposed to the bill upon principle and upon policy, and I am opposed to it because the distribution is not equitable and just, even if we agree to the principle. The system of common-school education is one which belongs to the States, to be kept up by the States, to be perpetuated by the States, and not to be interfered with by the General Government. This bill does so interfere with it. It requires the States to file in the office of the Secretary of State of the United States a copy of the law setting forth the fact the State has undertaken to make a faithful application of this money, thereby creating on the part of the General Government a supervision over the application of the school fund appropriated to the States.

But the bill, sir, has many other objections. It provides in the distribution in the first place that after ten years it shall be upon the basis of illiteracy of those between the ages of five and twenty-one years. For the first ten years the basis is not between those ages, but all those

who cannot read and write over the age of ten years extending to all the illiterate population, young and old, above the age of ten. Here, then, is an appropriation of money out of the public Treasury for the purpose of educating a man to discharge the duties of citizenship today a hundred years of age if you please. If the appropriation is to be made to the States on the basis of illiteracy the age should be between five and twenty-one instead of ten and a hundred or any other limit.

But in addition to that this bill appropriates directly out of the public Treasury some amount of money. It is called the proceeds of the public lands, and the quantity therefore is uncertain. It may be one million, and it may be ten millions. I find the sales of the public lands have ranged from \$24,000,000 in 1836 to one million and one million and a half in later years. This revenue might as well be taken from the receipts from internal revenue or from customs duties as from the proceeds of the sales of the public lands, for it is none the less a direct appropriation of the money of the people.

There is in some instances a liberal system of education supported by liberal taxation and munificent appropriation on the part of the people for the support of the public schools. I venture the prediction, while I have not the statistics before me to prove it, that many of those States which will be compelled to contribute by taxation to this fund are now paying a school-tax of twice or thrice the amount of those States which will receive the benefit of this fund. It is therefore a premium for neglect and ignorance instead of a premium for greater effort in the direction of education. I do not wish to say anything against those States which have failed to educate, or whose people by misfortune remain ignorant, but I do say when we come to appropriate money out of the public Treasury to a school-fund we ought not to require one man in one section of the country who pays two mills on the dollar to pay an additional mill to educate men who do not pay as much in the way of taxation in another section.

For these reasons, or suggestions, which I have not the time to elaborate, I am utterly opposed to the passage of this bill, and being a member of the committee I have deemed it fit to state them at this time.

Mr. GOODE. Before the gentleman from Ohio sits down I wish, with his permission, to correct one of his statements. He has fallen into an error. If he examines the statistics he will see that since the war, up to 1870, and from that time to this, for every 1 per cent. on his property that the northerner has paid for public education, the citizen in the most impoverished Southern State has paid 2 per cent.

Mr. DUNNELL. I yield five minutes to the gentleman from Illinois, [Mr. BURCHARD.]

Mr. BURCHARD. In previous Congresses when this subject was under consideration I have supported measures which contained the principle on which this bill is framed, but I think there is great force in the objections which are urged by the gentleman from Minnesota, [Mr. DUNNELL.] I am not satisfied that the bill will be practicable as it is framed and presented by the committee. So far as the constitutional question is concerned, as to the right of Congress to appropriate the proceeds of the public lands or donate the public lands for the encouragement of schools, I think that question is settled by precedent if not by logic, and it is unnecessary to discuss it.

There is one feature of the measure that commends it to favorable consideration and was urged very forcibly in the Forty-first Congress. Every part of this nation is interested in the education of every other part. The right of suffrage, which is now universal, determines the character of the National Congress and the policy and public measures that shall control the nation. Legislation that concerns every part of the Union will be affected by the intelligence and culture of the people who select the Representatives. We therefore are interested in education in South Carolina, in the education of the freedmen of that country, in the education of the freedmen of the South, and of the youth of the country all over the land. And if a practical measure were proposed not to take in hand the education of the youth of the country, but to encourage each State under State law to commence a system of free schools for the free education of all the children in the State, I would be glad to support it. Such I believe was the proposition first introduced in the House in 1870 contained in a bill presented by myself and referred to the Committee on Education and Labor. Its sole purpose was to aid and encourage the establishment of free schools in portions of the country that failed to appreciate or were struggling to maintain a free-school system. The cash sales of public lands for the preceding year had amounted to over \$4,000,000. Distributed to school districts only that should maintain free schools for all their children for six months of the year, it would be an inducement for every district to tax itself, build school-houses, and engage teachers, so that it could obtain a portion of this fund. But this bill abandons these important features and the main object of the original plan. It gives the money to the State, one-fourth to be appropriated for agricultural colleges or for such other purpose as the State may direct. The remainder can be applied by the State for the free education of all its children in such manner as it sees fit. At the end of five years one-half, and at the end of ten years all of this fund, instead of being applied as it accrues to start these feeble schools, is to be put at interest, and the latter only applied. But 4 per cent. of the fund could be annually used, a sum too small to be of practical benefit at a time when most needed.

There are serious objections to the bill. One-fourth of the amount is to be appropriated, not for the support and maintenance of free schools and their encouragement, but for the colleges, those institu-

tions that ought to and can support themselves. Then again, as was said by the gentleman from Minnesota, the net cash receipts from the sale of the public lands amounts to nothing at the present time. I have before me the report of the Secretary of the Treasury, and gentlemen will find at page 12 the statement that the proceeds of the sales of the public lands for the last year amounted only to \$1,079,743. Out of that, by this bill, comes very properly the expense for surveys and the expense of the surveyor-general's and the subordinate surveyors' offices, amounting to \$362,000. Deduct that and the expense of the Land Office, for which \$245,680 was appropriated for the present fiscal year, and you will have about \$600,000 expenses to be deducted, leaving less than \$500,000 net cash receipts, while the fund is growing less and less. Put that \$500,000 at interest at 4 per cent., and you have \$20,000. Give one-fourth of it to the agricultural colleges and you have \$15,000 left; then divide that, and how much would each of the States receive? How much would any one of the twenty thousand school districts in Illinois receive annually? Not ten cents each.

Mr. DUNNELL. I yield five minutes to the gentleman from Montana, [Mr. MAGINNIS.]

Mr. MAGINNIS. The object of this bill, Mr. Chairman, is to derive a fund from the public lands in the West with which to educate the illiterate of the South. Under its provisions the States and Territories in which the public lands lie will get practically nothing, although whatever value the public lands have is given them by the efforts of our people, by the labor which has reclaimed and developed them. The gifts of vast bodies of territory by two at least of the older States to the General Government is extensively dwelt on as a reason that the proceeds of the public lands should now be given largely back to those States. What value had those territories at the time they were so granted? How much would the shadowy title derived from the kings which the colonies had just repudiated have brought in any market? Filled with Indians, it would have impoverished the States that claimed them to defend or develop them. Settlers went in, drove out the savages, conquered the country, and reclaimed it from its wild condition. To-day it is valuable; but reckon the labor and money that has been used to make it so, and you will find that the sum will equal the value of the land to-day, leaving very little margin for any value in the musty patents of kings who granted away continents that did not belong to them and lands which never had even been explored.

The old States and colonies all had the benefit of all the land within their own borders. Its proceeds they used for purposes of development, to build roads, bridges, schools, and to pay the expenses of the State, all of which has to be borne by the new States and Territories to-day; while the proceeds of the land within their borders, land deriving its only value from their settlement and their labor, goes into the coffers of the General Treasury.

If any general grant of this land and of its proceeds is to be made, let it be given to the States and Territories in which it lies. Especially should this be done in the Territories where all the lands are arid, where they must be brought under irrigation before they can be cultivated, and where, as my friend from Colorado has so ably shown you, they are not likely to be redeemed by any other disposition of them.

So far as the Territories are concerned, the school lands that are reserved cannot be utilized to assist their struggling communities to educate their people. They are tied up until we shall become States, and there is a growing disposition against the admission of new States. The Delegates have in several Congresses introduced bills to utilize our school lands, to make them yield us some revenue, no matter how small, but this scheme of general distribution now under consideration has stood in their way, and its advocates in and out of Congress have antagonized our modest demands.

This bill is only an indirect way of doing that which the Government should do directly, if at all. If we want a national educational fund, let it be voted directly from the Treasury, so that you can depend on a stated and reliable sum. By what rule of computation, by what statistics, by what means can you definitely and correctly calculate the net proceeds of the public lands? You deduct the cost of surveys; you deduct the expense of the Land Office; but is that all? Why, sir, here is your Indian appropriation bill of \$5,000,000 a year. What does that represent? Upon what ground are you called upon to vote that gratuity to the Indians? Upon the ground that it is an equivalent for the purchase money for their lands, and the sum that you appropriate amounts to vastly more every year than not merely the net but the gross annual proceeds of the whole public lands of the United States. Therefore it would seem that if the proceeds of the public lands are to be devoted to any specific purpose whatever, that fund has in the practice of the Government already been set aside to pay the treaty obligations incurred in regard to the purchase money of the lands themselves.

Upon what ground is this source of revenue selected for this purpose more than any other? Why is it selected rather than the tax on tobacco or the tax on beer? I suppose, as the friends of the bill would seem to argue, it is because the Government has already set an example in this direction by setting apart at its public land sales a certain amount of lands as school lands in the West. And we are told of the vast educational fund which these Western States have been blessed with by having lands thus appropriated, demanding that the old States should have an offset. Why, sir, if the Government set apart two sections of land in every township for this purpose, for what reason did it do this? In order to sell the rest of

the township. It was an inducement to purchasers, a part of the plan by means of which the Government was enabled to dispose of its lands. And we are reminded that the West was built up because Government has given lands to endow and promote and aid our railway corporations in that way. Well, then, who has paid for this land? Has the Government paid for it, or lost anything by such grants? No, sir; not at all. When you make a grant to a railroad what do you do? On every alternate section you double the price; so that the same amount of money comes into the public Treasury; and it is not the Government, but the western settler on these alternate sections who pays for the construction of the railroad. If you owned the land on one side of Pennsylvania avenue and gave away every second lot to any man who would build a house, and then doubled the price of the remaining lots, would that be giving away anything to anybody? It would be part of the means by which you disposed of your property. And the setting aside of these two sections in each township for school purposes and of doubling the price on alternate railroad sections are the means by which the Government has disposed of its property in these Western States. In all its grants it has been very careful to get value received for its gifts to the West.

Now, sir, let us look at the basis upon which the proceeds of these lands are about to be divided under this bill. They are to be divided upon the basis of illiteracy. In my Territory, from which perhaps a million of revenue will soon be derived every year, although lands are classed as arid and are only made valuable by the work we put upon them on irrigating and redeeming them, what do we get under this bill? There are, as I think the last census showed, an extremely small percentage, a very few hundred people in that whole Territory, who cannot read and write. So that our entire proportion of dividends would not amount to \$50 a year. We have no school lands that are available. Our reserved school sections are not certified up to us. We levy the highest rate of taxation in any community in this country, higher than in any State except one, in order to educate the young people of the frontier, in order to educate the children, without getting any revenue from our school lands, and those struggling communities will derive no benefit under this act; although it is their enterprise and labor that gives the public land its only value.

If this Congress wants to meet this question, let it meet it manfully. Let it appropriate an annual sum from the public Treasury for educational purposes. If it is for the purpose of educating the freedmen, let it say so. I think it is due to the South that the General Government should assist in the education of the freedmen. When they were liberated and enfranchised they should have been educated. But let the Government do it directly, and not at the expense of the Western Territories. All the States had the full heritage of their own lands, and the proceeds, if there are any, of the public domain go into the public Treasury, where we have not even a vote on its disposition.

The vast domain of the United States ought not to be looked upon as a source of revenue. You are debating changes in your land laws, in your surveys, in your method of disposing of the public lands. You have added to your land laws the desert-land act, which works well enough in some cases, but under the provisions of which lurk excellent opportunities for monopoly; so that capitalists and speculators by taking up lands next the creeks and rivers will in the new Territories soon control all the lands and stop the progress of settlement. New restrictions should be added to that law to prevent that result. But the best disposition that you can make of your lands is to grant them to the States and Territories in which they lie, under such guards as will insure that the farming lands shall be held as homes for the people, the grazing lands leased or otherwise utilized by the Territories, and the timber lands kept and nurtured for the common good; the school lands made a source of revenue to educate the young; so that each Territory should have, as all the older States and colonies did have, the benefits arising from the control of its own lands.

Then you can dispense with an army of office-holders who eat up the revenues arising from their sale. But if this seems too radical I hope the committee which reports this bill will take up the bill which the Territories have had before it in three Congresses, to allow us to dispose of part of our school lands, invest the money in good securities, and apply the proceeds to assist our struggling schools. New countries have heavy expenses, bridges to build, school-houses, courthouses, jails, and asylums to erect, roads to open, governments to inaugurate, and they should not be at their utmost need deprived of that governmental aid which is granted to older communities in less need of assistance. But if this bill is to pass I shall move to amend so that the distribution will be made upon the basis of population instead of the basis of illiteracy. Even on the basis of population our share would be small, but under the bill as it is while our lands would furnish the funds our schools would get absolutely none of the proceeds.

Mr. DUNNELL. I yield five minutes to the gentleman from Pennsylvania, [Mr. WHITE.]

Mr. WHITE, of Pennsylvania. I was very much impressed with the observations of my friend from Minnesota in antagonism to the general policy of this bill. Few measures have come before the American Congress—certainly no measure has come before the Forty-fifth Congress—more important in its general policy than the pending measure. Gentlemen by a careful reading of the law on the subject of the disposition of the public lands and of the provisions of this bill

will discover that this bill if enacted into a law will institute a radical, a marked change in the existing disposition of the public lands.

What is the thought of this bill in a word, for I have not time for discussion? The thought of this bill in a word is that the provisions of the existing pre-emption system to regulate the disposition of the public lands, instead of devoting the proceeds to the ordinary expenses of the Government they are to be appropriated exclusively to education in the different States. That would change the policy of the American Congress for which so many of us have contended to popular audiences throughout the country. It is very well known that one of the most beneficent measures of the nineteenth century which the American Congress offered to the people of the country was what is known as the homestead law, and if you enact this bill into a law you change that policy entirely and instead of opening the vast acres of the West as an invitation to the people in the over-crowded cities, you will put them immediately in the market. It is probably the case that while this measure does not invade the pre-emption system to-day, yet it is the commencement of further legislation that will lead ultimately to the adoption of a land-scrip policy, such as was authorized by the act of 1862 which appropriated thirty thousand acres of the public lands for each congressional district in the different States and for each Senator to be devoted to a certain policy.

Now, it is very well known as a matter of experience that that resulted in the formation of rings and circles and combinations, and the practical advantage of that legislation was withdrawn from education in general and inured to the benefit of certain individuals who, by combinations, enriched themselves. Gentlemen talk of benefiting the people at large and lightening their burdens. The other day I was delighted to hear the liberal sentiments expressed by gentlemen on the other side of the House, who were advocating the improvement of the Mississippi River and the bill for the improvement of the Mississippi levees. Sir, that is a great question that affects the industries of the country, and it will press itself in some shape or form upon the attention of the American Congress, and I should like for one, as living upon some of the streams that are tributary to the Ohio and the Mississippi, to use a portion of the proceeds of the public lands to aid in those improvements in this way, and so subserve the material industries of the country. I have not time to discuss the general policy of this measure, or the particular features in detail of the bill. It is obnoxious generally as a matter of discrimination, and I think I am not affected by any mere local prejudices in this behalf.

It is very well understood that the States which have the largest proportion of illiterate population will be the largest beneficiaries under this bill. Now I submit, with all deference to the South, with all deference to the States lately in insurrection and which are so unfortunate as to have so large a proportion of their population illiterate and uneducated, that it is unfair to give them the advantages resulting from this bill to the prejudice of other sections of the country. The State which I have the honor in part to represent upon this floor has been one of the most liberal-minded States upon the subject of education in the Union. The Commonwealth of Pennsylvania was the pioneer in the great cause of education, under the lead of Thaddeus Stevens and Governor Wolf. The free-school system was established in Pennsylvania in 1835. Gentlemen may talk about the burdens of taxation, about the weight of  $2\frac{1}{2}$  per cent. of taxation resting upon them for educational purposes. Why, sir, in some portions of my State to-day I can tell you that they pay  $2\frac{1}{2}$  per cent. for school taxes, for school-buildings, and for educational purposes; and they have borne and borne and borne this taxation and built up an educational system there without the aid of the General Government that excites the admiration of every intelligent man.

Mr. DUNNELL. I will now yield for five minutes to the gentleman from New York, [Mr. TOWNSEND.]

Mr. TOWNSEND, of New York. Mr. Chairman, I am really afraid that this bill has failed to create within me an amiable spirit. We have had for the last week but one run, one unvaried run, of discussion, but one run of attempted legislation. The whole course of things during the week has been for using the public money for the benefit of one portion of this Union. It was, first, the Mississippi levees—\$4,000,000 for Louisiana; secondly, an announcement from the same State of a demand for \$86,000,000 more; thirdly came the Fairfax Seminary; fourthly, we have had a war claim from somewhere down in Tennessee; and fifthly, to-day we have a proposition to give away the proceeds of the entire national domain which shall be sold to one section of the Union, and to the same section that has been consuming all our time and claiming all our money for a week past.

Ah, but this is for a holy purpose; this is for the cause of education; this is for the cause of improvement! Sir, I was educated in the true old-fashioned school of national democracy, that believed that the business of education belonged to the State and not to the National Government, and that the burden of education rested upon the State and not upon the General Government; and I have not given up that faith. I do not believe that the National Government has any right to engage in the business of education in the States. I believe, so far as the National Government is concerned, that every State has a State right to have as much illiteracy as it chooses. [Laughter.] I would guarantee, as we all conceded before the war that desolated our country, that every State has a right to be as ignorant as it has a mind to be. [Continued laughter.] I do not believe in taking fifty millions of the future proceeds of the sales of the public lands, when this coun-

try is looking about to see how we can raise revenue enough to carry on the Government and pay the interest upon our debt, and giving it away to anybody, even to ourselves.

I am compelled to say that it is past all human patience to be compelled to sit here and see these calm and adroit and oily propositions to rob the loyal States of the Union, those that were loyal in our great controversy, of their interest in the public lands.

Let me put this question: how much will Vermont get under this bill of the proceeds of the public lands? Scarcely a cent. Why? Because from the time the little Mountain State was organized she has educated her people at her own expense. The poor men in Vermont are not only protected by the legislation of the State, but their children are educated by the State. And some of the sons of the poor men of Vermont are sitting in this House to-day. So it is in my own native State of Massachusetts, so it is with Maine, and so it is with all the New England States, and I am proud to say so it is with New York.

Now because we taxed ourselves to educate our people we are to be thimble-rigged and cajoled out of our interest in the great public domain of the country. Sir, I am not ready for it, [here the hammer fell,] and I end as I began by saying that the proposition does not put me into a good humor. [Great laughter.]

Mr. DUNNELL. I began my remarks at the commencement of the time allowed me by alluding simply and solely to this question from a material stand-point. I have not been disposed to bring in the war, or the South, or the North. Nor have I been disposed to discuss the question except upon the position which I assume that it was a policy which we could not at this time afford to inaugurate; that the granting of the proceeds of the public lands for this purpose would and must necessarily interfere with the free legislation of the country touching the use of the public lands and their appropriation for the public good; that these public lands belonging to the whole country ought not now to be looked upon as a sort of revenue either for the Treasury of the United States or for any specified purpose.

The lands now remaining we ought carefully to take care of, that they may contribute to our material development, to our growth, to our enlargement, and to our enrichment. I am opposed to such a disposition of these public lands as will prevent Congress from freely legislating concerning them so that they may be used for the extension of the country itself.

I insist again that if the real facts of the case could be brought before the House it would at once appear evident how small a quantity of agricultural lands there are remaining, and how absolutely useless and fruitless would be the results of a bill like this.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. DUNNELL] has expired. The gentleman from Virginia [Mr. GOODE] has twenty minutes of his time remaining.

Mr. GOODE. I yield ten minutes of my time to the gentleman from Massachusetts, [Mr. LORING.]

Mr. LORING addressed the committee. [For his remarks see the Appendix.]

Mr. GOODE. I yield the remainder of my time to the gentleman from Ohio, [Mr. MONROE.]

Mr. MONROE. Mr. Chairman, I voted this morning to take up this bill for consideration by the House. I voted against taking up, or virtually did so, the reports in favor of war claims. The reason of my vote was simply this: I am in favor of this bill and opposed to the bills providing for the payment of war claims. This was the stand-point from which I voted. Others doubtless had a different stand-point. I state this to explain my own position. I voted in favor of taking up the bill which I wished to pass.

I have listened with great interest to the remarks made in opposition to this bill. I hope I have listened with candor. I was not able to hear all that has been said against it. I did happen to hear, I believe, all the points made by my friend from Minnesota, [Mr. DUNNELL.] I always listen to him with interest, and I feel great sympathy with him in some of the things he said on this subject.

The gentleman from Minnesota, and perhaps some others, have stated that this is a question for the States and not for the General Government. I admit that the principal responsibility for the education of the youth of a State must rest upon the people of that State. With that opinion I entirely agree; but it does not and should not prevent the General Government in certain emergencies from rendering the State some encouragement. May not the General Government come forward as a helper of education in the States? Why, sir, to ask the question is to answer it. We have a great number of precedents in favor of it. The National Government has repeatedly applied its property for the benefit of education in the States, and it is too late to call in question either its constitutionality or its propriety.

Thus, while I admit that the principal responsibility in regard to education must rest upon the States, there is a certain degree of responsibility resting upon the Government.

And I would say, Mr. Chairman, that I first became in favor of a bill like this when I first became in favor of adopting the fifteenth amendment to the Constitution of the United States. I was heartily in favor of that amendment. I sustained it with all the influence I had. I was glad when that amendment was adopted. I wished to make voters of the men to whom liberty had been given in the South, and when I became in favor of giving the right of suffrage to all the adult colored population of the country, from that moment I also became in favor of having the National Government do something to help in the work of their education.

Why, Mr. Chairman, I suppose this Government must have conferred the right of suffrage upon nearly a million of voters by a single act, and that at least the large majority of these voters could neither read nor write. My view of duty and propriety for the National Government, in connection with that matter, may be summed up in a single sentence. I do not believe this Government has a right to make voters of a million of men and then leave them in a state of such black ignorance that they can neither read nor write. I do not believe this Government has any right to do such an act as that, and ever since I went with all my friends here in support of the fifteenth amendment I have held it to be one of my first duties as a citizen, and especially as a citizen supporting that amendment, to try to do something toward helping to educate these hundreds of thousands of men whom we clothed in a day with the sovereignty of suffrage and to whom in a large measure we committed the destinies of this great empire.

And, as one man, bound to act on my conscience and honest judgment in this House, I cannot and I will not, I dare not refuse to vote for a measure that proposes to help, although it be only in some very humble degree, toward fitting those men for the discharge of the solemn responsibilities we have put upon them. It is cruel to them, it is cruel to ourselves, it is cruel to the whole people to give this multitude the right of suffrage and then leave them in darkness.

My friend from Minnesota remarked that each State would get but a small sum under this bill. I admit it is smaller than I could wish. I was surprised my friend did not find some consolation in this from his stand-point, because if the States are to get so very little out of the bill it cannot work the mischief which he fears may come from it.

The CHAIRMAN. The gentleman's time has expired.

Mr. MONROE. I ask for a moment more.

There was no objection.

Mr. MONROE. The amount each State would receive would be small; but it would furnish some welcome aid, it would impart stimulus and inspiration to a good cause, and its moral effect would be great.

I am sorry it would be so small. I have said in the presence of a large State convention of my own State I would cheerfully vote for an appropriation of \$3,000,000 a year out of the Treasury for the purpose of common-school education in the States, such was my sense of the nation's peril from the illiteracy of a portion of its citizens.

I would be willing to accept the proposition of the gentleman from Minnesota to vote money out of the Treasury instead of passing such a bill as this. But as public sentiment has never run in that direction and as our people seem more favorable to applying the proceeds of the public lands for that purpose, I have cheerfully voted for that.

I want to say that although the State of Ohio would perhaps profit as little as most Northern States under this bill, I have yet to find any neighbor or acquaintance of mine at home who has objected to my giving my hearty and earnest support to a proposition of this kind. The people of Ohio feel that ignorance, in whatever State it may exist, is the common enemy of the whole country. They feel that ignorance among the voters of Mississippi is as really an evil which they must deal with, and the ruinous effects of which may fall upon them, as ignorance in Ohio.

The gentleman from Minnesota found some fault with this bill on account of its connection with the homestead question. Of course he is aware that the bill is most carefully guarded in that respect. Language could not be employed with greater clearness or force than the language that is used in this bill to keep the homestead act sacred and intact. There is no interference whatever under this bill with any of our existing legislation in regard to the public lands of the United States. Everything is left exactly as it has been. My friend from Minnesota says that the pre-emption law ought to be repealed; but, Mr. Chairman, it has not been repealed. We have gone on year after year selling the public lands. Now, this bill does not undertake to decide what ought to be done with the pre-emption law. It merely comes in and proposes that as it has been for a long time the fixed custom of the United States to sell their public lands and to pay the money into the Treasury, that money shall be applied for the benefit of all the children of all the States in proportion to their educational needs.

The CHAIRMAN. The time allowed by the House for general debate has expired. The Clerk will now proceed to read the bill by paragraphs for amendment.

The Clerk read the first section of the bill, as follows:

That the net proceeds of sales of public lands are hereby forever consecrated and set apart for the education of the people: *Provided*, That this act shall not have any effect to repeal, impair, or suspend any law now authorizing the pre-emption of public lands or the entry of public lands for homesteads, nor as limiting in any manner the power of Congress to alter or extend the right of homestead upon such lands: *And provided further*, That nothing contained in this section shall be held to limit or abridge the power of Congress over the public domain or interfere with granting bounty lands.

Mr. REAGAN. I offer the amendment which I send to the desk.

The Clerk read as follows:

Amend by adding at the end of section 1 the following:

Or grants in aid of public improvements.

Mr. REAGAN. I wish to say a word in reference to this amendment. It will be seen that the first proviso in the bill, as a limitation on the first clause, is:

*Provided*, That this act shall not have any effect to repeal, impair, or suspend any law now authorizing the pre-emption of public lands or the entry of public lands for homesteads, nor as limiting in any manner the power of Congress to alter or extend the right of homestead upon such lands.

This is followed by another proviso:

*And provided further*, That nothing contained in this section shall be held to

limit or abridge the power of Congress over the public domain, or interfere with granting bounty lands.

To that, I propose to add:

Or grants in aid of public improvements.

I called the attention to this point of the gentleman who reported the bill, and his impression, as well as the impression of the committee, is that the right of Congress to appropriate lands for the purposes contemplated in the amendment is contained in the second proviso, which says:

That nothing contained in this section shall be held to limit or abridge the power of Congress over the public domain.

Upon examining the section I find it may be possible that such a construction could be reached, but it would not be the natural construction, as it seems to me, of the bill to assume that that reservation is contained in the clause referred to. The exemption here in the two provisos points to the purposes over which the power of Congress shall be exercised with reference to the public lands. The words which it is thought reserve to Congress the power asked for by the amendment might be construed to refer to the exceptions expressly named in the two provisos. Supposing that that may be so, and as the amendment simply renders plain and certain the opinion of the gentleman who reports the bill, and of the committee, it can do no harm to the bill to adopt it and will certainly make it clear of criticism and of doubt upon that subject; and I trust it will be the pleasure of the House to adopt it.

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

Mr. REAGAN. Yes, sir.

Mr. EDEN. How can this bill affect the lands that have been granted for public improvements unless the grant has lapsed?

Mr. REAGAN. I do not think the gentleman from Illinois apprehends the point I am making. My object is to make an amendment which will authorize the Congress without doubt, if it sees proper to do so, in the future to make an appropriation of public lands for the purpose of making public improvements.

Mr. GOODE. I will say that I am not authorized by the committee to accept any amendments, but for my own part I see no objection to this one.

Mr. HARRISON. I rise to oppose the amendment.

Mr. REAGAN. I have not yielded the floor and I desire to use the balance of my five minutes. No one will doubt that the efforts of the Government to secure a great line across the continent has been of incalculable benefit to the United States. I mean the line of the Union Pacific Railroad. Whatever may be said of the large grants of land and the large amount of money given to that great enterprise, to-day the United States is better off for it than if it had not been carried out. Although a good deal of it may have been improvidently done, no one can well estimate its vast importance to the people of the United States. We may want a competing line or two across the continent in order that we may better carry out the purposes of the Government, secure more perfectly the public defense, and promote the interests of commerce and the general welfare of the country. No one can doubt the necessity now, great as that enterprise is, of having competing lines that shall secure in the interest of the Government and the people the reduction of the cost of transportation; and I do not wish to see the hands of Congress tied so that it cannot aid in the accomplishment of that purpose.

[Here the hammer fell.]

Mr. HARRISON. I had no intention, Mr. Chairman, to say a word upon this bill; but, sir, the amendment of the gentleman from Texas strikes out one of the very best features of the bill, and that is, the placing of the public domain in such a position that corporations will not always be knocking at the doors of Congress for it to give to them a part of what belongs to the people. It is one of the doctrines of the democratic party to-day not to give subsidies for any improvement of this sort either in money or in lands. Sir, it is a part of the doctrine of the democratic party that we will hold the public domain for the people.

We may say that to give it for educational purposes will take it from the people; but an amendment based upon the very position that we may want to give it to private corporations is one that the democratic party in this House cannot sustain.

One of the very best features, as I said, in this whole bill is that we will array always in the future the Congressmen from every State against any such claims upon Congress for assistance to private corporations when it is given to the people.

I do not say that I will vote for this bill; but, sir, if this bill passes and becomes a law it will place every Congressman upon the one side of taking care of this property for the education of the children of their constituents, and therefore they will always be hard to be reached when corporations come and ask them to give it to them.

I oppose the amendment. If there is any doubt upon this subject I would rather see an amendment excepting from this provision the capacity of Congress to give to any private enterprise, be it a railroad, be it a canal, or be it a river, in the future.

Mr. MILLS. I simply rise to ask some questions. If I understand the bill, it gives \$1,500,000 of the public lands to be distributed in a certain manner among several States for educational purposes. Now, I want to know if that \$1,500,000 does not have to be supplied again to the Treasury for the payment of the necessary expenditures of the Government, and if it has we are simply robbing Peter to pay Paul. We have no revenue to give away. The Secretary of the Treasury

informs us that there will be a deficiency and that we shall have to increase taxation.

If we take this \$1,500,000, where are you going to impose the taxation necessary to supply it? Where do you propose to supply this \$1,500,000 which you are to take from the revenues of the Government? By indirect taxation of the people.

You will have to impose this taxation upon the blankets, sheets, shoes, hats, socks, and all those things.

You will have to increase the taxation upon these articles in order to supply this \$1,500,000, and the people are seduced by a sham and not the reality.

We are to take this \$1,500,000 from the sale of the public lands, and then lay the heavy hand of taxation on labor, for capital will pay not a dollar of it.

The first tax relieved by the Congress of the United States is the tax that falls upon the wealth of the country.

When the war was over, what did you release from taxation? What tax did you release that the poor man pays? Did you release the taxation upon the articles that protect from the chilly blasts of winter? Did you release the taxation on cotton goods?

You released the tax on incomes. You stipulated that the bonds should not pay any tax.

You released the tax upon the insurance companies and the railroad companies, and put the burden of supporting the whole Government upon the laboring class.

You propose now to give this money for educational purposes that you may make further exactations upon the poor, toiling, tax-ridden, persecuted people of the United States. [Applause in the gallery.]

Mr. HENDERSON. Mr. Chairman, I move to strike out the last word.

I do not propose to discuss the merits of this bill. I simply desire to say a few words explaining why I am opposed to its passage. I deeply sympathize with every effort to promote the education of the people and all classes of the people in all sections of the country, but I am opposed to this bill because for a good many years I have had a strong conviction that all our public domain ought to be reserved for the benefit of the people in securing to actual settlers homesteads. I would give to every man who would go upon the public lands a certain quantity of the public domain, and let him make for himself and his family a home upon it. It would make him a better citizen, more deeply interested in the Government and in its prosperity and preservation.

While I would gladly aid education in the North and in the South and every part of the country, I believe that if any mistake has been made in our Government in the management of its public domain it has been in allowing large bodies of our public lands to be appropriated to corporations and purchased by individuals, when they ought to have been reserved for the people for homesteads.

Mr. Chairman, I would think it far better for the country and for our people, and especially if the proceeds are to be given away, not to sell an acre of the public lands, but give them to actual settlers who would enter upon them in good faith and make homes for themselves and their families; and, believing this to be a better disposition of the public domain than to sell it and give away the proceeds for any purpose, I am opposed to this bill. I withdraw my amendment.

Mr. KEIFER. I move to strike out the last word.

I understood the distinguished gentleman from Illinois [Mr. HARRISON] to say that it was the policy of the democratic party to favor the preservation of the public lands for the people of the country.

*Statement showing the number of homestead entries made in each State and Territory from the passage of the original homestead act, May 20, 1862, to June 30, 1878, inclusive.*

States and Territories.	1863.	1864.	1865.	1866.	1867.	1868.	1869.	1870.	1871.	1872.	1873.	1874.	1875.	1876.	1877.	* 1878.	Total.	
Alabama				29	1,426	1,760	2,779	1,709	1,580	1,552	1,723	1,527	1,505	1,266	1,532	825	19,222	
Arkansas				184	1,578	2,555	3,326	4,030	4,238	3,205	4,984	1,754	1,345	1,525	2,585	2,351	33,660	
Arizona									4	4	5	21	23	32	32	26	147	
California	735	269	360	304	508	460	376	944	1,121	906	1,521	1,572	3,400	1,995	1,746	923	17,146	
Colorado	134	252	172	200	85	36	445	567	605	342	568	524	429	371	413	350	5,493	
Dakota	126	100	76	209	255	677	563	635	900	1,022	1,819	1,470	825	1,554	1,154	4,128	15,513	
Florida				823 <sup>9</sup>	1,217	1,603	738	539	379	522	439	541	1,766	1,855	1,612	564	12,623	
Indiana							2		2				8		3	4	19	
Illinois	3	2	1	1					1				3	6	25	21	63	
Iowa	302	463	765	1,084	521	835	2,236	1,985	2,264	1,760	635	471	180	146	70	59	13,796	
Idaho						53	81	87	90	61	91	130	72	137	233	127	1,161	
Kansas	1,619	366	747	1,495	1,175	1,695	2,593	6,530	11,105	5,809	7,586	4,721	2,356	3,132	4,185	5,320	61,034	
Louisiana						260	255	729	740	1,381	1,000	854	427	583	531	508	170	7,438
Missouri	84	271	2,036	2,899	1,874	2,612	3,264	3,376	2,177	1,442	925	529	506	454	490	398	23,327	
Michigan	2,526	994	1,355	2,051	1,715	1,739	1,275	1,412	1,456	1,490	1,266	1,235	1,746	984	996	640	22,821	
Minnesota	3,644	3,364	4,726	3,139	2,915	3,146	3,278	2,915	4,165	3,820	3,229	2,754	2,034	2,419	2,463	3,562	51,575	
Mississippi					1,652	948	1,047	958	1,095	928	923	404	503	450	484	204	9,596	
Montana						21	126	240	282	202	19	41	36	81	60	52	1,160	
Nevada		44		3	12	18	15	51	70	84	82	70	55	61	41	36	632	
New Mexico						5	5	94	61	10	19	7	50	27	29	21	310	
Nebraska	796	623	1,123	1,463	2,178	2,895	4,083	4,878	6,866	6,168	5,509	4,106	1,769	1,851	1,375	2,279	47,962	
Ohio	58	1	8	9	6	12	6	9	12	17	2	9	15	1	1	1	167	
Oregon	271	175	333	509	512	501	497	688	783	714	442	436	592	526	689	357	8,025	
Utah								735	268	232	529	130	200	381	358	561	461	3,875
Wisconsin	2,316	339	1,049	1,404	1,272	1,493	1,460	1,244	1,302	1,385	1,503	1,839	1,797	1,024	1,057	550	21,437	
Washington	742	165	327	162	207	194	395	542	480	538	482	365	309	473	672	582	6,473	
Wyoming								2	18	3	14	25	29	33	23	12	164	
Grand totals	13,356	7,931	12,968	15,973	19,369	23,542	30,054	34,443	42,694	33,514	34,670	25,179	22,230	21,886	23,036	24,013	384,848	

\* Fractional.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE, July 30, 1878.

J. A. WILLIAMSON, Commissioner.

Let me say that I congratulate that party and the country if that is now its policy, for when we remember the history of our country we know that among the last acts of the last democratic President of the United States (Buchanan)—and I trust he will ever be the last—was the veto of a homestead bill. He vetoed the bill because, as he said, “the granting of homesteads was a boon exclusively conferred upon the cultivators of the soil” that ought not to be granted. He vetoed the bill because, as he said, it would “prove unequal and unjust in its operation, because from its very nature it is confined to one class of persons;” and that in his opinion it was not expedient to proclaim to all nations of the earth that all foreigners “shall receive a farm of one hundred and sixty acres of land;” and that it is agrarian in principle. He did it because he said it was a charity to the poor that he did not favor. The gentleman will find that memorable veto message dated the 22d of June, 1860.

I rose for the purpose of stating and putting in the RECORD as a part of my remarks the great things that have grown out of the republican homestead law, a law passed by a republican Congress; a law which had the approval of Abraham Lincoln, a republican President. It was passed upon the 20th of May, 1862, and under that law there have been 384,848 homestead entries made, covering a territory in extent, if you deduct 10 per cent. of the whole number for canceled and abandoned entries, exceeding the whole of England, Scotland, and Wales. It exceeds by 10,000,000 of acres the whole of the territory of the New England States. The area in acres of New England is 43,742,720; the area of land taken up by actual settlers under a republican homestead law, after making the deduction mentioned, is 55,418,112 acres.

It exceeds more than twice the area of my own State, the State of Ohio. The area of Ohio is 25,576,960 acres. After due allowance for canceled and abandoned entries, under the homestead law 350,000 heads of families have acquired homes. Such are the fruits of the policy of the republican party in relation to the public domain, and in spite of the policy of the democratic party of old. I congratulate that party that it has been educated up to-day by the republican party, though it has taken nearly twenty years to do it, to a point where it is in favor of homesteads.

Mr. HARRISON. I want to ask the gentleman what bill did any republican President ever veto granting millions upon millions of acres of the public lands to private corporations?

Mr. KEIFER. I am frank to say that the great champion of democracy in the State of Illinois initiated the policy of granting public lands to railroad corporations; I refer to Stephen Arnold Douglas, of Illinois.

Mr. HARRISON. I would like to have the gentleman answer my question. And then I would like to have him answer the question whether Mr. Douglas did not have these lands given to the State of Illinois and not to a corporation? Read history and you will find that the democratic party has not been the one to set the example of giving the public lands to private corporations.

Mr. KEIFER. The gentleman is entirely wrong in his statement. The land was granted to the State of Illinois in trust for railroad purposes.

Mr. SPARKS. Still it was granted to the State and not to a corporation.

Mr. KEIFER. It was granted to the State of Illinois for the benefit of the Illinois Central Railroad; there is where it went.

The CHAIRMAN. The time of the gentleman has expired.

Mr. KEIFER. The following is the table to which I referred:

Mr. LUTTRELL. Mr. Chairman, I had hoped that we could discuss this issue without running it into politics. I had hoped that the time had come when we could take up a great national measure in which every man, woman, and child in our country feels a common interest, and discuss it without dropping down into the political issues of the day. But it seems that some of my friends on the other side of the House cannot do this thing.

The lands of the United States belong to the whole people. They are the common inheritance of all the people, purchased by the blood and treasure of the people of all the States of the Union. Even the cost of surveying these lands is paid from the taxes collected from all the people of the country. I contend, therefore, that the public domain of this country belongs to the people of the State of Maine as well as to the people of the State of Colorado. We have a common interest in these lands.

I will say to the gentleman who has just taken his seat, and who has seen fit to ring politics into this discussion, that it was the democratic party that acquired the great Northwestern Territory, that made the Louisiana purchase; that it was the democratic party that acquired Texas, New Mexico, Colorado, Nevada, and California.

And what has the republican party acquired? It has acquired the little, far-off, worthless Territory of Alaska, and that you have given to a corporation, although the people of the whole United States paid for it.

Mr. KEIFER. Does the gentleman—

Mr. LUTTRELL. I do not yield to the gentleman. When I am through the gentleman can answer me.

Mr. KEIFER. I understood the gentleman to ask me a question and I want to answer it.

Mr. LUTTRELL. If the gentleman will keep still now he can have the floor after I am through. The democratic party acquired all this vast domain; they paid for it. The people of the States of Maine and New York and Alabama and Mississippi and of all the States of this Union contributed their portion toward paying for it; yet the republican party during the last few years has given away nearly three hundred million of acres of the public lands to railroad monopolies, and has taken from the public Treasury nearly \$40,000,000 to pay the interest on the bonds of those corporations. A friend near me says that it will require \$150,000,000 before we get through with it. Now, we of the democratic party hope to save what few acres of the public domain are left for the benefit of the whole people of the United States.

The CHAIRMAN. The time of the gentleman has expired.

Mr. EDEN. I wish to offer a substitute for the amendment of the gentleman from Texas, [Mr. REAGAN.]

Mr. JONES, of Ohio. Will the gentleman from Illinois [Mr. EDEN] wait until I can answer the questions which were put to me?

Mr. EDEN. I wish to have my amendment read.

Mr. JONES, of Ohio. It can be read afterward. Will the gentleman yield now?

Mr. EDEN. I decline to yield now. I do not want a political discussion; I want business.

The Clerk read the proposed substitute, as follows:

*And provided further*, That all the public lands which have been granted by Congress to aid in the construction of railroads and telegraph lines, which have not been earned under such grants, and which have lapsed by reason of the failure to complete such roads and telegraph lines within the time limited by law, are hereby declared forfeited to the United States, and shall hereafter be disposed of as other public lands of the United States, and shall be subject to the provisions of this act.

Mr. EDEN. I offer this amendment in the utmost good faith. Early in the last session I introduced a bill and had it referred to the Committee on Public Lands, providing that these lapsed land grants should be restored to the public domain of the country and made subject to entry under the homestead and pre-emption law, in order that they might be for the benefit of the whole people of this country, instead of for the benefit of a few great corporations.

I understand that about one hundred million acres of public lands that have been granted to railroad corporations have lapsed by reason of a failure of the companies to complete the roads within the time limited by law. But, under the construction of the law, until there is some action on the part of Congress those lands are not restored to the public domain of the country, but are still subject to the use of those corporations as fast as they shall complete their work.

If we intend to devote any portion of the public domain or the entire remainder of it to the cause of education, I desire that there shall be from this source a sum of money that will be of some value. This can only be obtained by restoring to the public domain this great empire that has been granted to railroad corporations. When this is done, we shall have in our Treasury something out of which can be realized a fund to educate the people of this country.

I do not say that I am in favor of the provisions of this bill; but if my amendment be adopted it will go a long way toward reconciling my constitutional scruples upon this subject. From the sale of these one hundred million acres of the people's land heretofore granted to these private corporations, the Government will not only obtain a fund from which to aid the people of this country in obtaining an education, but it will benefit the poor men of the country by enabling them to settle upon the public lands under the homestead and pre-emption laws.

I think it time that we should legislate in the cause of the labor-

ing people of this country; and I know no means by which we can do this so well as by restoring these one hundred million acres to the public domain, and, allowing the hard-fisted working people of the country to settle on these lands under the provisions of the homestead and pre-emption laws. I hope the amendment will be adopted.

Mr. ELAM. Mr. Chairman, I doubt whether there is any great virtue in this bill. I predict that the children of the United States of educable age will not get under this measure a dollar a year each. In short, I am inclined to think that this bill is a farce. The States will still have to support their own schools. I have always been in favor of a system of free public education. As a public man and as a private citizen I have always advocated liberal appropriations for the education of the youth of my State.

I have risen, however, mainly for the purpose of opposing the amendment of the gentleman from Illinois, [Mr. EDEN.] I think, sir, that there has been (to use a vulgarism) a "great cry and very little wool" about these donations to railroads. Look at the great Western States, that raise nothing but wheat and corn; how would the people of these States get their products to market without these railroad conveniences? Railroads as means of transportation have almost entirely taken the place of even the greatest rivers in the United States. The tonnage on the Mississippi River is not one-fifth what it was twenty years ago, notwithstanding the immense increase of population on the upper part of that river.

Now, sir, other States have been richly endowed with grants of public lands; a munificent grant was made to the State of Illinois in 1856 to enable her to build the Illinois Central Railroad. The Southern States, or at least some of them, have not enjoyed similar advantages, my own State in particular. Although grants of land have been made, yet only about seventy miles of road have been built under those grants. I think it unfair that my State (and perhaps others are in the same situation) should not be permitted to participate equally in this sort of legislation.

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

Mr. ELAM. Yes, sir.

Mr. SPARKS. What did the National Government lose by the grant of lands to the State of Illinois?

Mr. ELAM. I do not believe it lost a cent. On the contrary, by reason of this grant the reserved sections were sold at double minimum price.

Mr. SPARKS. Yes, sir; the alternate sections were doubled in price, and those lands were all sold.

Mr. ELAM. I understand that.

Mr. MAGINNIS. That is the way with every railroad grant.

Mr. THROCKMORTON. I ask the gentleman from Illinois [Mr. SPARKS] what the Government has lost in any State or Territory by granting lands for railroads?

Mr. SPARKS. It has lost the lands; and by the grant to the Union Pacific Railroad it has lost I do not know how many million dollars; I have not the exact figures at hand.

Mr. EDEN. Sixty-four million dollars besides the interest.

Mr. SPARKS. At the same time I know that the Government lost no dollar and no cent by its grant of lands made to the State of Illinois—not to the Illinois Central Railroad Company, as gentlemen say. Those lands were granted to the State.

Mr. ELAM. I cannot yield for further interruption. I apprehend that these great arteries of commerce that have been built up in this way by donations of the public lands have been of incalculable value to the States in which they have been constructed, especially to the Northwestern States.

Now, sir, I say it is not fair that the grant which has been made, for instance, to the State of Louisiana by the act of 3d June, 1856, shall be rendered null and void. Those lands were conveyed to the Vicksburg and Shreveport Railroad; and though according to the construction put upon these grants by the Supreme Court of the United States, and which has been followed by the Land Office, nevertheless those lands still belong to the State to be devoted to the purposes for which they were originally granted; if I understand the scope of the amendment it would repeal all such grants except where the lands have been earned by the construction of a certain number of miles of railroad. I am opposed to it and shall vote against it.

[Here the hammer fell.]

Mr. CAIN. Mr. Chairman, I would not trouble the House at this late hour of the evening were it not there were very important considerations involved in the pending subject, which seriously affect not only my own constituents, but the constituents of many other gentlemen. The opposition to this bill and the object of the amendment now offered is to prevent, if possible, the grant of the proceeds of the sales of any public lands for the purpose of carrying on the general education of the people. If there can be one reason above another demanding the recognition of education on the part of Congress it must surely be in the vast number of those who are illiterate, and who can neither read nor write. That fact should at least attract some attention on the part of this great assembly. No one can turn to the statistics embraced in the ninth census and see the illiteracy prevailing not only in Southern States, but in Eastern States and Western States, without recognizing the importance of providing some measure of remedy to do away with the vast evil stalking in the land in consequence of this vast ignorance of some portions of the people.

I regard the pending measure, Mr. Chairman, as of vital importance. Day after day we listen to the objections urged against a particular class of people who have been a disturbing element in the Union ever since emancipation took place. I desire, if possible, at this time to be regarded as non-partisan. If you please, cut me loose from the republican party and from the democratic party, from both parties, and let me stand here only in vindication of a great principle, and in behalf of the rights of five million people whose voice is seldom heard in the halls of legislation. The education of the nation is paramount, and should not be neglected. We should recognize the absolute necessity of elevating our citizens of whatever class or condition from ignorance, from degradation, from superstition, from pauperism, from crime. It is an accepted axiom, I believe everywhere, that the more intelligent the citizen is the better citizen he is.

The objection urged to reconstruction, the objection to the condition of the South by all parties has been, there was such a large amount of dense ignorance. We were told the negro would become an incubus upon the advancing civilization of the age. If to educate the citizen is to make him more intelligent, and thereby more able to discharge the duties of a citizen of this Republic, then it must be apparent to every gentleman upon this floor, it must be apparent to the whole country, it is time some measure should be devised to supply this great want of education on the part of certain classes in the country, in order that all should be elevated to the level where they can better discharge the rights of suffrage conferred upon them.

The CHAIRMAN. The gentleman's time has expired.

Mr. RAINY. I will take the floor and yield my five minutes to my colleague.

Mr. CAIN. I desire to state, Mr. Chairman, that a nation which educates its people is on the sure road to become powerful and great. It has been alleged on the floor in opposition to this bill that if we pass this bill the greater proportion of illiteracy in the South will be found to exist on the part of the colored population. I think if you refer to statistics you will reach a different result. For illustration, let us refer to those statistics in order to bring this matter practically to the attention of the House. If you run your eye down the long lines of figures in the ninth census you will see that not alone is illiteracy confined to the emancipated colored people, but it pervades to a great extent the white people of the South. For instance, here is the great State of Louisiana. By the ninth census I find the number of illiterate people in that State to be as follows: Blacks who cannot read, 11,076; whites who cannot read, 30,183. [Laughter and applause.]

If you take the State of Maryland, you will find the same thing. The number of those who are illiterate whites who cannot read is 97,661; that is, those who cannot; and blacks, 7,674. So I might go on. Here is Mississippi as another illustration, and I want to go into those States where they do business in their own style. [Laughter.] Take, for instance, Mississippi, and we find Mississippi has 5,338 negroes who cannot read or write, and 33,403 whites who cannot read. [Laughter.] Take Alabama—92,059 whites who cannot read; but the proportion who neither read nor write is very much larger.

Sir, we need education all over this country, and especially in Mississippi and Louisiana and South Carolina. We have in the State which I have the honor in part to represent 480,000 colored people and over 270,000 white people; and if you take the illiteracy of that State you will find a very great difference. I take my own State as an illustration. [Here the hammer fell.] I am looking for the figures, that I may give them accurately, so as not to misrepresent the matter.

The CHAIRMAN. The time of the gentleman has expired. The gentleman from Pennsylvania [Mr. WRIGHT] is recognized.

Mr. HASKELL. I ask unanimous consent that the gentleman from South Carolina be allowed to read the figures from the table before him.

Mr. CAIN. If my time has expired, I ask consent to print the remainder of my remarks.

Mr. COX, of New York. I hope the gentleman will be allowed to proceed. I am sure no one will object.

The CHAIRMAN. There is no power in the committee to extend the time.

Leave was given to Mr. CAIN to print the remainder of his remarks. They are as follows:

*Total colored in different States who cannot read.*

State.	Number.	State.	Number.
Alabama	15,815	Kansas	2,127
Arkansas	5,784	Kentucky	7,702
Arizona Territory	(*)	Louisiana	11,076
California	373	Maryland	7,674
Colorado Territory	19	Maine	186
Connecticut	1,144	Massachusetts	1,848
Dakota Territory	(*)	Michigan	1,483
Delaware	1,193	Minnesota	75
District of Columbia	5,122	Mississippi	5,738
Florida	4,524	Missouri	9,080
Georgia	10,355	Montana Territory	(*)
Idaho Territory	8	Nebraska	48
Illinois	2,324	Nevada	8
Indiana	3,069	New Hampshire	48
Iowa	661	New Jersey	3,337

*Total colored in different States who cannot read—Continued.*

State.	Number.	State.	Number.
New Mexico Territory	3	Utah Territory	9
New York	5,588	Vermont	95
North Carolina	11,419	Virginia	11,048
Ohio	9,844	West Virginia	1,212
Oregon	28	Wisconsin	286
Pennsylvania	7,880	Wyoming	1
Rhode Island	618	Washington Territory	29
South Carolina	16,873	Total	172,779
Tennessee	10,391		
Texas	2		

\* Not reported.

*Total whites in different States who cannot read.*

State.	Number.	State.	Number.
Alabama	61,324	Montana Territory	499
Arkansas	56,788	Nebraska	17,906
Arizona Territory	149	Nevada	2,884
California	90,638	New Hampshire	65,776
Colorado Territory	2,597	New Jersey	154,748
Connecticut	98,488	New Mexico Territory	1,877
Dakota Territory	1,128	New York	841,157
Delaware	18,770	North Carolina	53,868
District of Columbia	14,819	Ohio	635,780
Florida	8,254	Oregon	18,049
Georgia	67,142	Pennsylvania	717,219
Idaho Territory	458	Rhode Island	32,292
Illinois	545,897	South Carolina	24,692
Indiana	392,140	Tennessee	110,341
Iowa	305,490	Texas	61,016
Kansas	60,791	Utah Territory	14,616
Kentucky	173,504	Vermont	70,109
Louisiana	30,183	Virginia	50,792
Maryland	97,661	West Virginia	80,981
Maine	154,944	Wisconsin	260,296
Massachusetts	285,534	Wyoming Territory	363
Michigan	262,361	Washington Territory	3,503
Minnesota	96,686	Total	6,412,246
Mississippi	33,403		
Missouri	315,260		

*Total whites in different States who cannot write.*

State.	Number.	State.	Number.
Alabama	92,059	Missouri	161,763
Arkansas	64,095	Montana Territory	643
Arizona Territory	2,731	Nebraska	4,630
California	26,158	Nevada	653
Colorado Territory	6,564	New Hampshire	9,831
Connecticut	27,913	New Jersey	46,386
Dakota Territory	914	New Mexico Territory	51,149
Delaware	10,280	New York	238,424
District of Columbia	4,876	North Carolina	166,397
Florida	18,904	Ohio	152,383
Georgia	124,939	Oregon	3,411
Idaho Territory	486	Pennsylvania	206,458
Illinois	123,624	Rhode Island	21,031
Indiana	118,761	South Carolina	55,167
Iowa	44,145	Tennessee	178,797
Kansas	16,975	Texas	60,895
Kentucky	203,077	Utah Territory	7,097
Louisiana	50,749	Vermont	17,584
Maryland	46,792	Virginia	123,538
Maine	18,874	West Virginia	71,493
Massachusetts	95,576	Wisconsin	54,845
Michigan	48,649	Wyoming Territory	467
Minnesota	23,941	Total	2,842,663
Mississippi	48,028		

*Total colored in different States who cannot write.*

State.	Number.	State.	Number.
Alabama	290,897	Nebraska	205
Arkansas	68,222	Nevada	21
California	916	New Hampshire	95
Colorado Territory	917	New Jersey	7,677
Connecticut	1,675	New Mexico Territory	136
Dakota Territory	31	New York	10,700
District of Columbia	23,843	North Carolina	220,606
Florida	52,897	Ohio	20,766
Georgia	343,647	Oregon	91
Indiana	8,155	Pennsylvania	15,893
Illinois	9,910	Rhode Island	870
Iowa	1,524	South Carolina	235,064
Kansas	7,213	Tennessee	185,956
Kentucky	131,000	Texas	150,617
Louisiana	224,993	Utah Territory	22
Maryland	88,687	Virginia	321,330
Massachusetts	2,148	Vermont	116
Michigan	2,635	West Virginia	10,197
Minnesota	102	Wisconsin	360
Missouri	60,622	Wyoming Territory	49
Montana Territory	68	Delaware	11,820
Mississippi	264,904	Total	2,788,575
Maine	174		

## COLORED PERSONS.

Illiteracy in the State of Maryland: Ten to fifteen years old—males, 7,143; females, 6,502. Fifteen to twenty-one—males, 7,075; females, 8,278. Twenty-one and over—males, 27,123; females, 32,582.

Illiteracy in the State of Massachusetts: Ten to fifteen years old—males, 29; females, 30. Fifteen to twenty-one—males, 76; females, 147. Twenty-one and over—males, 822; females, 1,044.

Illiteracy in the State of Michigan: Ten to fifteen years old—males, 170; females, 199. Fifteen to twenty-one—males, 169; females, 161. Twenty-one and over—males, 1,015; females, 941.

Illiteracy in the State of Minnesota: Ten to fifteen years old—males, 2; females, 4. Fifteen to twenty-one—males, 11; females, 4. Twenty-one and over—males, 44; females, 37.

Illiteracy in the State of Mississippi: Ten to fifteen years old—males, 24,076; females, 22,606. Fifteen to twenty-one—males, 23,216; females, 26,867. Twenty-one and over—males, 80,810; females, 87,327.

Illiteracy in the State of Missouri: Ten to fifteen years old—males, 5,364; females, 5,133. Fifteen to twenty-one—males, 5,355; females, 6,181. Twenty-one and over—males, 18,002; females, 20,587.

Illiteracy in the Territory of Montana: Ten to fifteen years old—males, 2; females, 2. Fifteen to twenty-one—males, 2; females, 13. Twenty-one and over—males, 34; females, 15.

Illiteracy in the State of Nebraska: Ten to fifteen years old—males, 16; females, 10. Fifteen to twenty-one—males, 15; females, 21. Twenty-one and over—males, 93; females, 50.

Illiteracy in the State of West Virginia: Ten to fifteen years old—males, 861; females, 804. Fifteen to twenty-one—males, 844; females, 860. Twenty-one and over—males, 3,186; females, 3,442.

Illiteracy in the State of Wisconsin: Ten to fifteen years old—males, 12; females, 7. Fifteen to twenty-one—males, 25; females, 16. Twenty-one and over—males, 185; females, 115.

Illiteracy in the Territory of Wyoming: Ten to fifteen years old—male, 1; female, 0. Fifteen to twenty-one—males, 3; female, 0. Twenty-one and over—males, 33; females, 12.

This is the end of all the illiteracy of colored persons in all the States from Georgia to Wyoming Territory.

Illiteracy in the State of Texas: Ten to fifteen years old—males, 14,323; females, 13,366. Fifteen to twenty-one—males, 13,070; females, 15,040. Twenty-one and over—males, 47,235; females, 47,583.

Illiteracy in the Territory of Utah: Ten to fifteen years old—males, 2; female, 1. Fifteen to twenty-one—female, 1. Twenty-one and over—males, 8; females, 10.

Illiteracy in the State of Vermont: Ten to fifteen years old—males, 3; females, 3. Fifteen to twenty-one—males, 16; females, 12. Twenty-one and over—males, 45; females, 37.

Illiteracy in the State of Virginia: Ten to fifteen years old—males, 29,723; females, 27,710. Fifteen to twenty-one—males, 26,161; females, 31,047. Twenty-one and over—males, 97,908; females, 109,687.

Illiteracy in the State of Pennsylvania: Ten to fifteen years old—males, 401; females, 450. Fifteen to twenty-one—males, 719; females, 1,096. Twenty-one and over—males, 5,758; females, 7,469.

Illiteracy in the State of Rhode Island: Ten to fifteen years old—males, 26; females, 20. Fifteen to twenty-one—males, 63; females, 49. Twenty-one and over—males, 291; females, 421.

Illiteracy in the State of South Carolina: Ten to fifteen years old—males, 20,887; females, 19,918. Fifteen to twenty-one—males, 20,329; females, 25,176. Twenty-one and over—males, 70,850; females, 77,924.

Illiteracy in the State of Tennessee: Ten to fifteen years old—males, 16,407; females, 15,225. Fifteen to twenty-one—males, 16,299; females, 18,835. Twenty-one and over—males, 55,938; females, 63,248.

Illiteracy in the State of Nevada: Ten to fifteen years old—male and female, not given. Fifteen to twenty-one—male and female, not given. Twenty-one and over—males, 15; females, 6.

Illiteracy in the State of New Hampshire: Ten to fifteen years old—males, 4; females, 3. Fifteen to twenty-one—males, 10; females, 8. Twenty-one and over—males, 32; females, 38.

Illiteracy in the State of New Jersey: Ten to fifteen years old—males, 432; females, 443. Fifteen to twenty-one—males, 4,811; females, 551. Twenty-one and over—males, 2,281; females, 3,509.

Illiteracy in the Territory of New Mexico: Ten to fifteen years old—males, 5; females, 4. Fifteen to twenty-one—males, 7; females, 11. Twenty-one and over—males, 58; females, 24.

Illiteracy in the State of New York: Ten to fifteen years old—males, 371; females, 366. Fifteen to twenty-one—males, 585; females, 622. Twenty-one and over—males, 3,912; females, 4,874.

Illiteracy in the State of North Carolina: Ten to fifteen years old—males, 21,313; females, 19,642. Fifteen to twenty-one—males, 21,341; females, 23,464. Twenty-one and over—males, 68,669; females, 76,177.

Illiteracy in the State of Ohio: Ten to fifteen years old—males, 1,274; females, 1,115. Fifteen to twenty-one—males, 1,372; females, 1,398. Twenty-one and over—males, 7,531; females, 8,076.

Illiteracy in the State of Oregon: Ten to fifteen years old—males, 3; females, 4. Fifteen to twenty-one—males, 4; females, 3. Twenty-one and over—males, 42; females, 23.

Illiteracy in the State of Georgia: Ten to fifteen years old—males, 33,364; females, 31,253. Fifteen to twenty-one—males, 31,295; females, 34,813. Twenty-one and over—males, 100,551; females, 112,361.

Illiteracy in the Territory of Idaho: Ten to fifteen years old—male, 1; female, 0. Fifteen to twenty-one—male, 1; female, 1. Twenty-one and over—males, 4; females, 9.

Illiteracy in the State of Indiana: Ten to fifteen years old—males,

348; females, 348. Fifteen to twenty-one—males, 550; females, 650. Twenty-one and over—males, 3,182; females, 3,181.

Illiteracy in the State of Illinois: Ten to fifteen years old—males, 335; females, 325. Fifteen to twenty-one—males, 620; females, 619. Twenty-one and over—males, 3,969; females, 4,082.

Illiteracy in the State of Iowa: Ten to fifteen years old—males, 32; females, 33. Fifteen to twenty-one—males, 71; females, 75. Twenty-one and over—males, 635; females, 673.

Illiteracy in the State of Kansas: Ten to fifteen years old—males, 342; females, 314. Fifteen to twenty-one—males, 449; females, 497. Twenty-one and over—males, 2,772; females, 2,839.

Illiteracy in the State of Kentucky: Ten to fifteen years old—males, 12,891; females, 12,067. Fifteen to twenty-one—males, 12,157; females, 12,769. Twenty-one and over—males, 37,889; females, 43,277.

Illiteracy in the State of Louisiana: Ten to fifteen years old—males, 16,978; females, 16,375. Fifteen to twenty-one—males, 15,873; females, 19,718. Twenty-one and over—males, 76,612; females, 79,437.

Illiteracy in the State of Maine: Ten to fifteen years old—males, 13; females, 3. Fifteen to twenty-one—males, 17; females, 14. Twenty-one and over—males, 69; females, 57.

Illiteracy in the State of Alabama: Ten to fifteen years old—males, 24,391; females, 22,615. Fifteen to twenty-one—males, 25,615; females, 28,915. Twenty-one and over—males, 91,017; females, 98,344.

Illiteracy in the State of Arkansas: Ten to fifteen years old—males, 5,352; females, 4,982. Fifteen to twenty—one—males, 5,863; females, 6,655. Twenty-one and over—males, 22,681; females, 22,689.

Illiteracy in the State of California: Ten to fifteen years old—males, 24; females, 21. Fifteen to twenty-one—males, 30; females, 24. Twenty-one and over—males, 468; females, 339.

Illiteracy in the Territory of Colorado: Ten to fifteen years old—males, 24; females, 21. Fifteen to twenty-one—males, 30; females, 34. Twenty-one and over—males, 468; females, 339.

Illiteracy in the State of Connecticut: Ten to fifteen years old—males, 69; females, 62. Fifteen to twenty-one—males, 83; females, 130. Twenty-one and over—males, 627; females, 704.

Illiteracy in the Territory of Dakota: Ten to fifteen years old—male, 1; female, 1. Fifteen to twenty-one—males, 3; females, 8. Twenty-one and over—males, 6; females, 12.

Illiteracy in the District of Columbia: Ten to fifteen years old—males, 972; females, 1,160. Fifteen to twenty-one—males, 1,117; females, 2,238. Twenty-one and over—males, 7,599; females, 19,757.

Illiteracy in the State of Florida: Ten to fifteen years old—males, 4,190; females, 3,513. Fifteen to twenty-one—males, 4,957; females, 5,376. Twenty-one and over—males, 16,809; females, 18,052.

## EDUCATION.

## Alabama.

From report of Hon. Joseph Hodgson, State superintendent for the scholastic year commencing January 1, ending September 30, 1871, the school-fund for the scholastic year, as certified to the Bureau of Education by the State auditor, was derived as follows:

Interest on sixteenth section fund, from December 1, 1869, to October 1, 1870	\$115,268.85
On valueless sixteenth section fund, from December 1, 1869, to October 1, 1870	6,472.75
Interest on surplus revenue	44,605.78
One-fifth aggregate revenue	232,462.25
Poll tax	82,579.66
From revenues derived under section 957 of the revised code	100,000.00
Total	581,389.29

The school fund for the scholastic year commencing October 1, 1871, and ending September 30, 1872, as certified to the Department by the State auditor, amounts to

664,978.50

Statement of the school attendance, number of schools, pupils, and teachers in the State of Alabama for 1871.

	White.	Colored.
School attendance:		
Number of pupils enrolled—male	45,396	27,512
Number of pupils enrolled—female	41,580	26,884
Total number of pupils enrolled	86,976	54,336
Average number of male pupils in attendance	34,180	21,069
Average number of females in attendance	32,178	20,249
Total average attendance	66,358	41,308
Increase in attendance since last year	30,395	23,311
Number of schools:		
Number of primary schools	544	751
Number of intermediate schools	792	143
Number of grammar schools	819	26
Number of high schools	251	2
Total	2,399	992
Number of pupils in different branches:		
Pupils studying orthography	76,015	46,823
Pupils studying reading	52,572	23,786
Pupils studying writing	38,931	13,162
Pupils studying arithmetic	32,924	10,722
Pupils studying geography	14,449	7,631
Pupils studying grammar	14,167	1,127

*Statement of the school attendance, number of schools, &c.—Continued.*

	White.	Colored.
Teachers:		
Number of teachers—male.....	1,573	745
Number of teachers—female.....	924	298
Total .....	2,497	973
Average monthly pay of teachers.....	\$42 15	\$43 06
Average duration of schools, 3 months 8½ days.		

*Recapitulation.*

Total enrollment, 1871.....	141,312
Total average attendance.....	107,666
Total increase in attendance since last year.....	55,606
Total number of schools.....	3,321
Total number of teachers.....	3,470

SKETCHES FROM THE REPORT OF THE COMMISSIONER OF EDUCATION—FACTS FROM THE UNITED STATES CENSUS.

*Population.*—In 1870, Alabama was the sixteenth State in population, having 996,992 inhabitants, 521,384 whites, 475,510 negroes. Of the natives, residents of the State, there were 369,635 whites, 374,418 blacks.

*The school attendance.*—According to table 9, volume 1 of Census Report, 77,139 persons of all ages attended school in the State in 1870, there being only 48 foreign born. The white male scholars numbered 31,098, and the white female scholars, 30,226; the colored male, 7,502, and the colored female scholars, 8,313.

*Illiterates.*—The number of persons of all races, ten years old and over, unable to write, was 383,012, of whom only 870 were foreign-born.

*Age, sex, and race of illiterates.*—Of the white illiterates ten to fifteen years old, 13,214 were males and 11,016 were females; of those from fifteen to twenty-one years old, 9,642 were males and 9,757 were females; of those twenty-one years old and over, 17,429 were males and 31,001 were females; of the colored illiterates ten to fifteen years old, 24,391 were males and 22,615 females; of those fifteen to twenty-one years old, 25,616 were males and 28,915 were females; of those twenty-one years old and over, 91,017 were males and 98,344 were females.

*Educational institutions, amount and source of educational income.*—The total income of all the educational institutions was \$976,351, of which \$39,500 were derived from endowments; \$471,161 from taxation and public funds; and \$174,470 from other sources, including tuition. Eight colleges reported, containing 1,026 pupils, and had a total income of \$108,800; forty-six academies with an income of \$142,750 from tuition; none of which was appropriated to the education of negroes; also, the income appertaining to the public—normal, high, grammar, graded and ungraded—common schools, for educating 67,263 pupils, was \$629,626; of which \$8,000 was derived from endowments, \$447,156 from taxation and public funds, and \$174,470 from other sources including tuition, none of which was appropriated to colored schools.

GENERAL SKETCHES OF EDUCATION IN DIFFERENT STATES.

North Carolina has lost prestige generally, educationally, the Legislature last winter having removed the clerical force of the superintendent and reduced his salary, thus leaving the office with little capacity for hopeful and vigorous action. The severe proscription of colored people in the State has greatly discouraged their efforts for themselves. The bright spot is Wilmington; the colored schools in that city have been well attended and efficient. Of the schools of South Carolina very little favorable can be said. The friends of education struggle against overwhelming odds. In Charleston the schools are closed for months before the usual time for want of funds. In Georgia the colored people have hardly been permitted to do what they would for themselves freely. Kentucky is very far from establishing a sufficiently efficient system of schools for the education of the whites, and apparently refuses to recognize the desirability or necessity of the education of the colored children. In Tennessee the colored people are most emphatic in the statement of the difficulties encountered by them in their efforts to educate their children. In Mobile, Alabama, in spite of great difficulties, the colored people are making great progress. While the Swayne School at Montgomery and the Emerson Institute at Mobile and other institutions in the State are doing good service for the colored people of the State, yet in other counties they encounter great difficulties, or it is impossible for them to secure any school privileges.

*Education—Arkansas.*

It is estimated that there are at least two hundred and fifty deaf mutes in this State under thirty years of age. There is also a large number of colored deaf mutes in the State, entitled to the same privileges of education as the white, for whom no provision has been made, and with the present accommodations of the institute it is impossible to receive them. There are no hospital accommodations, and should an epidemic break out, there is no place to which the sick can be removed.

*The population.*—In 1870 Arkansas was the twenty-sixth State in population, having 485,471 inhabitants, consisting of 362,115 whites, 122,169 negroes. Native residents of the State: whites, 170,398; blacks, 62,463.

*School Attendance.*—According to table 9, volume 1 of Census Report, 62,572 persons of all ages attended school in the State in 1870; of these

only 26 were foreign born. The white male scholars numbered 30,138; the white female scholars, 26,650. The colored male scholars numbered 2,920, and the colored female, 2,584.

*Illiterates.*—The number of persons of all races unable to write was 133,339. White illiterates: males, 7,985, and 6,814 females. Of the colored illiterates 5,352 were males, and 4,982 were females.

*Educational Institutions.*—According to table 12, volume 1 of Census Report, the total number of educational institutions was 1,978; these had 1,653 male, and 644 female teachers; and 41,939 male, and 39,587 female pupils. The public institutions numbered 1,744, with 1,458 male, and 508 female teachers; 37,103 male, and 34,942 female scholars. No division is stated as to races. The total income of all the educational institutions \$681,962, of which \$7,300 were derived from endowments, \$555,331 from taxation and public funds, and \$119,331 from tuition and other sources. No division mentioned in this statement in reference to races. The total income appertaining to the public schools was \$552,461. Three colleges reported contained 235 pupils, with an income of \$7,700; academies (thirty) with 2,144, an income of \$25,387. (Nothing said in reference to races.)

EDUCATION OF COLORED CHILDREN.

In Kentucky, the superintendent declares himself uncompromisingly opposed to mixed schools, or to any invasion of the school funds raised by the taxation of the whites; but he favors the inauguration of a separate system, supported by taxes *ad valorem* and poll, imposed upon the colored people themselves. It is to be regretted the dominant feeling of our legislative sentiment is adverse to the policy of educating the colored population, even though they have petitioned for nothing more than a modified and practical law to be taxed themselves independently for the education of their own children. Surely no one can object to a policy of such simple justice and humanity, unless the prejudice of race has seared and blunted his sensibilities beyond the touch of sympathy. Freed and turned loose among us after a life-time of abject and arbitrary servitude, they must in some way be digested and assimilated as an active and real element in the body-politic. From the necessities of the past and from causes uncontrollable, they are but partially civilized in our midst and can hope to do but little toward materially improving the adult colored population of to-day; but do any want the next generation to be of the same class and character? Is it to the interest or pride of any citizen that we should foster and perpetuate from generation to generation a barbarous element in our civilized society? But this result is inevitable, unless provision is made to guaranteed education to the growing generation. Common schools for the colored population are the only agencies through which there is the remotest hope of qualifying them for higher spheres of action and duties in our political and industrial system for the future. They have never failed with any people as yet, when rightly applied; they will not with any people who are teachable. Let us give the negro honest trial. The Legislature last winter passed the following act:

An act to repeal an act entitled "An act for the benefit of the negroes and mulattoes of this Commonwealth," approved March 9, 1867.

1. Be it enacted by the General Assembly of the Commonwealth of Kentucky, That an act entitled "An act for the benefit of the negroes and mulattoes of this Commonwealth," approved March 9, 1867, be and the same is repealed.

2. That the same tax *per capita* and the same rate of taxation on real and personal estate (except taxes for common-school purposes) should be collected of all the negroes and mulattoes in this Commonwealth as of the white population and no other.

3. This act shall take effect and be in force from and after its passage.

*In Georgia.*

The subject of schools for colored children in the city has long excited the interest of the board, but as the State has as yet contributed no funds to the county for educational purposes the board has been utterly unable to accomplish anything in this direction. According to table 9, volume 1, of Census Report, 77,495 persons attended school, and of these 143 were foreign-born. The white scholars numbered 67,142; the colored scholars numbered 10,351, of whom 4,898 were males and 5,453 females. The number of inhabitants of all races unable to write was 468,593, of whom 1,090 were foreign-born. Of 343,637 colored illiterates reported, 64,617 were from ten to fifteen years old, and of these 33,364 were males and 31,813 were females. There are no colored schools in Georgia except in Thomasville, Quitman, Savannah, Bainbridge, and one school in Liberty County. These are all under the care of the American Missionary Association.

*In Delaware.*

Twenty-one teachers were employed, all females except one, and all colored except the principal of the Howard School, Wilmington.

Number of schools.

In the month of January, 1872, the total enrollment in all our schools was 984 and the average attendance 858. Of the total enrollment 824 were reading and spelling, 756 writing, 445 studying arithmetic, 445 studying geography, grammar 63, and only 160 were in the alphabet and primer. Estimating the changes which have occurred in our rolls, we find that about 1,500 different pupils have been taught in our schools the past year. Of this number about two-thirds were males, and nearly one-half were over sixteen years of age. Except in a single case the actuary has visited each school at least once during the term. Those most convenient have been seen more frequently. The amount collected and expended by the colored people for the

board and salaries of teachers and the purchase of school-books has been about \$2,400, which does not include incidental expenses of fuel, repairs on school-houses, &c., the total expenditure for the year in the prosecution of the work being over \$5,000.

*Increased interest in schools as shown by colored people.*

The colored people have manifested an increased willingness and ability to assist in the support of their schools, the amounts voluntarily contributed by them toward the salaries of teachers having shown a gradual increase. At the commencement of the association's labors in 1867 they paid nothing toward salaries and in some cases not the teachers' board. They now, in all cases, pay the board and a part of the salary, their contributions having risen from a range of \$6 to \$9 per school per month in 1870-'71 to a present range of \$6 to \$15. Throughout the State there is a marked decrease of unfriendliness toward our work exhibited by the white people. This is evident from the more friendly feeling manifested toward our teachers and by an increased disposition to assist the colored people in securing their portion of the funds necessary.

**Area and population:** In 1870 Delaware was the thirty-fourth State in population, having 125,015 inhabitants within an area of 2,120 square miles, an average of 58.97 persons to the square mile. This population consisted of 102,221 whites and 22,794 colored. Of the native residents of the State 74,540 white and 20,214 colored persons were born within its borders; while of the foreign residents 1,142 were born in Germany, 1,421 in England, and 5,907 in Ireland.

**SCHOOL ATTENDANCE.**

According to table 9, volume 1 of Census Report, 19,965 persons attended school, and of these 205 were foreign-born. The white male scholars numbered 9,862, and the female 8,908; an aggregate of 18,770 white scholars. The colored male scholars were 663, and the female 532; an aggregate of 1,195.

*Relation between education and pauperism.*

Institutions or States.	Number of poor-houses.	Number of persons.	White.		Colored.	
			Male.	Female.	Male.	Female.
Connecticut.	7	64	27	33	3	1
Maine.	9	100	47	53	2	11
Massachusetts.	33	754	404	337	2	11
New Hampshire.	5	124	49	74	1	—
Rhode Island.	2	12	3	4	1	—
New York.	31	2,279	1,220	1,015	25	19
New Jersey.	2	359	158	194	4	3
Ohio.	23	1,410	680	626	53	51
Ohio, Cleveland.	1	465	257	208	5	2
Ohio, Erie County infirmary.	1	60	29	29	2	—
Ohio, Columbian County infirmary.	1	84	39	43	2	—
Ohio, Toledo infirmary.	1	51	51	—	—	—
Ohio, Richland County infirmary.	1	73	27	46	—	—
Indiana.	18	390	179	198	5	8
Illinois.	28	746	392	346	4	4
Illinois, almshouses.	71	1,662	912	708	27	15
Michigan.	10	263	156	94	9	4
Minnesota.	1	76	47	23	1	5
Pennsylvania.	27	2,222	1,246	939	31	6
Maryland.	1	571	205	246	39	81
Virginia.	2	274	53	83	73	65
West Virginia.	1	120	70	46	—	4

**PAUPERISM AND CRIMINALS.**

The paupers reported in Alabama numbered 687, of whom 354 were native whites, 327 native blacks, and 6 foreigners. Criminals: Of the 593 prisoners, 149 were native whites, 436 native blacks.

**Pauperism in Arkansas.**—The paupers numbered 538, of whom 288 were native whites, 202 native colored, and 48 foreigners. Criminals: Of the 362 prisoners reported, 137 were native whites, 184 native colored, and 40 foreigners.

**Pauperism in Georgia.**—There were 1,816 paupers reported, of whom 1,270 were native whites, 507 native colored, and 39 foreigners. Crime: Of 757 persons in prison, 126 were native whites, 597 native colored, and 14 foreigners, 1,775 persons having been convicted during the year.

**RELATION BETWEEN CRIME AND EDUCATION.**

The statements following give partial returns from seventeen States, all of them but three from the Middle and the Western States. The aggregates in regard to education sum up as follows, namely:

Aggregate of prisoners.	110,538
Aggregate of whites.	91,427
Aggregate of blacks.	6,396
Aggregate of foreign-born.	57,824
Aggregate of native-born.	41,942
Aggregate of those who can read and write.	82,812
Aggregate of those who can read only.	5,931
Aggregate of those who have no education.	21,650

In regard to the above aggregate facts it may be observed, first, that the whole number of those who can "read only" is described in the reports as in fact "very ignorant." To have learned to spell out words and read a little gives no real knowledge. Secondly, that the prison reports almost uniformly speak of the great number of those

who can read and write as very deficient in education. The general conclusion is that the great mass of prisoners is very ignorant. In the meanwhile the general conclusions of the aggregates above, including the observations of the prison-keepers, are as follows:

The totally ignorant, as shown by those having no education, are 22 per cent. The totally ignorant and very ignorant 25 per cent. The very deficient, including these and a large share of those who can read and write, 50 per cent. In the majority of cases in crime it is shown beyond doubt or controversy that ignorance is one great cause of crime, and that in elevating the education of society, both religious and intellectual, we advance the interest of society by diminishing crime. Just so far, therefore, as society neglects to educate the people just so far does it prepare the crime which the criminal commits. Let us now examine our statistics in detail in regard to color, nativity, and religious education. In regard to sections of the country, taking the State prisons and jails of New York and Pennsylvania (deducting the metropolitan police reports) as representatives of the Middle States, we have these results, namely:

Aggregate number.	12,773
Aggregate number of whites.	11,268
Aggregate number of colored.	1,465
Aggregate number of foreign-born.	4,658
Aggregate number of native-born.	8,003
Aggregate number of those who can read and write.	8,501
Aggregate number of those who can read only.	1,774
Aggregate number of those who have no education.	2,360

The proportions are:

Totally ignorant, 19 per cent.; totally and very ignorant, 33 per cent.; very deficient, at least 60 per cent.

Let us now take the prisons and jails of the Central Northwest, which includes the States of Ohio, Indiana, Illinois, Michigan, and Wisconsin. Here we have the statistics of thirty penitentiaries, workhouses, and jails, a sufficient number and variety to give a complete view of the subject in those States. The results are as follows, namely:

Aggregate number.	18,931
Aggregate number of whites.	14,362
Aggregate number of colored.	1,524
Aggregate number of foreign-born.	4,078
Aggregate number of native-born.	4,851
Aggregate number of those who can read and write.	8,722
Aggregate number of those who can read only.	935
Aggregate number of those who have no education.	6,565

The proportions are:

Totally ignorant.

40 per cent.

Totally and very ignorant.

46 per cent.

The very deficient, at least.

75 per cent.

Let us now take the States west of the Mississippi to the Pacific. Of these we have the reports of four State prisons. In the States of Minnesota, Iowa, Kansas, and California the results are:

General aggregate.	1,957
General aggregate of whites.	1,187
General aggregate of colored.	205
General aggregate of foreign-born.	503
General aggregate of native-born.	696
General aggregate of those who can read and write.	1,333
General aggregate of those who can read only.	221
General aggregate of those who have no education.	403

The proportions are—

Totally ignorant.

21 per cent.

Totally and very ignorant.

31 per cent.

The very deficient, at least.

50 per cent.

Now let us take the only States that we have of those formerly slave States, where the negro population prevails, namely, Maryland, Kentucky, Tennessee, Georgia, South Carolina. In these States the results are:

Aggregate number of prisoners.	4,087
Aggregate number of whites.	1,997
Aggregate number of colored.	2,090
Aggregate number of foreign-born.	267
Aggregate number of native-born.	3,485
Aggregate number of those who can read and write.	965
Aggregate number of those who cannot read and write.	1,433

The States of Georgia and Tennessee, having 1,124 prisoners, made no return of the state of education, and were otherwise defective. In the 2,400 returned the following are the proportions of educated and uneducated, namely, totally ignorant, 60 per cent.; very deficient, fully 85 per cent. Thus we see that in the midst of the South, where the colored population is almost totally ignorant, we have the first approach in the United States to the educational condition of France in 1832 and of much of Europe now. Comparing the several sections of the country as presented in the above tables, and including those that can read only (and that is usually very little) among the totally ignorant, we have these proportions. Those called very deficient are put down in a low estimate made from universal testimony of prison-keepers: Totally ignorant, very deficient, in New York and Pennsylvania, 33 per cent. to 60 per cent.; Central Northwest, 46 per cent. to 75 per cent.; West and Pacific, 31 per cent. to 50 per cent.; the South, 60 per cent. to 85 per cent. The returns from the "West and Pacific" are deficient, and, therefore, not a fair test. This and the fact that the great body of miners are really intelligent men make the reasons why that section seems to have less ignorance among criminals.

*Proportion of criminals to illiterate population in regard to education.*

Here we come to test-facts in regard to the influence of ignorance.

in producing crime. If the proportion of ignorant criminals to the whole number should prove greatly above that of the illiterate to the whole population it will be a fact conclusive that ignorance is one great cause of crime. Fortunately the returns of education and illiteracy embodied in the census of 1870 will enable us to examine this question and obtain reliable results. Taking the returns of the census of 1870, in connection with the tables I have above given, we have the proportions below, premising, however, that as all prisoners are above ten years of age, so we have taken from the illiterate in the census only those above ten years of age: Illiterate criminals in New York and Pennsylvania, 4 per cent. to 33 per cent.; in Central West, 3½ per cent. to 46 per cent.; in West and Pacific, 3 per cent. to 31 per cent.; in the South, 22 per cent. to 60 per cent. It appears, therefore, that in the Middle States the proportion of illiterate criminals is eightfold the proportion of illiterate people; in the Central West it is thirteen-fold; and in the West and Pacific States it is tenfold. In the South it is only threefold; but this is caused by the great mass of colored people, who make up a large portion of the whole people and, being nine-tenths wholly ignorant, furnish the great mass of criminals. When the still larger white population is counted in it makes the disproportion of the illiterate criminals less; as to colored people only it is very great; but we see in the above proportions the great fact that ignorance is one of the great causes of crime. I do not seek to exaggerate that fact. The figures I give show it in its naked deformity, and I leave the fact to the contemplation of my hearers. But in the mean time let us look at how this fact will operate in an intelligent American community. Let us see exactly how it will operate in New York or Pennsylvania. Let us take ten thousand people as the unit of measure, the result will be, according to the above proportions—

People.....	10,000
Illiterate.....	400
Estimated prisoners.....	40
Prisoners illiterate.....	35
Others.....	5

The "others" means only a very common education. What, then, is the practical result? That because 400 persons out of 10,000 have been kept totally ignorant the county or municipality has seven times as many criminals as it need have and seven times as much expense and evil of all kinds resulting from it. Having thus established certain general principles by the incontrovertible testimony of statistics it will not be inconsequential or uninteresting to give the testimony of some of those who are engaged in the actual management of prisons.

The following statement, made by the superintendent of the Detroit house of correction, gives the general facts and causes of crime nearly as correctly as can be obtained from the general averages of the most extended table of statistics: Of the 8,744 prisoners 44 per cent. were under 30 years of age; 60 per cent. acknowledged themselves habitually intemperate; 65 per cent. were living out of the family relation; only 57 per cent. claimed to be able to read and write, 43 per cent. acknowledging themselves without any education at all.

No one can read the above and not conclude that there is a great need of some great national effort to stay the flood of ignorance and crime which is now sweeping over our land. Is it any wonder that the daily papers teem with accounts of murders, cold-blooded, in the Northern and of red-handed kluxing and night-ridings in the Southern States when the better natures of mankind are undeveloped?

Sir, this state of things calls loudly upon the wise statesmen of our country to stand forth above and beyond the narrow partisan boundaries which have actuated their legislation.

The country needs some new element of strength to awaken new energies of a higher moral sentiment in this nation. This Government can do no greater deed than to dedicate a part of the revenues accruing from the sale of public lands to the education of the people. There are millions of the citizens of this Republic who will not receive that education which every one ought to have to make them worthy citizens unless the Government shall secure it to them. This should not be left entirely to the States, because they will not fully do this work.

I take the higher ground that every child of this Republic should be compelled to attend school at the age of five, and remain till it shall have obtained a liberal education, qualifying it to know the duties of common life. Education in the South will be more effective than a standing army. Educate the masses of the people, and you open up the means for their higher and grander development; you find a panacea for the ills of the South; you lift the dark cloud from the enfranchised millions and establish peace and good-will among the people; you make all classes better citizens, and give new life to enterprises, quickening the latent energies which await the touch of a quickening hand to make them useful to the nation. With an educated peasantry you secure tranquillity to the country, security to property and life, with all the accumulating grandeur of a great, prosperous, free, happy, and contented people. No North, no South, no East, no West, no race antagonisms, but a united nation, respected at home and honored by all the nations of the earth.

Mr. WRIGHT. Mr. Chairman, I not only believe that every inch of the public domain of this Government belongs to the people of the

country, but I also believe that famine should be provided for before you erect school-houses. I say FAMINE! Every dollar that you take from the National Treasury under the pretext of railroads or institutions of learning is so much taken from that fund which should give comfort and repose to the toiling men of this land.

It is therefore an act of gross injustice. It puts class before the general welfare, and leaves the helpless in destitution and places the favored ones in high positions.

I am not narrow in my views about education. I would go as far as any man who occupies a seat upon this floor to protect and advance education. But, sir, when I see the distress there is in this country at this time, I say it becomes us all to look to general measures of relief before we talk about future advancement in education and the erection of colleges and seminaries of learning. As a gentleman beside me [Mr. SPARKS] remarks, "we should provide for the stomach before the head." That is as true a sentiment as was ever uttered. It is the noblest charity.

It may be all well enough to talk of what may be done at another time and upon a future occasion; but if there ever was a time in the history of this country when the wisdom of Congress should be concentrated upon a single point, that time is now, this moment; and that single point is the relief of your suffering millions. Why not do something for the relief of the laboring-man out of employment? Not that he and his dependent family may prosper, but live. Life is what the unemployed men of the land ask you in humiliating prayer to sustain. You reply, educate. Educate! Sore is the school of adversity in which the laboring-men of the land are being instructed. God help them; there is no hope that Congress will.

I do not consent that a dollar shall be taken from the National Treasury for any purpose whatever so long as you have hungry men, women, and children thronging your streets and thoroughfares. Your penitentiaries—yes, sir, and your mad-houses—are full. In the State of Pennsylvania to-day there are five thousand people confined in lunatic asylums, driven there from madness caused by starvation. This takes them there. [Laughter.] Yes, sir, want and destitution. You laugh—it is the same laugh that issues from the cell of the madman, with his wild eyes glaring from behind the bars. Had you not better exchange places? Laugh again! You are in ease; they in the depths of misery. You talk about taking money from the National Treasury to build up institutions of learning, when want everywhere is depicted on the faces of the toiling men of the land. You may laugh about the lunatic asylums of Pennsylvania if you please; but perhaps if some of you who are here were there, it would be better for the welfare of the nation. You might fill their place with more credit to yourselves than the seats you occupy. [Laughter.] Vote your money for class, and let the laboring poor fight the great battle of human existence as best they may; if they gain the victory in sustaining life, dear life, they will not be your debtor.

[Here the hammer fell.]

Mr. GOODE. I move that the committee rise for the purpose of obtaining an order from the House to limit debate.

The motion that the committee rise was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. HOOKER reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 3542) to apply the proceeds of the sales of public lands to the education of the people, &c., and had come to no resolution thereon.

Mr. GOODE. I move that the House resolve itself into Committee of the Whole for the further consideration of the bill to apply the proceeds of the sales of public lands to the education of the people; and pending that, I move that debate on the amendments which may be offered be limited to ten minutes.

Mr. EDEN. I make the point of order that debate can only be limited on the pending paragraph and the amendments thereto.

Mr. SPARKS. Let us not stifle discussion.

The SPEAKER. The Clerk will read a portion of Rule 60.

The Clerk read as follows:

*Provided, further.* That the House may, by the vote of a majority of the members present, at any time after the five minutes' debate has taken place upon proposed amendments to any section or paragraph of a bill, close all debate upon such section or paragraph, or at their election upon the pending amendments only.

The SPEAKER. The Clerk will also read Rule 104.

The Clerk read as follows:

The House may at any time, by a vote of a majority of the members present, suspend the rules and orders for the purpose of going into the Committee of the Whole House on the state of the Union; and also for providing for the discharge of the Committee of the Whole House and the Committee of the Whole House on the state of the Union from the further consideration of any bill referred to it, after acting without debate on all amendments pending and that may be offered.

The SPEAKER. The Chair thinks the practice has been to limit debate only on the pending proposition.

Mr. GOODE. Then I move that debate be limited to one minute on the pending paragraph and amendments thereto.

Mr. ELLSWORTH. I move that the House take a recess until half past seven o'clock.

The SPEAKER. The Chair reminds the House that there is an evening session to-night and the gentleman from Michigan [Mr. ELLSWORTH] moves that the House now take a recess.

Mr. WILLIAMS, of Oregon. What is the business assigned for consideration to-night.

The SPEAKER. It is the bill reported by the gentleman from

North Carolina, [Mr. WADDELL,] from the Committee on the Post-Office and Post-Roads, providing for the classification of mail matter and the rates of postage thereon. The Chair will state that if the House takes a recess now that will be quite injurious to the consideration of the pending bill in charge of the gentleman from Virginia, [Mr. GOODE.]

Mr. CASWELL. I wish to inquire whether any other business will be in order at the evening session except the bill of the gentleman from North Carolina.

The SPEAKER. No other business will be in order.

The question being taken on the motion of Mr. ELLSWORTH, there were—ayes 94, noes 64.

The SPEAKER. Before announcing the result of the vote, the Chair desires to recognize the gentleman from New York, [Mr. HEWITT,] who rises to make a report from the Committee on Appropriations.

#### ARMY APPROPRIATION BILL.

Mr. HEWITT, of New York, from the Committee on Appropriations, reported a bill (H. R. No. 6145) making appropriations for the support of the Army for the fiscal year ending June 30, 1880, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. HEWITT, of New York. I give notice that I will call up this bill for consideration immediately after the disposal of the post-office appropriation bill.

Mr. PAGE. I reserve all points of order on the bill.

#### ENROLLED BILLS SIGNED.

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

A bill (H. R. No. 5655) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1879, and for other purposes," approved June 20, 1878;

A bill (H. R. No. 5808) to facilitate the refunding the national debt; and

A bill (S. No. 1242) to repeal section 1233 of the Revised Statutes, relating to company cooks in the Army.

#### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows: To Mr. BALLOU, indefinitely, on account of sickness in his family; To Mr. O'NEILL, for three days, on account of important business; To Mr. HENRY, for one week, on account of important business; and To Mr. DURHAM, for this evening's session.

#### SURVEYOR-GENERAL OF CALIFORNIA.

The SPEAKER laid before the House a letter from the Secretary of the Interior, transmitting estimate for \$32,209 additional appropriation for the office of the Surveyor-General of California; which was referred to the Committee on Appropriations.

#### EXPENDITURES IN WAR DEPARTMENT.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting reports of clerks and others employed in the respective bureaus of the War Department; which was referred to the Committee on Expenditures in the War Department.

#### ST. MARY'S FALLS CANAL, MICHIGAN.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of Major Godfrey Weitzel, Corps of Engineers, relative to the St. Mary's Falls Canal, Michigan; which was referred to the Committee on Commerce.

#### INDIAN SUPPLIES.

The SPEAKER also laid before the House a letter from the Secretary of the Interior, relative to a deficiency in the appropriation for Indian supplies; which was referred to the Committee on Appropriations.

#### SURVEY OF THE KENTUCKY RIVER.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting report of Major W. E. Merrill, Corps of Engineers, of the survey of Kentucky River and its navigable tributaries; which was referred to the Committee on Commerce.

#### MESSAGE FROM THE PRESIDENT OF THE UNITED STATES.

The SPEAKER also laid before the House the following message from the President of the United States; which, with the accompanying report, was referred to the Committee on Foreign Affairs:

*To the House of Representatives:*

In answer to a resolution of the 25th of May last, requesting information respecting the claim of Messrs. Carlos Butterfield & Co. against the government of Denmark, I transmit herewith to the House of Representatives a report of the Secretary of State and its accompanying papers.

R. B. HAYES.

WASHINGTON, January 23, 1879.

DEPARTMENT OF STATE,  
Washington, January 23, 1879.

In response to a resolution of the House of Representatives of the 25th of May, 1878, requesting the Secretary of State, if not incompatible with the public service, to furnish that House with a statement of the claim of Carlos Butterfield & Co. against the government of Denmark, for depredations committed against property of said Carlos Butterfield & Co. at the island of Saint Thomas by officers

of the said government in the years 1854 and 1855, and to report what progress has been made in the settlement of the claim, and to communicate to the House of Representatives a copy of all correspondence with the authorities and government of Denmark on the subject, I have the honor to lay before the President the correspondence referred to in the subjoined list which contains the information called for by the resolution.

Respectfully submitted,

WM. M. EVARTS.

#### TO THE PRESIDENT.

Mr. MONROE. Would it not be proper to ask that those papers be printed?

The SPEAKER. It would.

Mr. MONROE. I move that the message and the accompanying papers be printed.

The motion was agreed to.

#### INDIAN APPROPRIATION BILL.

The SPEAKER appointed as the conferees on the part of the House on the disagreeing votes of the two Houses upon the amendments of the Senate to the Indian appropriation bill Mr. SPARKS, Mr. SINGLETON, and Mr. BAKER of Indiana.

#### LEAVE OF ABSENCE.

Leave of absence was granted to Mr. FINLEY, for the session of tonight, on account of indisposition.

THOMAS P. BELL.

Mr. BICKNELL, by unanimous consent, submitted a resolution in favor of Thomas P. Bell; which was referred to the Committee of Accounts.

#### TARIFF.

Mr. BICKNELL also submitted a joint resolution of the General Assembly of the State of Indiana, in relation to the placing of certain articles of medicine on the free list; which was referred to the Committee of Ways and Means.

#### SPEAKER PRO TEMPORE.

The SPEAKER. The Speaker will necessarily be absent this evening, and the chair will be occupied by Mr. CARLISLE as Speaker *pro tempore*.

#### COMMERCE BETWEEN UNITED STATES AND CANADA.

Mr. COX, of New York, introduced a bill (H. R. No. 6146) to regulate commerce between the United States and the Dominion of Canada in articles the growth, production, or manufacture of said countries, and to provide for reciprocal navigation; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

#### LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. WILSON for the session of this evening.

The result of the vote upon the motion to take a recess was then announced; and accordingly (at four o'clock and twenty-five minutes) the House took a recess until half past seven o'clock p. m.

#### EVENING SESSION.

The recess having expired, the House reassembled at half past seven o'clock p. m., Mr. CARLISLE in the chair as Speaker *pro tempore*.

#### CLASSIFICATION OF MAIL MATTER.

The SPEAKER *pro tempore*. By order of the House, the session of this evening is for the consideration of the bill reported from the Committee on the Post-Office and Post-Roads, providing for the classification of mail matter and the rates of postage thereon.

Mr. WADDELL. Mr. Speaker—

Mr. CANNON, of Illinois. Before the gentleman from North Carolina [Mr. WADDELL] commences his remarks, I would like to find out, if possible, if some arrangement cannot be made as to how long general debate shall continue upon this bill. I would suggest that by general consent the bill be considered in the House as in Committee of the Whole.

Mr. WADDELL. A reference to the proceedings in the CONGRESSIONAL RECORD will show that the motion I made to assign this bill as the special order for this evening was that its consideration should take place in the House, not in Committee of the Whole, nor in the House as in Committee of the Whole. But I will say to my friend and colleague on the Committee on the Post-Office and Post-Roads [Mr. CANNON, of Illinois] that I have no disposition whatever to throw any obstacle in the way of the fullest and freest discussion of this measure, or of any amendment that any gentleman, either a member of the Committee on the Post-Office and Post-Roads or any other member of the House, may desire to offer to the bill.

If any member of the House can offer an amendment which will add anything to the efficiency of the provisions of the bill as they have been considered, not only by the Post-Office Department and by the Committee on the Post-Office and Post-Roads of this House, but also by the publishers of the country, so far from objecting to it I shall be most happy to receive it. I am perfectly willing to agree to any proposition of that sort coming from the gentleman from Illinois, [Mr. CANNON.]

I would like to have this bill considered with all due rapidity; I will not say haste, and perhaps I ought not to say rapidity. But I

want the bill considered and disposed of as quickly as it can be with regard to thorough consideration.

The SPEAKER *pro tempore*. The Chair understands the proposition of the gentleman from Illinois [Mr. CANNON] to be that a certain time be allowed for general debate on this bill, with the understanding that at the expiration of that time the bill shall be considered in the House as in Committee of the Whole, with a view to taking it up by sections for amendment.

Mr. WADDELL. What time does the gentleman from Illinois desire?

Mr. CANNON, of Illinois. I think that a bill of this character should have full time for its consideration. I do not know how much time the gentleman in charge of the bill desires. I would like myself from twenty to thirty minutes; thirty at the outside, and possibly not more than twenty, by way of general debate.

Mr. WADDELL. I would be very happy to have the gentleman take half an hour if he desires. I do not myself desire to take up much time, but I will accede to any proposition the gentleman may make.

Mr. CANNON, of Illinois. What does the gentleman say, then, to having general debate limited to one hour and then at the end of that time allowing the bill to be considered in the House as in Committee of the Whole under the five-minute rule?

Mr. WADDELL. I have no objection to an arrangement of that kind.

Mr. KEIFER. Will the Chair please state just what the proposed arrangement is?

The SPEAKER *pro tempore*. The Chair was about to do so. It is proposed by the gentleman from Illinois, [Mr. CANNON,] and, as the Chair understands, agreed to by the gentleman from North Carolina, [Mr. WADDELL,] the chairman of the Committee on the Post-Office and Post-Roads, that general debate on this bill shall continue for one hour; and that at the expiration of that time the bill shall be considered in the House as in Committee of the Whole by sections under the five-minute rule. Is there objection to that arrangement?

There was no objection, and it was so ordered.

Mr. WADDELL. I am instructed by the Committee on the Post-Office and Post-Roads to offer as a substitute for the bill on the Calendar (which is House bill No. 3850, providing for the classification of mail matter and the rates of postage thereon) that which I send to the Clerk's desk and which is in substance House bill No. 5735 of the same title.

This bill has been twice recommitted to the Committee on the Post-Office and Post-Roads, and the substitute which I offer is House bill No. 5735 with some modifications. Before the substitute is read I desire to make a general statement in explanation of the proposition of the Committee on the Post-Office and Post-Roads.

The need for a reclassification of the matter sent through the mail and for a readjustment of the rates of postage thereon has for a long time been recognized, not only by the Post-Office Department but by the publishers of the country of all classes and by all classes of the people. For several years this matter has been pressed upon the attention of Congress, and the committee of which I have the honor to be chairman has for more than a year past desired to effect the necessary changes in the law, but up to the present hour we have been unable to accomplish them.

The bill which we now present for the consideration of the House I believe has received as mature consideration as any proposition which has ever been submitted to Congress. It is approved not only by the Post-Office Department, but by the publishers of the country of all kinds of publications, and it has been carefully considered for the past eighteen months by the Committee on the Post-Office and Post-Roads of this House.

More than a year ago, Mr. Speaker, appreciating the necessity for a change in the law, and recognizing the fact that some responsibility rested upon me in connection with this subject as chairman of that committee, I visited the city of New York and invited the leading publishers, not only of quarterly and monthly publications but of daily and weekly publications of all kinds, to meet me in consultation at the office of the postmaster in that city—a gentleman whom I have had occasion heretofore in a report to this House to characterize as the peerless postmaster of New York City.

The result of that conference was to give a new impulse to the movement in favor of postal reform in this country; and it was succeeded by a number of conferences on the part of leading publishers of the country, the outcome of which is contained in the provisions of the bill which I now submit to the House.

Inasmuch as many members of the House, not feeling any special interest in this subject, are not very well informed upon it, (and I am very sorry to see illustrated to-night the fact that night sessions are not generally very favorable to the consideration of legislation,) I would state that under the existing postal regulations all matter sent through the mails is divided into three classes, first, written matter; second, printed matter of a certain kind; and, third, miscellaneous printed matter, which latter class also embraces merchandise.

The first change we propose in the law is to make a reclassification and to divide all mailable matter into four classes: first, written matter; second, periodical publications under registration, (which I will explain in a moment;) third, miscellaneous printed matter; and,

fourth, merchandise. Thus we make a radical change in the classification of mail matter. There is no change in the rates of postage on first-class matter.

Mr. BLOUNT. How do the rates of postage upon merchandise, as defined in this bill, compare with the present rates?

Mr. WADDELL. We make no change whatever in that respect. The sum and substance of this substitute is a readjustment and better arrangement of the bill which we had on the Calendar. Our provision with reference to fourth-class matter limits the weight to four pounds, "except in case of single volumes weighing in excess of that amount, and except also for books and documents published or circulated by order of Congress, or official matter emanating from any of the Departments of the Government or from the Smithsonian Institution, or which is not declared non-mailable under the provision of section 3893 of the Revised Statutes, as amended by the act of July 12, 1876"—that is, the provision relating to obscene matter—"or matter appertaining to lotteries, gift-concerts, or fraudulent schemes or devices: provided, that when so requested by the postmaster at the office of mailing, any person presenting matter of the fourth class for mailing shall write upon the package his name and address, preceded by the words 'mailed by.'" Upon this class of matter the rate is one cent an ounce.

Now, Mr. Speaker, it has been objected, and probably will be objected in this debate, that all classes of printed matter are now carried by the Government at a loss; that they do not pay the cost of transportation; and therefore the change we propose ought not to be made. Our proposition is to make a uniform rate for weeklies, dailies, monthlies, and quarterlies, while under the present law dailies and weeklies pay two cents a pound, and monthlies and quarterlies three cents a pound. The objection has been made that there ought not to be an alteration of the law in this respect, because all printed matter is now carried at a loss—does not pay the cost of transportation. Admitting the force of this argument as applicable to all classes of printed matter, and ignoring entirely the argument in favor of the policy of disseminating intelligence among the people even at a pecuniary loss to the postal service, it is to be remembered that these weekly papers weigh in the aggregate at least four times as much as the monthlies and quarterlies do, and that if any discrimination be made at all, it ought to be in favor of the less bulky and therefore less costly class of mail matter. But under existing law (being exactly the reverse of the law applicable to written matter) monthlies and quarterlies are required to pay 50 per cent. more postage than the dailies and the weeklies do. The reason and justice of the case are on the other side entirely.

Let me illustrate. The Harpers publish a monthly magazine, and also two weekly papers—*Harper's Bazar* and *Harper's Weekly*. The monthly magazine weighs about nine ounces. Each of the weekly publications weighs about three ounces. These three publications have a circulation of about one hundred thousand copies each. Thus, of the monthlies there are circulated annually about twelve hundred thousand copies, and of the two weekly publications about ten million copies annually. The aggregate weight of the yearly circulation of the monthly is about six hundred and seventy-five thousand pounds, and of the weeklies about eighteen hundred thousand pounds. Yet the monthlies are required to pay 50 per cent. more postage than the weeklies; and this is directly against reason and justice.

I want to say in brief that this bill which we offer as a substitute for the Calendar bill has not only been maturely considered by the Post-Office Department, by all the leading publishers of the country, and by the Post-Office Committee of this House, but it must strike every one who reads its provisions as embracing the fairest and most just arrangement for the classification of mail matter and rates of postage that has ever been presented to the country.

Mr. BLOUNT. I should like the gentleman to state what change it makes in the revenue?

Mr. WADDELL. I state in answer to the gentleman from Georgia that the effect of the adoption of this bill—

Mr. BLOUNT. I mean as to the subject you are discussing now, monthly and weekly publications, putting them on the same basis.

Mr. WADDELL. Our idea is as contained in the bill, to make a uniform rate for all class of registered matter; and for fear the term "registered" might be misunderstood, let me say to gentlemen it is not in the sense as applied to registered letters and registered third-class matter as now adopted by the Post-Office Department. But the whole theory of registration as connected with this class of publication was to draw a line of distinction between the legitimate publications and those called illegitimate. The whole effect of the bill, if it is passed, will be at first sight to reduce the revenue \$70,000, but the effect after the first year will be to increase the revenue. We are satisfied after the mature deliberation we have given to this measure that it is not only for the benefit of the revenues of the Government, but entirely to the satisfaction of all the publishers of the country. Of course there are individuals who are not satisfied with every provision in it.

Mr. HAYES. I should like to ask the gentleman a question while he is on that point. What is the object to be secured by this registration? If you will give us your idea on that point I will be much obliged.

Mr. WADDELL. The object to be secured by the registration is, as I said a moment ago, to draw more distinctly than has been done

heretofore the line between what are called legitimate periodical publications and those which are illegitimate passing through the mails without paying probably any postage.

Mr. HAYES. I see in section 6, in the beginning of that section, these words: "Publishers of newspapers and periodicals, who may desire to have their publications registered through the mails, &c., may have them registered." That includes all publications of newspapers and periodicals, and I do not see where the line of distinction is.

Mr. WADDELL. "Except as hereinafter provided." If the gentleman will finish the reading of the bill he will see it. The difficulty was to get these paragraphs together in proper connection, and that is why we have offered a substitute for the bill on the Calendar. I will call the attention of the gentleman to the fact that section 4 in the bill has been entirely "wiped out" and another section substituted for it.

Mr. HAYES. That is where I made the mistake, I suppose. I have not that section here.

Mr. WADDELL. Perhaps we had better have the bill read by sections, and then I can explain section by section.

Mr. HAYES. I hope that will be done.

The SPEAKER *pro tempore*. The original bill or the substitute?

Mr. WADDELL. The substitute.

Mr. CANNON, of Illinois. Does the gentleman ask the substitute be read for action now?

Mr. WADDELL. I ask the substitute be read by section so I may explain it.

Mr. CANNON, of Illinois. For consideration at this time?

The SPEAKER *pro tempore*. That cannot be done under the order of the House until after the expiration of one hour. That is, it cannot be read for amendment until after one hour.

Mr. HALE. It might be well to have section 4 read as it is there, as most of us have the House bill No. 5735. I understand the only change is blotting out section 4 and substituting something else for it.

Mr. WADDELL. Yes, sir.

The SPEAKER *pro tempore*. Does the gentleman from North Carolina desire to have the whole substitute read?

Mr. WADDELL. I do not. I prefer of course to have it read only by section.

The SPEAKER *pro tempore*. That will be in order after one hour has expired.

Mr. WADDELL. I do not wish the bill read as a whole, and that is the reason I made the motion I did, that the first reading should be dispensed with and that the substitute should be read by sections.

The SPEAKER *pro tempore*. That will be done at the expiration of one hour.

Mr. CANNON, of Illinois. If the gentleman has closed his remarks I will ask him to yield to me.

Mr. WADDELL. I wish to state before my colleague proceeds that I have not yet finished my general explanation of the provisions of the bill and I only stopped because I supposed the gentleman wished it to be taken up by section.

Mr. HAYES. I hope, then, the gentleman will make his objection now.

Mr. WADDELL. I have only a few more words to say. I have no speech to make. The propositions we make are three: first, a uniformity of rate for all periodical publications of two cents a pound, changing the present law of two and three cents, and making it uniform at two cents a pound.

The next point is to make the rates at all post-offices uniform, because, as my colleague on the committee, the gentleman from Illinois, [Mr. CANNON,] will have occasion no doubt to say to the House, there is now a very great distinction between the delivery of mail matter at offices where the free-delivery system exists and at offices where it does not exist. And the third general principle we have presented covers the case of specimen copies of newspapers sent.

I do not know that it is necessary to go into an explanation of all these several provisions, and I might content myself with simply recapitulating and stating to the House that while the present law makes a distinction between daily and weekly newspapers and monthly and quarterly publications that pass through the mails, subjecting the former to a rate of two cents and the latter to a rate of three cents a pound, we propose to make them uniform at the rate of two cents a pound. In the next place we propose to make the rates at all post-offices, free-delivery offices, and all others the same. And in the third place we propose to allow specimen copies to go through at the same rates as those to regular subscribers. I believe that is all I want to say at present.

Mr. CANNON, of Illinois. This bill has received, as the gentleman in charge of it says, pretty thorough consideration by the committee by whose direction it was reported. It is an effort made, if possible, to distinguish more clearly between different classes of matter that pass through the mails of the United States.

I cannot say, sir, that many sections of the bill in my opinion are an improvement upon the law as it now is. I think that in most respects the postal code is in pretty good shape, and I am not at all clear but that in an effort to produce greater harmony a door may be opened that will produce greater confusion. The law as it now is, to which I desire to call the attention of the House for a moment, is as clear perhaps as language can make it; and this law has been in

force since 1874. The practice of the Department is fixed under it; many precedents have been made; postmasters throughout the country and the country are familiar with its provisions; and I want to be assured before we adopt this system of registration that is proposed in this bill that it will be an improvement. So I will call attention very briefly to section 5 of an act passed in 1874 touching this subject, which reads:

That on and after the 1st of January, 1875, on all newspapers and periodical publications mailed from a known office of publication or news agency, and addressed to regular subscribers, or news agents, postage shall be charged at the following rates: On newspapers and periodical publications, issued weekly and more frequently than once a week, two cents for each pound or fraction thereof; and on those issued less frequently than once a week, three cents per pound or fraction thereof.

Then subsequent sections of this law determine the manner in which the postage shall be paid and prescribe the form of the affidavit which publishers shall make that their publications are sent to genuine subscribers, and so forth. In 1876 an amendment to this act was made marking out very plainly the distinction between a newspaper that goes to regular subscribers and transient papers and advertising sheets. I read from the act of July 12, 1876, a part of section 15:

That transient newspapers and magazines, regular publications designed primarily for advertising purposes or for free circulation or for circulation at nominal rates, and all printed matter of the third class except unsealed circulars shall be admitted to and transmitted in the mails at the rate of one cent for every two ounces or fraction thereof.

So the House will observe that the law as it now is marks out plainly the difference between a newspaper which has a regular list of subscribers and between an advertising sheet which is issued primarily as an advertising sheet and supplied free or at a nominal rate; and I say again I doubt if the English language can make the distinction plainer than it now is made in the law.

This bill now proposes, in section 1, to divide mailable matter instead of into three classes, first, second, and third, into four classes, first, second, third, and fourth. It defines what shall constitute a newspaper, it defines what shall constitute an advertising sheet, it defines the rates proposed, as plainly as they are defined in the law at this time. But for the purpose of having the evidence of the class of publication that shall constitute a newspaper, and that shall go through the mails at these privileged rates, the bill in section 6 provides that the publishers of a newspaper shall register his paper with the postmaster in the United States wherever the paper is published, paying a fee of \$1 annually therefor; and when it is examined and ascertained by the postmaster to come within the definition of the law as a regular newspaper, that then the postmaster shall give him a certificate of that fact, and that he shall print the word "registered" on each newspaper that he prints, and that it shall go through the mails at the uniform rate of two cents a pound.

Now it is not provided in this act that each paper so registered shall be sent to the central office, but the bill leaves it, as the law now leaves it for that matter, with each postmaster to determine what paper comes within the definition of the law as proposed to be amended, so that I do not see wherein any more or less discretion is granted to a postmaster than is now granted to him. I do not see where anything is to be gained by the proposed bill and the additional machinery therein provided as a part of the scheme of registration. If a newspaper is not admitted in the mail under the privileged rate, as the law now is, an appeal can be made to the Postmaster-General. The bill provides for practically the same appeal to the Postmaster-General and then provides as follows, (I read from section 6:)

In case of the refusal by the postmaster to issue a certificate of registration, an appeal may be taken by the publisher to the Postmaster-General and the proprietor of any publication refused registration under this act or in cases where a certificate of registration has been revoked may apply to the district court of the United States in which his office is situated for a mandamus to compel the issue of such registration, and jurisdiction is hereby conferred on such court.

That perhaps may be a wise piece of legislation connected with the registration system. I doubt it, however; I would much sooner that the whole bill should fail than that both these provisions in this section should be adopted. This bill is ostensibly reported to secure uniformity. Now, it secures the very opposite, for the reason that any one of the forty thousand postmasters applied to may reject the application and the applicant can resort to the district court in whatever district the office may be situated and apply for a mandamus to compel the postmaster to receive his paper as published. The result is that each district court in the United States has exclusive original jurisdiction without appeal, and it will be seen at once that this will not give uniformity.

I doubt the policy of resorting in the first instance to a court to compel an executive officer belonging to a co-ordinate branch of the Government to do any act of this nature.

Section 9 of the bill provides that all matter of the second class shall go through the mails at a uniform rate—at two cents a pound. I do not believe that that section is right in this, and if the House will give me its attention for a few minutes I will state why.

I hold in my hand a letter of the superintendent of railway mail service, (the late Mr. Bangs,) written in 1875, showing the cash revenues and comparative profit and loss of carrying the different classes of mail matter for the fiscal year 1874; that the letters—first-class matter—weighed in round numbers 13,500,000 pounds, and constituted 12.1 per cent. of all the mail matter carried, and yielded \$19,597,000

revenue, while the second-class matter (newspapers and periodicals) weighed 55,783,000 pounds, and constituted 50 per cent. of all mail matter carried, and yielded \$976,217. The total postal revenues for that year were \$25,213,000, while the total expenditures were \$32,126,000. Estimated by weight, the cost of service for carrying second-class matter was \$16,063,000; revenue from postage on same, \$976,217—cost exceeds revenues \$15,087,783.

The proportion of matter of different classes carried and revenues from same is substantially the same now as in 1874, as shown from the Postmaster-General's report.

The Postmaster-General's Report for 1878, page 7, shows that the postage on second-class matter during the last fiscal year was \$1,025,180.98; of this on papers published weekly and more frequently at two cents a pound the postage was \$817,673.26, while upon papers and periodicals published less frequently than weekly, at three cents a pound, the postage was \$207,507.72. Now, this bill lowers the postage on periodicals from three to two cents a pound, and would make the revenues \$69,169.24 less than now received. In other words, estimating by weight, here is mail matter that it costs the Government per annum to distribute at the rate of \$17,000,000, and yields a revenue by way of postage of \$1,000,000, leaving a deficit of \$16,000,000; and now it is proposed to further decrease the postage per annum, \$69,000. The proposed decrease is in the interest of a few publishers of periodicals. To illustrate, say the weight of the magazines average five ounces per copy, twelve copies per year aggregate in weight sixty ounces, or three and two-thirds pounds; the postage at three cents a pound is eleven cents per annum; the proposed reduction to two cents a pound makes it seven and a half cents per annum. Does any one suppose the price of subscription will be lowered to the reader? If not, the \$69,000 per annum goes into the pockets of the publishers of the magazines.

The truth is all of the second-class matter, substantially, is franked through the mails, paying, estimated by weight, only one-seventeenth of its cost. I do not complain, as this is a means for information and education of the people. I only claim that, if we keep the machinery for collecting postage from this class of matter, the rate is now as low as it should be. I am not sure, however, but the time has almost, if not quite, arrived when second-class matter should include strictly newspapers and periodicals as contradistinguished from papers primarily intended for advertising, and let them go in the mails without postage and charge all other matter that passes through the mails the cost of distribution. I am certain that such legislation would vastly increase the revenues of the Post-Office Department.

But as a matter of revenue it is a mere farce to say that you charge postage on this matter, and then turn around with all these facts staring you in the face and further reduce the revenue from this source by \$70,000 per annum.

Mr. WADDELL. Will my colleague on the committee allow me to ask him a question right here?

Mr. CANNON, of Illinois. Certainly.

Mr. WADDELL. My colleague, as I understand, objects to the change proposed by this substitute because it establishes a uniform rate of two cents per pound on all classes of legitimate publications. He says that these publications have now practically the franking privilege; that so far as the expense of transportation is concerned they do not pay it, and therefore it is practically a franking privilege. I now ask my colleague to state to the House if he can give any just or good reason why a monthly or a quarterly publication should pay three cents a pound while a daily or weekly publication should pay two cents a pound, when the aggregate of the daily or weekly amounts to four times as much as that of the quarterly or monthly for the same time.

Mr. CANNON, of Illinois. I will answer the question to the best of my ability. First as to the matter of revenue when compared with the expenditures which this matter involves, I will say that the rate of postage on both classes is too low, but I apprehend you cannot raise the postage in this country.

Mr. WADDELL. You cannot.

Mr. CANNON, of Illinois. And it is no good argument because two cents a pound is too low and three cents a pound is too low to say you should reduce it all to two cents a pound. That is one reason. Now for another. The newspapers published weekly and more frequently than once a week go to the masses of the people throughout the country, to the poor people, to the laboring people; everybody takes them. It is the exclusive few as a rule who take the monthlies. The same argument would apply in this case that would apply in favor of supporting the common schools at public expense, and not the colleges.

Now, the Postmaster-General does not recommend this legislation proposed in section 9. I desire to call the attention of the House to pages 33 and 34 of his last report, in which he says:

If the revenues of the postal service were equal to its expenditures, no severe system of economy would be so necessary for its administration. Many of my predecessors have urged the establishment of higher rates of postage or the exclusion from the mails of such matter as did not pay the expenses of its transportation, in order to make the department self-sustaining. Time and again it has been shown that matter of the second and third class does not pay its way through the mails, and Congress has been urged to increase the rates of postage thereon.

And so on.

Mr. WADDELL. Yes; please read "and so on."

Mr. CANNON, of Illinois. Certainly, I will read the rest of it: The question has been considered time and again by the appropriate committees and discussed by both branches of Congress, and the results have shown that it was not expected that the Department should be self-sustaining, but that the deficiencies in its revenues should be met by appropriations from the general Treasury.

Mr. WADDELL. Yes, that is so.

Mr. CANNON, of Illinois. That is enough, I suppose, and it shows what has been the policy of the Department. I need not call the attention of gentlemen again to the fact that the monthlies, magnificent and readable as they are, do not reach the masses of the people who pay these taxes to make up these deficiencies.

Now, there is another objection to this section 9. It contains some more legislation that I do not believe to be judicious. As the law now stands all mail matter of the second class originating at a letter-carrier office cannot be delivered within the delivery of that office except at the rate of one cent per each two ounces or fractions thereof. This section 9 proposes to repeal that provision of law, and to allow matter originating in these offices to be delivered at the rate of two cents a pound through the carriers. Now, sir, I do not believe that is a wise provision.

It has been said on the other side in argument of this question, and no doubt will be said again, that under the law as it now is a newspaper may be mailed in San Francisco to a subscriber in New York, and delivered by the carrier in New York to that subscriber, at the rate of 2 cents per pound, and that it is not good policy to say that a newspaper mailed in New York for a subscriber in New York may not be delivered to that subscriber at the same rate.

Now, that is a pretty strong case. But mind you there are not a great many newspapers delivered in that way. If the whole issue of a paper published in San Francisco, or any very great number of that issue, was sent to the subscribers in New York, then I think that the right to have it delivered at the rate of 2 cents per pound should be curtailed. But the fact is that there are very few of the issues of a paper published in San Francisco delivered to subscribers in New York.

My objection to this modification is, that if you allow the great dailies, or the weeklies, or the tri-weeklies, or the periodicals published in these great letter-carrier cities, to be delivered at the rate of two cents a pound they will burden the carriers so that they cannot deliver promptly letters and other classes of matter, and you will either break down the system or will have to increase it from 50 to 100 per cent.

Let me illustrate. In the city of New York last year there were nine million newspapers—I mean nine million different pieces—delivered by the carriers at the rate of one cent for two ounces and each fraction thereof. Now, suppose you open the mails to the New York papers and periodicals in New York City at the rate of two cents a pound, would it be too much to say that of the morning and evening dailies, the weeklies and the monthlies, the total amount that would be delivered each day through the carrier system would be twenty-five thousand pieces? I think not; I think that estimate quite reasonable. Multiply twenty-five thousand by three hundred and sixty-five and you have ninety-two million pieces to be delivered annually. "But," says somebody, "why not, provided it pays expenses?" There is the rub. These publications now pay the expenses of carrying them in letter-carrier cities because the rate is one cent a paper and sometimes two cents; but this proposition is to deliver these publications at the rate of two cents a pound. To deliver these additional ninety-two million pieces annually you would have to increase your letter-carrier force, in my opinion, at least 50 per cent., with no appreciable increase of revenue.

I do not live in a letter-carrier city; there is none in my district; I have no interest in that system except for the general good of the service. At last this free-delivery system has become self-sustaining; in other words, what is earned in four great cities in excess of the expenditures is more than enough to make up what is lost in the other cities. I ask the House to pause long before taking a step to break down this system which after twelve or fifteen years has been brought to the position of being self-sustaining.

Mr. LATHROP. Will my colleague allow me a question?

Mr. CANNON, of Illinois. Certainly.

Mr. LATHROP. I wish to call the gentleman's attention to a provision contained in the sixth section. The bill there provides for an appeal, in case of refusal of registration, to the Postmaster-General. Then follows this language:

The proprietor of any publication refused registration under this section, or whose certificate of registration has been revoked under section 7, may, on proper notice, apply to the district court in the district in which the office of publication is situated for a mandamus against the postmaster to compel the allowance of such registration.

I wish to inquire whether the right of application for a mandamus is given to the publisher after his appeal has been made to the Postmaster-General and refused, and whether the mandamus is to be directed to the local postmaster?

Mr. CANNON, of Illinois. I suppose that by a fair construction of the section the right to apply for a mandamus is given after the appeal has been taken to the Postmaster-General; and there can be no question, I take it, from the reading of the section, that the mandamus is to be against the local postmaster. Now, I desire to submit a question to my colleague whether he thinks there is any necessity

that the press of the United States, extended and powerful as it is, with its thousands of strong arms reaching out through the country, should be given a remedy which is not given in cases similar in principle to the humblest and poorest private citizen in the United States.

Mr. LATHROP. I supposed that the gentleman, as a member of the committee reporting this bill, would understand what its provisions were intended to reach; and it struck me as exceedingly improper that the local postmaster, after his action had been affirmed by his superior, should be drawn into court at his own expense in a proceeding to compel him to disobey orders.

Mr. CANNON, of Illinois. I think the gentleman's criticism is very apt; and in putting my question to him my design was not so much to elicit an answer as to bring out more clearly the provision of this section.

Mr. WADDELL. If the gentleman from Illinois will allow me, I will say to the gentleman who propounded the question [Mr. LATHROP] that the committee, in preparing the paragraph to which he has referred, understood that in case the publisher made an appeal from the local postmaster to the Postmaster-General and was by the latter denied his right, he should be protected in his right to the utmost extremity by allowing him to demand from the court a mandamus compelling the Postmaster-General to admit the publication to registration.

Mr. LATHROP. But no provision is made for protecting the local postmaster in defending the action of the Department.

Mr. WADDELL. The idea of the committee was that only after the publisher had taken an appeal from the local postmaster to the Postmaster-General should the remedy of mandamus against the higher officer, the Postmaster-General, apply, and that the local postmaster would then be exempted from all further responsibility.

Mr. LATHROP. This provision seems to give the right of mandamus not against the Postmaster-General but against the local postmaster.

Mr. WADDELL. The committee may have been unfortunate in their phraseology; but unquestionably their intention was to give the right of mandamus against the Postmaster-General, the officer to whom the appeal is to be made.

Mr. LATHROP. One word more. Is it not very singular to give every district court in the United States jurisdiction over the Postmaster-General; to draw him to Oregon, California, Louisiana, Maine, or Florida—to the extremest parts of the country—to answer in a proceeding of this kind?

Mr. WADDELL. It was only intended out of extreme regard for the publishers of the country. So far from being a neglect of the rights of the humble citizen, as has been said, the intention of the committee was to protect him to the extremest limit of the law in the preservation of his rights by giving him a mandamus. I will frankly say I have no objection to a change in the phraseology, but I may say, speaking for the committee of which I am chairman, our only idea was to protect the publisher in his rights in case injustice has been done, either by the local postmaster or the Postmaster-General.

Mr. TOWNSEND, of Ohio. I ask the gentleman whether it is not the fact a mandamus is to issue compelling the postmaster to receive mail matter as registered pending the decision of the Postmaster-General.

Mr. WADDELL. That is provided in another section of the bill which has not been discussed, where it is provided he shall enter into bonds to pay third-class rates pending the appeal.

Mr. LATHROP. Is not the matter of mandamus a questionable provision to introduce?

Mr. WADDELL. We do not think so or we would not have put it in the bill.

Mr. CANNON, of Illinois. I will say to my colleague I think it is, and I have been trying to give the reason why I think so.

There are other objections of a minor character to several sections of this bill, which I will not take the time of the House now to discuss, but to which I will call attention as the bill is considered under the five-minute rule.

Mr. MONEY. Mr. Speaker, the object of the Government in establishing a postal service was for the dissemination of useful knowledge for the public good and to promote communication between its citizens in the several sections of the country. I should like to have the attention of the gentleman from Illinois and gentlemen on that side of the House generally.

Mr. CANNON, of Illinois. Certainly.

Mr. MONEY. I was about to say, Mr. Speaker, this bill was prepared by officers of the Post-Office Department, and was introduced by me, referred to this committee, has been considered for eighteen months, and has been twice recommitted with amendments, and printed. It has been submitted to a number of conventions of publishers in Philadelphia, New York, Boston, and other places. It has met their approval in every instance, and I have on my table now a large number of letters from these publishers, not only of books, but of leading daily journals of the country and postmasters of the leading post-offices of the country, in which they express their approval. My colleague of the committee from Illinois is mistaken when he states the Postmaster-General did not recommend this feature of registration.

Mr. CANNON, of Illinois. I should be pleased if the gentleman

would call attention to the recommendation. On the contrary, I read from his report showing he did not ask it—that is for that section of the bill decreasing postage on second-class matter.

Mr. MONEY. I will come to that in a minute. The object of this bill is simply to secure three or four more desirable things in order to promote the efficiency of the postal service—first, uniformity; second, simplicity; and third, justice to the different publishers. In this question of registration which has engaged the attention of the publishers who have considered the bill at all there was once an objection made by the convention of Philadelphia publishers which was afterward withdrawn. My friend from Illinois states it does not secure a uniformity of decision on these points. He is certainly mistaken about it. I think I can show it clearly to the House. As the law now stands every postmaster in the United States passes his judgment upon the paper applying for registration, not only the postmaster who mailed the paper but every postmaster in the United States to whose office the paper comes in the course of delivery. The object of this bill is to take from postmasters receiving this paper the rate of second judgment on the publisher. In other words, when a publisher is admitted to registration under the bill as contemplated in this section, the postmaster receiving that paper must deliver it. You can imagine very readily the embarrassment which attends the publisher of a journal having a large circulation. He applies to the postmaster at the office of publication, and he admits his paper to the mail as coming within the limits prescribed by the law. It is carried through the mail all over the United States. Probably ten thousand postmasters will receive it and deliver it to subscribers, while ten thousand more will put their judgment in opposition to the office of publication and refuse to deliver it. There is a conflict at once, and before it can be settled by reference to the proper office in the Post-Office Department, the publisher is under the embarrassment of having half of the edition refused to subscribers.

That at least is one of the difficulties obviated by the bill under consideration, and I think it is important enough to warrant the adoption of the bill by the House.

The SPEAKER *pro tempore*. The hour has expired.

Mr. MONEY. I will now speak in my own right.

The SPEAKER *pro tempore*. General debate was limited by the House to one hour, after which the bill was to be read by sections under the five-minute rule.

Mr. CANNON, of Illinois. I hope there will be unanimous consent to the gentleman's proceeding.

There was no objection, and Mr. MONEY's time was extended.

Mr. MONEY. Now, Mr. Speaker, in this matter of reducing the postage on periodicals published less frequently than once a week, the law as it exists to-day is not only illogical, but absurd; and not only absurd, but foolish; and more than that, it is unjust. As I stated in the outset of my remarks, the object of the establishment of the postal service is for the dissemination of useful knowledge among the people and to promote private correspondence. This being the object, we ought to adopt those means and appliances which will best subserve that end. The Post-Office Department, looked at in that light, may be considered as a great educator of the people in all parts of the country. Now that class of publications which is least entitled to be called an educator is admitted to the most privileged rates; and that highest class of literature, in which are ranked all the monthly, bimonthly, and quarterly publications, is excluded from the privileged rate, although they are in their very nature the highest educators that reach the people in that way. Take, for instance, the *Missionary Herald*, the oldest monthly in the United States, with over one hundred thousand subscribers. From the fact that that journal is published monthly it is compelled to pay the extraordinary rate of three cents a pound. Take all the monthlies of the country, and I say if you examine the character of those monthlies you will find more than two-thirds of the monthlies of this country are not the mere vehicles of literature to the people, but are instructors in the highest sense of the term. You may take every school-teacher's journal in the country; you may take every engineer's journal; you may take every law journal, and every medical journal, and every religious journal, and almost all the agricultural and live-stock journals of the country, including those referring to bee culture and other special industries in which the people are interested—they all come within this class, and are compelled to pay the extraordinary rate of three cents a pound.

Now, I ask, considering the fact that the Post-Office Department is to disseminate useful information, do you not see this law as it exists to-day and in the manner in which it is to be remedied by this bill is not only unjust, but absurd? It is absolutely cheating the people out of the advantage which the law proposed to give them by reducing the rate on publications.

That point cannot be gainsaid, for there is no dispute about that in the world that every journal in this country, almost without exception, that can be called an instructor and educator is to-day cut out from the privileged rate and is transmitted at the higher rate, while the mass of ephemeral dailies that furnish the gossip and the scandal of the hour are admitted at the privileged rate. I have nothing to say against the daily journals, because we could not exist without the morning paper; I am an editor myself; that is my profession, and I have a friendly feeling toward all the craft.

The reduction of revenue by this change in postage on that class

of publications is estimated at about \$70,000. Now, to promote the efficiency of the service we must simplify its operations as much as possible; and in simplifying the operations you always reduce the expense; you cannot help it.

Let me say another thing. Is it worth while for a country like this, that has undertaken to carry the mail and the correspondence of its citizens without compensation—for it has never been proposed to make the post-office a source of revenue—is it becoming in a great nation like this, which has voluntarily assumed this duty for its people, its citizens, to sacrifice the great principles of justice and uniformity for the paltry sum of \$70,000? But, as has been stated by the chairman of the committee, that would be only for the first year; and after a while the machinery of the post-office would get into such a position that it would not be open to the objections made by the gentleman from Illinois.

The gentleman from Illinois made the objection, also, that this bill provides for cutting down the rates in the cities of free delivery. I can show the House, in one sentence, that in that respect the law as it stands now is a more palpable absurdity than it is in the respect I have just explained. In the first place, the objection my colleague raised as to the duties of the letter-carriers being increased cannot hold good, for he will remember it was the testimony of the representative of every daily paper that came before our committee that they did not trust their paper to the hands of the post-office at all; because the demand for the daily paper must be met promptly. I do not want my daily paper unless I get it at my breakfast-table. It is put in the hands of newspaper-carriers; it does not go through the post-office; so that the gentleman's argument falls to the ground.

Now, here is the absurdity. As the law now stands, I publish a paper in New York or Boston or any other great center of population. I cannot have that paper delivered to a solitary subscriber in the city of publication by a letter-carrier without paying a double rate of postage; but I can send that paper three thousand miles away and at the end of that route I can put it in the hands of a letter-carrier and have it delivered free in Portland or San Francisco.

Mr. ROBINSON, of Massachusetts. May I ask the gentleman a question?

Mr. MONEY. Yes, sir.

Mr. ROBINSON, of Massachusetts. Did it appear in the testimony before the committee as a fact that that course was pursued by publishers of newspapers?

Mr. MONEY. It did.

Mr. ROBINSON, of Massachusetts. Then I understand as a fact that newspaper publishers are in the habit of sending their newspapers a distance of three thousand miles in order to get them at the end of the route into a post-office.

Mr. MONEY. No, sir; the gentleman has misunderstood me. Perhaps I was unfortunate in making myself understood. As the law now stands the publisher of a newspaper at Boston or Washington can send his paper through the mails to a point at a distance of three thousand miles. There it is put in the hands of the letter-carriers and they deliver it free, the charge of transmission being two cents a pound. But he cannot deliver it free in his own town by a letter-carrier without being subjected to the same expense. In other words, the Government undertakes to carry it three thousand miles, and then delivers it free; but refuses to deliver it free in the city of publication without a charge for transportation the same as for the three thousand miles. Now, that absurdity shows itself at once to every mind that considers the question at all.

Mr. DEERING. I would like to ask the gentleman a question.

Mr. MONEY. I will hear the gentleman.

Mr. DEERING. My question relates to section 4 of the bill. Under existing law, Mr. Speaker, postmasters are required to forward letters for one full rate—

Mr. MONEY. If the gentleman will allow me to anticipate him, I will say that we have amended that section. We have stricken out that section in the printed bill and offer an amendment which meets the objection which the gentleman was about to urge.

Mr. DEERING. Where is that amendment?

Mr. MONEY. It is here in the bill which has been substituted. It will be read when we get to consider the bill by sections. I will now read that amendment to section 4. It is as follows:

That all mail matter of the first-class upon which one full rate of postage has been prepaid, shall be forwarded to its destination charged with the unpaid rate, to be collected on delivery—

As at present—

but postmasters before delivering the same or any article of mail matter upon which prepayment in full has not been made, shall affix or cause to be affixed and canceled as ordinary stamps are canceled one or more stamps equivalent in value to the amount of postage due on such article of mail matter, which stamps shall be of such special design and denomination as the Postmaster-General may prescribe, and which shall in no case be sold by any postmaster or received by him in prepayment of postage. That in view of the commission now allowed to postmasters at offices of the fourth-class, &c.

In other words, the bill as amended allows the same liberty in forwarding matter that has received only part of the postage necessary, but provides, by the affixing of a special stamp, for the collection of the overdue postage.

Mr. DEERING. Then, as I understand, the letter is to be forwarded and the deficit collected.

Mr. WADDELL. Yes; by special stamps.

Mr. MONEY. Let me revert now to this registration matter again. There is this easy avoidance of the law as it stands to-day, and the ease with which it is avoided more clearly demonstrates its absurdity. Take the city of Boston, which covers part of two counties. The little town of Brookline is just outside the line of delivery. The publisher of a magazine can take his whole issue for a month and mail them at the office at Brookline, and they will come back to Boston and be delivered free.

Mr. CANNON, of Illinois. Will my colleague allow me a question?

Mr. WADDELL. If my colleague, the gentleman from Mississippi, will permit me, I desire to make an explanation to the House. I find there is among gentlemen a misapprehension as to what the committee has recommended. The fourth section of the bill which gentlemen have sent for, No. 5735, since the bill was recommitted to the Committee on the Post-Office and Post-Roads, has been changed, and the bill introduced by Mr. HAMLIN, in the Senate, has been substituted for the fourth section requiring prepayment of postage by a special class of stamps.

Mr. PRICE. Then the bill which is in our hands is not the bill that is now before the House for consideration?

Mr. WADDELL. It is the same bill with a few amendments.

Mr. PRICE. Is the fourth section a part of the bill?

Mr. WADDELL. That section, as it appears in the bill No. 5735, is stricken out and another is substituted.

The SPEAKER *pro tempore*. The gentleman from Mississippi [Mr. MONEY] is entitled to the floor. Does he yield further?

Mr. WADDELL. I do not desire to take my colleague, the gentleman from Mississippi, off the floor, but I think, for the information of the House, it would be better to have the bill read by sections with all the amendments as they stand in the bill as now reported.

Mr. MONEY. If the House desires that that course be adopted, I have no objection.

The SPEAKER *pro tempore*. The hour allowed for general debate on the bill has expired, but by unanimous consent the gentleman from Mississippi was allowed to proceed. If the gentleman from Mississippi has concluded his remarks the bill will now be read by sections for amendment.

Mr. MONEY. I have not concluded; but I find there is a general demand for the reading of the bill by sections. To that I have no objection.

The SPEAKER *pro tempore*. The Chair can only have the bill read by sections now by unanimous consent unless the gentleman from Mississippi yields the floor.

Mr. MONEY. Now, Mr. Speaker, in reference to the appeals of the circuit court of the United States to which such objection has been made by the gentleman, he will remember that in committee I combated that very proposition. I do not believe that the Post-Office Department would yield to such an ignoble feeling, even in times of high excitement, as to suppress newspapers because they did not agree with it in politics. I give the Department credit for intending to carry out its duties in a proper spirit in that regard, and I desire to say that while I opposed that section of the bill in committee, I do not recollect that my colleague did.

Mr. CANNON, of Illinois. If it would be in order to state what took place in committee I can correct the gentleman?

The SPEAKER *pro tempore*. It is not strictly in order.

Mr. MONEY. I have no personal vanity whatever in reference to this bill, but I believe it to be a measure which gives simplicity, uniformity, and justice. I believe that it will give satisfaction to the whole country. I do not see a single line to which objection can be taken, and I will say to this House that there is not a member of the committee that has not given days' and nights' toil to the consideration of this matter. I have corresponded with publishers in every part of the country. I have talked with the publishers of daily newspapers. I have a number of letters from publishers which I will not inflict upon the House, and also from leading postmasters. The Post-Office Department itself approves the bill.

It says that the classification of the mail matter and the rates of postage thereon are correct. Now there may be some objection urged as to the admission of merchandise to the mails, and I will be very glad to see that part stricken from all our postal laws, because I do not believe that the Post-Office Department should perform the functions of a common carrier. I do not think it one of the provinces of the Government to go into the express or carrying business; but we found that in the laws, and a portion of the people are not willing to give it up. I think it was a foolish law that reduced the rate upon newspapers to two cents a pound, because that matter is carried at a dead loss to the Government. At the same time there was such a popular demand for the continuance of the law that stands in preference to the amendment offered by the committee that it was impossible for the committee to have acted otherwise and to have yielded to the voice of the people on recommendation of the Department.

Sir, I have no speech to make upon this question; though if there be any objection to be made to any individual clause I will be glad to hear it.

Mr. WADDELL. I will say before the debate closes, and I hope that it will close very soon, that my friend from Illinois, my colleague of the committee, is the only gentleman I have been able to discover out of the forty-five million of the American population, including Indians not taxed, and without regard to race, color, and previous

condition of servitude, who has raised any objection to the bill. I hoped he would not raise any objection, and I know he has peculiar notions about such things; but he is the only gentleman I have found who has raised any objection to the bill, because for the last eight months it has been carefully considered by the Department and by all the leading publishers.

We have had conference after conference between the committee of the House of which he is a member, but I will say, in order to do him perfect justice, that I honestly believe that if the ten commandments were offered as a code of morals, if my friend was not allowed to offer an amendment, he would object to them.

[Here the hammer fell.]

Mr. CUMMINGS. Would it be in order to test the sense of the House by moving to lay the bill upon the table?

Mr. WADDELL. Can that motion be entertained?

The SPEAKER *pro tempore*. It can, for the bill is being considered in the House and not in the Committee of the Whole.

Mr. CANNON, of Illinois. I desire to make a parliamentary inquiry. Am I in order in calling the attention of my colleague of the committee from North Carolina to the fact that there are other contrary members here beside, myself?

The question was taken upon the motion made by Mr. CUMMINGS; and upon a division there were—ayes 14, nays 76.

Mr. EAMES. No quorum has voted, and every member of the House knows that there is no quorum here.

Mr. COX, of New York. Is the matter debatable?

The SPEAKER *pro tempore*. It is not. The gentleman from Rhode Island has a right to object to proceeding without a quorum but not to debate, and the Chair will therefore appoint tellers.

Mr. EAMES. I withdraw the objection.

The question was taken on the amendment; and it was not agreed to.

The Clerk read the first section of the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.* That mailable matter shall be divided into four classes:

First, written matter;

Second, periodical publications under registration;

Third, miscellaneous printed matter;

Fourth, merchandise.

Mr. CANNON, of Illinois. I ask unanimous consent that we may hereafter turn back to the first section of the bill for the purpose of striking out the words “under registration,” in case the subsequent section providing for registration is stricken out.

Mr. WADDELL. I object; of course it requires unanimous consent?

The SPEAKER *pro tempore*. It does.

Mr. CANNON, of Illinois. I move to strike out the words “under registration.”

Mr. MONEY. Are not the amendments of the committee to be first acted upon?

The SPEAKER *pro tempore*. The committee has not reported any amendments to this section.

Mr. WADDELL. I will withdraw my objection.

The Clerk resumed the reading of the bill, and read the second section, as follows:

SEC. 2. That mailable matter of the first class shall embrace letters, postal cards, and all matters wholly or partly in writing, except as hereinafter provided.

No amendments being offered the Clerk read the third section, as follows:

SEC. 3. That on mailable matter of the first class, except postal cards and drop-letters, postage shall be prepaid at the rate of three cents for each half ounce or fraction thereof; postal cards shall be transmitted through the mails at a postal charge of one cent each, including the cost of manufacture; and drop-letters shall be prepaid at the rate of two cents per half ounce or fraction thereof, including delivery at letter-carrier offices, and one cent for each half ounce or fraction thereof where free delivery by carrier is not established. The Postmaster-General may, however, provide, by regulation, for transmitting unpaid and duly certified letters of soldiers, sailors, and marines in the service of the United States to their destination, to be paid on delivery.

Mr. AIKEN. I call the attention of the House to the second line, and I ask for information whether that requires the entire postage upon every letter, and is not that a change of existing law?

Mr. WADDELL. If the gentleman will be patient for a moment and read section 4 he will see that that is all provided for.

Mr. MONEY. The object of the bill is to change the existing law.

Mr. WADDELL. The whole idea of this provision is to secure the payment of the postage.

Mr. AIKEN. In full?

Mr. WADDELL. Yes, sir.

Mr. EAMES. I move to amend the section just read by striking out in line 3, before the words “cents for each half ounce,” &c., the word “three,” and inserting the word “two”; so that it will read:

That on mailable matter of the first class, except postal cards and drop-letters, postage shall be prepaid at the rate of two cents per each half ounce or fraction thereof, &c.

I desire to say a few words upon that proposition to the members of the House, and I wish I could have had the attention of all the members of the House upon this proposition.

Mr. Speaker, this amendment proposes to reduce the postage on letters from three to two cents for the half ounce or any fraction thereof. In no other respect does it change the existing law as to

letter postage. If it is adopted it will be a direct benefit to every one who has occasion to write a letter.

It has been recommended by both of the great political parties in their political conventions. The only objection, if it is one, to the adoption of this amendment is that it may increase the deficiency in the postal service. It is not probable that such would be the effect of the change. If it would, this is no reason why it should not be adopted, as under the existing law the deficiency between the postal receipts and the postal expenses is the most equitable and just tax on the people for the expense of the postal service. In only seven or eight States are the receipts equal to the expenditures. There is no justice or equity in the charge of three cents without regard to distance.

But if this amendment is adopted I think the deficiency will rather be diminished than increased. In England the letters carried through the mails in 1837 were \$2,000,000. The penny postage in that country went into operation in 1840, and in 1859 the number of letters had increased to 545,000,000. The postal revenue in 1835 which was less than the expenses was about \$3,000,000, and in 1859 was \$15,000,000, an amount in excess of the postal expenses. Now it may be truly said that because such was the effect of a reduction of postage on letters in England it does not follow that such would be the result in this country. I assent to this, but since the Government has had the control of the postal service in this country great changes have been made in the rates of letter postage.

And nearly all changes which have been made have been in the direction of reducing postage on letters, and the deficiency has been but slightly if any increased. The first law fixing the postage on letters was based on distance, and the rate varied from six cents to twenty-five cents. In 1845 a change was made to five cents under and ten cents over three hundred miles.

In 1844, the year previous to this change, the receipts were \$4,237,237.83 and the expenditures \$4,296,512.70. In 1845, the next year after the change, the receipts were \$4,289,841.80 and the expenditures \$4,320,731.99, showing a small increase of expenditures over the receipts; but in 1849 the receipts were \$4,705,176.28 and the expenditures \$4,479,049.13, showing an excess of receipts of more than \$200,000.

In 1851 the law was again changed, and a distinction was made between a letter prepaid and a letter unpaid, three cents if prepaid and five cents if not prepaid.

The receipts in 1850, the year before this change, were \$5,499,934.86 and the expenditures \$5,212,953.43; and in 1851, the year after the change, the receipts were \$6,410,604.33, and the expenditures \$6,278,493.68, showing under this change an excess of receipts over expenditures.

In 1855 the letter postage was three cents under and ten cents over three hundred miles. Under this law, which was an increase on the rates of letter postage, the deficiency was increased.

By the act of March 3, 1863, the rate was fixed at three cents for the half ounce or any fraction thereof, without regard to distance.

The receipts in 1862, the year before this change, were \$8,299,820.90 and the expenditures \$11,125,364.13. In 1863, the first year after this change, the receipts were \$11,163,789.59 and the expenditures \$11,314,296.84. In 1864, the receipts were \$12,438,253.78 and the expenditures \$12,644,786.20, showing a great increase of receipts and a great reduction of the deficiencies in these years; and in 1865 the receipts were nearly equal to the expenditures. Since 1865, under this law, the receipts have increased from about \$14,000,000 to about \$29,000,000 and the deficiency has been from \$4,000,000 to \$7,000,000.

These figures demonstrate that the reduction of letter postage as heretofore made has resulted in a large increase of the revenue, and that the deficiency has been but slightly increased, notwithstanding the great extension of postal facilities.

The law of March 3, 1863, at the uniform rate of three cents without regard to distance, is now the law, and no change has been made for nearly sixteen years. Is it wise, in view of the facts which I have stated, to make this change now? I think that it is.

The past legislation shows that the reductions which have been made have not much increased the deficiency between receipts and expenses, and this deficiency has arisen not from letter postage, but from the second and third class of mail matter, which has been reduced about four millions by the excess of receipts on letter postage.

Since the law of March 3, 1863, the postal card has been introduced. There is no reason why it should pay less than letter postage. It weighs as much and costs as much to send it through the mails. The result of reducing postage on letters will be to diminish the receipts of one cent on postal cards, and increase the receipts of two cents on letters, and thus the deficiency would not be increased, but probably would be diminished.

I repeat, even if this deficiency should be increased there is no more equitable mode to meet it than under the general law for raising revenue.

If this Congress wishes to pass a bill which will be a direct benefit to the whole people there is no better mode of doing it than by the adoption of this amendment.

This proposition is one of great importance to every citizen. It can be made, I think, without increasing the deficiency between the receipts and expenditures of the postal service. But if there should be such increase, the deficiency would be more justly met by the gen-

eral tax under the existing revenue laws than under the present rate upon letter postage.

Mr. Speaker, I am politically in the minority of this House, but the amendment which I propose is one which is neither political nor sectional. It will, if adopted, be a direct benefit to the people of all parts of the country. Why not, then, agree to this amendment, especially as it is not probable that it will increase the deficiency in the postal service? And, even if it does, it will apportion this increase more equitably than under the existing law.

Congress can do no wiser act upon the subject of the postal service than to adopt the amendment which I have proposed. I have for many years endeavored to secure the adoption of this proposition, and I hope now the time has come when this House will approve it.

[Before Mr. EAMES concluded his remarks the five minutes expired. Mr. WADDELL took the floor and yielded his time to Mr. EAMES, who concluded his remarks as above.]

Mr. MONEY. I move to strike out the last word. I am sorry to say that I could not hear all the arguments of my friend from Rhode Island, [Mr. EAMES;] and I am very sorry that I could not. But I did hear his amendment, and understand that it is a proposition to reduce the rate of letter postage from three cents to two cents for each half ounce or fraction thereof.

Now, it is a well-known fact that we are called upon every year to make up a deficit of from four to six millions of dollars for the purpose of carrying on the postal service of the Government. There is no complaint from any part of the country in regard to the present rates of letter postage. The gentleman from Rhode Island [Mr. EAMES] gets his idea I suppose from the penny postage of Great Britain, where the longest mail-route does not extend over four hundred and fifty miles. It is possible for letters to be carried in such a territory as that for two cents where they are carried for not more than four hundred and fifty miles at the farthest, when it would not be equally advisable to carry letters in this country even for three cents for three or four thousand miles. England is largely a commercial country and its longest mail-route does not extend over four hundred and fifty miles.

There has not been a man from any part of the country who has ever come before the Committee on the Post-Office and Post-Roads of this House, except my honorable friend from Rhode Island, [Mr. EAMES,] and urged the adoption of such a proposition as he has now submitted. No recommendation has come from the Post-Office Department to that effect. No application for such reduction has been made by the publishers of any papers, who have the largest correspondence by letter possibly of any persons in this country. No such proposition has been urged by the great lawyers of the country, who have extensive correspondence by letter. The proposition has come from no solitary individual, except my friend from Rhode Island. Now, I ask the House to entertain no proposition of that sort.

Mr. WADDELL. I call for a vote.

Mr. MONEY. I will withdraw my *pro forma* amendment.

Mr. EAMES. Before the gentleman takes his seat will he allow me to ask him a question?

Mr. MONEY. With pleasure.

Mr. EAMES. The gentleman from Mississippi says that before his committee there have been the publishers of newspapers and magazines and persons interested in that class of matter. Has he had before that committee anybody from the people to advocate this proposition?

This is a proposition that interests everybody throughout the country. Hence I say that no appearance in behalf of this proposition has been made before the committee.

Mr. MONEY. I will say that we have had an "appearance" in the person of my honorable friend from Rhode Island [Mr. EAMES] who argued this question very eloquently before the committee; but I am sorry to say that he did not succeed in convincing us—not from a lack of strength in his argument but because the committee saw that it would be impossible, without absolute detriment to the service, that this reduction in the rate of postage should be made. If the deficit of the Post-Office Department be increased from \$6,000,000 to \$12,000,000 annually, it must necessitate a curtailment of the postal facilities now enjoyed by the country. It is not expected that the postal service should be a source of revenue, but it is expected that it should be administered upon sound business principles so as to be as small a tax as possible upon the revenues of the Government, while at the same time furnishing such facilities as will meet the approbation of the people.

The question being taken on the amendment of Mr. EAMES, it was not agreed to; there being—ayes 11, noes not counted.

Mr. HARRISON. I move to amend by inserting, after the word "established," in line 9, the following:

Whenever any person in course of his business has had or may hereafter have printed matter printed upon postal cards, and the same shall not be sent through the mails, then such person may have blank postal cards furnished him in lieu of those so printed upon, on payment by such person of the cost of manufacture of the same.

Mr. Speaker, I think this amendment ought to receive the support of the House. In all our large commercial centers many business firms buy large quantities of postal cards, upon which they print their business cards or other advertising matter, to be transmitted through the country. From one cause or another they may not use

these cards, and under the present law they have to lose them. This amendment proposes simply that any person who in course of business has postal cards printed may, upon returning them to the post-office, receive new cards in lieu thereof, provided he repays to the Government the cost of the manufacture.

This is a matter of no small moment to a very large number of business firms. It frequently happens that these firms get from the post-office cards to the amount of hundreds of dollars, which, after they have been printed upon in connection with the business of the firm, are never sent through the mails. The firm changes its business; or there is no longer need for advertising in the particular manner. My proposition is that in such cases business men may return these cards upon which matter has been printed and receive from the Government new postal cards on paying the actual expense to the Government. Under this provision the Government will lose nothing, and I think there can be no objection to it. A large number of business men have written to me asking that this provision be inserted in the postal law.

Mr. MONEY. Mr. Speaker—[cries of "Vote!" "Vote!"]—if there is any danger of this amendment being adopted I would like to say something; but I do not believe there is.

The amendment was not agreed to.

The Clerk read the next section, as follows:

SEC. 4. That all mail matter of the first class upon which one full rate of postage has been prepaid shall be forwarded to its destination charged with the unpaid rates, to be collected on delivery; but postmasters, before delivering the same or any article of mail matter upon which prepayment in full has not been made, shall affix or cause to be affixed and canceled, as ordinary stamps are canceled, one or more stamps equivalent in value to the amount of postage due on such article of mail matter, which stamps shall be of such special design and denomination as the Postmaster-General may prescribe, and which shall in no case be sold by any postmaster nor received by him in prepayment of postage. That in lieu of the commission now allowed postmasters at offices of the fourth class upon the amount of unpaid letter postage collected, such postmasters shall receive a commission upon the amount of such special stamps so canceled, the same as now allowed upon postage-stamps, stamped envelopes, postal cards, and newspaper and periodical stamps canceled as postages on matter actually mailed at their offices. That any postmaster who shall collect the postage due upon any article of mail matter, which he may deliver without having previously affixed and canceled such special stamps as hereinbefore provided, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of — dollars.

Mr. OLIVER. I move to amend by inserting after the word "postage," in the fourteenth line of this section, the following:

Letters on which one rate is not prepaid shall be forwarded and double rates collected thereon at the office of delivery in the manner herein provided.

The amendment was not agreed to.

The Clerk read the next section, as follows:

SEC. 5. That mailable matter of the second class shall embrace all newspaper and other periodical publications which have been duly registered as hereinbefore provided, and which shall comply with the following conditions:

First. It must be regularly issued at stated intervals, as frequently as four times a year, and bear a date of issue, and be numbered consecutively.

Second. It must be issued from a known office of publication.

Third. It must be formed of printed paper sheet or sheets, without board, cloth, leather, or other substantial binding such as distinguishes printed books for preservation from periodical publications.

Fourth. It must be published for the dissemination of information of a public character, or devoted to literature, the sciences, arts, or some special industry, and have a legitimate list of paid subscriptions, or orders from news-agents: *Provided, however,* That nothing herein contained shall be so construed as to admit to the second class regular publications designed primarily for advertising purposes.

Mr. KEIFER. I move to amend by inserting, after the word "publications," in line 19, the word "specially;" by striking out, in line 20, the word "primarily;" and by inserting at the end of the section the words "and not for dissemination to regular paying subscribers;" so that the proviso will read:

*Provided, however,* That nothing herein contained shall be so construed as to admit to the second class regular publications specially designed for advertising purposes and not for dissemination to regular paying subscribers.

Mr. WADDELL. I do not know that the committee have any objection to this amendment. It is a mere question of phraseology. I suppose the gentleman from Ohio is trying to arrive at the same result which the committee sought.

Mr. KEIFER. I do not wish to delay the progress of this bill, but it is perhaps proper that I should state very briefly why I offered this amendment. I believe it is reported that under a clause similar to that contained in this section a man who was so unfortunate as to be at the same time the regular publisher of a paper and also the owner of a saw-mill in the same county, inserted in one corner of his paper a notice in regard to sawing logs at his saw-mill, whereupon the Post-Office Department decided that his paper, although published regularly in all other respects, was primarily an advertising sheet and therefore could not be circulated at the ordinary rates of second-class mail matter.

Mr. WADDELL. I accept the amendment.

Mr. MONEY. I object to the amendment.

Mr. KEIFER. The object of my amendment is not to get into the law a provision which will allow any kind of publication merely for the purpose of advertising sent out under any guise whatever, to advertise the business or occupation of the men publishing it. I have drawn my amendment to guard this from any evil of that kind. I know of many publications, and other members tell me the same thing, I know notably of one publication, I have the copy of the paper here before me, that has over fifty thousand subscribers, I am told over two thousand in the State of Texas alone, which has very little

advertising patronage, paid or unpaid, very little indeed as compared with another paper I have in my hand, and I am told the Department is disposed to rule this paper with regular subscribers does not come within the rule of second-class mail-matter because it happens the publishers of the paper have another occupation if you please. They are manufacturers; but if you will read the paper you will hardly find I think—it is impossible to find a reference to their own manufacturing business in it anywhere, and there are nine-tenths of the entire print of general news for the people. If they should happen to get in a reference to the business of their own, according to the present law it will be held that it should be paid at the rate of third-class matter, as I read it.

I hold in my hand what I picked up this evening, what I would call an advertising sheet; it is called the New York Daily Commercial Bulletin. There are two or three columns that might be called general news matter; all the rest, with the exception of some little commercial quotations, is advertising matter. I have seen the Commercial Advertiser of New York with less than a column of general news in it and all the rest paid matter that may go all over the country as second class mail matter, while another paper is to be excluded on a simple technicality. The word "primarily" is in this bill, and I do not wish to mislead anybody, but I understand it is substantially the language of the present law which is unjustly applied to publishers.

Mr. WADDELL. If my friend will allow me to interrupt him I will call his attention to the broad distinction between the paper from which he has read and a paper like Baldwin's Monthly, of New York.

Mr. KEIFER. If this is published for the purpose of circulating with a regular list of subscribers my amendment excludes it.

Mr. WADDELL. Baldwin's Monthly has a large amount of really interesting literary matter.

Mr. KEIFER. If it is merely to cover up, if the gentleman will pardon me, general advertising business to be advertised by sending this out to persons not regular subscribers, then it is excluded in the mails as second-class matter under the amendment I propose.

Mr. WADDELL. It is excluded under the amendment we propose.

Mr. KEIFER. I want to still exclude it.

Mr. WADDELL. Publications of that kind which contain a great deal of valuable literary matter, but which are sheets published for advertising purposes, are excluded under our bill from the privileges of this rate.

Mr. KEIFER. My amendment excludes all publications specially designed for advertising purposes and not for dissemination of news to regular paying subscribers.

[Here the hammer fell.]

Mr. MONEY. I move to strike out the last word. Now, Mr. Speaker, the object of the amendment as provided in this bill is not to exclude the legitimate journal from getting as much advertising matter as they can. The character of the journal must be first fixed as one for the dissemination of useful knowledge. This bill says distinctly if a newspaper is devoted to some special industry it can be admitted to the privileged rate, but when it is devoted primarily, as expressed here, to advertising purposes, it is not entitled to the privileged rate, nor should it be. If a gentleman or a company have a large business and they publish a newspaper it is *prima facie* for the purpose of advertising that business, and it makes no difference how much general matter there may be to cover up that design, it cannot be concealed.

Well, the design of this bill is to exclude from the privileged rates such matter as that, because no honest business man ought to come before Congress and ask the Government to circulate advertisements at a rate which everybody knows is a dead loss to the Government.

If a man is not able to conduct his business and pay for advertisements, he ought to close his shop. But to come and ask a special rate by which the Government may promote his business is a thing that ought not to be tolerated a moment by the House.

I desire to say one word about the decisions of the Post-Office Department. So far as I know, and I have inquired particularly into this matter, the effort has been made to give a logical and just decision upon this matter; a decision that cannot be attributed to any design on the part of the Department to misconstrue the law so as to oppress the men who publish papers, because the men who attempted to get it were not covered by the provisions of the law.

The question was taken upon Mr. KEIFER's amendment; and, on a division there were—*ayes* 13, *noes* 49.

No further count being insisted upon, the amendment was not agreed to.

The Clerk read section 6 of the bill.

Mr. BLOUNT. I move to amend the section by striking out, beginning in line 19 with the words "in case of refusals," down to and including "order thereon," in line 29, as follows:

In case of refusal by a postmaster to issue such certificate of registration, an appeal may be taken by the publisher to the Postmaster-General. The proprietor of any publication refused registration under this section, or whose certificate of registration has been revoked under section 7, may, on proper notice, apply to the district court in the district in which the office of publication is situated for a mandamus against the postmaster to compel the allowance of such registration; and jurisdiction is hereby conferred upon the said court to hear such application and make the proper order thereon.

Mr. WHITTHORNE. I rise to oppose the amendment offered by

the gentleman from Georgia, for this reason, that I am opposed to the entire section, and I am apprehensive that if the Congress of the United States commits itself to the idea that the newspapers of this country must depend upon the will of anybody before their circulation can become complete and reach the people, they will be opening the door to the establishment of a censorship in the United States; and if we are to have a censorship existing in the village postmasters, or in the Postmaster General, we should concede to the citizen the right of applying to the courts of the country to enforce whatever his rights might be.

It may be that you are protecting the public revenue by this step. It may be that you are making a classification which is necessary to the revenues of the country; but I fear that you are taking a step and establishing a precedent that may lead no man to-day can tell where, and under that apprehension I shall vote to strike this entire section from the bill; but so long as it remains in the bill I shall claim for the citizen the protection of the judiciary of the country.

Mr. BLOUNT. The gentleman may strike out the section, yet this power would remain with the Postmaster-General still. It is simply a question of administration, that and nothing more. He has now the right, and it ought to be continued in him. The right to have questions of this sort tried before the courts is entirely unnecessary. I think we may trust the Postmaster-General with this power as we have always done.

Mr. SPRINGER. I move to strike out the whole section.

The SPEAKER *pro tempore*. The vote must be first taken upon the amendment to the section offered by the gentleman from Georgia, [Mr. BLOUNT.]

The question was taken upon Mr. BLOUNT's amendment; and upon a division there were—*ayes* 22, *noes* 37.

No further count being insisted upon, the amendment was not agreed to.

Mr. SPRINGER. I move now to strike out the entire section. I am opposed to this section for the reason that it will open the way for the establishment of a censorship over the press. These publications are to be admitted to the mails under such regulations as may be prescribed, and are to be subjected to the investigation of whom? Of the postmaster at the place where the newspaper is published in the first instance, and if he should be moved by the arguments of the publisher so that he would allow his newspapers to be put into the mails, all right; but if the local postmaster should decide otherwise he must go to the Postmaster-General, and there prosecute an appeal for permission to send his paper through the mails.

Mr. BLOUNT. I would like to ask the gentleman if that is not done now; if the Postmaster-General has not the power of deciding that question now?

Mr. SPRINGER. If the Postmaster-General has the power to prohibit matter from going into the mails, that power should be taken away from him.

Mr. TOWNSEND, of Ohio. If this section is stricken out, how can a postmaster detect what is obscene literature?

Mr. SPRINGER. I do not understand that it is the duty of the postmaster to read everything which passes through the mails in his office to see whether it is obscene or not.

Mr. TOWNSEND, of Ohio. It is his duty to see that no obscene matter passes through the mails.

Mr. SPRINGER. There is a criminal law which punishes persons for sending such matter through the mails, and whenever you can determine that a man has been guilty of that offense you can punish him.

I do not propose to open the door and authorize the postmasters of this country to determine what newspapers shall be admitted into the mails and what shall not be. I prefer to provide by criminal statutes against using the mails improperly, and to punish those who do use them improperly. But to establish a censorship over the mails, which will require the publishers of newspapers all over the country to go to the postmasters in order to obtain permission to put their newspapers into the post-office, is against the free spirit of our institutions. I am opposed to the whole section and hope it will be stricken out.

Mr. MONEY. I desire to meet the objection urged by the gentleman from Illinois, [Mr. SPRINGER.] I am sure that if he were at all familiar with the law as it now exists he would not have moved this amendment, because the censorship of which he complains already exists.

I would like to know of the gentleman how the newspapers are to-day admitted into the mails, unless the postmaster has power to examine a newspaper and see whether it is a mere advertising circular or not? It is a fact that this censorship exists to-day, and the object of this section is that it may be applied logically by postmasters all over the country. Now a postmaster in California may decide that a paper is admissible to the mails, and one in Maine may decide that it is not admissible; and the one in Maine may refuse to deliver the paper after it has been carried in the mails for three thousand miles. This section is for the protection of every legitimate newspaper in the United States, and will operate only against those that are not in any proper sense entitled to have this privilege. I hope the motion to strike out will not prevail.

Mr. WADDELL. I wish to say one word, Mr. Speaker, and then I will move that the House adjourn. This subject has been under consideration by almost every publisher in the United States, by the Post-

Office Department, and by the committee of which I have the honor to be the chairman, for the past eighteen months. And now at the last moment, when everybody interested in it seems to be satisfied with it, this bill is talked to death by chin music. I move that the House now adjourn, and I insist upon my motion.

The question was taken; and upon a division there were—ayes 49, noes 30.

Before the result of this vote was announced,

Mr. CALDWELL, of Tennessee, called for tellers.

Tellers were not ordered, there being but 22 in the affirmative—not one-fifth of a quorum.

So the motion was agreed to; and accordingly (at ten o'clock p. m.) the House adjourned.

### IN SENATE.

FRIDAY, January 24, 1879.

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. 6126) to establish post-routes in the several States herein named was read twice by its title, and referred to the Committee on Post-Offices and Post-Roads.

#### EXECUTIVE COMMUNICATIONS.

The VICE-PRESIDENT laid before the Senate a communication from the Secretary of the Interior, transmitting an estimate of \$32,200 for additional appropriations for the office of the surveyor-general of California, together with letters from the Commissioner of the General Land Office to the surveyor-general of California, explanatory thereof; which was referred to the Committee on Appropriations.

He also laid before the Senate a communication from the Secretary of the Interior, transmitting a letter from the Commissioner of Indian Affairs, relative to a deficiency of \$5,000 in the appropriation for telegraphing and purchase of Indian supplies; which was referred to the Committee on Appropriations.

He also laid before the Senate a communication from the Secretary of War, transmitting the indorsement of General Pope, on a communication of the commanding officer of the district of New Mexico, on the subject of the location of a post at Pogosa Springs, and indorsements of Generals Sheridan and Sherman; which was referred to the Committee on Military Affairs, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting a report of an inspection of the military prison at Fort Leavenworth, Kansas, by Brigadier-General R. B. Marcy, Inspector-General of the United States Army; which was referred to the Committee on Military Affairs, and ordered to be printed.

#### PETITIONS AND MEMORIALS.

The VICE-PRESIDENT presented the petition of Elizabeth Cady Stanton, Matilda Joslyn Gage, and Susan B. Anthony, officers of the National Woman's Suffrage Association, praying for the passage of Senate joint resolution No. 12, providing for an amendment to the Constitution of the United States protecting the rights of women citizens, and also that the House Judiciary Committee be relieved from the further consideration of a similar resolution.

Mr. FERRY. If there be no objection, I ask that the petition be read at length.

The VICE-PRESIDENT. The Chair hears no objection, and it will be reported by the Secretary.

The petition was read, and referred to the Committee on Privileges and Elections, as follows:

*To the Senate and House of Representatives  
of the United States in Congress assembled:*

Whereas more than forty thousand well-known men and women, citizens of thirty-five States and five Territories, have petitioned the Forty-fifth Congress, asking for an amendment to the Federal Constitution prohibiting the several States from disfranchising United States citizens on account of sex; and

Whereas a resolution providing for such constitutional amendment is upon the Calendar, (Senate resolution No. 12, second session Forty-fifth Congress,) and a similar resolution is pending upon a tie vote in the Judiciary Committee of the House of Representatives; and

Whereas the women citizens of the United States are joint heirs with men of this Republic, constitute one-half of the people, and have an inalienable right to an equal voice with men in the nation's councils; and

Whereas this Republic is governed by opinions, and not by force of arms; and

Whereas women citizens, being denied the right to have their opinions counted at the ballot-box, are compelled to hold all other rights subject to the favor, passions, and caprices of men; and

Whereas in answer to the appeals of so large a number of peaceable, law-abiding, honorable petitioners, it is just and courteous that the Forty-fifth Congress should express its opinion and leave its record upon this grave question of human rights: Therefore,

We pray your honorable body to take from the Calendar and pass Senate resolution No. 12, (second session Forty-fifth Congress,) providing for an amendment to the Constitution protecting the rights of women citizens; and

We further pray you to relieve the House Judiciary Committee from the further consideration of the sixteenth amendment woman suffrage resolution brought to a tie vote in that committee February 5, 1878, that it may be submitted to the House of Representatives for immediate action.

And your petitioners will ever pray.

ELIZABETH CADY STANTON,  
President.  
MATILDA JOSLYN GAGE,  
Corresponding Secretary.  
SUSAN B. ANTHONY,  
Chairman Executive Committee.

Mr. SHARON. I present resolutions of the Legislature of Nevada, in favor of the passage of a law prohibiting alleged discriminations, exactions, and extortions by the Central Pacific Railroad.

Mr. President, I desire to make a single remark upon this subject. The evils complained of in these resolutions have existed for a long time and are of a very grievous character. The only power possible to control this matter of the freights and fares as between States rests with the National Legislature. Our people have a particular and a peculiar right to ask for the modification of these rates. The Congress of the United States has subsidized these roads by money and lands, the property of the people. The bounty of the Government in favor of these roads has been largely extended. When the prerogative of the Government is exercised by way of subsidy for the benefit of a corporation it assumes a quasi-public character, and I think the people have certainly a right to demand that the legislative bodies who have made this grant of moneys and lands shall see to it that they are not imposed upon by these corporations, the creatures of their creation. In other words, the creature cannot rise above the creator. We look to the power of the General Government to regulate these freights and fares, and we think on behalf of the people we have a right to demand it. I cannot too earnestly direct the attention of the Committee on Railroads and of the Senate to the wrongs complained of by the people of Nevada through both her legislative bodies now in session. They have already existed too long. I move the reference of the resolutions to the Committee on Railroads.

The motion was agreed to.

Mr. MORRILL. I present the petition of A. J. Copeland, S. P. Hebard, and a large number of other persons, of Chelsea, Vermont, praying that the bill for arrears of pensions shall pass.

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

Mr. MORRILL. As the bill has already passed, I desire to say that I think many of the persons who signed this petition would have hesitated about signing it if they had known the amount that would be involved, and perhaps the injustice of some portions of the practical operation of the law. I am very sure that I should have hesitated in voting for the bill if I had known the vast amount which is now reported by the Commissioner of Pensions as the probable amount that will be required to pay these pensions the next and succeeding year.

Mr. CONKLING. What is that amount?

Mr. MORRILL. It is very large. I have understood that it is something like \$80,000,000.

Mr. DAVIS, of West Virginia. We cannot hear the Senator on this side of the Chamber. Did the Senator name the amount that it would probably take to carry out the provisions of that act?

Mr. CONKLING. He spoke of the amount required to execute the bill.

Mr. DAVIS, of West Virginia. I ask the Senator from Vermont whether he has information on that subject?

Mr. MORRILL. I understand that the Department are making an accurate computation of the amount, and as a rough estimate I have understood it to be asserted by the Pension Bureau that it will require \$80,000,000.

Mr. DAVIS, of West Virginia. It will be recollected that it was stated here that the highest amount estimated was \$20,000,000; now it is eighty million.

Mr. BLAINE presented the petition of James B. Hitchcock and others, of Bath, Maine, praying for the passage of the bill (H. R. No. 3547) to regulate interstate commerce and to prohibit unjust discriminations by common carriers; which was referred to the Committee on Commerce.

Mr. HILL presented the petition of D. H. Baldwin and others, citizens of Savannah, Georgia, praying for the passage of the bill (H. R. No. 5125) to amend an act entitled "An act for the relief of Robert Erwin;" which was referred to the Committee on the Judiciary, and ordered to be printed.

Mr. BRUCE presented the petition of Adolph Feininger, of Columbia, South Carolina, praying compensation for property destroyed and appropriated by United States military forces during the late war; which was referred to the Committee on Claims.

#### REPORTS OF COMMITTEES.

Mr. MCPHERSON, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1446) for promoting the efficiency of the corps of chaplains of the United States Navy, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

#### AMENDMENT TO AN APPROPRIATION BILL.

Mr. FERRY, from the Committee on Post-Offices and Post-Roads, reported an amendment intended to be proposed to the bill (H. R. No. 6143) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1880, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

EDWARD RICE.

Mr. DAWES. I am instructed by the Committee on Finance to report back for present action, if it does not cause any debate, a small bill which provides simply for authorizing the issue of duplicate bonds for lost bonds to the amount of about \$5,000. I presume it will not cause any debate.

By unanimous consent, the Senate, as in Committee of the Whole,