question was ordered, and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. ATKINS. I move that the House adjourn.

The motion was agreed to; and accordingly (at nine o'clock and forty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and others papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By Mr. BALLOU: The petition of the Glendale Woolen Mills Company and other manufacturers, of Rhode Island, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. CLAFLIN: The petition of Sarah Jane Hills, for compensation for property taken from her late husband by order of United States military officials during the late war—to the Committee on War Claims.

By Mr. COX: The petition of the American Photographic Company, for compensation for expenses incurred in work done for the United States Patent Office in 1869 and 1870—to the Committee on Appropriations.

By Mr. CRAPO: The petition of George R. Long and 122 others, soldiers, residing in New Bedford, Massachusetts, and vicinity, for the passage of the equalization bounty bill—to the Committee on Military Affairs.

By Mr. HORACE DAVIS: Memorial of the San Francisco Produce Exchange, asking for an increase of the duty on mustard-seed—to the Committee on Ways and Means.

By Mr. FELTON: The petition of citizens of Murray County, Georgia, for a post-route from Spring Place, Georgia, to Conasauga, Tennessee—to the Committee on the Post-Office and Post-Roads.

By Mr. FORD: The petition of W. C. Rhoads and others, citizens of Missouri, ex-soldiers, for the equalization of bounties—to the Committee on Military Affairs.

Also, the petition of M. D. Smith and others, ex-soldiers, for the passage of the bill (H. R. No. 5394) providing for a court of pensions, and against the passage of the sixty-surgeon bill—to the Committee on Invalid Pensions.

Also, the petition of W. C. Rhoads and others, ex-soldiers, against the passage of Senate bill No. 496—to the same committee.

By Mr. LOUNSBERY: The petition of the Napanock (New York) Rolling Mills Company, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. MILLER: The petition of John H. Fralick, for relief on account of his name having been forged to a check of the Treasury in his favor and the money drawn and appropriated by another person—to the Committee on Claims.

By Mr. NORCROSS: The petition of George H. Gilbert and others, of Ware, Massachusetts, for a commission to investigate the tariff—to the Committee on Ways and Means.

By Mr. O'NEILL: The petition of citizens of Philadelphia, for the passage of the bill (H. R. No. 5038) relating to the granting of lands to Indians in severalty—to the Committee on Indian Affairs.

By Mr. POUND: The petition of James R. Luce and 56 others, ex-soldiers, of Wisconsin, for the passage of the bill providing for a court of pensions, and against the passage of the sixty-surgeon bill—to the Committee on Invalid Pensions.

By Mr. SPARKS: The petition of J. H. Shimer, of Hillsborough, Illinois, for the passage of the bill appointing a tariff commission—to the Committee on Ways and Means.

By Mr. TYLER: The petition of the Vermont Merino Sheep Breeders' Association, of similar import—to the same committee.

Also, the petition of the Vermont Merino Sheep Breeders' Association, against any reduction of the tariff—to the same committee.

By Mr. VANCE: The petition of the Society of Friends of Pennsylvania, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Alcoholic Liquor Traffic.

IN SENATE.

THURSDAY, *May* 20, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

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

PETITIONS AND MEMORIALS.

Mr. CAMERON, of Pennsylvania, presented a petition of citizens of Pennsylvania, praying for the passage of the House bill proposing that land titles be granted to the Indians in severalty on their reservations; which was referred to the Committee on Indian Affairs.

He also presented a memorial of the Book Trade Association of Philadelphia, Pennsylvania, remonstrating against the passage of the Tucker tariff bill, and praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

He also presented the petition of Mrs. R. S. Lytle, of Rebecca Furnace, Pennsylvania, manufacturer of iron, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

He also presented the petition of Sylvester W. Trucks, of Bradford, Pennsylvania, praying to be reimbursed for damages alleged to have been sustained by him from the confederate government during the late war; which was referred to the Committee on Claims.

Mr. HOAR. I present the petition of C. F. Morse, captain of colored soldiers in the United States Volunteers in the late war, and a large number of other officers and soldiers residents of Massachusetts, who pray that the Senators and Representatives will use all proper means to prevent partisan action on the bill to relieve General Fitz-John Porter. It is a case, in their opinion, in the decision of which political preferences should not be allowed to enter. I desire to state in presenting the petition that it is accompanied by a letter from a very distinguished officer of Massachusetts, a republican, who says that nine-tenths of the officers from that State will sign a petition if it is of any use; that in presenting it he has endeavored to get representative men as far as possible; that on a like petition, which was presented the other day, two of the signers were colonels who commanded colored regiments; and that only five persons to whom the petition has been presented have refused to sign it, and four of those five persons believe General Porter to be innocent, and the other one believes him to be guilty, and the petitioners are republicans in politics.

The PRESIDENT *pro tempore*. What disposition does the Senator wish made of the petition?

Mr. HOAR. I suppose it will go on the table, as the measure to which it relates is pending.

The PRESIDENT *pro tempore*. The petition will lie on the table.

Mr. INGALLS presented the petition of William Hazelit, of Atchison, Kansas, late private Twelfth Regiment Kansas Volunteers, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. VOORHEES. I have a letter from the Superintendent of the Botanic Garden, in explanation of an amendment which I offered to the executive, legislative, and judicial appropriation bill. I ask to have it referred to the Committee on Appropriations. It is explanatory of the amendment I offered.

The PRESIDENT *pro tempore*. The paper will be so referred.

Mr. SAUNDERS presented the petition of M. W. Saxton, late first lieutenant Twenty-fourth United States Infantry, praying for restoration to his rank in the Army; which was referred to the Committee on Military Affairs.

Mr. EDMUNDS presented the petition of W. A. Cole and 21 others, citizens of Sharon, Pennsylvania, praying that an increase of pension be granted to John Pearsall; which was referred to the Committee on Pensions.

Mr. FERRY presented the memorial of Dewey, Foster & Co. and 64 other firms of Michigan, manufacturers of staves, heading, and hoops, remonstrating against an increase of duty on low-grade sugars; which was referred to the Committee on Finance.

COLLECTION DISTRICT OF RICHMOND, VIRGINIA.

Mr. RANDOLPH. I report by direction of the Committee on Commerce, to which it was referred, the bill (H. R. No. 4214) to amend and re-enact sections 2552 and 2553 of the Revised Statutes without amendment. It is to make the collection district of the port of Richmond, Virginia, include West Point.

Mr. JOHNSTON. I ask for the present consideration of the bill. It is a matter of considerable importance.

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

Mr. EDMUNDS. I should like to hear the letter of the Secretary of the Treasury read, if there is one, on this subject.

Mr. JOHNSTON. I have a letter from the Secretary of the Treasury on the subject which I will send to the desk that it may be read.

The Chief Clerk read as follows:

JANUARY 27, 1880.

SIR: I have the honor to acknowledge the receipt of your letter of the 26th instant, inclosing the draught of a bill proposing an amendment to the fourth paragraph of section 2552, Revised Statutes of the United States, to limit the extent of the district of Yorktown and changing its boundaries; also proposing an amendment to the seventh paragraph of the same section, so as to extend the district of Richmond to include West Point, on the York River, and to extend the port of entry of the Richmond district.

It also provides for the appointment of a deputy collector, who shall reside at West Point.

The Department will raise no objection to the passage of the bill, and suggests that the words "City Point and" be inserted, so that the closing paragraph of section 2 of the bill will read, "in which the port of entry shall extend from Richmond and Manchester to City Point and Bermuda Hundred." The draught of the bill inclosed in your letter is herewith returned, the Department having retained a copy.

Very respectfully,

JOHN SHERMAN,
Secretary.

Hon. R. L. T. BEALE,
Chairman of sub-committee of the Committee on Commerce,
House of Representatives.

Mr. MCMILLAN. I should like to ask whether the Committee on Commerce of the Senate have not had a similar bill before them, and if it has not been acted upon by that committee? Has the Senator from Virginia any information on that subject?

Mr. JOHNSTON. This is the only bill that I know of.

Mr. RANDOLPH. This is a House bill and in purport, as I understand it, is similar to one which has already been before the Committee on Commerce. The committee this morning, including the member who had the bill to which the Senator from Minnesota refers in charge, agreed unanimously to report this bill and take the other one from the Calendar. That was my understanding.

Mr. McMILLAN. I knew the same subject had been before the committee, and merely inquired for information.

Mr. RANDOLPH. This is simply to make the collection district of the port of Richmond include West Point, which is made necessary by reason of railway extension.

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

REPORTS OF COMMITTEES.

Mr. HEREFORD. I am instructed by the Committee on Commerce, to whom was referred the bill (H. R. No. 559) to constitute the city of Portsmouth, in the State of Ohio, a port of delivery, to report it without amendment, and I ask for its immediate consideration.

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

Mr. EDMUNDS. I am going to object to everything now in order to get to the Calendar of cases reported long ago.

The PRESIDENT *pro tempore*. The Senator from Vermont objects to the present consideration of the bill, and it will go upon the Calendar.

Mr. HEREFORD, from the Committee on Claims, to whom was referred the petition of Mrs. Ellen Call Long, heir of Richard K. Long, deceased, late receiver of public moneys at Tallahasse, Florida, praying payment of certain moneys in accordance with the judgment rendered in the United States court for the district of Florida, January 18, 1847, submitted a report thereon accompanied by a bill (S. No. 1779) for the relief of Mrs. Ellen Call Long and Mrs. Mary K. Brevard.

The bill was read twice by its title, and the report was ordered to be printed.

Mr. COCKRELL. In connection with that bill I desire to state that it was not the unanimous report of the committee.

Mr. BAILEY, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 72) for the relief of John B. Davis, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. FARLEY, from the Committee on Naval Affairs, to whom was referred the bill (S. No. 1210) for the relief of certain officers of the Navy, reported it with amendments, and submitted a report thereon; which was ordered to be printed.

Mr. GROOME, from the Committee on Post-Offices and Post-Roads, to whom was referred the bill (S. No. 60) for the relief of B. S. James, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

Mr. MORGAN. I am instructed by the select committee to take into consideration the elections of President and Vice-President, to whom was referred the bill (S. No. 1687) to enforce the observance of the Constitution of the United States in reference to elections of President and Vice-President of the United States, to report it with an amendment and recommend its passage.

Mr. EDMUNDS. I wish to say that myself and the Senator from Colorado [Mr. TELLER] are not able to concur in the report. I need not state the reason of it now.

Mr. MORGAN, from the select committee to take into consideration the state of the law respecting the ascertaining and declaration of the result of the elections of President and Vice-President of the United States, to whom was referred the bill (S. No. 1712) providing that the President of the Senate shall submit to the Senate and House, when assembled to count the votes for President and Vice-President, all packages purporting to contain electoral votes, reported adversely thereon, and the bill was postponed indefinitely.

Mr. RANSOM, from the Committee on Commerce, to whom was referred the bill (S. No. 1410) to aid in increasing commercial relations with the Argentine Republic, reported adversely thereon, and the bill was postponed indefinitely.

BILLS INTRODUCED.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1780) for the removal of the political disabilities of John H. Forney, of the State of Alabama; which was read twice by its title, and, with the accompanying petition, referred to the Committee on the Judiciary.

Mr. COCKRELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1781) to donate twelve condemned cannon to aid in the erection of a monument to the memory of General James Shields; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. KIRKWOOD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 114) authorizing the Secretary of War to loan certain tents, flags, and camp equipage for the use of the soldiers' reunion at Muscatine, in the State of Iowa, in September or October, 1880; which was read twice by its title.

Mr. KIRKWOOD. I should like to have the joint resolution presently considered, but I suppose there is no possibility of that. Can it not lie on the table to be taken up to-morrow morning without a reference to a committee? It is a mere formal matter to lend flags to a soldiers' reunion.

Mr. DAVIS, of Illinois. I do not suppose anybody will object to it.

Mr. KIRKWOOD. I ask unanimous consent that the joint resolution be now considered.

Mr. INGALLS. I object, Mr. President.

The PRESIDENT *pro tempore*. Objection is made, and the joint resolution goes over.

Mr. KIRKWOOD. I move that the joint resolution be referred to the Committee on Military Affairs.

The motion was agreed to.

RETIRED LIST OF NON-COMMISSIONED OFFICERS.

The PRESIDENT *pro tempore*. If there are no "concurrent or other resolutions" the routine business of the morning hour is at an end, and the Calendar is before the Senate.

Several Senators addressed the Chair.

Mr. EDMUNDS. Give us the first case on the Calendar.

Mr. HEREFORD. I reported a bill this morning from the Committee on Commerce to which I presume there will be no objection. It is simply declaring the city of Portsmouth, Ohio, a port of delivery. It is a House bill and has the recommendation of the Secretary of the Treasury. It is a matter of considerable importance to those people there and it will not take more than a moment or two to dispose of it. I ask that that bill be taken up.

Mr. EDMUNDS. I must object to that. I wish to try the experiment to-day and see how it will work of sticking to the Calendar, unless the Senate chooses by a vote on something that it may take up to go out of its order.

Mr. HEREFORD. I ask for a vote on my motion.

Mr. EDMUNDS. We cannot have a vote, it was reported to-day.

The PRESIDENT *pro tempore*. The Senator from West Virginia moves that the pending order be postponed and that the Senate proceed to the consideration of the bill reported by him in relation to a port of delivery at Portsmouth, Ohio.

Mr. EDMUNDS. When was that reported?

Mr. HEREFORD. This morning. It is a House bill.

Mr. EDMUNDS. Then I respectfully submit it cannot be acted upon to-day.

The PRESIDENT *pro tempore*. If objection is made the bill goes over until to-morrow. The Secretary will report the first case on the Calendar.

The bill (S. No. 1331) to authorize a retired list for non-commissioned officers of the United States Army who have served therein continuously, honorably, and faithfully for a period of thirty years, or upward, was announced as being first in order upon the Calendar.

The Senate, as in Committee of the Whole, resumed the consideration of the bill, the pending question being on the amendment of Mr. DAWES to the amendment of Mr. ALLISON.

The amendment of Mr. ALLISON was to insert as an additional section:

SEC. —. That in addition to the number of cadets at the West Point Military Academy now authorized by law, the President shall each year appoint two colored cadets at large.

The amendment of Mr. DAWES to the amendment was to strike out "two colored" and insert "five;" so as to read:

The President shall each year appoint five cadets at large.

Mr. KIRKWOOD. My colleague feels considerable interest in the amendment, and is unable to be here. He has been absent during all of this week, except a short time yesterday, by reason of sickness. I would be very glad if he could be here when the matter is considered, and would suggest to the chairman of the Committee on Military Affairs that perhaps he had better let the bill pass over, not losing its place.

Mr. BURNSIDE. I understand that the Senator's colleague is in the building.

The PRESIDENT *pro tempore*. The Senator's colleague is in the room of the Committee on Appropriations.

Mr. KIRKWOOD. I will send for him.

Mr. EDMUNDS. While the Senator from Iowa [Mr. ALLISON] is coming in, I wish to suggest that there was so much confusion when the Clerk was reading before that we could not understand the amendment here, and if he will be kind enough to read it again it will not be any loss of time.

The Chief Clerk read the amendment and the amendment to the amendment.

Mr. KERNAN. My information is—and if I am wrong I should be glad to be corrected by the chairman of the Committee on Military Affairs—that we now have more young men graduating at West Point than we have places for in the Army. If so, I object to increasing the number of cadets to be appointed.

Mr. MAXEY. The law as it now stand authorizes the President to appoint ten cadets at large, that is from any portion of the United States. As the law had been construed until recently the President exercised that authority by appointing ten annually, but by an act of Congress he was limited to appointing ten during every four years; that is, that he should have only the right to appoint in such manner as that there would only be ten at large in the academy at one time. That provision was made upon full consideration by the Senate and by the House, and it was upon full consideration determined that the

number of cadets was too large. The effect of the amendment proposed by the Senator from Massachusetts [Mr. DAWES] would be to reverse entirely the legislation which we have heretofore had and recently on this very subject.

I therefore oppose the amendment of the Senator from Massachusetts because it increases the number of cadets unnecessarily, and I oppose the original amendment of the Senator from Iowa [Mr. ALLISON] because it makes a distinction between citizens of the United States not in my judgment warranted by the Constitution, and in effect discriminates in favor of the colored race and against the white race, when the Constitution as amended contemplates exact equality before the law.

Mr. ANTHONY. It seems to me that the amendment of the Senator from Massachusetts defeats the purpose of the amendment of the Senator from Iowa, for the five additional cadets we have no guarantee would be taken from the colored population. It would be merely adding to the membership of the academy at large.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Massachusetts [Mr. DAWES] to the amendment of the Senator from Iowa, [Mr. ALLISON.]

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question recurs on the amendment of the Senator from Iowa, [Mr. ALLISON.]

Mr. EDMUNDS. Let us have the yeas and nays on that.

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

Mr. FERRY, (when Mr. BALDWIN'S name was called.) I desire to state in behalf of my colleague [Mr. BALDWIN] that he has been called away to his own State and is not present to vote. My colleague is paired with the Senator from West Virginia [Mr. DAVIS] on all political questions. Were he here, my colleague would vote "yea."

Mr. HOAR, (when Mr. HAMLIN'S name was called.) I desire to state that the senior Senator of Maine [Mr. HAMLIN] is absent from the Senate. Were he here, he would vote "nay."

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Virginia, [Mr. WITHERS.]

The roll-call was concluded.

Mr. PENDLETON, (after having voted in the negative.) I was paired yesterday with the Senator from Vermont, [Mr. MORRILL,] who was not in his seat. I understood the pair to extend only for yesterday; but as he is not here, in order to save any misapprehension, I ask leave to withdraw my vote.

The PRESIDENT *pro tempore*. The vote will be withdrawn.

Mr. ROLLINS. Having paired yesterday afternoon with the Senator from Missouri, [Mr. VEST,] I did not understand the pair to continue any longer than during the day of yesterday.

Mr. COCKRELL. My colleague did not state to me for what length of time the pair continued, and I presume it was not intended to continue beyond yesterday.

Mr. ROLLINS. If the Senator thinks I ought to do so, I will withdraw my vote.

Mr. COCKRELL. I do not think it worth the Senator's while to withdraw his vote. It makes no difference in this matter.

The result was announced—yeas 14, nays 37; as follows:

YEAS—14.

Allison,	Cameron of Pa.,	Hill of Colorado,	Saunders,
Anthony,	Cameron of Wis.,	Kirkwood,	Windom.
Blair,	Edmunds,	McMillan,	
Burnside,	Ferry,	Rollins,	

NAYS—37.

Bailey,	Eaton,	Jonas,	Slater,
Bayard,	Farley,	Jones of Nevada,	Teller,
Beck,	Garland,	Kernan,	Thurman,
Booth,	Gordon,	Maxey,	Vance,
Butler,	Groome,	Morgan,	Voorhees,
Call,	Harris,	Paddock,	Walker,
Cockrell,	Hereford,	Pryor,	Wallace.
Coke,	Hill of Georgia,	Randolph,	
Davis of Illinois,	Hoar,	Ransom,	
Dawes,	Johnston,	Saulsbury,	

ABSENT—25.

Baldwin,	Hamlin,	McDonald,	Vest,
Blaine,	Hampton,	McPherson,	Whyte,
Bruce,	Ingalls,	Morrill,	Williams,
Carpenter,	Jones of Florida,	Pendleton,	Withers.
Conkling,	Kellogg,	Platt,	
Davis of W. Va.,	Lamar,	Plumb,	
Grover,	Logan.	Sharon,	

So the amendment was rejected.

Mr. MAXEY. I ask the Secretary to see if the amendments proposed by the committee in line 3 of the first section and line 2 of the second section have been adopted.

The PRESIDENT *pro tempore*. The Chair understands they have been adopted.

Mr. HOAR. I move the following amendment as an additional section:

In the appointment of cadets to the Military Academy at West Point, whether appointed from the several congressional districts or at large, it shall be the duty of the President to see that no preference is given to any class of citizens on account of race.

On that amendment I ask for the yeas and nays.

Mr. SAULSBURY. I ask the Senator from Massachusetts whether he proposes to confer on the President the power to control the appointments from the congressional districts by members of Congress?

Mr. HOAR. I do not propose to confer it. The President, as I understand, has it now. There is no law that I can find, and I think I may state very confidently that there is no law, under which members of the House of Representatives have any official relation whatever to the selection of cadets for West Point. A usage has grown up under which it has been the practice of the President of the United States to appoint, if they are found suitable on examination, persons recommended to him by members of Congress from the several districts. That is a mere usage, but it has prevailed so long that many persons suppose that it is the result of an actual statute. There is no statute to that effect whatever; but undoubtedly no President of the United States, in the face of a usage so long continued, would venture to disregard such a recommendation. Therefore it seems proper to call by an explicit enactment the attention of the President of the United States to the possibility of the abuse at which this is directed, and to assure him of the support of the law-making power in seeing that no such preference is made, unless the Senator should desire that such a preference should be made hereafter, which I do not take for granted.

Mr. SAULSBURY. I desire to inquire of the Senator from Massachusetts whether there is a single instance in the history of the country where any President of the United States has attempted to control the appointments which have been recommended by members of Congress of persons as cadets to that institution. I am not aware myself whether there has been any attempted authority on the part of the President to control the appointments which have usually been made to him by members of Congress.

Mr. HOAR. I understand that there has been. There is an opinion of the Attorney-General on the subject, and I also know that the President of the United States in the past has exercised his discretion in refusing to appoint persons recommended to him by members of Congress. In a case which arose in my own State a few years ago a colored young man was recommended by a member of Congress as a cadet at West Point. I think that has happened in more than one case from that State, certainly in one; I am sure of that. The President of the United States, on the recommendation of the authorities at West Point—it was during General Grant's administration—declined to appoint the person so recommended, on the ground that on an examination he was not found qualified. I being at the Academy, very carefully went over the examination papers of the young man; and it seemed to me that the authorities at West Point were right in their recommendation in that case. No fault could possibly be found with the President of the United States for refusing to make the appointment recommended to him.

Mr. SAULSBURY. It seems there has been a very unlucky attempt to force into that institution colored cadets, when by the admission of the Senator from Massachusetts such a young man from his own State, from that land of culture, was rejected because of the want of the qualifications sufficient to entitle him to admission, and in the more recent case which has been called to the attention of the Senate, a colored cadet has been found wanting in the studies in which he was engaged, and allegations have been made that by reason of that fact he has actually committed an assault upon himself, mutilated himself, in order that he might create some sympathy, I suppose, on the part of some one.

I do not know whether these allegations are true or not; but the experience in that institution of the attempt to force into it colored cadets has not heretofore proved a success, and I desire to inquire of the Senator from Massachusetts if he now wishes to make it the imperative duty of the President of the United States, where cadets are recommended to him for appointment by members of Congress, to see that they shall be equally selected, an equal number selected from the colored race and from the white race. Is that the object proposed by this amendment? If so, it seems to me to be an attempt to coerce the discretion of the present Executive of the country; or if not that, it is to coerce the discretion of the incoming dynasty. The gentlemen whom the Senator has heretofore supported for that position have had the discretion which he now would take away or require to be exercised under the compulsion of law.

We hear just before every election something in reference to the colored people. Ever since I have been in the Senate, just prior to a presidential election, there has been an attempt made to create public sympathy for the colored people of the country, and to appeal to the prejudice of the northern people. Heretofore there have been accusations of maltreatment on the part of the people of the South to the colored race, and very recently this crusade has taken the form of an assault upon the Military Academy because of the treatment of colored cadets there. At any rate it is very apparent that these periodic references to the colored population of the country are designed to have some political effect and bearing on the presidential election. I think the country will understand this thing.

Gentlemen on that side of the Chamber have no more regard for the colored people than we have on this side of the Chamber, and the people undoubtedly will understand that all this great anxiety to promote the interests of the colored race is designed to secure the votes of those people throughout the country, and also to appeal to the prejudices of northern white men.

The people of the country, I say, will understand this thing. They

are not to be deluded. There is no more sympathy on that side of the Chamber for the colored race than there is among the men on this side. I think the time has come to stop dictating to the President of the United States and members of Congress whom they shall appoint as cadets to the Military Academy and leave it to the discretion of the gentlemen charged with the duty, and I venture the assertion that it will be fully as well performed as if we attempt by enactment to control the discretion which has heretofore been exercised by them.

Mr. HOAR. The Senator from Delaware is very swift, in advance of the decision of a court-martial, in advance of an official publication of the testimony, in advance of any full publication of testimony whether official or not, in advance even of the completion of the testimony, to drag before the Senate his suspicions. I am afraid that the wish has been father to the thought.

The honorable Senator from Delaware thinks that the sympathy for the colored race, as he phrases it, in certain portions of the country is a pretense; that the men who voted for the constitutional amendment which delivered them from slavery are not their friends but those who voted against it are; that the men who thought that their women should not any longer be whipped and their children should not any longer be sold, are pretenders when they claim any regard for their rights; the men who proposed to make it lawful to continue those things are their true friends——

Mr. MORGAN. Will the honorable Senator allow me?

Mr. HOAR. I have the floor, I believe, Mr. President.

Mr. MORGAN. The Senator declines to yield. I wished to ask a question.

Mr. HOAR. I am replying to the Senator from Delaware at present.

He would have it believed that the men who enacted and carried into effect the constitutional amendment which made them citizens, equals, and voters, are pharisaic and pretenders, and the men who resisted all these things were the real honest friends of the colored men. Why, in the Senator's own State of Delaware there is a law on the statute-book to-day, published in the revision of 1874, which enacts that if any person shall within the limits of the State procure or aid in the arrest of any white citizen, or of any white non-resident, he shall be punished so and so, leaving the colored man entirely without any protection of the law in regard to such abuses.

Mr. SAULSBURY. I beg the Senator's pardon. I will say to him here and now that there is no State in this Union where the rights of the colored people are more fully protected than they are in the State of Delaware. I have practiced in the courts of that State, and I know that there is to-day in that State as great justice done to colored people as there is to any class of the people of the State, and I will say furthermore to the Senator that——

Mr. HOAR. I have not yielded, Mr. President, for a speech on the Senator's part. I do not know what rule of order exists in the Senator's mind this morning. It certainly is a very odd protection that these dear friends of the colored man in Delaware yield when they enact that it shall be an offense to commit an outrage on a white man, to deprive him of his liberty, whether a resident or non-resident, and leave the colored man for his protection entirely to that marvelous sympathy which the honorable Senator has professed and has described.

Mr. MAXEY. Mr. President, I hope the Senate will vote down the amendment offered by the Senator from Massachusetts, [Mr. HOAR.] I have not been able to see what this bill has to do with West Point or what it has to do with this special care of the colored man as contemplated by this amendment. The bill under consideration is a bill reported from the Military Committee for a specific purpose; it makes suitable provision for the care of worthy, worn-out non-commissioned officers in the Army, who by long, faithful, and honorable service merit the kindly care of the Government in their old age. That is the whole of it, and I see no reason for attempting to prevent a vote on that proposition by incumbering it with amendments having nothing in the world to do with it, amendments not designed to perfect the text, wholly apart from it, and which act only as an incumbrance to a well-considered, and, as the committee believes, eminently just and meritorious measure.

It is true that all appointments of cadets are made, as will be seen by section 1315 of the Revised Statutes, theoretically by the President:

SEC. 1315. The corps of cadets shall consist of one from each congressional district, one from each Territory, one from the District of Columbia, and ten from the United States at large. They shall be appointed by the President, and shall, with the exception of the ten cadets appointed at large, be actual residents of the congressional or territorial districts, or of the District of Columbia, respectively, from which they purport to be appointed.

That is the law; but it is known that from the beginning, with possibly some exceptional cases—though I never heard of an exception, save that just mentioned by the Senator from Massachusetts—these appointments are made upon the recommendation of the Representative in Congress from the congressional district or from the Delegate of the Territory. Universally, so far as I ever heard, except what I heard just now, the appointment is made on that recommendation.

Now there has grown up (and it occurs to me very wisely) in a very large portion of the country a system of competitive examination. The Representative of the district notifies the people of his district that a cadet is to be appointed from that district, and solicits all who desire to compete for that appointment to appear to be examined by a competent board of educated gentlemen, with a view to test the capacity of the applicants, and he who is upon that trial examination pronounced to be the best qualified and best prepared to receive the appointment is appointed; and I have never heard that any one on account of color was debarred the privilege of appearing, and I believe that any board of examiners, in any section of the country, would make a faithful report in favor of whoever, rich or poor, obscure or influential, black or white, proved best qualified.

Now, the effect of the amendment of the Senator from Massachusetts is practically to ignore and set aside this wise system of competitive examination which is growing up in almost every district in the country. It does away with the plan whereby the young man who proves himself to be the most meritorious, the best qualified, receives the appointment, and compels the appointments to be divided proportionately among the colored and white boys, without regard to any rule save that of color. It does not seem to me that that is a wise or safe rule or in any sense in the interest of the Government.

The President of the United States has the right, in my judgment, under the Constitution and under the law to select those he believes to be competent and qualified, without regard to color, race, or previous condition of servitude, and has a perfect right to make the appointments upon the recommendation of Representatives, as he now does. In this land of ours to-day there is no distinction in law under the Constitution between the colored man and the white man. They are all citizens and are all tax-payers, or presumed to be tax-payers. At all events they are liable to pay taxes if they have anything to pay taxes on. The President has no right to discriminate on account of color, race, or previous condition. He has no right to discriminate against the white man on that account, nor to discriminate against the colored man on that account; but there is under the Constitution equality before the law.

When young men come before a competitive board of examination let the selection be made of him who proves himself the most meritorious. If he be a colored boy, that colored boy ought to get it, because if white boys go into a competition with colored boys who have not had the same opportunities and advantages that they have had and get beat at it, so much the worse for the white boys. They cannot blame the law, but only themselves for not being well enough prepared to carry off the prize. The law affixes no distinction, and under the Constitution can make none. But I cannot for the life of me see, I have not been able to see, how it is that with a President who holds his office from the republican party republicans here have such great doubt in regard to the mode and manner in which the President of their own putting in—I will not say of their election, but the President who occupies that position, who was placed there by the republican party—how it is that they come in here and want to put him in leading-strings, and against what in my judgment is his constitutional privilege of exercising that discretion among citizens in making those appointments that he deems wise and suitable according to his best judgment, making no distinction on account of race, color, or previous condition, but controlled only by what he believes the best interest of the country. If a white boy is the better boy let him go in; if a black boy is the better boy let him go in; and so far as the system is concerned of appointments through Representatives, which has been in operation from the beginning, let the congressional Representative indicate the choice for his district; he is responsible to his people; and let that appointment be made by the President in accordance with that recommendation and in accordance with the immemorial custom and usage; and I believe the true principle is that which is rapidly spreading all over this land of having competitive examinations in every district; and then let him who is best be put at the head of the class competing, whether he be of one color or the other.

For these reasons and in view of the law as it stands, I cannot see any reason whatever for encumbering this bill with this amendment at this time. It appears to be done rather for political effect than to secure salutary laws.

Mr. MORGAN. Mr. President, I desired while the Senator from Massachusetts [Mr. HOAR] was on the floor to correct one observation he made which I thought was unjust to the people of my State at least. I understood the honorable Senator to say that those who had voted in favor of the thirteenth amendment were much better entitled to the sympathy and respect of the negroes of the South than those who had voted against it, thereby intending to insinuate to the gentlemen on the other side of the Chamber that we of the South had voted against the thirteenth amendment.

Now, sir, a convention was held in Alabama in September, 1865, before any amendment was submitted by the Congress of the United States to the different Legislatures of the States in reference to the abolishment of slavery, and that convention voted for the emancipation of the negroes, and amended the constitution of the State so as to liberate the negroes in that State. In that convention there was but one vote cast against that ordinance, and that vote was cast by Hon. Alexander White. In 1868 Alexander White became a republican after having cast that vote, and was made republican candidate for a seat in Congress, and he was elected to Congress by the republican party of Alabama, thereby showing that the negroes had become reconciled in my State to the one single person in the constitutional

convention who had voted against their liberation. I think that fact stands very strongly against the argument, the inference, or the statement of the Senator from Massachusetts.

Mr. INGALLS. Mr. President, the available time for eight days has now been consumed in the consideration of a bill under this rule that was adopted to facilitate the public business. This time has been employed not in discussing the bill, but in the consideration of amendments that had no earthly connection with it. I am in favor of the bill, and I am in favor of justice to the colored race; but relying upon the reserved rights I believe I have under the rule, I propose unless an immediate vote can be taken to object to the further consideration of this bill, for I see no possible chance of arresting a debate that seems liable to continue for the rest of this session. I object to the further consideration of this bill.

Mr. BURNSIDE. I hope the Senator will not object until we have an opportunity of voting on the amendment.

Mr. MAXEY. I hope there will be no more debate about it. It is a small attempt to make political capital, which I do not think the Senate should accede to.

Mr. INGALLS. If there can be a vote, I am willing to withdraw the objection.

The PRESIDENT *pro tempore*. The Senator from Massachusetts demands the yeas and nays on his amendment. Is there a second?

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

Mr. FERRY, (when Mr. BALDWIN'S name was called.) My colleague [Mr. BALDWIN] is paired on this question with the Senator from West Virginia, [Mr. DAVIS.] Were he present, my colleague would vote "yea."

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Virginia, [Mr. WITHERS.]

Mr. VEST, (when his name was called.) I am paired on all political questions with the Senator from Connecticut, [Mr. PLATT,] and I decline to vote on this question.

The roll-call was concluded.

Mr. HEREFORD. I desire to say that my colleague [Mr. DAVIS] is engaged in the Committee on Appropriations and he is paired on all political questions with the Senator from Michigan, [Mr. BALDWIN.]

Mr. VOORHEES. I am paired with the Senator from Illinois, [Mr. LOGAN.] If he were here, I would vote "nay."

Mr. ALLISON. On political questions I agreed some ten days ago to pair with the Senator from Maryland, [Mr. WHYTE.] I desire to vote in favor of this amendment; but as this question seems to be regarded as a political one, I shall refrain from voting.

Mr. PENDLETON, (after having voted in the negative.) For the reason I stated before, I desire to withdraw my vote.

The PRESIDENT *pro tempore*. The vote will be withdrawn.

The result was then announeed—yeas 18, nays 31; as follows:

YEAS—18.

Anthony,	Dawes,	Jones of Nevada,	Saunders,
Blair,	Edmunds,	Kirkwood,	Teller,
Burnside,	Ferry,	McMillan,	Windom.
Cameron of Wis.,	Hill of Colorado,	Plumb,	
Conkling,	Hoar,	Rollins,	

NAYS—31.

Bailey,	Farley,	Johnston,	Saulsbury,
Bayard,	Garland,	Jonas,	Slater,
Beck,	Gordon,	Kernan,	Thurman,
Butler,	Groome,	McDonald,	Vance,
Call,	Hampton,	Maxey,	Walker,
Cockrell,	Harris,	Morgan,	Wallace,
Coke,	Hereford,	Pryor,	Williams.
Eaton,	Hill of Georgia,	Ransom,	

ABSENT—27.

Allison,	Davis of Illinois,	Lamar,	Randolph,
Baldwin,	Davis of W. Va.,	Logan,	Sharon,
Blaine,	Grover,	McPherson,	Vest,
Booth,	Hamlin,	Morrill,	Voorhees,
Bruce,	Ingalls,	Paddock,	Whyte,
Cameron of Pa.,	Jones of Florida,	Pendleton,	Withers.
Carpenter,	Kellogg,	Platt,	

So the amendment was rejected.

Mr. KIRKWOOD. I offer this amendment as an additional section:

When an enlisted man has served as such fifteen consecutive years in the United States Army honorably and faithfully, the last five years thereof as a non-commissioned officer, he shall be eligible for appointment as second lieutenant in any corps of the line in which he has served.

I wish to say a single word. The purpose of the bill, as I understand it, is to do something to elevate the character of privates in the Army, to elevate their standing, to hold out some inducement to them to good conduct. That is a desirable thing to do, I think, and I believe the amendment that I have offered will tend very largely in the same direction.

I may be mistaken in my opinion as to the present condition of affairs in the Army, but that opinion is that the line of distinction between the commissioned officer and the private is as broad, as well defined as if the officers were whites and the privates colored, socially and in every other way. My judgment is that if you hold out to the men who carry the musket the prospect that after a period of faithful service of fifteen years, five of which shall be as a non-commissioned officer, they shall be eligible to commissions, that fifteen years' training is of itself sufficient, so far as qualifications are concerned. If you make such a man eligible for appointment as a commissioned officer, if otherwise qualified, you will do something to elevate the rank and file of the Army.

In reading the history of armies in other countries we find that some very distinguished soldiers have risen from the ranks. In France in Napoleon's time my recollection is that some of his marshals, whose reputation became world-wide as soldiers, rose from the ranks of the privates. As I understand it to-day, although not theoretically, practically the door is closed against the private.

Mr. BAILEY. Will the Senator permit me to ask a question for information?

Mr. KIRKWOOD. Yes.

Mr. BAILEY. I wish to ask if under existing laws a colored soldier after two years' service who shall have been made a non-commissioned officer may not demand an examination and if he passes an examination be appointed to the office of second lieutenant?

Mr. KIRKWOOD. There is so much conversation that I cannot hear the Senator.

Mr. BAILEY. I ask whether under existing law the colored soldier who has served two years in the Army of the United States and has reached to the position of a non-commissioned officer may not be appointed to the office of second lieutenant just as a white man may be, by submitting to an examination showing that he is competent to discharge the duties of a soldier?

Mr. KIRKWOOD. The amendment that I have offered has nothing to do with the color of the soldier at all. It does not speak of him as a colored man or a white man. It speaks of him——

The PRESIDENT *pro tempore*. The Senator's five minutes have expired.

Mr. KIRKWOOD. What is the matter?

The PRESIDENT *pro tempore*. The Senator's five minutes have expired. We are under a five-minute rule.

Mr. BAILEY. I have interrupted the Senator, and if I shall be permitted to do so I take the floor and yield to him my time. I misunderstood the Senator's amendment. I thought it referred to colored soldiers.

Mr. KIRKWOOD. No, it does not say a word about color.

Mr. BAILEY. The argument referred to it, and I supposed the amendment did.

Mr. KIRKWOOD. My argument did not refer to color at all.

Mr. BAILEY. Then I misunderstood the Senator in the confusion. I ask that his amendment be read.

Mr. ANTHONY. I hope the Senator from Iowa will be allowed to proceed by unanimous consent, not by a delegation of time by another Senator, because that would be contrary to the whole spirit of the rule.

The PRESIDENT *pro tempore*. If there is no objection the Senator from Iowa will be allowed to proceed.

Mr. INGALLS. For how long?

Mr. KIRKWOOD. A very few minutes.

Mr. BURNSIDE. The Senator from Iowa will allow me to make a remark which will throw some light on the subject. The class of people he is now trying to reach are already eligible.

Mr. KIRKWOOD. There are sometimes wheels within wheels, and sometimes they tend to accelerate and sometimes they tend to retard locomotion.

Mr. BURNSIDE. I am not opposed to the amendment.

Mr. KIRKWOOD. There is a provision, section 1214 of the Revised Statutes, that allows non-commissioned officers, under regulations established by the Secretary of War, to be examined by a board of Army officers as to their qualifications and so on. Well, some of us know how that thing works, and I think the chance of a private serving in the ranks in the field to get a commission under that section is about as promising as the Scripture says is the chance of a camel going through the eye of a needle.

Now, my purpose is to say that when a man has served fifteen years in the Army, five years as a non-commissioned officer, that shall make him eligible to appointment—not entitle him to appointment, but make him eligible to appointment without the examination required by section 1214, but that in itself fifteen years' faithful, honorable service, five years as a non-commissioned officer, shall make him eligible. If he can find friends to back him, then well enough; if not, he must suffer.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Iowa, [Mr. KIRKWOOD.]

Mr. BAILEY. I should like to hear the amendment read.

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

The Chief Clerk read the amendment submitted by Mr. KIRKWOOD.

The amendment was agreed to.

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

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

Mr. MAXEY. I ask that the title be amended by striking out the word "continuously" and adding "and for other purposes;" so as to read: "A bill to authorize a retired list for non-commissioned officers of the United States Army who have served therein honorably and faithfully for a period of thirty years or upward, and for other purposes."

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. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. No. 1703) authorizing the changing the name of the schooner Rebecca D.

The message further announced that the House had agreed to the amendments of the Senate to the bill (H. R. No. 580) to construe and define "An act to cede to the State of Ohio the unsold lands in the Virginia military district in said State," approved February 18, 1871, and for other purposes.

LEGISLATIVE, ETC., APPROPRIATION BILL.

Mr. DAVIS, of West Virginia. I am instructed by the Committee on Appropriations to report back the bill (H. R. No. 6185) making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June 30, 1881, and for other purposes, with amendments, and I ask that it be printed as early as possible. I desire to state that to-morrow morning, after the routine business of the morning hour, I shall ask the Senate to take up this bill and proceed with its consideration.

ORDER OF BUSINESS.

Mr. PLUMB. By an arrangement which took place on the 26th day of March, as shown by the record of that day's proceedings, the bill which stands next before the bill which has been under consideration, namely, House bill No. 2326, for the relief of settlers upon Osage trust and diminished-reserve lands in Kansas, and for other purposes, was to remain at the head of the Calendar. I therefore ask that that be proceeded with.

The PRESIDENT *pro tempore*. The morning hour has expired. The regular order is the resolutions reported by the Committee on Privileges and Elections in regard to the seat of the Senator from Louisiana, which are before the Senate, upon which the Senator from Arkansas [Mr. GARLAND] is entitled to the floor.

Mr. INGALLS. I think the rule that the Senate adopted declared that the consideration of the Calendar should continue until half past one. That is the language of the rule explicitly.

Mr. GARLAND. That was before we changed the hour of meeting from twelve to eleven.

Mr. INGALLS. But does the meeting of the Senate at eleven abrogate the order that the consideration of the Calendar shall continue until half past one?

The PRESIDENT *pro tempore*. In making the announcement he made just now, the Chair overlooked the exact language of the rule. It has been heretofore the case that there was only an hour and a half for the morning hour. The rule is as the Senator from Kansas states it:

> That at the conclusion of the morning business for each day the Senate will proceed to the consideration of the Calendar, and continue such consideration until half past one o'clock.

Mr. INGALLS. The very object of meeting at eleven, as I understood, was to give the Senate more time for the consideration of morning business.

The PRESIDENT *pro tempore*. The Chair looked into the precedents this morning before the Senate met, and found that it had been the universal usage of the Senate when the Senate met at an earlier hour that the morning hour should extend only an hour and a half from the time of meeting; but the Chair does not see how he can get rid of the positive language of this rule.

Mr. BURNSIDE. I move that the morning hour be extended to half past one.

Mr. INGALLS. It does not require any motion.

The PRESIDENT *pro tempore*. It does not require any motion. In the opinion of the Chair the point is well taken.

Mr. PLUMB. Mr. President——

Mr. FERRY. I hope, then, the Calendar will be proceeded with in its order. I have been patiently waiting for a bill that has once been considered by the Senate and recommitted to a committee and modified according to the objections made. I have abided the interposition of different Senators, and I have said not a word until the present moment. Now, I ask, as we have adopted one hour extra for the purpose of considering the Calendar, that we take up the Calendar in its order, and that Senators shall be treated equally, instead of this effort to interpose and take up bills out of order. I therefore shall object.

The PRESIDENT *pro tempore*. The Chair understood the Senator from Kansas to claim that his bill does stand at the head of the Calendar.

Mr. FERRY. Then I withdraw my objection in that case, but I shall object in any other.

Mr. VOORHEES. The Senator from Arkansas [Mr. GARLAND] very much prefers to go on with his remarks at this time. Having supposed that he would take the floor at this hour, it is disagreeable to him not to do so now; and I suggest to the Senator from Kansas that we can occupy an hour after the Senator from Arkansas gets through with the Calendar by general understanding as well as we can now. I hope the Senate will allow the Senator from Arkansas to proceed with his argument at this time. I ask unanimous consent that he be allowed to go on now.

Mr. PLUMB. In response to the request of the Senator from Indiana I will state that so far as my interest in the Calendar is concerned, I am entirely willing that the Senator from Arkansas shall now proceed with his remarks subject to this condition, that whenever he shall have concluded his remarks the Calendar shall be proceeded with, commencing at the regular order of business, for one hour.

Mr. VOORHEES. I think that is fair.

The PRESIDENT *pro tempore*. The Senator from Indiana asks unanimous consent that the Calendar may be laid aside informally, and that the Senator from Arkansas may be allowed to proceed with his remarks. The Chair is compelled to state that if those remarks extend beyond half past one the Chair does not at present perceive how the Calendar is to be resumed to-day.

Mr. INGALLS. By unanimous consent.

Mr. CONKLING. The proposition is that by unanimous consent it be resumed for an hour afterward.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none, and the Senate so agree. The resolutions in regard to the Senator from Louisiana are before the Senate.

HOUSE BILL REFERRED.

The bill (H. R. No. 6207) making appropriations for the Agricultural Department of the Government for the fiscal year ending June 30, 1881, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

SENATOR FROM LOUISIANA.

The Senate resumed the consideration of the resolutions reported by the Committee on Privileges and Elections relative to the seat held by WILLIAM PITT KELLOGG as a Senator from the State of Louisiana, the pending question being on the amendment proposed by Mr. HOAR as a substitute.

Mr. GARLAND. Mr. President, ordinarily it would be a matter of no particular difference to me whether I proceed at one hour or another; but as I had expected to take the floor at this hour and had made committee arrangements to follow the conclusion of my remarks, I prefer to proceed now.

Before going to the case itself I think it is proper that I should allude to some remarks that were made by the Senator from Maine [Mr. BLAINE] not now in his seat, several weeks since, when he had the floor on this subject, in which he stated that there was an agreement, as he had understood, between the respective parties as to the seating of Messrs. KELLOGG and BUTLER. I then occupied temporarily the chair. The Senator from Maine referred to a question of my own, propounded to the Senator from Vermont [Mr. EDMUNDS] when he introduced the resolution as to the time of taking the vote on those cases, and also to a statement made by the Senator from Ohio [Mr. THURMAN] at the same time. I deem it necessary upon reflection to make an explanation of the question that I propounded to the Senator from Vermont at that time, and also to state what I know in reference to any agreement regarding the seating of these two gentlemen.

On November 30, 1877, the Senator from Vermont introduced a resolution proposing an arrangement—

> First, to vote on the Kellogg-Spofford case at or before two o'clock and thirty minutes a. m. to-day.

Then to take the vote after that on the other case, with a certain arrangement of the debate:

> Mr. THURMAN. That would give him all the time now.
> Mr. EDMUNDS. Exactly; but your side has had all the evening on the Kellogg case.

The question in dispute being as to the time that would be required to present the case properly. Then the Senator from Vermont stated the other part of his proposition, and this followed:

> The VICE-PRESIDENT. Is there objection?
> Mr. GARLAND. Is there nothing, I ask the Senator from Vermont, of the other case?
> Mr. EDMUNDS. I propose nothing. I ask unamimous consent for that I have named, nothing more, nothing less.
> Mr. GARLAND. I do not think it is an improper proposition at all.

Then the Senator from Ohio followed with his remarks. "The other case" that I had reference to in that question was the case of Eustis, whose case—without a contestant and without anybody disputing seriously his right to the seat—had been before the Senate prior to the consideration of either of these other cases. I had the impression that there was a disposition to reach a vote on all of them, and dispose of all of them at once; and Eustis's was "the other case" to which I referred in propounding that question to the Senator from Vermont. Efforts had been made, and successfully, as I supposed, to take a vote on all the cases. But by the course actually pursued the anomaly was presented that Mr. Eustis, who had no contestant, and whose case was first presented to the Senate, did not get a vote upon his case until the 10th of the following December, when he was admitted. That is all there is of that proposition.

For one I struggled at the time, which was finally agreed upon, to get a vote, for we had sat here night and day, wearied and tired, and the session of the Senate then called was about expiring. As to any other agreement beyond or further than this, I know nothing of it, and never heard of it until the Senator from Maine [Mr. BLAINE] stated it on this floor.

Now, Mr. President, I come to the question in hand. On the 25th

of October of the same year to which I have alluded the then Senator from Oregon [Mr. MITCHELL] introduced a resolution referring the contested case of Spofford and Kellogg upon its merits to the Committee on Privileges and Elections. That committee, after considering the proposition, reported back a resolution, first, that KELLOGG was entitled to his seat upon the merits, and second, that Spofford was not entitled to the seat upon the merits; and upon those resolutions the vote was taken which resulted in the seating of Mr. KELLOGG on the 30th of November, 1877.

An important question is presented as to how much was settled by that vote, and whether any and everything connected with the seat was settled then beyond any inquiry at this time, or at any other subsequent period. It is contended that the inquiry is closed for all purposes; that neither this Senate nor any other Senate during the six years for which Mr. KELLOGG was seated can look into the question again; and the doctrine known in the courts as *res adjudicata*, that is, that the thing has been determined, has been invoked as a plea or as a defense upon which to rest that position.

To a certain extent it must be conceded there is something adjudicated and determined in this cause. To the length and breadth it is claimed, however, by those who assert that plea I cannot yield. Accepting the definition as given by the Senator from Wisconsin [Mr. CARPENTER] who has twice argued this case, first this month a year ago, when the proposition was offered by the committee to take further testimony, it may be conceded that the case is *res adjudicata*, and yet very grave and serious questions are presented for the Senate to consider in this investigation.

Just here I wish to make a statement. When the committee asked for further time and for leave to take further testimony one year ago that was the proper time to have introduced this plea and to have had the Senate vote upon it. I thought so then; I still think so. An interrogatory propounded by me at that time to the Senator from Massachusetts [Mr. HOAR] will show just what I had in my mind then and what has been developed since by reflection and study of this case. The Senator from Wisconsin did then make his argument upon the plea of *res adjudicata*, but he was overruled by the Senate, every democratic Senator voting, as I now remember, for agreeing to take that testimony. If it was precluded, if the verdict and judgment were conclusive, the time by the precedents now and by the analogy that you are running this on was when an effort was made for further testimony in the court where this judgment had been rendered. I accept, to the extent of the inquiry upon the credentials, the definition given by the Senator from Wisconsin, [Mr. CARPENTER,] taken from his speech in the left-hand column, on page 4, of the RECORD of the 16th instant, which I will ask the Secretary to read.

The Chief Clerk read as follows:

> The Senator from Georgia tried to make out that that did not amount to anything; that it was some technical thing; that "on the merits of the case" was loose and ambiguous. The Senate did not declare in its resolution in words that KELLOGG was elected by the Legislature of the State, but with the Constitution before them, on the well-known principles of law applicable to the subject distinctly understood and brought to their minds by debate, the Senate declared that on the merits, and that is apart from all technicality and all trifling objections—on the merits of the case, namely, the election by the Legislature of the State, his being thirty years of age, his having been nine years a citizen, on all the essential features and elements that enter into the case and make up its merits, he was entitled to the seat.

Mr. GARLAND. That is the fullest extent to which the plea can be urged here. It was demonstrated in the splendid argument of the Senator from Alabama who sits behind me, [Mr. MORGAN,] the other day, that it was a question upon the credentials, the legality of the Legislature that elected, the qualifications of age, citizenship, and residence; so far, no farther.

Accepting those now for the sake of the argument of this case as the finger-boards to guide us upon this road, assimilating this to a case in court, I will read what the Supreme Court of the United States has said in reference to this matter as containing in my judgment, after all my research in the books, the principle stated in one sentence, and in arguing the case I shall attempt to bring it within this rule strictly, rigidly in every respect. I refer to the decision in the Packet Company *vs.* Sickles, reported in fifth Wallace. To those Senators who have been discussing this matter in their minds, whether upon the technical plea of estoppel, or the principle of *res adjudicata*, or the doctrine of *stare decisis*, or on the ground of former acquittal, it is important to consider well this statement by the Supreme Court, which statement Mr. Wells in his book upon the subject of *res adjudicata* quotes approvingly as containing the doctrine. Upon page 592 of fifth Wallace the court says:

> As we understand the rule in respect to the conclusiveness of the verdict and judgment in a former trial between the same parties, when the judgment is used in pleading as a technical estoppel, or is relied on by way of evidence as conclusive *per se*, it must appear, by the record of the prior suit, that the particular controversy sought to be concluded was necessarily tried and determined—that is, if the record of the former trial shows that the verdict could not have been rendered without deciding the particular matter, it will be considered as having settled that matter as to all future actions between the parties; and further, in cases where the record itself does not show that the matter was necessarily and directly found by the jury, evidence *aliunde* consistent with the record may be received to prove the fact; but even where it appears from the extrinsic evidence that the matter was properly within the issue controverted in the former suit, if it be not shown that the verdict and judgment necessarily involved its consideration and determination, it will not be concluded.

You may search all the books that have ever been written upon the subject from the earliest to the latest, and you will never get beyond or any further than that upon this subject. That is the rule by which I shall try this case so far as I am concerned before the Senate.

Mr. President, the comparison limps when it is said this is like a proceeding in court. Of course it is like a proceeding in court. Any issue between persons, any issue in the churches, any issue in any tribunal, in any committee, is to a certain extent like a trial in court. But here a fundamental error lurks and runs through the case from the beginning. This is not a mere contest between KELLOGG and Spofford for the seat as a Senator from Louisiana as would be, sir, between you and myself a suit in equity for a specific performance or a suit at law in an action of ejectment. Let us see if it is, upon some of the simplest and commonest principles that run through the practice of the courts.

Suppose the sitting Senator, Mr. KELLOGG, had failed to make any response or to take any notice of the application on the part of Mr. Spofford. If it is strictly and in every sense a legal proceeding the Senate could have defaulted KELLOGG, rendered a judgment by default, and seated Spofford. That no man will contend could be done, because whether he appears to defend or not the Senate's duty is, under the Constitution, to ascertain who was elected. Further, suppose KELLOGG and Spofford had agreed and filed a written stipulation, as in courts of justice, that a judgment should be rendered in favor of Spofford against KELLOGG, the Senate could not have rendered the judgment. You cannot default an American constituency in that way. You cannot stipulate the rights of an American constituency away in any tribunal. Suppose the Senate, progressing in this inquiry, finds that neither was elected, which it might do very well, and should award the seat to some man in Louisiana who got only one vote, if there was such a one. Those statements illustrate the futility of attempting to assimilate this throughout to a proceeding in court.

In this connection I will state another matter. Suppose the Senate should ascertain that neither of these men was elected, as I stated just now, and in two months from this time it should ascertain by testimony competent that it had committed a mistake. Louisiana stands now, after doing all she can to be represented, disfranchised of a Senator. Has not the Senate power to correct that error and bring in the person who was elected? Most confessedly.

Further than that, the senate of Pennsylvania in 1871, upon a contest between two persons claiming a seat in that body, decided that the sitting member could vote upon the issue of keeping his seat. After extensive argument they came to that decision. The sitting senator did vote and kept his seat by his vote. That case is found in Smull's Legislative Hand-Book, page 542, and in the senate journal of Pennsylvania, (1871,) page 127. If this had been a mere contest for a seat as a replevin for a horse, of course the man could not be a judge in his own case. So the similarity breaks down again in an essential feature.

In Stockton's case in this very body, after he had cast his vote and a resolution was offered by Mr. Sumner to exclude that vote, it was contended by no less eminent persons than Reverdy Johnson and Mr. Hendricks that he could vote and was entitled to cast his vote, because, believing that he was elected, he could not trifle away the rights of his constituents in that way. It was the right of his constituents that he was representing here, and not his own right of property in the seat, to the mere compensation. It is true the Senate decided at last upon a vote that he was not entitled to vote; but when such distinguished gentlemen as those who contended that he could vote took that position, the Senate had better pause and count before they say this is as a suit between A and B for a pair of pantaloons in a court of justice. This cuts both ways, understand. It is like the old jute doctor's bark. If you stripped it up the tree, it would have one effect on you; if you stripped it down the tree, it would have a contrary effect. It came very near being settled, within four votes, in the Senate that Mr. Stockton was entitled to vote. If it had been Mr. Stockton's mere right to that seat that was involved, he never would have got a vote saying he could cast his vote in that issue. The parliamentary rule that excludes a man from voting because he is interested is because of his individual, personal interest, uncombined and unconnected with that of others. Whenever I vote a dollar for a public building in the city of Little Rock the rule is run out in its full length. If it were a measure to benefit my property alone $10, I could not vote on it. It benefits the property of my neighbors as well as mine, and therefore I am competent to vote; but if it was to put $500 in my own pocket direct, I could not vote on it. That is the distinction. If it was a mere case at law, a legal contest for a right of property, neither Mr. Hendricks, nor Mr. Reverdy Johnson, nor Mr. Garrett Davis, nor any of those gentlemen who contended for that right would have asserted it on this floor or anywhere else under the sun.

Mr. President, it comes down to a naked proposition every time for the Senate to deal with, just as a court must deal with it when it is addressed to it, as to whether its prior judgment is conclusive, whether its prior judgment is *res adjudicata* or not. *Res adjudicata*, all know, is a technical expression and a court expression. It runs through all the business of life, private controversies and public controversies, not merely for economy but for quiet and peace, for the end of something when it is in issue. The Departments are not judicial of course. Under the Constitution those administering them are called the heads of Executive Departments, and they are called Executive Departments. When A, as Attorney-General, decides an issue before him, his

successor cannot come in and overturn that. The Departments have decided that repeatedly; the Attorneys-General have so decided; the Supreme Court in 15 Peters, The United States *vs.* Bank, have decided the same. It is a rule of law for the purpose of quieting controversies and for the peace and for the order of society, no more in a court possibly than anywhere else, but when it is carried to the extent that it is claimed here, it becomes preposterous, with all due respect to those who have contended for it. The examples given by the Senator from Wisconsin himself do not tally with the rule that he laid down—with the precept that he gave.

Patrick O'Hara was a most excellent citizen of Chicot County, in the State of Arkansas. He got on a steamboat to take a trip to New Orleans. Going down the river one night his boat struck a snag and the boiler burst and the boat blew up. Many of the passengers were killed, and it was reported to the county of Chicot that O'Hara was dead. The seven years' presumption in the case of the absence of a person, that being the statute in Arkansas, prevailed and O'Hara was reported dead to the probate court. Administration was granted upon his estate. It went through a due course of administration, and finally they were about to take the order of distribution; and as the order was about to be entered, Patrick O'Hara came into the court and addressing the judge said, "Judge, I know you well; here I am; I want my estate." The judge said: "Yes, Patrick, I know you very well, but you are as dead as a door-nail." Patrick said, "You know me, judge; I have worked for you often; here I am, a living man." "No, Patrick," said he, "the record says you are dead; the record cannot lie;" and the judge proceeded gravely to distribute his estate and Patrick left the court-house a sadder man, if he was not a wiser man.

That is the extent of the plea as offered here by the Senator from Wisconsin, whose example, as I said before, goes away beyond the precept which he lays down by which to test this doctrine.

The question then resolves itself always into this: It is a plea addressed to the tribunal itself, and it is for the tribunal to say whether or not it will disturb this order of things that it has established. But at all times, upon every occasion, if any material fact is omitted from the verdict and judgment that could have been brought in before, the case is not concluded in any court or in any tribunal. That is the decision of our courts.

Mr. President, concede, if you please, that the question of the legality of the Legislature was decided; concede, if you please, that the possession of the qualifications attached to KELLOGG that the Constitution prescribes was decided; there is one question that has not been determined in this cause, there is one question that has not been touched in this cause, which is higher and above all these, the recurrence of which every day and every hour of the day makes the Senate a law unto itself to say whether a man who sits here has come to the Senate with pure hands and is worthy to sit here as an American Senator. When the committee a year ago asked for leave to take further testimony, that proposition was combated upon the idea that Mr. KELLOGG and Mr. Spofford, like two men contending for a horse in a court, were estopped, and that the prior judgment was conclusive. Upon page 1082 of the CONGRESSIONAL RECORD, Forty-sixth Congress, first session, I find that I said on the 6th of May, 1879, after propounding a question to the Senator from Massachusetts, [Mr. HOAR:]

Mr. President, I did not ask the question I propounded to the Senator from Massachusetts with any view of engaging him in an argument on his view of this case, nor in fact with any positive conviction in my own mind as to what answer should be given. I have had a sort of rough idea in my head about this matter, that there are three parties possibly to the contest, two persons claiming the seat, and the third party the State of Louisiana, which has a right to be properly and legally represented. In reading the proceedings before the committee, as far as they have been printed, I find that Mr. Spofford makes certain charges against Mr. KELLOGG and Mr. KELLOGG makes certain charges against Mr. Spofford; and if in the course of this investigation the committee shall find that really—and when I say really I mean legally—neither one of these gentleman was elected, they might possibly introduce a resolution declaring the seat vacant, and then let the State of Louisiana elect a Senator. This idea I gathered from the proceedings; and therefore I asked the Senator with perfect good faith the question whether in his judgment, according to the pleadings and the issue made here, there could be under any state of the case a judgment rendered that the seat was vacant.

Then I gave notice that probably I would offer this amendment:

Provided, That this resolution—

That is, the resolution to take testimony—

shall not be construed as determining in any way the question whether KELLOGG's right to such seat is adjudicated.

The Senator from New York [Mr. CONKLING] responded to that proposition, "I am not denying that there was anything in it." Now, let me go further. On May 7, page 1109, it will be seen that I did not entertain this idea alone:

Mr. EDMUNDS. Before the vote is taken on the amendment proposed by the Senator from Massachusetts, which is to strike out the whole of the resolution and insert a different proposition, I wish to offer an amendment to the text of the resolution, which I believe is in order under the rule, by adding after the word "petition," in line 6 of the printed resolution, these words:

"So far only as relates to any charge in said petition of personal misconduct on the part of said KELLOGG, which may render him liable to expulsion or censure."

So that the instruction part of the resolution shall read.

It is seen that not only myself entertained that idea, but the Senator from Vermont thought that possibly there might arise a question here a little higher, a little more important, and a little more grave than a mere right to sit in the Senate as between two persons.

Then, at the conclusion of that debate, upon page 1121 of the same book, the sitting member said if the question of bribery was the one which they were after he courted and begged for an investigation. He claimed that his hands were clean, and he asked for the investigation upon that point.

Further, when the vote was taken to admit Mr. KELLOGG, the Senator from Alabama who sits nearest me [Mr. MORGAN] offered a resolution to this effect, which can be found on the page I read from a little while ago: that this action would not preclude the Senate from inquiring into the ways and means of the procuring of this seat by the sitting member. He made some few remarks upon that resolution. The Senator from New York [Mr. CONKLING] stated that no person could claim it did; that the resolution of the Senator from Alabama would add nothing to it nor take anything from it; that that inquiry stood here all the time staring, as it were, the Senate in the face from which the Senate could not shrink and which the Senate could not evade as a duty. Now, we have got so far that whatever *res adjudicata* may be contained in this case it does not embrace and include that point.

When Mr. Spofford filed his petition for a contest, to be found on page 5 of the report of the committee—I refer to the second petition, the one that he filed in March, 1879—he sets out what I especially desire the Senate to bear in mind:

Petitioner further represents that he ever has been and still is ready to furnish evidence to establish the five specifications upon which he was not permitted to take proof heretofore, and particularly evidence of the direct and active interference of said KELLOGG in the preparation of illegal complaints or protests against polls of which he had no knowledge.

These five points as stated by the Senator from Wisconsin [Mr. CAMERON] do not embrace directly or indirectly, either approximately nor remotely, any question of the corruption of the sitting Senator in obtaining votes for the seat that he occupies. They relate to altogether and entirely different propositions and different subjects. Then he proceeds:

Petitioner further represents that since the contest aforesaid and very recently he has discovered new and material evidence to prove that the election of said KELLOGG was null and void—

Why?—

by reason of improper, illegal, and corrupt influences exerted by him in person to bring about his own election as Senator.

There is a distinctive allegation in the new suit filed upon which the Senate has never passed before, upon which in the former issue there could have been no trial, because it was expressly ruled out upon the very face of the papers, and could not upon the presumption stated by the Senator from Alabama the other day arise in the court at all without a distinct allegation to bring the attention of the committee to it.

This inquiry could be brought to the Senate by any person. If Mr. Spofford had remained as silent at home as the tombs themselves, any respectable gentleman could have sent a paper here and had this inquiry instituted upon that—the governor, the attorney-general, any officer, any citizen. We have just had a long inquiry as to my particular friend from Kansas, [Mr. INGALLS,] whom the Committee on Privileges and Elections have most triumphantly and gladly to us all acquitted, not upon any contest, not upon any person asking for his seat, but upon a charge of personal improper misconduct in procuring his seat, and that charge brought here by individual memorialists.

Here is a distinct allegation in this petition which shows, if my position is correct, and I do not think there can be a successful combating of it, that the voice of the State is here asking that we shall inquire as to the purity and as to the cleanly means by which the person sitting here arrived in this body. The protection of this body itself over such a matter never sleeps, but the power is always alive, and such an allegation is always to be heard. There is an allegation that was not in the former suit; no inquiry was ever made as to that in the former case. Hence the decision in 5 Wallace rescues that from the inquiry before and brings it here a distinct matter for the Senate to pass upon.

If the allegation of bribery is made out in this case, the purchasing of the seat or the contributing of the means to purchase the seat, what is the law upon that subject? I speak by authority higher and better than my own when I say it goes to the very election itself. It goes back to the title, to the beginning of the title. The credentials are nothing but paper at last that evidence a title somewhere, just as your deed to your homestead is not your title but is the evidence of your title. If bribery is made out against the sitting member a majority vote, according to my interpretation of the Constitution, can vacate his seat, for, as McCrary on Elections says, where there is bribery there is a foul election, and where there is a foul election there is no election. But I beg leave to read to the Senate a few passages from the report of Mr. Morton in a similar case on this point. It says all that I desire to say upon this point, and it was a majority report from the Committee on Privileges and Elections in the case of Caldwell, when that committee was composed of Messrs. Morton of Indiana, CARPENTER of Wisconsin, LOGAN of Illinois, Alcorn of Mississippi, ANTHONY of Rhode Island, Mitchell of Oregon, BAYARD of Delaware, and Hamilton of Maryland, the latter two the only democrats on the committee. The conclusion of that report made by Mr. Morton is:

By the Constitution each House of Congress is made the judge of the elections, returns, and qualifications of its members.

If a person elected to the Senate has not the constitutional qualifications, or if

the election is invalid by reason of fraud or corruption, the jurisdiction to examine and determine is expressly vested in the Senate.

Another clause of the Constitution authorizes the Senate to expel a member by a two-thirds vote. The causes for which a Senator may be expelled are not limited or defined, but rest in the sound discretion of the Senate.

It has been a subject of discussion in the committee whether the offenses of which they believe Mr. Caldwell to have been guilty should be punished by expulsion or go to the validity of his election, and a majority are of the opinion that they go to the validity of his election and had the effect to make it void.

Now, I will ask to detain the Senate at some length by having the Secretary read the speech of Mr. Morton on that occasion, commencing on page 31 of the CONGRESSIONAL RECORD of the special session of the Senate, Forty-third Congress, 1873.

The Secretary read as follows:

Mr. MORTON. Mr. President, this investigation originated in the Legislature of Kansas. A committee was appointed there to examine into the circumstances of Mr. Caldwell's election. The volume containing the testimony was transmitted to the Senate of the United States by virtue of a joint resolution of the Legislature of Kansas, which I will now ask the Secretary to read.

The Chief Clerk read as follows:

"*Resolved by the house of representatives, (the senate concurring,)* That a printed certified copy of the report and evidence of the investigating committee appointed to investigate charges of bribery in the senatorial elections of 1867 and 1871 be sent to each of our Senators in Congress, and that a copy of said report and evidence be placed in the hands of the governor of this State, with the request that he forward the same to the Vice-President of the United States, asking him to lay the same before the Senate of the United States for their information."

Mr. CAMERON. Will the Senator from Indiana tell me the date of that document from the Legislature of Kansas?

Mr. MORTON. That resolution, I think, was passed April 4, 1872. I now read an extract from the Globe of April 8, 1872, when this resolution was referred to the Committee on Privileges and Elections of the Senate. The Senator from Kansas [Mr. Caldwell] said:

"I desire to state that I also have received the report of the investigation referred to. I had been expecting that report for some time. I believe it was made up in February, and I have repeatedly inquired of the Chair whether he had received it or not. I am glad to know that it is here, and I desire that it be referred as my colleague has suggested, so that we may have speedy action on it."

I read that simply for the purpose of showing that Mr. Caldwell submitted himself in this matter to the jurisdiction of the Senate.

Mr. Caldwell submitted a printed argument to the committee, which is published with the evidence and the report, in which he made a general denial of the existence of any satisfactory evidence that he, or his friends with his knowledge, had bribed any members of the Legislature of Kansas to vote for him for Senator, but entered into no discussion of the testimony. In the argument of the law he placed his defense upon the following grounds:

First, that his admitted transaction with Mr. Carney was a private affair between citizens, and was not denounced as illegal by any statute, State or Federal, and about which the Senate has no legal right to inquire.

Secondly, that bribery of members of the Legislature to vote for a candidate is not made a criminal offense by any statute of the United States, and that a member of the Senate cannot be unseated for bribery, because he cannot be indicted and punished for it in a court.

Thirdly, that the question of bribery in the election of a Senator can, under no circumstances, be inquired into by the Senate of the United States, but that the right to make investigations belongs only to the State, and that the Senate is concluded by his commission from the State from all inquiries, except as to whether he possesses the qualifications required by the Constitution of the United States.

Fourthly, that the Senate has no power to expel a member for any cause arising before he became a member of the body.

A summary of the evidence and of the conclusions to be drawn from it is made in the report, and an examination of the whole volume of the testimony, which is upon your tables, will show that the statements and conclusions in the report are not fully sustained, but are in a moderate form, and might have been made much stronger in many respects. No impartial man can read that evidence through without coming to the conclusion beyond a reasonable doubt that the transactions with Clarke and Carney are of the precise character stated in the report, and that the charges of direct bribery of members of the Legislature, and that Mr. Caldwell's election was secured by money, are completely sustained.

On the first point in the legal defense of Mr. Caldwell I quote the following extract from his argument:

"I am charged with having procured an election to the Senate by the use of money to induce opposing candidates to retire, and by the use of money and other improper means to induce members of the Legislature to vote for me. The first of these charges, so far as it relates to the retirement of Thomas Carney, stands admitted upon the record; but I insist that that was a private transaction between citizens, neither of whom occupied any official position, and was not denounced as an illegal act by any statute, State or Federal, and was one concerning which the Senate has no legal right or power to inquire, as I shall subsequently endeavor to show."

If the Senate cannot inquire into the circumstances attending the election of its members, whether such election was procured by bribery, corruption, or other matter impairing the freedom of elections, such inquiry cannot be made anywhere. It is true the State may investigate these charges, as was done in this very case, but such investigation amounts to nothing, unless it may be for the information of the Senate of the United States.

The Constitution provides that "each House shall be the judge of the elections, returns, and qualifications of its own members."

The Senate is authorized to judge of three things in regard to its members, their qualifications, returns, and elections.

First. It may inquire in regard to his qualifications, whether the member was thirty years old, had been nine years a citizen of the United States, and was an inhabitant of the State.

Secondly. Whether the returns of the election are in due form, and show an election by the lawful Legislature of the State, certified as required by law.

Thirdly. Whether the election was conducted according to law, and was free, or attended by circumstances that would make it invalid, such as bribery, fraud, or intimidation.

The Senate has no power to inquire whether individual members of the Legislature have been lawfully elected, because each house of the Legislature is invested with like power to judge of the election and qualifications of its own members. It is contrary to the policy of the law to permit a court to inquire whether a statute properly certified was enacted through bribery, but such an inquiry bears no analogy to the question whether the Senate may inquire as to the election of its members, for which purpose it is vested with express power.

The power of the State Legislature is exhausted when it has elected a Senator, and it has no right at the same or at a subsequent session to annul its action from any cause and hold a new election. If the State Legislature could afterward annul an election of Senator and hold a new one, membership in the Senate would not be under the control of the Senate, but of the several States, and the Senate would not be the judge of the election of its own members. And if there be no power either in the Senate or in the State Legislature to inquire whether an election has been procured by bribery or fraud, then the evil would be irremediable, however gross and wicked the instance; and if such be the position of the Senate, it is perhaps the only legislative body in the civilized world in such a helpless condition.

In the case of Asher Robbins, from Rhode Island, referred to by Mr. Caldwell, the only question was whether he had been elected by the lawful Legislature, and there was no question of bribery or misconduct in the case, and the reference to bribery in the report of the committee was only by way of argument.

To show in this connection the real character of the transaction with Mr. Carney, which Mr. Caldwell says is "admitted upon the record," I quote the following extract from the report of the committee:

"It is testified by Mr. Len. T. Smith, a former business partner of Mr. Caldwell, his active friend at the time of his election and during this investigation, that he made an agreement with Thomas Carney, of Leavenworth, by which, in consideration that Mr. Carney should not be a candidate for United States Senator before the Legislature of Kansas, and should give his influence and support for Mr. Caldwell, Mr. Caldwell should pay him the sum of $15,000, for which amount notes were given, and afterward paid, at the same time taking from Mr. Carney a written instrument, in which he pledged himself, in the most solemn manner, not to be a candidate for the office of Senator in the approaching election.

"This instrument is in the words following:

"'I hereby agree that I will not under any condition of circumstances be a candidate for the United States Senate in the year 1871 without the written consent of A. Caldwell, and in case I do, to forfeit my word of honor hereby pledged. I further agree and bind myself to forfeit the sum of $15,000, and authorize the publication of this agreement.

"'THOS. CARNEY.

"'TOPEKA, *January* 13, 1871.'

"Mr. Smith's testimony is fully corroborated by that of Mr. Carney, who admits the execution of the paper, the making of the arrangements, the taking of the notes, and the subsequent receipt of the money. The notes for the money were signed by Mr. Smith, but paid by Mr. Caldwell; and one of them, for $5,000, was made contingent upon Mr. Caldwell's election. The substance of the whole agreement, only a part of which was expressed in the writing, was that Mr. Carney should not be a candidate for the Senate against Mr. Caldwell, that he should use his influence for Mr. Caldwell, go to Topeka, meet the Legislature, and do all he could to secure his election."

The committee have recommended to the Senate the adoption of the following resolution:

"*Resolved*, That Alexander Caldwell was not duly and legally elected to a seat in the Senate of the United States by the Legislature of the State of Kansas."

The ground upon which bribery and intimidation invalidate an election is that they impair "the freedom of elections." Rogers, in his Treatise on the Law and Practice of Elections, speaking of the action of the House of Commons, says:

"Bribery, essentially affecting the freedom of elections, they took cognizance of, and punished both the electors and the elected offending."

Again:

"But numerous instances have not been wanting in more modern times, in which the court of king's bench have, by the rigor of their punishments, vindicated the freedom of elections. Informations and indictments at the common law, as well as indictments on the statute of 2 George II, chapter 24, have there been prosecuted, not only by private individuals, but by the attorney-general, by order of the House of Commons. To bribe a voter is not only an infringement of parliamentary privilege, it is more, a high misdemeanor and a breach of the common law.

"The opinions of the wisest and most honest statesmen embodied in the resolutions and standing orders of the house had been set at defiance, and the first and best principle of the constitution, the freedom of election, was daily and unblushingly violated."

Cushing, in his work on the Law of Legislative Assemblies, says:

"The great principle which lies at the foundation of all elective governments, and is essential indeed to the very idea of election, is, that the electors shall be free in the giving of their suffrages. This principle was declared by the English Parliament in regard to elections in general, in a statute of Edward I, and with regard to elections of members of Parliament in the Declaration of Rights. The same principle is asserted or implied in the constitutions of all the States of the Union.

"Freedom of elections is violated by external violence, by which the electors are constrained, or by bribery, by which their will is corrupted; and in all cases where the electors are prevented in either of these ways from the free exercise of their right, the election will be void, without reference to the number of votes thereby affected."

Again:

"The freedom of election may also be violated by corrupting the will of the electors by means of bribery, as well as by intimidating or preventing them by external violence from exercising the right of suffrage."

Again, speaking of bribery, he said:

"It is an offense of so heinous a character, and so utterly subversive of the freedom of election, that when proved to have been practiced, though in one instance only, and though a majority of unbribed voters remain, the election will be absolutely void."

Whatever impairs the freedom of elections is illegal and against public policy, and makes the election void. Intimidation and bribery are not the only practices that impair the freedom of elections. They are only instances, perhaps the most common heretofore, but may not be hereafter. There is no difference in principle between buying votes and buying influence. To employ persuasion and argument to secure votes is legitimate; but buying off opposing candidates goes much further. That is not only the purchase of influence, but of that power which a man has over his particular friends, springing from political and social relations. We know from observation what power a political leader has over his friends and followers who have been for years devoted to his political fortunes—how they enter into his resentments and attachments, and when he is forced off the stage how bitterly they feel toward those who have forced him off, and how naturally they go with him to the support of another who is represented as his friend.

It is a matter of frequent occurrence that the result of senatorial and other elections is determined by the withdrawal of a candidate and casting his influence in favor of another, thus transferring a body of friends sufficient to secure his election. This is of more frequent occurrence than bribery, and generally far more effective. It is also far less troublesome and dangerous than the bribery of individual voters. The purchasing party has but one man to deal with instead of many, and that man, to have friends who are worth buying, must be a man of some character, and equally interested in keeping the secret. While such an operation is more effective and dangerous than the bribery of individual voters, it also involves more turpitude. The vendor of his friends and influence is betraying and making merchandise of those sentiments of attachment and devotion to him which are honorable to human nature and serve to elevate and relieve political contests from sordid selfishness and ambition, and the purchaser knows he has obtained votes under false pretenses, and that he has bought them just as effectually as though he had paid the bribe to them, although the purchase-money has been paid to another. Such a transaction is within the very definition of bribery as given by Sheperd in his Treatise on Elections, page 94:

"Bribery at an election is the creation or the attempt to create an undue influence over the disposition of suffrages by a lucrative consideration, or a voluntary subjection to such influence."

It is an "undue influence" over suffrages obtained for a lucrative consideration paid to another. As stated in the report:

"If it were legitimate for Mr. Caldwell to buy off Mr. Carney as a candidate, it was equally legitimate to buy off all the other candidates and have the field to himself, by which he would exert a *quasi* coercion upon the members of the Legislature to vote for him, having no other candidate to vote for."

It is in the broadest sense "undue influence" over suffrages, exerted for a "lucrative consideration," and none the less so because the persons upon whom exerted were ignorant of the character of the transaction. It is bribery in the wholesale, rather than retail, for the bribe is paid to a man who, from his peculiar relations to a number of voters, can in all probability control their action.

This sort of "undue influence" was recognized in England as being more extensive and more dangerous to the freedom of elections than the purchase of individual votes. I quote again from Sheperd, on page 97:

"Besides the practice of purchasing individual votes, there sprung up a system of corruption far more extensive, in which the commanding influence in a borough was transferred, either for a sum of money paid down at once, or, with a more accurate calculation of traffic, for an annual payment during the continuance of Parliament; the sitting member thus purchasing the return of him who had previously purchased the power of returning. To repress this practice the 49 George III, chapter 118, was passed, by which it is made highly penal to enter into any pecuniary engagement for procuring the return of a member of Parliament."

This is but another definition of a practice which impairs the freedom of elections, and invalidates an election upon the same principle as bribery of the individual voters.

The principles of the common law are applicable in all civil matters touching the validity of elections or the tenure of office, and it is a well-established principle of the common law that whatever impairs "the freedom of elections" is illegal, against public policy, and will make the election void. Particular forms in which this is done, such as bribery and intimidation, are punishable by statutes in England and nearly all the States; and in England the further form of purchasing the influence of persons who are not candidates themselves, for the return of members of Parliament. But the absence of a statute punishing these several practices impairing the freedom of elections in nowise affects the operation of the general principle touching the validity of elections.

Sheperd, in his treatise, says:

"The bribery act makes no mention of any parliamentary disqualification affecting a member's seat; the effect, therefore, of an act of bribery not within the words of the treating act of 7 William III, chapter 4, is in that respect determined by the law of Parliament as follows: 'Bribery by a candidate, though in one instance only, and though a majority of unbribed votes remain in his favor, will avoid the particular election.'"

Mr. CARPENTER. If it will not annoy my friend, I should like to ask him at that point whether he has any common-law authorities laying down that doctrine which do not refer to and rest upon the statutes of England.

Mr. MORTON. I hope my friend will allow me to get through with this portion of my speech without interruption.

Mr. CARPENTER. I beg pardon. The Senator asserted that that was the common-law doctrine, and I simply wished to know whether he had found any cases.

Mr. MORTON. I have quoted several very high common-law English authorities on the subject. It has never been held in England or this country that the effect of bribery, in making an election void, depended upon the existence of a statute punishing it as an offense. On the contrary, as stated by Sheperd, it invalidates an election by operation of the ancient law of Parliament.

But if the transaction I am considering was not technically bribery, yet that is immaterial, for it is "undue influence," even more dangerous to the freedom of elections than the purchase of individual votes, and partakes of the same general nature, for it is begotten by a corrupt money consideration. In England bribery was held to invalidate the election of a member of Parliament long before there was any statute punishing bribery, upon the general principle that it impaired the freedom of elections, showing that its effect, in invalidating an election, does not depend upon the fact that it has been made punishable by statute as a penal offense; and so a corrupt contract with an opposing candidate for the Senate, by which he is to withdraw from the canvass and cast his influence for another, must be held to have the same effect in invalidating the election as though the transaction was made punishable as a criminal offense.

Bribery may be said to bear the same relation to an election that fraud does to a contract, but if there be a difference it is that it is more fatal, and that a smaller ingredient will have the effect to destroy the life of the election, because the purity and freedom of elections are vital to the existence of every elective form of government.

Said the court of king's bench, in Rex *vs.* Pitt, (Burrows, 1338:)

"Bribery at elections of members of Parliament must always have been a crime at common law and punishable by indictment or information."

There are, however, no traces of any prosecution for bribery at elections till after the legislature inflicted particular penalties upon it.

Rogers, in the treatise referred to, says:

"Bribery, as we have seen, had always been a misdemeanor at common law, and a violation of the privilege of Parliament; but the above statute [the bribery act] armed courts of law with new and extraordinary powers to attack the growing evil by attaching a penalty of £500 on every conviction of an offense against its provisions, and by disqualifying the offender from ever again voting in any election for members of Parliament."

Sheperd, in his Treatise on Elections, says, speaking of bribery:

"Though it was always an offense at common law, it is thought that no prosecution for this species of bribery took place until the bribery act, for which the jealousy of the Commons in regard to their privileges sufficiently accounts. As soon, however, as the Commons began to rise in importance, and a seat was considered of sufficient political value to be purchased, they were not slow to discover and attempt themselves to repress the pernicious consequences of such corruption."

The general policy and provisions of the laws of England in regard to corruption in elections are embodied in the constitution and laws of all the States, and bribery made to invalidate every election into which it enters. The doctrine that the bribery of a single voter will vitiate an election, although the candidate may have a majority of unbribed votes, is a necessary consequence of the principles I have considered, and indispensable to the protection of the freedom of elections. If the candidate who has been fraudulently elected is entitled to maintain his seat, unless it can be shown that his whole majority was corruptly procured, the operation of the principles I have considered will in most cases be defeated, for although he be shown to be guilty of corruption and unworthy of a seat in any legislative body, yet he has the chances largely in his favor that it cannot be shown to have extended to his whole majority. Corruption in an election may be compared to a drop of fatal poison injected into the human system, which circulates into every part and destroys every function. The man who has purchased one vote has shown himself willing to purchase all, and that his corrupting influence has been limited only by his means or his necessities.

The Constitution declares that "each House may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member." The causes for which a Senator may be expelled are not limited or defined, but rest in the sound discretion of the Senate. The position taken by Mr. Caldwell, that a Senator can be expelled only for causes arising subsequent to his admission, is not sustained by the reading of the Constitution, by any rule of construction, or by authority.

In this case, the Senate would have the right to proceed either way, if it finds Mr. Caldwell guilty of the charges preferred against him, or any of them: first, by declaring his election invalid, which would require only a majority vote, or by a resolution of expulsion, which would require a two-thirds vote.

The power of expulsion is absolute. It has the definition of an absolute power, for it is not limited in the clause creating it, and there is no tribunal by which its exercise can be reviewed or reversed. It should be exercised with sound discretion, and the security against its abuse consists in the fact that it requires a two-thirds vote. It should undoubtedly be exercised within certain limits and under certain moral restraints; but each case, perhaps, would depend upon its own peculiar character.

As it is a power to be exercised within the sound discretion of the Senate, that exercise may be for causes arising before the election, as well as after, and for any cause which in the sound discretion of the Senate would make it improper for a man to continue to be a member of the body.

It is admitted that the Senate may expel a member for a crime committed during his membership, although it has no connection with his official duties or his position of Senator, upon the ground that his presence in the Senate degrades the body, and that he has shown himself unworthy of public trust and unfit to be associated with honorable men. But do not all these reasons exist with equal force for expulsion where the crime was committed before admission to the Senate, but was not discovered until afterward?

It has been argued that if the Legislature of a State elect a known criminal to the Senate of the United States, it is their business, and the State has a right to be represented by a criminal if she desires to be, and the Senate must receive whomever the State sends as Senator. I dissent from this doctrine. The Senate has a right to protect itself against the admission of a criminal, although the Legislature electing him was indifferent upon the subject or chose him for that very reason. The propriety of exercising the power might be more doubtful if the criminality of the member were known at the time of his election, for it might be argued that the members of the Legislature did not believe the charge to be true, or that the offense was mitigated or had since been condoned.

The power to expel a member is incident to every legislative body, because it is necessary to its protection and character, and this power exists, although the constitution or law creating the body does not confer it in terms. The former constitution of Massachusetts contained no clause authorizing either house of the Legislature to expel a member for any cause. But it was held by the supreme court of that State, Chief-Justice Shaw, one of the ablest jurists who ever sat upon the bench in this country, delivering the opinion, that the power of each house to expel a member existed as a necessary and incidental power, and that each house must be the sole judge of the exigency which may justify and require its exercise. I quote from the decision, which will be found on page 473, in the third volume of Gray's Massachusetts Reports:

"The power of expulsion is a necessary and incidental power to enable the house to perform its high functions, and is necessary to the safety of the State. It is a power of protection. A member may be physically, mentally, or morally wholly unfit; he may be afflicted with a contagious disease, or insane, or noisy, violent, and disorderly, or in the habit of using profane, obscene, and abusive language.

"If the power exists, the House must necessarily be the sole judge of the exigency which may justify and require its exercise.

"As to the law and custom of Parliament, the authorities cited clearly show that the jurisdiction to commit, and also to expel, has long been recognized, not only in Parliament, but in the courts of law, for the purpose of protection and punishment. I here confine myself strictly to the law of personal privilege from arrest. There has been much debate upon abuse of power and excess of claim of privilege, but the power to commit or expel has been uniformly admitted."

But the reasoning as to the propriety of expulsion for an offense committed before admission to the Senate, and wholly disconnected with the election, falls to the ground when you come to consider a case where the offense has been committed in connection with admission to the Senate; where it is the very means by which admission is obtained; where the offense is the stepping-stone to the Senate.

The distinction is radical between such a case and that of an independent crime committed long before the election and having no connection with it whatever. In the latter case the offense goes only to the man's character and his fitness to be a member of the Senate; but in the former it goes not only to his character and fitness, but to his title to the office; and the power of the Senate to examine the matter and adopt the proper remedy is expressly given by that clause of the Constitution which authorizes the Senate to judge "of the election of its members." If this clause does not confer this power, then it is nugatory, for all the other powers are given in the preceding clauses, which authorize the Senate to judge of the qualifications and returns of its members. The Constitution authorizes the Senate to judge of three things concerning its members: their qualifications, returns, and elections; but the doctrine contended for by Mr. Caldwell in effect strikes out the last, and limits the Senate to the exercise of powers which come under the head of qualifications and returns.

To say that the Senate cannot expel a member for a cause arising before his election, when that cause was the very means of the election and brought it about, seems to be very unreasonable, and is to say in effect that, if the crime has a favorable result, and the perpetrator of it enters upon the enjoyment of its fruits, he is by that very fact exonerated from any inquiry into its character and protected in his guilty possession.

For example, suppose a man secretly procure the opposing candidate to be poisoned, and thus secure his election, and afterward the crime become known; or suppose he secretly procure his opponent to be kidnaped, and, the sudden disappearance being unaccounted for, he thus obtain the election; or suppose he procure his opponent to be arrested upon false charges of crime, and thus for the time being disgrace him and break him down, and thus obtain his election; or suppose he procure his election by the most monstrous frauds, by intimidation, by gross bribery, by buying off the opposing candidates, or by other dishonorable and illegal means, and slip into the Senate before his offenses are discovered—shall it be said that the success of his crimes and their successful concealment for the time shall become their constitutional protection, and that he may hold on to the seat which he has thus illegally and fraudulently obtained?

Mr. President, bribery is from its very nature hard to prove. Bribery in matters of election by members of a legislature, who are to be presumed to be men of some character and standing, who have at least some ambition to preserve a good name—bribery upon their part you must suppose will be concealed by every means in their power; and we need not be surprised if men who receive bribes deny it under oath.

Mr. GARLAND. That is all of the speech of Senator Morton, who made the report in the Caldwell case, that I care to incorporate here. The rest of his speech on that occasion referred mainly to the testimony in that case; but in a subsequent speech in that debate, to be found on pages 48 and 49 of the same volume of the RECORD, Mr. Morton said:

Mr. President, by leave of the Senator from Illinois, [Mr. LOGAN,] who is entitled to the floor, I will this morning, in answer to a question asked me yesterday in debate, and I believe the day before also, read some authorities upon the question whether bribery was an offense at common law before the enactment of any statute punishing it, and whether the seats of members of the House of Commons had been declared vacant on account of bribery before any statute had been passed

upon that subject. With the indulgence of the Senate I will read very briefly some authorities upon that point.

I read first from Rogers's Law and Practice of Elections. It is an English work, I believe of the highest character upon this subject, published in London as long ago as 1837. Mr. Rogers says:

"But numerous instances have not been wanting, in more modern times, in which the court of king's bench have, by the rigor of their punishments, vindicated the freedom of elections. Informations, and indictments at the common law, as well as actions upon the statute of 2 George II, c. 24, have there been prosecuted, not only by private individuals, but by the attorney-general, by order of the House of Commons. To bribe a voter is not only an infringement of parliamentary privilege; it is more—a high misdemeanor and breach of the common law.

"The first time the subject of bribery appears to have been brought before the house was in the reign of Elizabeth.

"One Thomas Long gave the returning officer and others of the borough of Westbury four pounds to be returned member. For this offense the borough was amerced, the member removed, and the officer fined and imprisoned."

I have here Coke's Institutes, in which that case is quoted, and I will read an extract from it:

"Thomas Long gave the maior of Westbury four pound to be elected burgesse, who thereupon was elected. This matter was examined and adjudged in the House of Commons *secundum legem et consuetudinem parliamenti*, and the maior fined and imprisoned, and Long removed; for this corrupt dealing was to poyson the very fountain itself."

That was the first case, and was nearly a hundred years before any statute was enacted punishing bribery.

Mr. Rogers further says:

"But it was not until the end of the reign of Charles II that corruption at elections prevailed to any great extent.

"In the year 1669 a bill 'to prevent abuses and extravagances in electing members to serve in Parliament, and for regulating elections,' was thrown out.

"In the Bewdley case, 1676, the committee of privileges and elections reported that Mr. Foley, one of the candidates, had been guilty of bribery. The house passed two resolutions, one declaring Mr. Foley's election to be void, and the other seating his antagonist, Mr. Hobart.

"In 1677, the treating resolution passed, and in the year following was made a standing order of the house. By that resolution, for a candidate to give any person having a voice at an election meat, drink, or present or gift, after the teste of the writ, was declared to be bribery, and to be a sufficient ground for the avoiding the election as to every person so offending."

That was a mere resolution of the house declaring what would be the action of the house in such a case. It was not a law, and did not become a law until a great many years afterward.

"In 1680 a bill to prevent the offenses of bribery and debauchery connected with election proceedings was thrown out."

Parliament refused to pass it.

"In 1689 a bill to prevent abuses occasioned by excessive expenses at elections of members to serve in Parliament, having been read once, was also thrown out. This was the year in which the Stockbridge case was determined, which, being considered to be of a very gross nature, it was proposed for the borough to be disfranchised. The case of Mitchell and Wootton Bassett followed, in the year 1690; the cases of Chippenham and Aylesbury in 1691, and the second Stockbridge case in 1693, in each of which, bribery being proved against the sitting member or members, the elections were avoided."

Mr. CONKLING. Will the Senator stop there one moment while I ask him whether the last case he read was antecedent to the order of the House of Commons which preceded the statute?

Mr. MORTON. No, sir; it is subsequent. The resolution of the house was passed in 1677; was simply made a standing order of the house, as it was called, but was not a law; and another authority shows that it was a declaration of the line of action that the house would adopt in such cases.

"How general had become the system of corruption, and how insufficient the existing laws and resolutions to arrest its progress, is fully proved by the glaring examples just cited, following each other in such rapid succession. Those who had opposed the bills of 1669, of 1680, and of 1689, now found themselves called upon to adopt a different line of conduct. The opinions of the wisest and most honest statesmen, embodied in the resolutions and standing orders of the house, had been set at defiance, and the first and best principle of the constitution, the freedom of election, was daily and unblushingly violated. Taking, therefore, the treating resolution of 1677 for its basis, the house, in 1696, passed the 7 William III, c. 4, now generally known by the name of the treating act"—

making it an offense to give meat or drink to a man who had the right to vote; and that was the first enactment ever passed by the British Parliament upon the subject.

"Hitherto treating has been considered as a species only or mode of bribing. Since the act of William, however, treating and bribery have usually been considered as separate charges and distinct grounds of petitioning. First, then, of bribery, properly so called.

"A candidate or other person is said to be guilty of bribing, if, 'by himself, or any person employed by him, he doth or shall, by any gift or reward, or by any promise or agreement, or security for any gift or reward, corrupt or procure any person to give his vote, or to forbear to give his vote, in any such election.' Such is the definition which is given of bribery in the statute 2 George II, c. 24." which was the first act ever passed punishing bribery, and that was passed in 1727. Mr. Rogers goes on to say:

"This statute, however, did not create the offense; bribery, as we have seen, had always been a misdemeanor at common law, and a violation of the privilege of Parliament; but the above statute armed courts of law with new and extraordinary powers to check the growing evil, by attaching a penalty of £500 on every conviction of an offense against its provisions, and by disqualifying the offender from ever again voting in any election for members of Parliament."

Not only this authority, but Sheperd lays it down distinctly that the power of the House of Commons to declare an election void upon the ground of bribery is not affected by the statute at all, but grows out of the principles of the common law.

Now I will refer to a case that I referred to the day before yesterday, in Burrows——

Mr. SHERMAN. I wish to ask my friend from Indiana a question upon the very point he is now discussing, especially in connection with a quotation from Sheperd, used by him in his remarks the other day. The quotation that I refer to is this:

"Bribery by a candidate, though in one instance only, and though a majority of unbribed votes remain in his favor, will avoid the particular election."

I wish to ask him whether he finds in our own parliamentary history in either House of Congress, or in England, any particular case where the bribery of a particular person, though it did not affect the election, or did not control the election, unseated the member. Must not the bribery extend to a sufficient number of votes of the constituent body to affect the result? That is the question upon which I desire information.

Mr. MORTON. I will state that in all these cases no reference is made to the number of votes that had been purchased. It is never put upon that ground, but it is put upon the ground expressed by Lord Coke, that bribery poisons the whole fountain. The effect of bribery in avoiding an election is never put upon the number of votes that have been bribed, but simply upon the act as poisoning the whole election; to use the language of Lord Coke, poisoning the whole fountain; and it has been compared by another author to fraud in a contract. What fraud is to a contract, bribery is to an election.

Mr. SHERMAN. In the House of Representatives there are many cases—I do not know whether cases of bribery, but many cases of fraud in elections; but unless the frauds in the election go to a sufficient extent to affect the majority of the elected candidate, they are governed by the actual number of legal votes cast, although frauds, violence, intimidation, and perhaps bribery may have entered into it. That is the point I want to get at, whether there is any distinction in parliamentary law between fraud and bribery.

Mr. MORTON. I am not prepared to answer that question any further than this: I consulted with the chairman of the Committee on Elections in the House, who, I believe, has been the head of that committee for many years, and he told me there had been no case of bribery arising in the House with which the candidate was connected. I think he said he did not doubt but that the law would be in the House, as it is in England in a case of bribery with which the candidate or sitting member was connected, to invalidate the election.

Mr. President, I will read an authority from Lord Mansfield. This decision was made in 1762. In this case the prosecution was based on the common law, not on the statute of George II, and a motion was made for a nonsuit, upon the ground that the case should have been brought upon the statute, and not upon the common law. Lord Mansfield said:

"Bribery at elections for members of Parliament must undoubtedly have always been a CRIME *at common law*, and, consequently, *punishable* by *indictment* or *information*. But the action of 2 George II, c. 24, has introduced a *very severe penalty* in order to *enforce* the laws then already in being, and because they had *not* been *sufficient* to prevent the evil."

He then goes on to quote the statute, and after that he says:

"This crime certainly still *remains* a crime at *common law*. The Legislature never meant to *take away* the common-law crime, but to *add* a penal action."

There is more of it, but that is sufficient to explain its character.

Now I come to the statement that my friend read from Sheperd just now, and I will detain the Senate for a moment by calling his attention to a passage in the argument read by Mr. Caldwell yesterday, which, I suppose, it would be no breach of etiquette to say must have been prepared by a lawyer, not by himself; he does not claim to be a lawyer. He makes the statement that there is no case where a member of Parliament had been expelled before the enactment of the statute punishing bribery. His lawyer ought not to have made such a statement, because it is directly in conflict with what he ought to have known was the law. But he makes another statement:

"English statute-law provides that 'bribery by a candidate, though in one instance only, and though a majority of unbribed votes remain in his favor, will avoid the particular election and disqualify him for being re-elected to fill such vacancy.'"

The passage is put in quotation marks as being taken from an English statute. There could scarcely be an excuse for this. He refers to Sheperd, page 103. Now, I will read that. The fact was, that Sheperd said that the power of the House of Commons over the election did not depend upon the statute law at all, but depended upon the law of Parliament, and then he gave the law of Parliament, which is quoted here as the statute. Says Sheperd:

"The bribery act makes no mention of any parliamentary disqualification affecting a member's seat; the effect, therefore, of an act of bribery not within the words of the treating act, act of 7 William III, c. 4, is in that respect determined by the law of Parliament, as follows: 'Bribery by a candidate, though in one instance only, and though a majority of unbribed votes remain in his favor, will avoid the particular election and disqualify him from being re-elected to fill such vacancy.'"

Here Mr. Sheperd expressly states that the power of the house to declare an election void does not depend upon the statute, but depends upon the law of Parliament; but Mr. Caldwell's counsel just reverses it, and he says that the statute of England says so and so in regard to bribery avoiding the election, which is the particular point which Mr. Sheperd was contradicting.

There are several other authorities which I thought I had here, but I have left them on the table in my committee-room. Perhaps I shall have occasion to read them afterward, as the debate progresses. This is all I intend to say this morning.

This position of Mr. Morton in his report and in those speeches was contested by eminent Senators at that time. I recollect distinctly having read speeches of the Senator from New York, [Mr. CONKLING,] of the Senator from Delaware, [Mr. BAYARD,] and others, who opposed the proposition advanced by Senator Morton, and it is due to truth to state that the report was never acted upon, and it is still further true that Mr. Caldwell resigned and quit this body.

I give the report of Mr. Morton and his speeches for what they are worth. They are absolutely convincing to my mind, and for that reason I use them literally. I say with Mr. Morton that the Senate can by a majority vote vacate the seat of a Senator here for bribery in procuring his election. Mr. Morton's speech draws the distinction clearly and conclusively to my mind between the power to expel by a two-thirds vote after a Senator has become connected with the body and the power to go back to the original fountain of his seat here, the election, and vacate it because the election was corrupt, and therefore was not an election at all within the meaning of the law.

This inherent power, outside of the power of the Constitution, which every deliberative assembly has, to say that a man is a proper person to sit in the body, was placed in the Constitution out of abundant caution to put it beyond interference by any other department; and this power the Senate can never surrender; it always possesses the right to go back and see whether the real foundation, a free election, exists, and it does not go to the point that a Senator's term shall last six years unless a majority of the Senate shall determine otherwise. I say a majority of the Senate may determine that the election is illegal because they are to judge of the election. By all the authorities it is illegal and ought not to contribute to the composition of the body if it was effected by bribery. That is the proposition.

Now we come to the question, has there been by the sitting Senator, directly or indirectly through his agents, with his knowledge and consent, a use of these improper means to obtain the seat?

Mr. EDMUNDS. May I ask the Senator a question merely for information, not to argue it?

Mr. GARLAND. Certainly.

Mr. EDMUNDS. Do I understand the Senator to say that if in the case of the election of a Senator who had if you please 25 majority in the Legislature it appeared that he had bribed one member, that would render the election illegal?

Mr. GARLAND. Most indisputably. It prevents a free election, and I read the authority of Senator Morton for that position in this Senate in response to a question put to him by the Senator from Ohio, Mr. Sherman.

Mr. EDMUNDS. May I ask if there is not in the same book considerable authority of the same dignity the other way?

Mr. GARLAND. The Senator would not have asked me that question if he had been here and heard me before. I stated by name the Senators who opposed that view of the case, and I have quoted the language of Mr. Morton as I use coin, for the value that is contained in it and not for the stamp or the figure or the impress upon it. It is coin that has not been battered away, in my judgment, by any Senator who contended against it on the floor. The reasoning is unanswerable if there is anything like free election in this country.

Then we come to the question, Has there been the exercise of this influence in the procuring of this seat? Now I ask the Senator from North Carolina [Mr. VANCE] to read a summary of the testimony that he has in his speech in the RECORD.

Mr. VANCE read as follows:

On the subject of bribery, before I pass from it, let me briefly refer to the testimony. The bribery of Blackstone, and of De Lacy, and of Milton Jones, and of J. J. Johnson, and of A. Milson, all members of the Packard legislature, is proven by their own confessions as contained in their affidavits and in divers declarations to other men. Souer's testimony, a member of the Legislature, and the intimate friend of Governor KELLOGG and the confidential agent of that gentleman up to this present time, as we see by the telegraphic cipher dispatches—Souer's testimony, from pages 1123 to 1124, shows that the Legislature, being unable to draw any money from the treasury of Louisiana, was kept together by advances made by him, and that he selected the poorest and the most dependent ones to make his advances to; and he admits that he did so for the purpose of keeping them together and promoting the interest of the republican party. If you will read that testimony carefully, you will find, in my opinion, sufficient to establish the proof of the bribery of these men by it alone.

As to the bribery of Senator Twitchell, read the testimony of Garrett, page 809, who likewise had a habitation in this very custom-house at one time.

Mr. KELLOGG. I should like to ask the Senator what he is reading from.

Mr. VANCE. I am reading from my own speech delivered a few weeks ago, at the request of the Senator from Arkansas.

Mr. KELLOGG. What page?

Mr. VANCE. The RECORD of the 5th of May, 1880, page 9:

As to the bribery of Senator Twitchell, read the testimony of Garrett, page 809, who likewise had a habitation in this very custom-house at one time. Twitchell is now consul in Canada. And Twitchell, as the other members of the committee say, proves his own innocence by his own oath; that is to say, the man charged with the crime comes into court and purges himself by stating that he is not guilty! Twitchell denies that he was bribed, and that ought to be satisfactory it is thought by the other side, but Twitchell unfortunately had made admissions to other men, many others; he made admissions to Francis Garrett that he had received this bribe, or rather Garrett saw the bribe passed over to him. Garrett says he was in the room when the money was passed.

As to acknowledgment of the bribery of Milton Jones, read the testimony of Cavanac, page 993, and as to the bribery of De Joie and Stamps, see the testimony of Flanagan, pages 599 and 600. As to the bribery of Dickerson, see the testimony of Dreifus, page 668, and Cavanac, page 926. As to the bribery of C. F. Brown, see Cavanac's testimony, page 926. As to the bribery of Simmes, McGloire, and Robert Johnson, see Murray's testimony, page 117. As to the bribery of Percy Baker, see Carnoy's testimony, pages 453 and 454. As to the bribery of the Packard legislature generally, see De Lacy's testimony, pages 152, 153, and 154, and Watson's affidavit, page 334.

Mr. GARLAND. Mr. President——

Mr. KELLOGG. I ask the Senator from Arkansas to allow me to make a single remark. The Senator from North Carolina has read an extract from his speech, on page 9 of the RECORD of May 5, in these words:

As to the bribery of De Joie and Stamps, see the testimony of Flanagan, pages 599 and 600.

This man Flanagan testified that he saw this money pass from a certain man by the name of Harris to De Joie, a member of the house, and Stamps, a member of the senate; but finally, on cross-examination, he admitted, just before he left the stand, that the transaction was in 1876, and not in 1877—a year before the election. Mr. Stamps was a commission merchant in New Orleans, and swore positively that he was not in the office at the time designated, and that no such transaction took place; and he is not in the custom-house, but is a business man. He is not impeached, and is unimpeachable. Mr. De Joie swore the same thing positively, and Mr. Harris, the man that Flanagan said paid the money, came from Kansas City, where he was a merchant, and swore before the committee positively that no such transaction took place.

As to the bribery of Simmes, McGloire, Robert Johnson—

Mr. Simmes is a member of the present Legislature of Louisiana, and was a member of the constitutional convention that sat last summer, and is a planter of Saint James Parish, who was never in the custom-house, and never held a Federal office. Mr. McGloire was a member of a Nicholls legislature from the parish of Avoyelles, was a planter, and never held a Federal office. Robert Johnson was a business man from Terre Bonne, elected by conservatives as well as republicans.

All three of these men swore positively that they never received any money, and contradicted absolutely and unqualifiedly the testimony of Murray, and Murray was impeached by democrats and republicans.

Then as to Garrett, who testified as to Jones; Jones swore that no such thing occurred, and I brought forward democrats, at the head of them the criminal sheriff of the parish of Orleans, John Fitzpatrick, who swore positively that Garrett's character was such and that he was so infamous that he would not believe him under oath. We have proved that he was an ex-convict; he had been arrested for horse-stealing in Missouri; we proved he had been sent down to the parish prison, and served nearly three months for larceny; that he had been dismissed from the custom-house at New Orleans for stealing one hundred and sixty dollars' worth of paints at the quarantine, and we covered him all over with infamy; and that is the only one man, except the man Baugnon whom he refers to, who swore that any money passed; and as to Baugnon we contradicted his testimony positively by democratic evidence. He said he saw money paid to Mr. Twitchell, and that a Mr. Flynn was present, and we contradicted it by Mr. Twitchell, who is consul at Kingston, and he was not appointed by my solicitation or intervention, but appointed nearly two years ago, and he swore unqualifiedly that no such thing took place. Besides we impeached him. That is all there is of this testimony, every iota.

Mr. CAMERON, of Wisconsin. Mr. President——

Mr. GARLAND. I cannot yield further.

Mr. KELLOGG. I ask gentlemen to point out a single instance except those I have named of any testimony of that kind.

Mr. CAMERON, of Wisconsin. Will the Senator from Arkansas allow me to make a single remark? I will not occupy a minute.

Mr. GARLAND. When I get through the testimony I will state all the crooks and cranks that in his estimation the Senator from Louisiana may think it worth while to affix, and the result will be to make the case for him worse than it was before.

Mr. CAMERON, of Wisconsin. I only wish to speak in regard to the bribery of Piercy Baker. All the testimony there was in regard to that was this: some witness swore that some time after the election Piercy Baker paid him a poker debt and he remarked that he made that money on the Kellogg election. He did not state that he received it for voting for KELLOGG; he did not state whether he made it by betting on the election or otherwise; but merely that he had made that amount of money out of the election of KELLOGG.

Mr. GARLAND. I called upon the Senator from North Carolina [Mr. VANCE] to read the epitome of the testimony he had heard, because he had been with the case from its inception as one of the committee. I have analyzed this testimony from the record, and I have an analysis of it here, which I will read to the Senate and make comments upon as I go along. There is no disposition on my part to do the sitting Senator from Louisiana any injustice. I will state in this epitome of the testimony that I have here all the cross-tracks and all the cross-firing there is upon the case. I have no disposition at all to wound the Senator in any way. He and I have been upon the same committee since he has been in the Senate, and our relations have been agreeable. This is an unpleasant duty, but nevertheless it is a duty. If the recording angel could drop a tear upon this whole volume and blot it out forever I should be glad; but it is here and demands inspection. I will now call the attention of the Senate to the analysis that I have made of this testimony upon this point, for this is the only point that I could take the time to address the Senate upon.

Joseph J. Johnson, page 55:

Deposition of J. J. Johnson, in which he swears that he received $200 for voting for KELLOGG, and that George Washington, a member from Concordia, also was paid money.

Afterward, on examination in committee, he denied the statements in the deposition, (see page 56,) but admitted that he borrowed $25 or $30 from Colonel Souer on his pay-warrants, and that he never returned it because the warrants were never paid.

Examined (page 58) in regard to deposition; admits that it was read to him, and that he signed it.

Now Thomas Murray, sergeant-at-arms of the house of representatives of Louisiana, testifies (page 92) that men showed him money paid them by Colonel Souer for voting for KELLOGG; some got as much as $200.

Upon page 93, more than one showed him money—from three to five.

Page 94, the following showed money to the witness, and said they got it for voting for Senator KELLOGG: "Sonny" Simmes, of Saint James; Magloire, of Avoyelles Parish; Robert Johnson, of Terre Bonne—$200 apiece.

Mr. KELLOGG. I ask the Senator from Arkansas if all of those three men did not come before the committee and swear that it was not true?

The PRESIDING OFFICER, (Mr. RANSOM in the chair.) Does the Senator from Arkansas yield?

Mr. GARLAND. I need not yield for the reason that that will all be stated. If the Senator's anxiety is not suppressed it may betray him into an uneasiness here that will reflect upon the real, clear, fair record that he ought to have. I do not mean to make it any worse than it is, or try to deviate from it. If he can explain it I will be perfectly satisfied.

On page 101 it appears that some twenty-odd ex-members of the Packard legislature were put in the custom-house since the 4th of March, 1877.

Murray reiterates (pages 115, 116, and 118) his statement concerning the payment of $200 to various members for voting for KELLOGG.

He says (page 130) that Thomas, of Bossier, who is recorded in the journal as present in the joint convention when the vote was cast for Senator, was not present, but was sick and at home.

Page 131: Knew he was sick; saw him in bed; had the small-pox, and afterward died.

A Mr. Watson (page 139) personates a member of Legislature (Thomas) and votes in his stead. Contradicted by W. John De Lacy, (page 150.) Watson denies above, (pages 324-334.)

Watson appointed as night inspector in the custom-house, (page 140.)

The names of the men whom witness saw Souer pay were George Washington, of Concordia, and his colleague, Anderson Tolliver, (page 143.)

Richard J. Brooks saw Thomas vote for United States Senator, (page 283.)

Murray wanted him to swear that he was bribed to vote for KELLOGG, (page 284.)

Charles F. Brown saw Thomas and Seveignes vote for KELLOGG, (page 296.)

John T. Fitzsimmons would not believe Murray on his oath, (page 791.)

It seems they do not any of them believe each other on oath, or any one that was concerned in that business down there. William John De Lacy, page 179, admits that he was promised $200 to vote for KELLOGG. Lewis F. Baugnon, on page 663, saw KELLOGG pay Senator Twitchell $300, and that it was on the promise that he would vote for KELLOGG.

Mr. EDMUNDS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Arkansas yield to the Senator from Vermont?

Mr. GARLAND. Yes, sir.

Mr. EDMUNDS. May I ask the Senator if he can state as he goes along in each case what person it is who makes these promises and payments, so that we can understand the force of the statement?

Mr. GARLAND. I will. G. L. Smith made the promise to which the Senator refers.

Mr. EDMUNDS. I suppose if myself or the Senator had made these promises it would not be absolutely necessary to crucify KELLOGG on that ground.

Mr. GARLAND. Possibly it would not. We shall see, though, after a while.

On page 665, Baugnon, examined by KELLOGG, says, "You (KELLOGG) just put it in his pocket.

Albert Bourges testifies (page 1000) that Baugnon's general character is not good; would not believe him on oath.

Albert W. Flanagan, (page 610,) affidavit of, in which he swears that Harris paid Aristide De Joie, a representative, $300 to vote for KELLOGG and that he saw same party pay T. B. Stamps, a State senator, $500 to vote for KELLOGG.

Witness identifies affidavit (page 608) as his and that statements in it are true.

Francis Garrett, (page 810,) concerning KELLOGG's transaction with Milton Jones. Jones admitted being paid for his vote—"Got a little but not much, and they had promised him some place in the custom-house, but they had gone back on him and fooled him."

Senator Twitchell said (page 811) there were not twenty votes that KELLOGG could get unless he bought them.

Jones said (page 811) he had the money in his pocket—that he had made him (KELLOGG) come down.

Senator Twitchell said (page 812) they had agreed and had the money, and the crowd was to vote for KELLOGG that day; * * * he had just seen KELLOGG again, and he had to pay out more money.

Milton Jones (page 906) denies that he ever got money for voting for KELLOGG.

Milton Jones's affidavit, (page 1236:) was paid money by Souer for voting for KELLOGG.

Jeremiah Blackstone, (page 1237:) KELLOGG gave him $1,000 to be used in promoting the election of persons who would vote for KELLOGG for Senator. After election on January 6, 1877, KELLOGG sent for him; met him in his private office in Saint Louis Hotel and gave him $1,000, which he used in buying votes for KELLOGG. KELLOGG promised him all the patronage in his district and that he should always be cared for.

* * * * * * *

After the election of KELLOGG to the Senate deponent was paid by Louis J. Souer $200 as extra compensation and for voting for KELLOGG.

On page 1120 Louis J. Souer denies this statement.

Mr. CAMERON, of Wisconsin. Will the Senator call attention to the fact that Blackstone in his testimony before the Senate denies that?

Mr. GARLAND. I have called attention to it. It is in this analysis.

Mr. CAMERON, of Wisconsin. I did not hear it.

Mr. GARLAND. If it is not, the Senator can put it in.

Mr. KELLOGG. Will the Senator also incorporate in his statement if it is not in (I did not understand him to read it) that not only did Blackstone deny it under oath, but every person mentioned in Blackstone's affidavit came forward and denied it under oath?

Mr. GARLAND. That I do not know to be the fact. If it is, however, it can go in with the statement.

Mr. KELLOGG. Every living man mentioned denied it, and none of them is in the custom-house either.

Mr. GARLAND. Senator Morton said in the case from which I read a little while ago that it was not unnatural for a man who had been bribed to swear that he had never been bribed. We are now remitted to the question whether this testimony, taking it with all of its cross-firing and cross-tracks of the witnesses, is worthy of belief. It is said on the part of the sitting Senator and those who contend that he should be here that you cannot believe these persons on oath. Then more horrible and more frightful is the record explaining it, Mr. President, when we see here more of these persons than you can count upon your fingers and toes honored by the highest offices and the highest trusts. Yet they cannot be believed upon oath. Some of them have been confirmed by the Senate. All who are in the custom-house, if I understand the law, have to be confirmed and ratified by the Secretary of the Treasury, who is now a prominent candidate for the highest office in the gift of the American people. Horrible, horror beyond horror, the Senator from Louisiana rides upon these men to the Senate and turns upon them and says: "You were worthy to elect me to the Senate, but you cannot be believed upon oath in the Senate to which I go;" like the man who climbs to the place he occupies and kicks over the ladder that carried him up successfully. Saturn, cold and remorseless, perhaps hungry, turned upon his offspring and made a choice repast.

It may be true that this would be dangerous testimony to take into a court to convict men who had not been associated with that class of persons. There is a familiar maxim in the law which I wish to read now to the Senate as applicable to this case. You can never unkennel fraud except by the testimony of those who are participants in that fraud. You can never bring to light the horrid and hellish deeds of conspiracies except by the testimony of conspirators. You would never get a conviction in the Five Points of New York City unless you took the testimony of people who had their existence and breathing in such a place. As to all these dens, who but inmates can prove what has occurred there? Wharton in his Legal Maxims lays down:

Testis lupanaris sufficit ad factum in lupanari:
A strumpet is a sufficient witness to a fact committed in a brothel.

He cites the Reports of Moor. I have taken the pains to go back and get that original case. It is in a language that I am not so familiar with as I am with the English language, and I have had it translated; and I ask the Secretary to read it, if he pleases.

The Chief Clerk read as follows:

[From Moor (Fr.) cases collect and report.: 2d ed., London, 1688; pp. 816, 817.]

SIR ANTHONY ASHLEY'S CASE.

In this term, Michaelmas, in the year 9th James, in the Star Chamber, a great case was tried: Sir Anthony Ashley, knight, plaintiff, and Sir James Creiton, knight, and divers others defendants, for conspiring to accuse the plaintiff of murder committed sixteen years before in the poisoning of one Rise, and that some of the defendants, (to wit,) Henry Smith and Jane, the wife of Rise, should be the witnesses of the murder, and Sir James Creiton, being a Scotchman by birth and one of the esquires of the king's service, should beg of the king the forfeiture of his goods and lands, that he might make recompense to the other defendants, and articles were drawn up, whereby Sir James agreed that one Cantrel should have the sixth part of all that he obtained from the king, and Cantrel covenanted to procure witnesses and also the particulars of the lands and the goods. And Sir James gave £8,000 bonds for the performance of these articles, which articles were for the advantage of Smith, and the name of Cantrel was used in trust for him. Smith being the party who should accuse Sir Anthony and himself also, (to wit,) that he being a servant to Sir Anthony, Sir Anthony put poison in a cup with the drink, and commanded Smith to carry this to Rise, that he did accordingly, and that Rise from this died immediately; and it was proved that Sir James offered to Smith to obtain his pardon if he would accuse Sir Anthony and himself also; and moreover offered him protection against his creditors and £500, for which Smith caused an indictment to be made against himself and Sir Anthony, and sent a petition to the king in which he made known the accusers of Sir Anthony, and prayed for mercy for himself, besides giving other matters and circumstances relative to the conspiracy. For which Sir James was fined £1,000, and committed to prison. And Horning, another of the defendants, was condemned to the pillory and burnt with a hot iron on both his cheeks, on the one with an "F," on the other with a "C.," (that is) signifying "a false conspirator." And Thomas Hampton, Jane Dudley, Cantrel, Sterling, and others were sentenced to £300 fine, pillory besides, and imprisonment. And note that in this case the lord chancellor cited divers precedents in this court of censures for conspiracies and false accusations to the danger of the life of the party. As in 36 H. 8, a priest was fined for a false accusation. In 41 Eliz., one Wood, who was a physician conspiring to accuse one Talbot of wishing to poison the Count of Salop, own brother of Talbot. The wife of Fowler conspired with Gascoigne and Eymes to accuse Fowler of high treason. One Lovelace accused another in letters from Venice, the paper being discovered by the mark of Spelman to be an English paper and not Venetian. Munck's case was cited from the Inner Temple, who was accused of a robbery by Pye, and on this was indicted and arraigned and found not guilty, and Pye was condemned to lose his ears upon the pillory, year 3d of King James. Sheppard accused one Hamersley of a felony committed twenty-eight years before in stealing a sheet; he was indicted for this, and arraigned and found not guilty, for which Sheppard was condemned to the pillory, &c. In this term occurred Stone's case against the Poulterers of London for accusing him of a robbery for which they preferred an indictment at Chlemsford and Essex, and gave testimony, and the jury found an *ignoramus*, yet for this conspiracy they were fined in this court, 8th year of James.

And note many things: 1. That in such accusations there should appear apparent malice or corruption. 2. That although an *ignoramus* should be found yet the conspiracy is finable here. 3. *Legitime acquietatus* [though settled in law] it is yet finable in the Star Chamber. Noted by Cook and the Lord Chancellor that Bracton says: *Accusator post rationabile tempus non est audiendus nisi se bene de omissione excusaverit*, [after a reasonable time the accuser shall not be heard unless he gives good reason for his failure to appear.] Noted by Cook that suspicion upon the report of another is no cause for an accusation; there must be one's own suspicion founded on fact. And common fame must be *apud graves* not *apud leves*, [concerning weighty matters, not concerning superficial things.] And for a fact *in lupanari, testis lupanaris*, [in a brothel, a strumpet witness suffices,] and *humores moti, and moti remoti laedunt corpus*, [humors present and not remote affect the

body.] *Consortio malorum me quoque malum fecit,* [the company of evil-doers made me also evil.] *Noscitur ex socio qui non cognoscitur ex se,* [he is known from his company who is not known from himself.]

Mr. GARLAND. Mr. President, ever since the enunciation of these principles there has never yet been a trial of conspirators for any unlawful purpose, or a trial of persons for offenses committed in lewd places or in places notoriously infamous, where the offenders were not tried upon the testimony of those who lived in and inhabited such places. The sitting member was there with those people, and they were his friends, so friendly to him as to send him to the United States Senate. If the world would not know him from himself, they would know him from his associates, according to the maxim laid down there. It is probable that you would not find the most exalted characters for virtue and for veracity in a place of that sort. The testimony is that they were barricaded there and with none to associate with but themselves. If this testimony cannot be believed, the proposition proves too much. It is all a chaos; it is all nothing if those who hatched out the credentials of the sitting member cannot be believed on oath. Take that horn of the dilemma, that they are not to be believed at all, and everything is swept from under them. Three or four or five have been confirmed by the Senate to positions; twenty or more have gone into the custom-house.

An honorable Senator told me the other day that he had examined this testimony and that he could not convict a dog upon it. There is old dog Tray, who is known in historic song as gentle and kind and a devoted friend, but he was convicted because he was found in bad company. It is true in law, in social life, in religion, in politics, in everything, and you cannot escape it, that "birds of a feather flock together." "Tell me with whom you walk and I will tell you who you are." The plea itself is set up by the persons who have done this slimy thing for the State of Louisiana and for the sitting Senator that they cannot be believed on oath. They are infamous now, but they were good enough to do the work of electing the sitting member; and it is asking a little too much of human credulity for the sitting member to tell us they cannot be believed on oath. I am sorry it is so; I am sad that it is so.

Mr. President, I have laid my views in this case before the Senate under a sense of duty. Probably neither by parliamentary nor any other law was I called upon to say anything on this question; but my own State has had to taste the hell-broth that has been commended to the lips of Louisiana through reconstruction, and we have seen these things there. I wish that sad record was blotted out; I wish it was erased from memory. I say not these things in anger, but I say them in sorrow.

Mr. President, as the result of my investigations in this case I beg leave to have a resolution read which I shall offer as a substitute when the proper time comes.

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

Mr. GARLAND. I will read it myself:

Resolved, That WILLIAM P. KELLOGG was not duly and legally elected to the Senate of the United States by the Legislature of Louisiana, and that the seat now occupied by him in the Senate be, and the same is hereby, declared vacant.

Mr. KERNAN. Mr. President——

Mr. KELLOGG. Will the Senator from New York give way to me for one moment?

Mr. KERNAN. I will yield in a moment. I was going to state that I desire to make some remarks on this question, but I consented, if I got the floor, to yield to the Senator from Delaware, [Mr. BAYARD,] to call up a bill. I will yield for a few moments to the Senator from Louisiana before doing that, if he wishes to speak but a few moments.

The PRESIDENT *pro tempore.* Under the unanimous agreement made by the Senate the Calendar is now before the Senate, but the Senate can lay it aside further to hear the Senator from Louisiana. Is there objection to still further laying aside the Calendar in order to allow the Senator from Louisiana to address the Senate? The Chair hears no objection.

Mr. KERNAN. Allow me to make an inquiry. As I understand, it is for but a short time.

Mr. KELLOGG. Yes, sir.

Mr. CONKLING. And then the Calendar will be resumed?

The PRESIDENT *pro tempore.* Then the Calendar will be resumed.

Mr. KELLOGG. Mr. President, I do not intend to occupy the attention of the Senate long. My excuse for troubling the Senate at this time consists in the fact that save the Senator from Wisconsin, [Mr. CAMERON,] who acted upon the sub-committee, few on this or on the other side, I apprehend, have paid much attention to this evidence. I have requested several Senators to read the evidence from beginning to end, but I know it is almost a herculean task, and I am quite confident that very few have read it. The Senator from Ohio, [Mr. PENDLETON,] who addressed the Senate some days since, is an exception, however, for I understood him to say that he had read the evidence from beginning to end. I ask Senators to read this testimony, and when statements are made such as have been made to-day, with no intention, I hope, to prejudice me, to turn to the index and read the testimony given by the witness referred to, and then refer to and read the evidence in rebuttal.

I wish to-day only to illustrate by referring to some portions of the evidence. Great stress has been laid by the Senator from Arkansas [Mr. GARLAND] and the Senator from North Carolina [Mr. VANCE] upon what one Jeremiah Blackstone is claimed to have said in an affidavit. Blackstone, Benjamin Franklin, James Kelley, and one A. E. Milon are said to have made each of them an affidavit. You will find these alleged affidavits set forth in this volume. They were admitted in evidence under the ruling of the sub-committee and against the protest of the Senator from Wisconsin. Benjamin Franklin and James Kelley's affidavits were afterward stricken from the record on the ground, as asserted by the majority of the sub-committee, that they were found not to be members of the Legislature. When these affidavits were tendered in evidence, however, it was distinctly stated by the notary that he did not think they were members of the Legislature, but notwithstanding this they were admitted as evidence. Neither Benjamin Franklin nor Kelley have an existence to-day so far as we can ascertain. Both of those men are believed to be myths, men of straw. A. E. Milon's affidavit was proved by the testimony of the notary Seymour, who identified it, to be a forgery. Seymour stated that a man appeared before him and requested him to swear him a certain paper that he held in his hand, which is published in this volume as the affidavit of A. E. Milon, a member of the Legislature, acknowledging that he had received money for his vote for me, and that he (Seymour) declined to do so without first reading the contents. A paper was produced and shown to Mr. Seymour, and he said, "That is the paper that the man produced before me;" whereupon the majority of the sub-committee ruled that this paper, though it bore no evidence of having been sworn to, should be admitted in evidence against me as the affidavit of the person who purported to have signed it.

Mr. CAMERON, of Wisconsin. It was not an affidavit at all.

Mr. KELLOGG. No; it was a statement purporting to be signed by A. E. Milon, setting forth that he was paid $500 for voting for me. Mark, now. When this notary, Seymour, was before the sub-committee testifying in reference to the Blackstone and Kelly and Franklin affidavits the Senator from Georgia produced this statement, not sworn to, but signed A. E. Milon. The notary stated just what I have repeated, that a man appeared before him—he was not sure, but supposed it was A. E. Milon—with that paper, and that he refused to swear him because the man did not want him (Seymour) to read it; and thereupon that paper, dated in blank, without the signature of any qualifying officer, and with blank lines left in its most important parts, was ruled in evidence against me, on the ground that it was the declaration of a co-conspirator. Two days afterward I produced A. E. Milon before the committee and laid before him a letter written to me last May, and asked him if that was his signature. He said it was. I or the Senator from Wisconsin then produced another document and asked him if that was his signature. He said it was. We then compared the signatures to the letter and to the document with the signature upon the purported affidavit and found they differed to such an extent that it was evident the signature to the so-called affidavit was a forgery. Milon was requested to write his name, which he did in the presence of the sub-committee. Those signatures are now in the archives of the committee; and if the committee will produce them I believe there is not a Senator on this floor who will dare say that A. E. Milon signed that paper which is put in evidence as his affidavit. A. E. Milon took the stand, as I have said. He inspected the document and declared positively that he had never before seen it. After the sub-committee left New Orleans I caused Mr. Seymour, the notary, to be subpœnaed before the full committee in Washington, and he testified that the man A. E. Milon, who was before the sub-committee as a witness, was not the man who appeared before him and offered to make oath to that paper. A friend of mine personally, a democrat, (and Seymour is a democrat,) had told me that while Milon was on the stand in New Orleans Seymour had been privately introduced into the room to identify him, and after looking at the real Milon had told Mr. Walker, Mr. Spofford's counsel, and Spofford himself and the Senator from Georgia [Mr. HILL] that that was not the man at all. I ascertained this afterward, and then had Seymour subpœnaed here. In the mean time Seymour, through some of his democratic brethren, had communicated to us that he thought this was a pretty bad case when such men as Barney Williams were brought up to testify against me—Barney Williams, and Francis Garrett, and Baugnon, and Murray, and that class of men whose evidence had been buried by democratic witnesses under a mountain of impeachment. He said, "I rather think I had better disclose this whole thing." Accordingly he communicated to the Senator from Wisconsin the fact that those four alleged affidavits, Blackstone's, Franklin's, Kelley's, and Milon's, were made under a bargain, under an agreement, and he produced the original paper, and we put it in evidence before the committee. I will read it:

I am authorized to guarantee, and do guarantee, personally that the expense of obtaining the necessary evidence to establish charges of bribery, &c., made against WILLIAM P. KELLOGG will be paid to the extent of $1,500, provided this expense is approved by you as necessary.

Then was added this convenient phrase according to an understanding (as was subsequently shown by the testimony of Ward) previously entered into between Judge Spofford and his agents:

And provided further that no money or pecuniary reward is paid or promised any witness for testifying.

This was signed by W. K. Spearing, a friend and agent of Spofford's.

Here is another agreement:

NEW ORLEANS, *March* 9, 1878.

It is understood and agreed between George Dicks and Edward J. Ewart that the amount to be deposited in the hands of *William H. Seymour*, notary, $1,500, being the amount to be paid to *Jeremiah Blackstone* for his services in procuring testimony and affidavits in the matter of *William P. Kellogg*, as per contract, signed this 9th day of March, 1878—

That is the one I have already read—

that the said *Edward J. Ewart* shall advance unto the said *George Dicks* what amount may be necessary in order to procure the corroborative testimony in the said case of *Kellogg*, providing that the said sum shall not exceed *five* hundred dollars ($500,) and that William H. Seymour, notary, be authorized to retain out of the said $1,500 the amount advanced by E. J. Ewart, together with interest and commissions amounting to —— dollars.

ED. J. EWART.
GEORGE DICKS.

It was proved by Seymour that the two agreements were contemporaneously made, and under those agreements were procured the four affidavits I have named, two of which were subsequently stricken out, because it was found that the persons alleged to have made them were not members of the Legislature. All four of them, including the Milon forged affidavit and the Jeremiah Blackstone affidavit, were in the handwriting of George Dicks, the man specified in the agreement I have read as agreeing to furnish the corroborative testimony to procure a reopening of this case.

Now, Mr. President, I want to call the attention of Senators as fair-minded men to this fact; and I ask what will they think when I say that in addition to the forged Milon affidavit being admitted in the manner I have stated as evidence of bribery, of conspiracy, as a declaration of a co-conspirator against me, the notary further produced a copy of Jeremiah Blackstone's affidavit with the blanks in the jurat not filled up with any other signature except the initials "J. B.," and they not in Blackstone's handwriting; and that the committee admitted this piece of paper signed "J. B." and not sworn to in evidence against me as the declaration of a co-conspirator.

Mr. CAMERON, of Wisconsin. If the Senator will allow me a moment, the witness stated that he did not know that it was a copy, but he believed it was substantially a copy. He did not know. There was no evidence before the committee to show that it was a copy at all.

Mr. KELLOGG. Yes, at the time the Senator from Georgia ruled it in. He only asked, "What does the Senator from North Carolina say?" "Oh, let it go in." And in it went, though there was no evidence whatever, as the Senator from Wisconsin has stated, that it was even a copy of the original except that the notary said he thought it was substantially a copy of the original that he had once seen. In the mean time we had produced Jeremiah Blackstone, a colored preacher, over whom the Senator from Georgia had a good deal of wrangling in his peculiar way. Blackstone, who by the way never held a Federal office, swore positively that he never received a nickel for voting for me, and every man mentioned in his affidavit, namely, George Bird, Isham Nicholls, neither of whom had held a Federal office, to whom he is made to say in the affidavit he had paid money for voting for me, came before the committee and swore that they never received a cent. Blackstone having testified in this manner, and we having talked so much about this purported copy of his alleged affidavit, it became necessary to produce the original. So they went fishing around to get it. It was proved to be in the hands of the man Ewart, a saloon-keeper, the same man who signed this contract I have read. He it appears had advanced some few hundred dollars on it to Dicks and others, and he refused to give it up unless he was first repaid his advances. A week later Spofford's friends succeeded in getting Ewart into the room. He brought the original affidavit, and then for the first time we saw it. Subsequently Seymour testified here before the full Committee on Privileges and Elections, as follows:

Question. I have only a few questions more. In your testimony you produced a copy only?

Referring to Blackstone's affidavit:

Answer. Yes, sir; a synopsis of the original affidavit.
Q. And some days afterward Ewart testified and produced the original?
A. He produced the original of Blackstone's affidavit.
Q. I understand you to say that you do not know whether anything was paid by Mr. Spearing to Mr. Ewart for it. You do not know it?
A. I do not. I know at the last interview that Mr. Ewart mentioned that he was a couple of hundred dollars out of pocket by the transaction that he would like very much to get back. Mr. Spearing and he went off together, and what occurred afterward I do not know.
Q. But Ewart appeared on the stand and testified and produced it?
A. Yes, sir.

So a week after Blackstone had testified in contradiction of a purported copy signed "J. B.," Ewart (being paid his $200) produced the original affidavit, which was then put in evidence. If the contestant's friends had not come to time with the required $200 the presumption is that the statement of "J. B." would have remained on record as conclusive proof of my alleged co-conspiracy with a member of the Legislature whose name began with those initials.

I have only brought the alleged affidavits of Blackstone and Milon to the attention of the Senate for the purpose of illustrating the character of the evidence admitted against me, as they were specially referred to and dwelt upon by the Senator from North Carolina [Mr. VANCE] in his speech the other day, and by the Senator from Arkansas, [Mr. GARLAND,] who has just spoken, and Milon's was referred to the other day by the Senator from Missouri, [Mr. VEST.] All four of these affidavits, Blackstone's, Milon's, Franklin's, and Kelley's, were made under the contract I have read. Let me quote further from Seymour's testimony:

Question. I do not know that you were asked the question in New Orleans or here, but were there any other affidavits than those that were taken by you before Mr. Lewis? Were these all?

Answer. Yes, sir; Franklin, Kelley, and Blackstone, the three. The other was not sworn to.

That is to say, the alleged affidavit of Milon.

Question. Were these taken in execution of and in conformity with this agreement?

Answer. Yes, sir.
Q. And subsequent to it?
A. Yes, sir; that is correct.

So those four affidavits were admitted in evidence in the manner I have stated, one forged, one copied, (or alleged to be,) and two made by men of straw. Had I been unable to produce Milon and Blackstone, their alleged affidavits, according to the ruling of the sub-committee, would have stood unimpeached against me as evidence of bribery, because they were the declaration of co-conspirators. The Franklin and the Kelley affidavits we proved out of existence; the Milon affidavit we proved to be a forgery; and we proved by Blackstone's own testimony and the testimony of two or three other disinterested persons—not one of them, let me remark, as so much has been said on this subject, employed in the New Orleans custom-house—mentioned in his affidavit as having received money for voting for me, that the statements made in this regard were absolutely false.

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

Mr. KELLOGG. Yes, sir; I will always yield for any question. I court inquiry.

Mr. VANCE. I am not obnoxious to the Senator. I think I yielded to him when I had the floor the other day, and I wished to yield to the Senator the other day himself, when it turned out that he was not present.

Mr. KELLOGG. I am glad the Senator has referred to that.

Mr. VANCE. I simply want to ask in this instance if Blackstone did not acknowledge the signature to that paper which was produced before him?

Mr. KELLOGG. I think he did acknowledge that he had signed such a paper.

Mr. VANCE. But he averred that he signed it as a witness, and there being no other signature he only signed it as a witness to his own signature.

Mr. KELLOGG. Blackstone swore, as I recollect—it is in the record—that he signed that paper believing it to be another paper than the affidavit; that he believed it referred to a case of a claim for a pension, I think, (Dicks being a pension agent.) He swore that the statement as read to him was false, as did all the living witnesses therein referred to.

Mr. VANCE. That is, the contents of the affidavit were false.

Mr. KELLOGG. Yes, sir.

Mr. VANCE. But he acknowledged that he had signed it.

Mr. KELLOGG. He acknowledged that he had signed a statement, but he said he was entrapped into signing it.

I do not by any means pretend to sustain Blackstone or to say that he is worthy of belief. I can hardly imagine, indeed, that the Senator from North Carolina in his native State before a petit jury in a case involving not more than the value of a chicken would gravely argue that a man should be mulct even to that small amount on the testimony of such men as he.

Mr. VANCE. Will the Senator permit me to interrupt him again?

Mr. KELLOGG. Certainly.

Mr. VANCE. He might perhaps, if he had observed the course of my legal practice in my native State, have seen such an instance as that, but he never would have found a court in North Carolina or anywhere else when two thieves were charged with stealing chickens, and one of them confessed upon the other, that would refuse to take the testimony of the confessing thief who had turned State's evidence.

Mr. KELLOGG. That may be very good law in North Carolina. But in this case Blackstone swears that the statement bearing his name was false, and so do the several parties named therein. His statement, which he himself contradicts, stands alone—unsupported by any evidence.

Mr. President, that is all I believe I have to say in reference to those affidavits. However, since the Senator from North Carolina has asked me one or two questions, I will ask him a question. The Senator from North Carolina, if my memory serves me right, in a speech made the other day, referred to the testimony of one Flanagan, and in fact now I bethink me the Senator from Arkansas to-day caused the Senator from North Carolina to read this extract from his speech and to incorporate it in his own. Let me tell the Senate something about this testimony as another illustration of the evidence in this case. A man by the name of A. W. Flanagan appeared before the sub-committee in New Orleans. I hope the Senator from North Carolina will set me right if I make an error in my statement of this evidence. The Senator from Georgia asked this witness if he knew of any money being paid to members of the Legislature.

Mr. VANCE. Will the Senator cite me to the page?

Mr. KELLOGG. It is the testimony of one A. W. Flanagan. By turning to the index it can be found. Flanagan said that in the office of one Henry C. Dibble he saw on a certain day in January some money pass between a man by the name of Harris and two members of the Legislature, one De Joie, a member of the lower house, and one Stamps, a member of the senate. When pressed he said he thought it was $300 or $500. The Senator from Wisconsin then took him in hand. I ask Senators to read that testimony. In about two minutes he had him all at sea. He did not know after all what amount of money was paid. In fact, he did not exactly know what occurred between the three men, Harris, De Joie, and Stamps, and finally he ended by saying he believed it was January, 1876, when the transaction took place, that is to say, a year before the senatorial election. Whereupon he was relinquished by the Senator from Wisconsin and the Senator from Georgia took him in hand again and proceeded to abstract from a bundle of papers, always kept handy at his elbow, an affidavit, which he handed to the witness, and asked, "Did you make that affidavit; is that your signature?" "Yes." "Where was it made?" "It was made down town in a certain court." "By whom?" "A man by the name of Sullivan wrote it." "Did you sign it?" "Yes." "How came you to do it?" "Well, I was working for Mr. Sullivan, who gave me a position as clerk of the court, and he said to me, 'you know something about this KELLOGG matter. We want some papers sent up to Washington to show to the Senate to open up this case, and I wish you would sign this affidavit.'" Now, I do not pretend to quote this testimony exactly, but this is the substance of it. So the affidavit was written and Flanagan signed it, and it was subsequently sent to my colleague. "Now," said the Senator from Georgia, "I propose to offer this affidavit in evidence." "For what purpose?" asked the Senator from Wisconsin. Well, the Senator from Georgia thought it ought to be admitted in evidence to refresh the recollection of the witness, and the Senator from North Carolina, if I mistake not, thought it ought to be admitted in evidence to corroborate the witness.

Mr. VANCE. Will the Senator yield to me again? Where can the testimony be found?

Mr. KELLOGG. I will ask the Senator from Wisconsin to read it. What really took place, that is in the entire discussion of this matter, may not be reported in full, for I can point out to Senators where colloquies have been omitted that really took place before the committee and where the record has been made up in such way as to prejudice me. I shall likely have occasion to refer to such matters in detail hereafter.

Mr. CAMERON, of Wisconsin. At page 608 there was quite a colloquy between the members of the sub-committee in regard to this affidavit. I commence reading on page 608:

Senator HILL. Now, here is the affidavit itself that Senator CAMERON alluded to in his cross-examination of this witness. I offer it as a part of the evidence and Senator CAMERON objects to it.

Senator VANCE. Does that affidavit refer to this matter?

Senator HILL. To the very question itself.

Senator VANCE, (to Senator CAMERON.) What is the objection, Senator?

Senator CAMERON. The objection is this: That he is now on the stand, and called here as a witness before this committee, and it is quite material in his evidence whether he made this affidavit a year or two ago, or when he did make it. The principal objection is to the witness corroborating himself, after having testified to the facts themselves, by referring back to this and saying that its statements contain the true version of his testimony upon this point.

Senator VANCE. Certainly, I understand; but suppose he takes it up and says that his memory was better then than now, and that the affidavit is correct?

Senator CAMERON. Yes, but he does not say it.

Senator HILL. He says it is true.

Senator CAMERON. I did not hear him.

Senator HILL. I so understood him.

Senator CAMERON. Well, I have not heard that from the witness yet.

Senator HILL. He said that the year 1872 as written in the affidavit was not correct, but that otherwise the statements were true.

Senator CAMERON. Well, I say that I did not hear it from the witness.

The WITNESS. Yes, that is what I say.

Senator CAMERON. He proposes now to corroborate his declarations upon the stand by an affidavit previously made. If you were lawyers conducting a case—

I said that, addressing myself to my democratic colleagues on the sub-committee—

If you were lawyers conducting a case, you certainly would not admit that a witness had that right.

Senator VANCE. Do you mean to say that he would not be allowed to offer his declaration at another time made about the same matter that he was testifying to?

Senator CAMERON. No, sir; nor would you consent to their admission.

Senator VANCE. Yes, sir; I think he could. I think a party has got a right, after going over his testimony, to offer in evidence the fact that he made certain declarations to the same fact at another time.

Mr. EDMUNDS. I should like to know whether the Senator from North Carolina affirms that to be the law now.

Mr. VANCE. I certainly would affirm it to be the law that when a witness is contradicted he may offer in evidence declarations made at the time of the fact to which he had been testifying, in corroboration of his testimony which he was then giving, if it was contradicted.

Mr. EDMUNDS. I will offer a very high reward for anybody who will bring a law book that will show that, good or bad.

Mr. KELLOGG. The case is even worse than that. If the Senator from Vermont [Mr. EDMUNDS] wonders at this, what will he think of some of the rulings of this committee?

Mr. CAMERON, of Wisconsin. The colloquy proceeds:

Senator CAMERON. I cannot agree with you. I think the opposite party can call it out for the purpose of disqualifying him, but I never heard of its being done before for the purpose of sustaining the witness, or, what is worse here, for the purpose of allowing the witness to correct and corroborate himself.

Senator HILL. I think there was a case in this very committee, certainly in one of the sub-committees of the Committee on Privileges and Elections in Washington, where a question was put as to whether the strict rules of evidence and the admission of evidence were to be followed in these examinations, and it was decided that they were not, and I certainly think in this case they should not be rigidly enforced.

Senator CAMERON. O, well, if you put it on that ground, I do not know that I would object to it seriously.

Mr. VANCE. Is there anything else?

Mr. CAMERON, of Wisconsin. There is considerable here. I do not know whether I will read any more or not. At the conclusion of the colloquy I say:

The witness now on the stand has been examined in chief and cross-examined. The proposition now is to introduce as evidence the affidavit which he says he made some time ago, May 30, 1879, for the purpose of corroborating the testimony that he has given to-day, on the ground that his memory of the alleged facts was clearer and more distinct at that time than now. If you say that, for the purpose of stating the grounds on which I offer it, I object. Let me state it, or rather amend it. It is offered because he now says that statement contained in that affidavit is correct, with the exception that 1872 appears where it should be 1876. What do you say, Senator VANCE, with reference to this objection?

Senator VANCE. I do not think it is a good one under the circumstances.

That is all.

Mr. KELLOGG. Mr. President, I fear I ought to apologize to the Senator from Delaware, [Mr. BAYARD;] but I will take but a short time longer, and my apology must consist in this, that it is pretty difficult to sit here and hear evidence referred to reflecting upon me that is so overwhelmingly refuted and so absurd, and as this is a matter that affects me personally, I must claim the indulgence of Senators if I trespass somewhat upon the time of the Senate. I will try to be as brief as possible. Flanagan made this affidavit on the 23d day of May, 1879. The alleged transaction that he refers to in the affidavit is of course connected with my election to the Senate in January, 1877. In the affidavit he swears that John S. Harris, beef inspector, paid the money, and he gives the date when it was paid as January, 1872; that is, five years before the event to which it bore reference. On the direct examination and cross-examination he had sworn that H. H. Harris was the man who paid the money, who was tax collector of the second district of New Orleans, and that the time was January, 1876. After the affidavit which thus contradicted his oral testimony had been examined by him and admitted in evidence, the witness was taken in hand again by the Senator from Wisconsin, who finally asked him, (page 610:)

Question. In what year did the occurrences take place which you have related as taking place in Judge Dibble's office?

Answer. I think now, sir, they were in 1876.

Q. What month, as near as you can make it out?

A. In January, I think.

Q. After you have refreshed your memory, that is your opinion, is it?

A. Yes, sir.

Thus his final conclusion was, after being refreshed in memory by his affidavit, that the bribery took place one whole year before my election and before the Legislature which was to elect me had been called into existence.

I will only add that Aristide De Joie, a worthy man above reproach, a member of the lower house for years from one of the districts near the city, came before the committee and testified that the statement of Flanagan was an absurd romance from beginning to end. T. B. Stamps, a State senator in the Nicholls legislature, elected from a district near the city by white as well as colored votes, who is now engaged in business as a commission merchant and is not connected with any Federal office, came before the committee and swore as De Joie did, that the statement of Flanagan was false. Mr. H. H. Harris came all the way from Kansas City, Missouri, where he is engaged in business, and I assert stands unimpeached and unimpeachable, and swore that no such transaction took place, and that he did not even know the man Flanagan or Mr. De Joie. John S. Harris, the other person referred to, the beef inspector, was and has been for a long time in Colorado.

Judge Dibble, who is a practicing lawyer in New Orleans, and in whose office this man said the transaction occurred, stated to me that if I had not evidence enough upon this matter he would prove that Flanagan was not in his employ at the time of my election and had not been since 1876, just as the witness himself wound up his testimony by saying. These are two illustrations of the character of the evidence referred to in the speech of the Senator from North Carolina and adopted by the Senator from Arkansas.

Before I sit down I will ask the Senator from North Carolina to state to the Senate if I am not correct in these two or three propositions that I am now about to make: First, that no witness that testified before the committee, and whose testimony can be found in this volume as being a member of the Legislature, swore before the committee that I paid him any money or that he received any money from any of my friends for voting for me; second, that but two men not members of the Legislature, namely, Baugnon and Francis Garrett, swore that any money was paid by me to any one for that purpose. I ask Senators to read the testimony of Garrett and the testimony of Baugnon. Baugnon swore that the money he saw paid was handed to Mr. Twitchell, a State senator, in the presence of Ed. Flynn, the telegraph operator at the State-house. Flynn, who is a democrat, and is now employed by the city administration as a fire-alarm telegraph operator, appeared before the committee and stated that Baugnon's

statement, as far as he was concerned, was false. Mr. Twitchell, who has been for two years consul at Kingston, Canada, and whose word cannot be impeached, swore that Baugnon's evidence was false from beginning to end; and finally Baugnon himself offered to come before the committee and say he was mistaken in the transaction, and if I had allowed him to do so he would have taken the stand and sworn that he was paid for testifying as he had done. He found we were showing up his rank perjury and was anxious to set himself right.

Mr. CAMERON, of Wisconsin. He made an affidavit.

Mr. KELLOGG. He made an affidavit at the solicitation of some of his friends and it was sent to me, saying what he had testified to was not true.

Now, a word as to the other witness, Garrett—Garrett and Baugnon being the only witnesses, as I have said, who swore before the committee connecting me with any money transaction with members. Garrett said he saw me hand an envelope to one Jones, under such circumstances that if any impartial person will read his testimony he will, I am sure, pronounce it as too absurd and incredible for belief. I hope Senators will read his evidence, on page 810.

As to Garrett, Jones swore that no such thing occurred, and I brought forward democrats, at the head of them the democratic sheriff of the parish of Orleans, John Fitzpatrick, who swore positively that Garrett's character was such and that he was so infamous that he would not be believed under oath. We proved that he was an ex-convict; he had been arrested for horse-stealing in Missouri; we proved he had been sent down to the parish prison, and served nearly three months for larceny; that he had been dismissed from the custom-house at New Orleans for stealing at the quarantine, and we covered him all over with infamy—contradicted his testimony at every point.

And these two wretches are the witnesses referred to by the Senator from North Carolina [Mr. VANCE] and the Senator from Arkansas [Mr. GARLAND] as establishing bribery.

The Senator from North Carolina [Mr. VANCE] says in his speech "as to bribery of Simms, McGloire, and Johnson, see Murray's testimony." Why Simms, who is a member of the present Legislature of Louisiana, swore positively that Murray's testimony regarding him was false. McGloire, who is a planter in Avoyelles Parish, Louisiana, swore the same. Neither of these men has ever held a Federal office. Johnson also positively swore that Murray's testimony was false. See their testimony on pages 1100, 318, 785, 341, and 345. Murray was impeached by democrats and republicans, and contradicted in his testimony both on bribery and quorum. I think the Senator from North Carolina [Mr. VANCE] will not question these statements. By the way, one remark in the speech of the Senator from North Carolina [Mr. VANCE] struck me as very ludicrous. I think he made a reference that he did not intend. He referred to evidence on page 152 as showing bribery. Now, if Senators will turn to page 152 they will find that one of Mr. Spofford's witnesses, instead of testifying to bribery on my part, actually testified to bribery of members to vote for Spofford. If this witness is to be believed, it was Spofford's friends, and not mine, who bribed members to vote for him. Still the Senator is in favor of seating Spofford. If this witness had sworn that he received money for voting for me he would be believed, but as he swore to money paid for Spofford's election of course as to that he cannot be believed.

Mr. VANCE. Mr. President——

Mr. KELLOGG. In one instant.

Mr. VANCE. I trust the gentleman will not be so unkind as to ask me a question and then refuse to give me permission to answer.

Mr. KELLOGG. I will ask the Senator from North Carolina to contradict any one of these propositions. I will give him plenty of time to do it.

Mr. VANCE. I will say, with the permission of the Senator, that quite a number of witnesses swore positively before a notary public that they did receive money at the hands of the sitting member from Louisiana, but they denied the same when they came before the sub-committee, and the two he mentions are the only two I now remember who swore before the sub-committee to the fact of seeing money passed or money being paid.

Mr. KELLOGG. I am quite sure the Senator is mistaken. Only one member of the Legislature is even alleged to have made an affidavit that he received money from me, and that is the man Blackstone, whose purported affidavit we have just been discussing. There may have been one other, but they swore before the committee that their statements were false and in no case is their statement corroborated that they were paid.

Mr. VANCE. If the Senator pleases to allow me I will now ask him a question, if he will be so kind as to permit me to do so.

Mr. KELLOGG. Certainly.

Mr. VANCE. I find on page 1229, in cipher dispatch No. 7, the following words:

Genl. A. S. BADGER,
Collector of Customs, New Orleans:

Think it is important that boat be moon. See to this. Confer with Violet and Oak immediately.

I would be much obliged to the Senator if he would translate that; and I will give him an opportunity to do it, and then to translate one on the next page, but one to the same person:

Hope you can get Boat rainbow; also Sorghum & Sponge show conspiracy. When does Walsh leave?

Mr. KELLOGG. Mr. President, I will digress from what I was saying to answer the question as well as I can. I had intended at some time to go into this matter of cipher telegrams fully, and it is a good time for me to say a word or two now in regard to them. As the Senate will notice by inspecting these telegrams, many of them are in the third person, and evidently were not sent by me.

I do not, however, make any especial point on that. I hope the Senator from North Carolina will not imagine that I desire to avoid any responsibility so far as these telegrams are concerned on that ground. These telegrams were sent in cipher for the reason, as one of the visiting statesmen in 1876 stated in a letter which was at the time pretty extensively published, that if "any one wanted to send a dispatch to or from New Orleans, unless he wished the contents to be made as public as a sheriff's sale he had better send it in cipher or trust it to the mails." That is the only excuse for sending these dispatches in cipher—that and the fact that we knew witnesses were being suborned to testify falsely against me; that the agents of Mr. Spofford were using threats and coercion and both promising and paying money to procure affidavits of bribery and improper practices to be used in this case. The Senator from Georgia has laid stress on the fact that these dispatches refer constantly to bribery, but counsel for Mr. Spofford had himself served notice on us that he intended to confine his first evidence before the committee in June to the two points of bribery and the alleged absence of a quorum of the General Assembly on the day of my election. The cipher dispatch read by the Senator from North Carolina is, I believe, substantially correct. What is the telegram? Just indicate, please, again where it is?

Mr. VANCE. The telegram of May 7, on page 1229, No. 7.

Mr. KELLOGG. "Think it is important that boat be moon. See to this." Is that it?

Mr. VANCE. That is it. Now for the translation.

Mr. KELLOGG. I suppose the Senator really desires to know what "boat" means in this telegram. I understand it to mean "Murray."

Mr. VANCE. "Boat" means "Murray," then?

Mr. KELLOGG. I think it does. I do not recollect this telegram very distinctly, but on inspection it would seem that the person sending it thought it important that Murray be all right or prevented from testifying falsely. It was known at that time that Spofford had obtained an affidavit from Murray, as he had from others, and that he was acting as an agent of Spofford in getting up testimony against me. Indeed, he afterward admitted in his testimony that he expected to make $2,500 out of this case, though he subsequently endeavored to explain it away.

Now, let me ask the Senator if anywhere in the record it appears from Murray's testimony, or the testimony of any other witness, that Murray was ever improperly approached at New Orleans by any of the Federal officers. This telegram was addressed to General Badger, the collector. Did Murray himself at any time pretend that he was improperly approached by Mr. Badger?

Mr. VANCE. He pretended before the committee in the city of Washington that he had been improperly approached.

Mr. KELLOGG. No. Murray testified in November before the committee that Barney Williams came to him and told him to go to Detroit, and all that kind of stuff, but Murray also said that Barney Williams did not pretend that he came from me, and more than that, Murray himself says in substance that he did not pay much attention to Barney Williams's proposals. Notwithstanding the frequent mention of Murray's name in these dispatches, it nowhere appears that any one of the Federal officers to whom they were addressed ever approached Murray or sought by any improper means to influence his acts. Murray himself testified before the full committee that he would have liked to have got in the custom-house and tried to, and that if he had succeeded he would have worked for Mr. KELLOGG, and he added that my treatment of him had been "so rough the last time he spoke to me that he did not care to speak to me again."

Mr. VANCE. I want a translation of the whole telegram, if the Senator pleases.

Mr. KELLOGG. I will get there soon if the Senator will permit me.

Mr. VANCE. Certainly.

Mr. KELLOGG. I have no disposition to evade these telegrams, although I am not directly responsible for all of them. I assert that there is not a telegram among them all which, read in the light of the circumstances that surround this case, will not be found when fully translated to be such a dispatch as an attorney or an agent might properly send in the interest of his principal.

Mr. President, I am very glad the Senator has brought forward these telegrams. I sat in my seat the other day and listened to the Senator from Georgia [Mr. HILL] "translating" these dispatches, as he termed it. A few days before the Senator from North Carolina [Mr. VANCE] had also translated or attempted to translate some of them, and in referring to them I, being in the Chamber at the time, arose in my seat and read a letter that I had addressed to the committee on the 5th of February last, stating that I would decipher any cipher telegrams that appeared in the record of which I had knowledge, if so desired, stating also that General Badger, to whom many of them were sent, was also in the city, ready to make any explanation.

I had previously made a similar offer orally to the full committee,

and finding that offer did not appear in the printed record, I repeated the proposition in writing addressed to the chairman, as the testimony was about to close. I then went to the chairman of the committee the following day and stated that I should like to appear before the committee if there was any question as to those telegrams, and he said there would be a meeting of the committee the next day. This is the conclusion to be found on page 1220 of the testimony:

At this point the testimony was closed for the present, and the committee adjourned the further consideration of the case to Monday, February 9, 1880.

In the mean time, February 5, I had written this letter, and when the committee met on Monday, the 9th of February, I was ready to appear before them if I had been called upon or it had been indicated that it would be agreeable for me to appear.

The reason I left the Senate Chamber the other day, as referred to by the Senator from North Carolina when this subject was under discussion, was because I was called out, and I regretted it very much, but I came back and learned that the Senator had referred to me as having left the Chamber, and had quoted, I think, something from Mark Twain in reference thereto. The other day the Senator from Georgia in his turn read numbers of these telegrams and proceeded to translate them in his own way. He started out by saying that he procured these telegrams in this way: that Barney Williams appeared before the committee and testified that he had heard me read certain telegrams. One was, "The bargain is made;" another, "I have given it Charley Cavanac in the neck," and such like trash, and that the sub-committee sent out for these telegrams, and thus got on the track of those now produced. He omitted to say that they did not find any such dispatches as those this Jew spy had sworn to among the files of the telegraph office in New Orleans or here. But he went on to say that, whatever other Senators might think, he (the Senator from Georgia) believed that Williams's testimony was true. He added that through the help of an expert he had deciphered these dispatches.

I tell the Senate and the Senator from Georgia that he never deciphered them by the aid or assistance, directly or indirectly, of an expert. I believe the only words he knows in these cipher telegrams are words that I myself frankly communicated to a person connected with his committee, and who I supposed at the time would very probably take them to the Senator. They were words of frequent occurrence, and from the context easily recalled themselves to my recollection. Other words I have found more difficult to recall, as the cipher, such as it is, mainly consists of arbitrary words for certain agreed-upon sentences and names of persons. Friends in New Orleans had from time to time sent me on sheets of paper lists of names and phrases with arbitrary words to represent them in telegraphing. These memoranda, as the occasion for their use passed away, were destroyed from time to time, but by calling to my aid the recollection of others I have no doubt I shall be able to lay before the Senate a translation of any one of these dispatches which may be desired. The so-called translations which the Senator from Georgia read to the Senate were for the most part simple fabrications. For instance, in order to give a color of corroboration to the testimony of one H. C. Brown, to which I shall presently allude, he asserts in the face of palpable facts proving the contrary that the word "Rose," which occurs very frequently in these dispatches, means Morris Marks, the collector of internal revenue at New Orleans. "Rose" is General Badger, the collector of the port, and not Marks.

Mr. VANCE. Mr. President——

Mr. KELLOGG. I must beg the Senator from North Carolina not to interrupt me just now. I will answer all his questions soon.

Mr. VANCE. The very point I was proceeding to interrupt the Senator upon is that he does not answer my question. I asked him to translate both these dispatches.

Mr. KELLOGG. I understood the Senator to ask me if "boat" meant "Murray."

Mr. VANCE. I asked the Senator to translate both dispatches, and he has not done so.

Mr. KELLOGG. I beg the Senator's pardon. I will stop to translate them, then, as near as I can.

Think it important that Murray be right on testify truthfully. See to this. Confer with Souer and Marks.

Where is the next one?

Mr. VANCE. The next is on page 1231, No. 18 W., May 21:

Hope you can get Boat rainbow; also Sorghum & Sponge show conspiracy. When does Walsh leave?

Mr. KELLOGG. No. 18 is on page 1230.

Mr. VANCE. It is marked "18 W." I beg pardon. I see it is marked above "21."

Mr. KELLOGG. The translation is, I think:

Hope can get Murray friendly or testify truthfully. Also Kelso and Watson show conspiracy.

My recollection is that both "moon" and "rainbow" were used to express substantially the same meaning.

Watson, it will be remembered, is the man who subsequently testified to having entered into a conspiracy to falsely swear that he had personated a member of the Legislature.

Mr. VANCE. If the Senator will be kind enough to answer me one more question I will sit down and not interrupt him any more in his speech. Will he translate the telegram No. 3, on page 1228, which reads:

(3.)

13 Ct.] WASHINGTON, D. C., 3, N. O., 5, 3, 3.20 p. m.

Gen'l A. S. BADGER,
Coll'r of Customs, New Orleans:

Please crown ash & Zebra fan permanently. Important. Hat all can while Pear absent. Hawley little easier. Fear away week.

AMITY.

20 Dhas. (352)

Mr. KELLOGG. I will translate it to the best of my recollection. "Please appoint Ash and Zebra"—I think mean one Lewis, formerly of Natchitoches, and one J. Wands—"immediately. Important. Make all nominations can while Sherman absent. Hawley little easier." Neither of these men, Lewis or Wands, figured at all in this case. Neither was a witness, except Wands, to prove a signature to an affidavit. "Fear" is printed here. I do not know how it is in the original.

Mr. VANCE. "Fear" is a misprint for "Pear," I understand.

Mr. KELLOGG. Very well. I take it for granted that means just what the Senator says it does, then.

Pear away week.

If it does, then it will mean:

Send forward the names while Sherman is absent. Hawley little easier. Sherman away week.

General Badger had become collector of the port of New Orleans only a short time before, and the civil-service rules, so much talked of and so much derided, and justly, too, I think, were being enforced down there, and you could not get, it was thought, Secretary Sherman's approval to nominations as easily as you could Assistant Secretary Hawley's. That is the worst of it. That is all there is to it; and these telegrams related mostly to men other than members of the Legislature; but these men were friends of mine, good republicans, respectable men, and were rendering me friendly service in offsetting the machinations of my opponents.

Now, turn to these other dispatches. Here is one which the Senator has not asked me about, and which will show that these telegrams asking for appointments did not relate exclusively to members of the Legislature or witnesses:

(19.)

[9 W.] WASHINGTON, D. C., 19, 12.25 p. m., *May* 19.

Genl. A. S. BADGER,
Collector of Customs, New Orleans:

Wakefield Brown Fobb Springer Walden Joubert Fish Chapron Carville Adolph Soveignes approved. Last lot goes to-day, all nominations received approved.

A.

20 D. H. (287)

You will find, I think, but two or three men named in this dispatch as being nominated and confirmed who were members of the Packard legislature or witnesses out of the eleven. There is another dispatch, by the way, that was read the other day by the Senator about answering "Pear's letter." This was simply a request to answer a letter of Mr. Sherman's written to the collector suggesting to him the nomination of a man by the name of Chapron—not a member of the Legislature, not connected with this case, a man who was a total stranger to me.

Mr. KERNAN. Mr. President——

Mr. KELLOGG. Now, I hope the Senator from New York will give me a few minutes longer.

Mr. KERNAN. Allow me a moment. I got the floor, and was to yield it to the Senator from Delaware [Mr. BAYARD] to make the motion he wished to make. I was reluctant to refuse the Senator from Louisiana, because I concede that we ought to hear him. He said he would take a few minutes. He has taken an hour. I do not want to speak now, but I desire to interrupt him because the Senator from Delaware feels that he has a right to submit a motion.

Mr. KELLOGG. I recognize that, and I feel obliged to the Senator, but I would like to crave indulgence a moment or two longer.

Mr. CONKLING. I ask the Senator from Louisiana to yield to me for a moment. Nothing my colleague can do or anybody else will entitle the Senator from Delaware to make the motion he wishes, because by unanimous consent the Calendar is in order. I mention this so that my colleague need not suppose that he is standing in the way of any particular Senator, because when the Senator from Louisiana concludes it will be within the power of any Senator to insist upon the regular order, which I shall be sure to do if no other Senator will do it. I want the Calendar taken up. Therefore no Senator need suppose that anybody is suffering in respect of any motion he may desire to make by the speech of the Senator from Louisiana.

Mr. KELLOGG. Mr. President, of course no Senator would desire, I am sure, to prevent me going on for a short time. Now, a word in regard to these cipher telegrams, since the Senator from North Carolina has called me out on one or two occasions.

Mr. BAYARD. I will merely say that as this case is somewhat personal to the member from Louisiana, I do not propose to interrupt him; but I insist on my rights as having charge of the matter that came over from yesterday.

Mr. KELLOGG. I was about to say when interrupted that by looking at the telegram where Chapron is mentioned, and other telegrams, it will be seen that they largely refer to men not members of

the Legislature, perhaps in the proportion of eight to ten of all mentioned in the cipher telegrams. Many of them refer to persons entirely separate from and disconnected with this case, either as members of the Legislature or as witnesses.

Before I pass on now to what I was about to state in criticism of the Senator from Georgia in regard to these cipher telegrams I desire to say one word more to the Senator from North Carolina. The cipher telegram he has asked me to interpret is:

Please appoint Zebra and Ash immediately.

That is all there is of it. Now I will read one translated specially from the Gramercy Park ciphers, which has recently been placed in my hands:

Majority of board have been secured. Cost is $50,000, to be sent as follows: One parcel of $35,000, one of $10,000, and one of $5,000—all to be $500 or $1,000 bills.

I will leave that without comment for the Senator from North Carolina to digest at his leisure. I see he also has left the Chamber. I might retort upon him the quotation he used toward me the other day when I was called from the Senate and absented myself, not supposing he would call upon me or refer to my absence:

> And he smiled a kind of sickly smile, and curled up on the floor,
> And the subsequent proceedings interested him no more.

I will leave it to any fair-minded man to say under the circumstances and in the light of the evidence whether these cipher dispatches of mine were not natural and justifiable. I knew that men were being suborned to swear falsely against me. Agents of Mr. Spofford were in New Orleans buying up false affidavits and sending them on here to procure a reopening of this case, and when they were received here Spofford was sending to his friends such dispatches as these:

Bully! Wait for the wagon. All goes well this end.
Patience. We shall know soon. All working well.
Committee about to act. Patience and sweet-oil work wonders.

Two of those agents who swore they were paid by Mr. Spofford to procure these men to make affidavits—and it was not denied—swore to interviews had with Mr. Spofford and produced his telegrams, which he did not question; swore to letters that he did not dispute directing them to cause these men to go before Charles Cavanac and make affidavits. To Milton Jones, one of the men referred to a short time ago by the Senator from North Carolina and the Senator from Arkansas, they represented that if he would only make the affidavit they wanted he should be protected from a prosecution that had been set on foot against him in the parish of Pointe Coupée, where he lived, for alleged defalcation in the matter of school money, and Jones stated under oath that he made that affidavit they asked him to make simply for protection and upon the assurance that it should not be used only to be shown privately to Senators for the purpose of reopening this case; that I was bound to be unseated anyhow, for it was an edict and mandate of the democratic party that I should be, and that he would get immunity if he made that affidavit. This is the way he said his affidavit was procured, and he was not contradicted. Phillips and Ward, the agents who took him to Cavanac, corroborated him.

But I was about to say that the Senator from Georgia—and I wish he were in his seat—in his speech the other day went on to interpret the cipher telegrams, and he made "Rose" to appear to be "Marks," in order to carry out a theory based on the evidence of a man named H. T. Brown, who testified before the sub-committee at New Orleans. His evidence will be found at page 827, I think. At all events, it is easy of reference, for it embraces just about a page. He swore that Morris Marks declined to appoint him to a position in the office of internal revenue, saying in his private office, when they were alone together, that he had to appoint a lot of squealers for KELLOGG, and consequently that he could not appoint any of his own friends. In the report of the committee they very disingenuously say of this man's evidence:

H. T. Brown testified that Morris Marks (revenue collector, and who was one of KELLOGG's most active supporters) said to witness in June or July, "I cannot take care of any of my friends now while this fight is going on about KELLOGG. I have to appoint a set of G—d d—d curs and hounds to keep them from squealing on KELLOGG." Morris Marks was present during the investigation by the sub-committee in New Orleans; was actively at work for KELLOGG; was himself a witness in behalf of KELLOGG, and did not deny this statement of Mr. Brown.

The Senator from Georgia and the Senator from North Carolina used substantially the same language in their speeches, at least the Senator from Georgia did. I submit that that conveys clearly by intendment, if not directly, the idea that Morris Marks appeared before the committee after Brown testified and did not contradict his evidence though he had an opportunity to do so. As a matter of fact Morris Marks testified two or three days after the committee went to New Orleans. He testified in rebuttal of a statement made by Barney Williams affecting him, and H. T. Brown testified some days afterward, and only just before the committee adjourned. Marks never knew that Brown had testified as he did until after this report was made by the committee, and he immediately sat down and sent me an affidavit denying it *in toto*, which I hold in my hand. I said to the Senator from Wisconsin, after Brown testified, "I think we ought to recall Marks." He derided it. "Why," said he, "it is only hearsay evidence, and if you are going to contradict every little figment of testimony that comes in that way you will keep us here all winter." Whereupon, as we had so many witnesses to call, I did not insist upon it. When we got here, I said to my attorney, Judge Shellabarger, "I am afraid they will use that bit of testimony of Brown's." He read it and said, "Nonsense, I would not call Marks for that," and we did not. Morris Marks, as I say, has made affidavit, which I hold in my hand, saying that this first came under his observation in reading the report of the committee published in New Orleans, that Brown's statement in regard to him is utterly untrue, and that he would have gone before the committee and said so if he had had the opportunity.

Now, the Senator from Georgia, to carry out the theory that Morris Marks was appointing "squealers" for me, takes the telegrams bearing on appointments, and in every one he interprets the word "rose" to mean "Marks," and says he has it from an expert.

Then, to carry out the other theory damaging to me, he says whatever other Senators may believe in reference to Barney Williams's testimony, incredible and startling as it may appear, he believes it. In a speech made on the day he presented his report he stated that there was corroborative evidence given by my witnesses that would fully sustain Williams's testimony; but now he says the corroborating evidence consists in a telegram sent to General Badger, which he read, as follows:

KELLOGG says if you can fix Foundry, Leopard, Templar, Screw, and Eagle, let Souer send them on as corroborating witnesses and the money will be ready at the hotel.

It will be noted that the Senator from Georgia does not venture to read to the Senate the cipher which he assumes to translate, and makes no explanation of the method by which his pretended interpretation was arrived at. There is no such telegram in the record as that which he professed to read. The only dispatch sent to Badger about the date specified containing the words "Foundry Leopard Temper Screw Eagle" was the following, which will be found in the evidence, page 1234:

WASHINGTON, D. C., 11.20 p. m., 6 *June*.

A. S. BADGER,
Coll'r, N. O.:

Terrier says if pin foundry Leopard Temper Screw Eagle fire Let Violet corroborating Vermont Standard Hotel be ready.

INDIGO.

This, therefore, must be the dispatch to which the Senator from Georgia alludes as confirming Williams's evidence. In order to make it fit in with the rest of his misstatements the Senator says, without warrant of fact, that this dispatch was sent on the 5th of June and received on the 6th. The dispatch itself shows it was sent at 11.20 on the night of the 6th. Having some doubts myself as to the true reading of this dispatch—for it was not sent by me—which the Senator from Georgia affects to translate so glibly to suit his own purpose, I wrote General Badger immediately after the Senator's speech was delivered, sending him the statement of the Senator and requesting him to telegraph me at once a correct translation. Here is his reply:

NEW ORLEANS, *May* 18.

To Senator W. P. KELLOGG:

Cipher dispatch from Indigo to Badger, which reads as follows:
"Terrier says if pin foundry Leopard, Temper, Screw Eagle fire Let Violet corroborating Vermont Standard Hotel be ready."
Deciphered correctly reads:
"KELLOGG says if not been tampered with, have Simmes, Magloire, Washington, Tolliver, R. Johnson come immediately. Let Souer's corroborating witnesses joint assembly quorum be ready."

A. S. BADGER.

Turning to the evidence of the witness Murray it will be found that on the 5th of June, the day before this dispatch was sent, he had sworn as to the persons named therein, Simms, Magloire, Tolliver, Washington, and Robert Johnson, all members of the Legislature; that three of them had told him they had received money for voting for me, and the other two had been seen with money some days afterward, (their vouchers having in the mean time been paid.) The assistant sergeant-at-arms of the Senate was at this time in New Orleans with instructions, sent the day before, to remain and summon seven witnesses for me. The officer had telegraphed in substance, "Tell Senator KELLOGG to designate friend here to name the witnesses that I am to summon." Whereupon, in order to rebut Murray's testimony given on the 5th, this dispatch was sent on the evening of the 6th to General Badger asking him to send to the country for these men named by Murray, and forward them on to contradict Murray, if certain they had not been tampered with by Mr. Spofford's agents, and also to send witnesses to testify in regard to the quorum. Murray it will be seen had given evidence on that point also, and indeed he is the only witness who did testify directly in regard to the alleged absence of a quorum when I was elected.

Surely that was an eminently proper dispatch, and its interpretation is clear and reasonable and consistent with the known facts on the record. It is corroborated by other dispatches sent and received about the same time, as I could easily show if I could take the time. I charge, and I think no one in the sound of my voice will venture to dispute it, that in pretending to give a translation of that dispatch the Senator from Georgia wrongfully, if not willfully, perverted it to my detriment, and I now say to him, or would say to him if he were here to make an issue, that if I cannot substantiate to any fair-minded man that the dispatch which he professes to have had translated by an expert was not in fact translated, and that the meaning which he puts on it is an interpretation wrongfully put upon it to my detriment, I will agree to resign my seat in the Senate.

That is the manner in which I have been pursued step by step all through this case, and the record is full of it.

At some future time, Mr. President, I may have occasion to go further into this evidence. I wish the task had not seemed to devolve upon me, but I must crave the indulgence of the Senate and plead only in extenuation the fact that this is a personal matter that touches me closely, and that I have been followed in this matter as few men have been pursued. Read the evidence, see the appliances that have been brought to bear to procure testimony against me, and see how I have met and overthrown them at every point. Before I conclude I will say to the Senator from Arkansas that he did not read from remarks made by me when the resolution passed, but he spoke generally of what I said.

I desire to say to the Senator from Arkansas that this whole matter was really gone over in the original case. It was suggested and was talked about and was in the journals of the houses, and both the Nicholls legislature and the Packard legislature were assailed on the ground that they were maintained by money, and it was insisted as to both Mr. Spofford and myself, in crimination and recrimination, that money had been used. There was never any proof of it.

Mr. GARLAND. I wish to ask the Senator if I have misrepresented him in quoting from him in reference to his statement when that resolution was before the Senate.

Mr. KELLOGG. I did not say anything about that, I think. If the Senator will turn to the RECORD he will find that I protested against the passage of the resolution to take testimony in this case anew for the reason that the whole question had been covered in the original hearing, and if the Senator will refer to the report of the Senator from Georgia in the original case he will see that it is full of allegations that there was all manner of fraud in connection with the Legislature. Every conceivable charge was made, just as the junior Senator from Ohio read the other day from the speech of the Senator from Georgia, [Mr. HILL,] when this case was being considered by the Senate in 1877.

Mr. GARLAND. I do not want to do the Senator any injustice.

Mr. KELLOGG. I am sure of it.

Mr. GARLAND. What I mean to say is that when the resolution was up to take testimony—I did not read the RECORD which was before me, though I was prepared to read it—the Senator from Louisiana said that so far as the question of bribery was concerned he courted and demanded or insisted upon an inquiry. Did I misrepresent the Senator?

Mr. KELLOGG. I only say to the Senator that I have not looked at my remarks since they were published, now a year ago. My impression is, as I have stated, that I did not indicate any acquiescence in the action of the Senate in passing the resolution, but protested against it on the ground that while I feared no charge of improper conduct on my part, still all that matter as I claimed had been covered in the original inquiry, and that it was unjust and illegal to subject me to an investigation of this kind again.

Mr. GARLAND. I think the Senator will find on page 1121 of the RECORD—I have not a very good memory, but that is my recollection now—that he insisted that that distinct inquiry should go forward, but that at the same time it should not affect his title to the tenure of his office. I said enough to-day on that point as far as I am concerned. I understood the Senator to so say; but if I made a mistake in stating that he wanted that investigation I am ready to be corrected.

Mr. KELLOGG. I do not say that the Senator made a mistake. I have stated the matter as I recollect it, and how I regarded the case at the time, as having been formally settled on the original hearing and all these questions covered. If the Senator will refer to the RECORD in regard to that debate—I think it was early in May, 1879—he will see that it was shown that the whole question of bribery, as well as the other questions, were all raised in and suggested by the record evidence agreed upon by Spofford and myself in the original case. The Senator from Wisconsin [Mr. CARPENTER] in his speech at that time dwelt upon that. I refer the Senator to his remarks.

The PRESIDENT *pro tempore*. The consideration of the Calendar is now to be resumed under the agreement of the Senate.

AMENDMENTS TO BILLS.

Mr. McMILLAN, Mr. FARLEY, Mr. CAMERON of Wisconsin, Mr. HOAR, Mr. PENDLETON, and Mr. HEREFORD submitted amendments intended to be proposed by them respectively to the bill (H. R. No. 6237) making appropriations for the construction, repair, completion, and preservation of certain works on rivers and harbors, and for other purposes; which were referred to the Committee on Commerce, and ordered to be printed.

Mr. CALL submitted an amendment intended to be proposed by him to the bill making appropriations for sundry civil service of the Government for the fiscal year ending June 30, 1881, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

ORDER OF BUSINESS.

The PRESIDENT *pro tempore*. The Chair wishes to notify the Senate that several Senators having suggested doubts as to the correctness of the last ruling of the Chair, that the consideration of cases under the Anthony rule is to be continued up to half past one o'clock notwithstanding the change in the hour of meeting, the Chair will to-morrow at half past twelve o'clock submit the question to the Senate what is the true interpretation of these rules together, whether the morning hour ends at half past twelve or whether it continues to half past one. It is but right that the Senate should decide that question, because if it be decided one way it may lead to a change in the Anthony rule.

Mr. BAYARD. I should like to ask the Chair a question, whether to-day under the orders as they now stand it would be in order for the Senate by a majority vote to take up for consideration a measure without regard to its place on the Calendar?

The PRESIDENT *pro tempore*. It would not be without violating the agreement that was made by unanimous consent. The Chair has that agreement as written out by the shorthand writer, and it was this:

Mr. CONKLING. The proposition is that by unanimous consent it be resumed——

That is, the Calendar—

for an hour afterward.

That is, after the conclusion of the remarks of the Senator from Arkansas.

The PRESIDENT *pro tempore*. Is there objection? The Chair hears none, and the Senate so agree.

So the Senate unanimously agreed to take up the Calendar at the close of the remarks of the Senator from Arkansas and continue its consideration for one hour. Of course the Chair cannot enforce that.

Mr. BAYARD. May I inquire of the Chair whether, the hour which was occupied by the Senator from Louisiana by unanimous consent having long since expired and a second hour or more having intervened, the rule would still apply?

The PRESIDENT *pro tempore*. The Chair put the question at the close of the remarks of the Senator from Arkansas and when the Senator from Louisiana rose whether the Senate unanimously agreed to still further postpone the Calendar in order that the Senator from Louisiana might address the Senate, and the Senate unanimously so agreed.

Mr. BAYARD. May I ask also of the Chair whether the extra morning hour will expire in one hour from the present time?

The PRESIDENT *pro tempore*. It will expire in one hour from the time the first case on the Calendar is called. The Secretary will call the first case on the Calendar.

The CHIEF CLERK. Senate bill No. 33——

Mr. PLUMB. I desire to call the attention of the Chair and of the Senate to an agreement entered into on the 26th of March that a certain bill, which is order of business No. 298, being House bill No. 2326, should retain its place at the head of the Calendar, and to ask for the reading of that bill as the first in order.

The PRESIDENT *pro tempore*. The Chair will hear the Senator from Kansas.

Mr. PLUMB. The Chair will find by referring to the RECORD containing the proceedings of March 26—I simply read the necessary portion of the colloquy which ensued on my request:

Mr. CONKLING. The Senator from Virginia will allow me to suggest that I am sure he will not object to the request that the Senator from Kansas makes now. He asks if the bill is reached during his absence that it may stand until he returns.

Mr. WITHERS. I misunderstood the request entirely.

The VICE-PRESIDENT. The Chair hears no objection to the request of the Senator from Kansas.

I will state further in that connection that when I did return the Senate then had under consideration the bill which it disposed of to-day, having arrived at the consideration of that bill during my absence. Consequently there was no chance to bring this bill up without interposing an objection to the further consideration of the bill which was passed to-day, and hence it remained until that bill was out of the way.

The PRESIDENT *pro tempore*. The Chair has read what took place in the Senate on the 26th of March, to which the Senator refers; and in view of the further statement that when the Senator returned the Senate was considering another bill, the Chair thinks that the agreement then made by the Senate ought to be observed, and that the bill mentioned by the Senator from Kansas, which is House bill No. 2326, retains its place at the head of the Calendar. It will be now called.

SETTLERS ON OSAGE LANDS.

The bill (H. R. No. 2326) for the relief of settlers upon the Osage trust and diminished-reserve lands in Kansas, and for other purposes, was considered as in Committee of the Whole.

Mr. EDMUNDS. I should like to hear the report of the committee read on this bill.

The Chief Clerk read the following report, submitted by Mr. WALKER February 17, 1880:

The Committee on Public Lands, to whom was referred the bill (H. R. No. 2326) for the relief of settlers upon the Osage trust and diminished-reserve lands in Kansas, and for other purposes, have had the same under consideration, and submit the following report:

These lands formerly belonged to the Osage Indians, and under treaty stipulations between the United States and that tribe the sale of the lands and the disposition of the funds arising from the proceeds of such sale were mutually agreed upon. By joint resolution of April 10, 1869, the lands were opened to sale to actual settlers at $1.25 an acre. By act of May 9, 1872, the general principles of the preemption laws were applied to these lands, though they were to be sold only to cash purchasers, with certain conditions as to time of payment, which were still further modified by act of June 23, 1874, which provided against any further extension of time and prescribed that deferred payments under previous laws should draw interest at the rate of 5 per cent. per annum.

A very considerable proportion of the persons who have made settlements upon these lands have failed to comply with the terms as to payment. They have been signally unfortunate. Many invested all the means at their command to put their farms under partial cultivation and to furnish the necessary improvements. Others effected loans for these purposes. Before they were able to realize from their investments the entire section of country within which these lands are included was devastated by the grasshopper scourge, which literally ate out their substance. This, with subsequent losses from an unusually dry season and the pressure of indebtedness, has made it quite impossible for these people, or the greater part of them, to meet their obligations to the Government.

This bill provides for their relief by permitting payment for the lands to be made in equal annual installments, with 5 per cent. interest on deferred payments, and secures the Government, as the representative of the Indians, against loss by default by subjecting the claims of settlers to forfeiture and the lands to sale at public auction in case of failure to meet any one of the payments. This, while a substantial relief to the settlers, will prove just to the Indians; for it insures certain payment for the lands and the consequent enlargement of their fund, while by extending the same principle of payment by installments to the lands unsettled upon their sale will be promoted to the mutual advantage of the State and of the Indian tribe.

No advantage would result to the Government or to the Indians by enforcing forfeiture against the settlers under existing law, while the hardships to the unfortunate settlers would be very great. They would be deprived of the benefit of all the improvements placed upon their lands. Nor would this and the forced abandonment of their homes be all; as their settlement was made under the limitations and requirements of the pre-emption law, they would be prohibited from filing upon any other class of public lands. The committee do not believe that anything would be gained by such severity, while, under the terms of the pending bill, the substantial purpose of the treaty and the original legislation will be carried out.

The bill also provides that the lands shall be taxable after the payment of the first installment, though it is expressly provided that no sale for taxes shall deprive the United States of any part of the purchase-price of the lands. This feature is deemed just to the State, which would otherwise be deprived of any revenue from a very large proportion of an extensive community for a series of years, while the local burdens would fall upon the comparatively few who have received titles to their lands.

This bill was introduced at the last session, and was drawn under the direction of the Commissioner of the General Land Office. It has also passed the House of Representatives. The committee believe that it will be a measure of humanity to the settlers and of substantial justice to the Government and the Indians, and they therefore recommend its passage.

A letter of the Commissioner of the General Land Office, of date April 10, 1878, to the Secretary of the Interior, and by that official transmitted to the House of Representatives, is hereto attached:

"DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
"*Washington, D. C., April* 10, 1878.

"SIR: I have the honor to report as follows upon House bill No. 3275, 'for the relief of actual settlers upon the Osage Indian trust and diminished-reserve lands in the State of Kansas, and for other purposes,' referred by the Department on the 7th ultimo with letter of Hon. THOMAS RYAN dated the 4th ultimo.

"The lands in question are those designated by the second and sixteenth articles of the treaty of September 20, 1865, volume 14 United States Statutes, and by those articles the stipulations respecting their sale and the disposition of the proceeds are expressed.

"By joint resolution of April 10, 1869, the trust lands were opened to sale at $1.25 per acre to actual settlers, and the twelfth section of the act of July 15, 1870, authorized the continued disposal of both the trust and diminished-reserve lands under the provisions therein prescribed, and by act of March 3, 1871, the town-site laws were extended over them. (See Statutes, volume 16, pages 55, 362, and 557.)

"By act of May 9, 1872, (Statutes, volume 22, page 90,) incorporated in section 2283 of the Revised Statutes, the lands have been brought under the general provisions of the pre-emption law, but only to be sold to cash purchasers, and upon prescribed limitations as to time of payment, which limitations were still further modified by act of June 23, 1874, (Statutes, volume 18, page 283,) so as to bar any further extension of time, and to require interest at the rate of 5 per cent. per annum upon all deferred payments under the previous laws.

"It is now proposed to relieve the settlers by allowing payment in equal installments under the terms of the bill, and to provide against default by subjecting the claims to forfeiture and the lands to unconditional sale at public auction after due notice and the lapse of the prescribed periods of time.

"The evident purpose is to carry into effect the treaty obligations with the Indians, and at the same time to secure a productive settlement of the country with an increase of the revenues of the State by taxation, as well as the resources of the General Government, by the added improvements and accumulations consequent upon such settlement.

"The bill as introduced not being, in my judgment, sufficiently explicit in its detail to effect the objects intended, I have, with some care, drafted a substitute, which I herewith submit, and which I respectfully suggest will more fully express the necessary provisions.

"With reference to section 2 of the bill (section 5 of the substitute) respecting the right of the State to tax the lands, and aiding a purchaser at tax sale in case of default on the part of the settler to pay the purchase-price and take his patent, I have to remark that I do not consider the matter of any importance in its relation to the public land system or as requiring from me any opinion touching its merits. It is for Congress to say whether or not it will aid the enforcement of State legislation and interpose the patent of the United States as a bar to the equities of redemption provided for parties liable to taxation for local or State purposes.

"The provisions of the bill, as drawn by me, will only give the party paying the tax, after complete default by the settler, the right to take the lands in preference to a purchaser at the public sale on the day of offering, and cannot, therefore, by any possibility, defeat any claim of such settler, or bar any privilege except the mere common right to bid against all the world for the lands which he has had ample opportunity, even after advertisement, of fully securing. In this view of the matter, I have therefore to say that while I have no recommendations to offer I see no objection to the incorporation of the section as it stands in the substitute.

"It will be apparent by a reference to lines 6, 7, 8, 9, and 10 of section 2, in the original bill, that their import would be to limit the power of the State to provide her own remedies for the enforcement of her laws, and I have consequently amended the phraseology of the context, and omitted a clause embraced in those lines which does not command my favorable judgment.

"With the foregoing suggestions and exceptions, looking at the whole scope of the bill, I am of the opinion that the enactment of the substitute submitted, either with or without the incorporation of section 5, will work advantageously to the United States as well as to the Indians, and may with propriety be consummated.

"I am, sir, very respectfully, your obedient servant,
"J. A. WILLIAMSON,
"*Commissioner.*

"Hon. C. SCHURZ,
"*Secretary of the Interior.*"

Mr. EDMUNDS. The report of the committee certainly presents a pretty strong case for giving further time to these settlers who have been so unfortunate; but I do not see in the bill the provision that the committee refer to in their report for computing and requiring the payment of interest upon the unpaid part of the purchase-money. I think it is not in the bill. Of course under the treaty our duty to the Indians where this property is thus extended and sold on time and payment deferred would require us in the execution of the trust to make interest as anybody else would in selling property for the benefit of the Indians. And as the committee recommend that as the part of justice to the Indians, I move to add a section at the end of the bill to carry out that idea in these words:

SEC. 7. In all cases arising under this act interest at the rate of 5 per cent. per annum shall be computed and paid upon all that part of the purchase-money in respect of which time is given for the payment of the same.

The amendment was agreed to.

Mr. EDMUNDS. I should like to ask the Senator from Kansas, who is much more familiar with this matter than I am, whether in other respects than that of interest which is now provided for this bill is consistent with the provisions of the treaty so that we are not violating any duty to the Indians.

Mr. PLUMB. With the single exception of a provision similar to the one just now added to the bill on the motion of the Senator from Vermont, this bill is as it was drawn in the Interior Department, and it was sent there to be drawn for the purpose of ascertaining that fact. In the first place only a portion of these lands were ceded to the Government by treaty. The remaining portion was acquired by reason of a certain act of Congress. I believe myself, independent of the examination given by the Interior Department, that this bill does discharge now as amended all the obligations of the United States to the Indians with respect to these lands. It only provides a new method of selling that does not in any wise interfere with the treaty.

Mr. ALLISON. What act of Congress is referred to?

Mr. PLUMB. The act of Congress of 1869.

Mr. EDMUNDS. I take it upon that trust as far as I am concerned.

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

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

The bill was read the third time, and passed.

JOSEPH R. SHANNON.

The PRESIDING OFFICER, (Mr. HEREFORD in the chair.) The Secretary will report the next bill on the Calendar.

The next bill on the Calendar was the bill (S. No. 33) to ascertain the amount of the claim of Joseph R. Shannon, of Louisiana; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims, with an amendment to strike out all after the enacting clause and insert:

That the Secretary of the Treasury is hereby authorized and directed to pay Joseph R. Shannon, formerly of the State of Louisiana, for the steamboat A. W. Quarrier, impressed into the service of the United States in the year 1862, and destroyed in such service, the sum of $48,000, out of any money in the Treasury not otherwise appropriated.

Mr. EDMUNDS. Let us hear the report, Mr. President.

The Chief Clerk read the following report, submitted by Mr. TELLER January 26, 1880:

The Committee on Claims, to whom was referred the bill (S. No. 33) for the relief of Joseph R. Shannon, having considered the same, make the following report:

The claimant, Joseph R. Shannon, petitions Congress to pay him the value of a steamboat (A. W. Quarrier) impressed by General Butler, while in command of Federal troops at New Orleans, in the spring of 1862. There is some conflict of testimony as to the exact time of the impressment, but not more than might be expected where witnesses rely on their recollection of the date. The claimant was a citizen of Missouri, and at all times loyal to the Government, but was, at the time of the capture of New Orleans, in the vicinity of that city with the boat and other property of like character.

The A. W. Quarrier was, before the war, used as a passenger boat, running between White River and the city of New Orleans, but at the time of the commencement of the war was lying at the wharf in New Orleans. Subsequently she plied between Red River and New Orleans. The claimant also owned the Burton and Sallie Robinson, which were both seized by the confederate government, and subsequently taken by the United States forces. The Burton was snagged and sunk while being used by the Government, and was subsequently paid for by the United States. The Sallie Robinson was recovered from the United States by claimant by proceedings in the court at New Orleans.

It appears from the evidence that the claimant was the owner of the boat by purchase, and had been such owner for several years. The claimant does not produce any written evidence of title, but the proof is entirely satisfactory (and was so admitted by the Treasury Department) of the ownership of the boat by claimant. (The reason given for non-production of title papers is that they were destroyed during the war.)

The facts may be briefly stated to be as follows: In the latter part of May or June, 1862, General Butler impressed the boat and sent it up the river under a flag of truce. One great object of the expedition appears to have been to obtain a large amount of gold taken from the New Orleans banks and secreted within the lines of the confederacy. The agent of the banks, whose affidavit is on file, went on the boat to Alexandria, and returned by other means with the gold; the captain and crew were seized and imprisoned as spies; the boat taken by the confederate government and dismantled; the machinery taken to Texas and used by the Davis and Marion County Iron Works, then controlled by the confederate authorities. Afterward these works fell into the hands of the Government of the United States. Shannon made an effort to recover the machinery, which was then in the hands of one Hughs, who appears to have held it as an agent of the Government. In this effort Shannon was unsuccessful, because Hughs proved that it was the property of the United States by capture from the confederate government. Then Shannon attempted to secure from the Government the value of the boat. After much delay, the Treasury Department decided that the owner was loyal, and that the boat had been impressed, as claimed by claimant, but that the boat was not in the insurrectionary district under the proper authority indicated by the joint resolution of December 23, 1869, nor in conformity with the law of the United States, and therefore rejected his claim as not cognizable in that Department.

It is difficult to say just what is meant by this. Mr. Shannon had established

his loyalty and the ownership of the boat to the satisfaction of the Treasury Department. The boat had not been seized by the Government on account of misconduct of the claimant, but because of the pressing necessity of the Government at that time. It was the property of a loyal citizen within the United States at the time of the breaking out of hostilities. The boat remained there through no fault of claimant, but from necessity. When the Government's authority was once more established over that portion of Louisiana, the claimant's rights were the same that they would have been if he had gone from Saint Louis to New Orleans after the capture of that city.

General Butler had authority to impress the boat if in his judgment it was a military necessity, and the liability of the Government is the same whether it was wisely or foolishly done. (Court of Claims, vol. 2, p. 95; vol. 5, p. 542; vol. 7, p. 234; 13 Wallace, 336.)

The claimant, without fault on his part, lost his boat, which he had not forfeited to the Government, and he is entitled to the value thereof. He brought the matter into the courts to obtain, if possible, what was left of the machinery of the boat, but was defeated because the Government claimed title to it as captured confederate property. He then resorted to the Treasury Department, but was informed that while the proof was satisfactory as to his loyalty, ownership of the boat, &c., he did not fall within the resolution of 1869, nor the amendment of 1871, and therefore he could not have redress in that Department, but must go to Congress, which he did some three years since. It is difficult to determine what the value of the boat so impressed was, and the evidence is conflicting on that part. It is doubtless conflicting because of the fact that the boat at the time of its purchase by the claimant was not in first-class condition, and was subsequently repaired at great expense. Some of the witnesses may speak of the boat as it was before the repairs and some after the repairs.

All of the witnesses save one place the value of the boat at not less than $50,000, and several of them much higher than that. The Third Auditor, after a careful examination of the evidence and the value of boats of like character and dimensions paid for by the Government, fixes the value of the boat at the time of the impressment at a little more than $48,000. As the value of the boat must be ascertained by the testimony taken at that time, and from the testimony the Auditor would have been justified in finding the value much greater than he did, and as but one witness out of eight testify to a value below $50,000, your committee think the amount found by the Auditor is not excessive, and therefore recommend that $48,000 be paid to Mr. Shannon, and therefore recommend the passage of the accompanying bill as substitute for Senate bill No. 33.

Mr. EDMUNDS. I should like to have the Senator from Colorado who made this report tell us, as he can no doubt in a very few minutes, the short history of this vessel, where she had been for the year preceding the impressment by General Butler, what she was doing, on which side of the line she was, and what sort of business she was engaged in.

Mr. TELLER. This boat was in the waters at New Orleans when the war broke out, remained there in New Orleans, as I understand, a portion of the time running from the city of New Orleans as an ordinary passenger boat to White River. A portion of the time, to prevent its falling into the hands of the confederates, it was hid in a slough. It was subsequently brought out and put on as a passenger boat. It was in the waters at New Orleans when Butler took possession of the city, and remained there some time after, when Butler, thinking he needed it to send up the river, took possession of it and sent it up the river out of the control of Mr. Shannon, who was the owner. The evidence of that is indisputable in the affidavits of the clerk of General Butler and of various persons as to the taking of the boat. When taken up the river where Butler desired to send it it was captured by the confederates and dismantled, and the machinery was taken over into Texas and used there by the confederate government, and afterward fell into the hands of the United States, and the United States still holds it unless the Government has sold it.

The evidence is satisfactory of the loyalty of the claimant, and the proof is beyond any doubt that the Government took possession of the boat without his consent and sent it off on a military expedition.

Mr. JONES, of Florida. Permit me to ask a question. What prevented this claimant from going before the commission which was created to consider claims of this character? There were a great many claims considered by the southern claims commission, and I know of many claims equally as meritorious as this originating in the taking of property belonging to loyal citizens; but whenever they were brought up here it was said that Congress had created a southern claims commission whose purpose and jurisdiction was to consider matters of this kind, where the testimony would be in accordance with the well-established rules of law, not to be decided upon *ex parte* affidavits, but on cross-examination. I do not know that this case did not fall within the jurisdiction of that commission; and if it did, I wish to know why it was not submitted to their consideration?

Mr. TELLER. I do not know. My impression is that this claimant was not authorized to go before the southern claims commission. If he was, the excuse, I suppose, is this: the machinery, which was worth a large amount of money, was taken over to Texas and was used, and when the war was over Mr. Shannon thought the quickest way for him to get his money was to go and get the machinery. He went over there and instituted suit in the United States courts for possession of the property, and the suit hung on for a very long time—I do not remember the exact time—and when they came to trial the proof was that the property was not held by the individual who was made defendant, but was held really by the United States Government, and thereupon, of course, Shannon lost the suit. Inasmuch as the confederate government had once had possession of it, the United States was not obliged to look and see how it came into possession, and the Government of the United States refused to deliver the machinery, and therefore he lost that opportunity. He then came to the Treasury Department, and was informed there after a good deal of trouble that he must come to Congress; that there was no other place for relief. He came to Congress. There is one other case exactly like this, as I understand, before our committee, that we have reported, where a party is in the same condition, and I have not yet found any case where the parties have gone with this class of cases to the southern claims commission.

Mr. JONES, of Florida. Can the Senator give any reason why they were not bound to go the same as other claimants? Was there anything in their cases that took them out of the operation of that law?

Mr. TELLER. That southern claims commission I understand was instituted for the purpose of hearing the claims of parties that had furnished supplies to the Government either by their own consent or otherwise. This cannot be considered as a supply furnished to the United States.

Mr. JONES, of Florida. Why not?

Mr. TELLER. The Government took forcible possession.

Mr. JONES, of Florida. The Government took possession of this property and used it just as it did the property of other citizens.

Mr. TELLER. If the Senator will turn to the statute establishing the southern claims commission, I think he will see that this did not come within its jurisdiction. This seems to be a fair claim. As the Government has had this man's property, there is no reason why the Government should have it without paying for it. He has been compelled to wait year after year, and he has been before the Department, and been before Congress. I think it is one of those cases that ought to be paid. I trust he will be paid.

Mr. EDMUNDS. I should like to see this southern claims commission law.

Mr. JONES, of Florida. I will say to the Senator from Colorado that I make no captious objection to this case. All I am in favor of is equality. Equality is equity. I know that it has been held here time and again in the case of claimants just as meritorious as this one that because their claims had not been presented to the southern claims commission created for the purpose of considering this class of demands against the Government they had no standing before Congress. I say that if this rule is to be applied to one man it ought to be applied to another, because in respect of loyalty there is no question that other men equally as loyal as this man have had their claims disregarded because they did not present them before this southern claims commission.

Mr. EDMUNDS. Mr. President, I find the origin of the southern claims commission in the Army appropriation bill of 1871, chapter 116 of the acts of that year, March 3, 1871, which provides for the appointment of three commissioners—

> Whose duty it shall be to receive, examine, and consider the justice and validity of such claims as shall be brought before them, of those citizens who remained loyal adherents to the cause and the Government of the United States during the war, for stores or supplies taken or furnished during the rebellion for the use of the Army of the United States in States proclaimed aa in insurrection against the United States, including the use and loss of vessels or boats while employed in the military service of the United States.

My friend from Colorado tells us that it is said this case does not fall within that rule. This, according to the report of the committee, is a case in which a vessel belonging to a loyal citizen was taken in a State proclaimed to have been in rebellion, to wit, Louisiana, for the use of the Army of the United States by one of its commanding generals, and was destroyed in that service. I confess as a first impression I do not see why the suggestion of the Senator from Florida is not a sound one, that this is one of that class of cases which should have been subjected to the scrutiny, *quasi* judicial, of this commission.

It seems that this vessel was once taken by the confederate authorities and dismantled, if I correctly understood the Senator from Colorado, and how she got out of the confederate possession into the possession of the owner again and was put into use does not appear to be very clearly stated. Perhaps my friend can explain that.

Mr. TELLER. The Senator misunderstands me. The confederates never had possession of this vessel until they took possession from the United States and dismantled her. After the Government had impressed the vessel and took it up the river on its own service, having put its own crew and officers in, using some of the original crew, but having put some military men in charge of the boat, it was taken possession of by the confederates and dismantled. The Government afterward got it again and still retains the property except the hull of the vessel, which of course was destroyed.

Mr. EDMUNDS. I understood before that this capture or seizure by the confederates was previous to the impressment by General Butler. If the capture was afterward, of course that was no fault of the owner and he ought not be responsible for that. But I should really like to have this case sufficiently considered to understand whether it is one of ten thousand or fifty thousand that properly belonged to this quasi-judicial examination that we had provided for, or whether it really does not fall within that, and if the Senator would not object to let this bill go over without losing its place, because I should be very sorry to do the claimant any injustice by an objection which I could not properly maintain, I should like to have it in order that we may see whether we are beginning again to open matters that might have been and perhaps have been tried before the southern claims commission or not. I make that suggestion that it go over without losing its place.

Mr. TELLER. The statute read by the Senator is just the statute that the Department said did not include this class of cases, and I say in my report that I cannot understand why the Government did

not think they could pay under that act, but inasmuch as the Department decided they could not pay under that act and would not pay under the act, therefore the party came to Congress. The Department decided that this case did not fall within the resolution of 1869.

Mr. EDMUNDS. That was a provision as to quartermaster's stores.

Mr. TELLER. Nor the amendment of 1871. I said that I did not understand why it did not, but they said it did not, and therefore they refused to pay. Now, if this man might have gone to the southern claims commission, he did not go there, and we have paid a good many claims since I have been in the Senate where the parties did not go there for various reasons.

Mr. JONES, of Florida. On that point I would like to ask a question. I say candidly that I have no prejudice against this case. It belongs to a very meritorious class that from inadvertence or other cause never found a place before the southern claims commission, but which have been universally put aside and never allowed because they were not presented there. All I wish to know is what is there in the facts of this case to make an exception in its favor? Why did this man not go before the southern claims commission? If it was because he was beyond the seas, or because of his minority, or for any of those usual causes which operate as exceptions to statutes of limitation, let that fact be stated.

Mr. HOAR. May I be allowed to answer the question of the Senator from Florida?

I do not see myself why this claimant could not have established a case under the act creating the southern claims commission. But that is a judicial proceeding in the nature of a court, as the Senator understands. There was an act of Congress then in force, enacted originally in 1869 and renewed and amended a little in 1871, under which persons whose boats were in the insurrectionary districts in certain enumerated methods, one being the method under lawful authority employing a license to go there, might go to the Treasury Department without any application to the court and the claimant have relief. That is the just and fair interpretation of that statute. His place was where he went, in the Treasury Department, and the Senator making the report says he was right. The Treasury Department examined this case thoroughly and find that he is a loyal man; that his claim is just; that all the facts he states are true; and that the amount which the committee propose to allow him ought to be allowed, but the proper officer of the Treasury is of opinion that in regard to the construction of the law giving the Treasury Department authority to audit and settle such accounts he was wrong, that they had not the legal authority. Therefore he lost his claim by going to the Treasury Department instead of going to the southern claims commission as he might have gone, and the committee under those circumstances, without inquiring whether he ought to have saved his strength, and after the Treasury Department disallowed his claim there for this reason have saved himself in the southern claims commission, concluded, as all the facts were absolutely admitted by the Government beyond any question, that it was proper to report his bill without any regard to the particular technical difficulty, if it be technical.

Mr. JONES, of Florida. The Senator from Massachusetts throws a light on the subject that has never been thrown before. He has stated to the Senate that at least some exceptions would possibly exist to the consideration of claims of this description. Now, I say to the Senator very candidly that I am more anxious that a rule should be established than that this particular claim should be paid or defeated. If we are to have a rule, let us have one. If we are to have exceptions to a rule, let us have them.

Mr. HOAR. Will the Senator from Florida allow me?

Mr. JONES, of Florida. In a moment. If we are to have exceptions, let us understand what the exceptions shall be.

I think cases have been presented to the Senate equally as meritorious as this, and when presented it was said the case fell within the jurisdiction of the southern claims commission; the party did not present his claim within the time fixed by law; he is barred; and now Congress will not undertake to consider that class of cases. What I was anxious to understand was if there were any exceptions to the rule, the hard legal rule which has been hitherto adopted, because if there are to be exceptions pleaded in one case, then I know what is due in others.

I have no complaint to make of the statement of the Senator from Massachusetts with respect to the facts of this case, although I can imagine other cases equally as meritorious as this which I think were put aside where the parties could have alleged a state of facts that would have been in my judgment as good a foundation for an exception as this.

Mr. HOAR. I think it quite reasonable that the case should go over as suggested unless the Senator from Colorado who made the report is able to give to the Senate the dates in answer to the question put by the Senator from Vermont. But the substance of the case as we understand is this, and I think the honorable Senator from Florida will agree that it should be one of the exceptions to the rule which requires the party to go to the proper tribunal within the time: He went in time to the place where he thought he ought to go, the Treasury Department. His case was entertained there, investigated there, all the facts found, and it is admitted that he has an honest, clear, plain case on the merits. The question whether he went to the right or the wrong jurisdiction for his remedy is a question so doubtful that although the Treasury Department thought they had not jurisdiction some of the committee thought they had. I am merely stating the case from general recollection at this moment.

Mr. EDMUNDS. I should like to hear the statute under which he went to the Treasury Department.

Mr. COCKRELL. I desire simply to state that it has been the rule of the Committee on Claims for a long while, when cases were presented to them over which the Court of Claims or the commissioners of claims or the proper Departments had full jurisdiction and ample means of affording relief, not to consider those cases unless there were extraordinary or exceptional facts attending each case justifying its consideration by Congress. When this case was presented it was first submitted in the Forty-fifth Congress and reported favorably, and at this Congress it was again presented and reported favorably, and the attention of the committee was not called to the question of the jurisdiction of the commissioners of claims. When the question was first put I thought the commissioners of claims did not have jurisdiction, and I thought there was an exception in some statute in regard to boats and vessels, but my recollection now is different. I find it is not in the act of March 3, 1869, nor in the amendatory act of 1871. My recollection now is that the exception to which I refer is in regard to quartermaster and commissary stores; that in the law giving the Quartermaster-General and Commissary-General jurisdiction of all claims for quartermaster and commissary stores in States not in insurrection there is an exception in regard to boats and vessels. I must confess that I thought the same thing was in the commissioners of claims act, but I find it is not, and I do not know, never having examined the case personally, all the facts as to why the claimant did not go there. As a matter of course, under the circumstances the claim ought to be postponed without losing its place. Let it be laid aside without losing its place until that question can be investigated.

Mr. EDMUNDS. I wish to suggest to the chairman of the committee in the mean time to ascertain, first, whether this gentleman has ever been to the southern claims commission as a fact; second, if not why not, and when it was that his case was finally determined in the Treasury Department and under what statute.

Mr. COCKRELL. The Senator from Colorado will make that investigation. I have all the reports of the southern claims commission.

Mr. TELLER. I have no objection to the case going over if it can be called up again. Here is a case where the Government has had this man's property. I have examined a great many cases since I have been in the Senate, and most of them were questions admitting of doubt as to the facts. Here is one that does not admit of any doubt; there is no dispute about it. The Government, after a careful examination, themselves said that they had had the boat. They said the value was as alleged, that it was taken under the circumstances the party alleged, that he was loyal to the Government, and they kept him for years in the Treasury Department, where he had some right to go, and who, I think, after examining the statutes, were authorized to pay him. They have paid claims that in my ignorance I cannot distinguish between the principle of and the principle that should govern this.

Mr. EDMUNDS. Can you give us a reference to the statute under which he went there?

Mr. TELLER. I cannot now, though I could if I had time to go through all these papers. I did not think there would be any question raised on that point. This party went to that tribunal. He staid there. He did not get out of there until October, 1877. When he got out of there, of course he could not go before the southern claims commission then, if he ever could have gone.

Mr. EDMUNDS. When did the right to present claims there terminate?

Mr. TELLER. It terminated before I came into the Senate; I cannot say exactly when. We extended their time to adjudicate claims that they had commenced after I came in, and I know it was extended before that.

I desire before the bill goes over to read for the benefit of the Senate just this conclusion, which I have quoted pretty nearly in the report:

> The steamer and her owner were in the insurrectionary districts at the time of the capture of New Orleans. The claimant was loyal and the resident of a loyal State.

His residence in Missouri, and went back there; but at this time he was in New Orleans:

> But the boat was not in the insurrectionary district under the proper authorities indicated by the joint resolution of December 23, 1869; nor, indeed, in my opinion, was it there in conformity with the laws of the United States.
>
> For these reasons the office cannot recommend the allowance of the claim, but knowing that you entertain a different opinion of the effect of the amendment of March, 1871, to the joint resolution of December 23, 1869, I submit the case for your consideration and decision.

That is from Mr. Rutherford, the auditor, addressed to J. M. Brodhead, Second Comptroller, who seems to have believed the law was just as I believe it to be.

Now, if this case can go over until it can be examined, and I can call it up without its losing its place, I do not object; but it is better for this man, and better for all men who come here like him, that the case be disposed of if he gets nothing. He is here and has been here for years waiting in his poverty for that which the Gov-

ernment has taken from him, and under no rule of law can the Government justify itself in keeping this man out of his money. It is one of a great number of cases that are a crying disgrace to this nation where we stand here without any earthly excuse for not paying men that which we legally owe them, and either through our own neglect or our lack of attention to the business of the country to look up these cases we let them go and let these parties stay here and suffer in their poverty for that which I say the Government has no right to keep from them; and this is one of those cases.

Mr. THURMAN, (Mr. HEREFORD in the chair.) I shall not object to this bill retaining its place on the Calendar after what I have heard said, but I wish to call the attention of the Senate to the inconvenience and injustice that will result if we get into the habit of getting up a bill, argue it, and then pass it over, and allow it to retain its place on the Calendar. I do not think the Anthony rule will be worth much if that should get to be the practice of the Senate. I will not object in this particular case.

The PRESIDING OFFICER, (Mr. HEREFORD in the chair.) It is proposed that the case under consideration be laid over, not to lose its place on the Calendar. Is there objection? The Chair hears none.

NORWEGIAN BARK ATLANTIC.

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

Mr. THURMAN. That is in violation of the agreement to go on with the Calendar for an hour.

Mr. ANTHONY. I was not aware of the agreement.

Mr. THURMAN. That hour will end at five o'clock. There are ten minutes left.

Mr. ANTHONY. I withdraw the motion.

The next bill on the Calendar was the bill (S. No. 850) to provide a commission for the adjudication of damages to the Norwegian bark Atlantic by collision with the United States steam sloop of war Vandalia, and for payment of any award made by said commission; which was considered as in Committee of the Whole.

The bill was reported from the Committee on Foreign Relations with an amendment, to strike out all after the enacting clause and to insert:

That the Secretary of State be authorized and required to submit to an impartial arbitration, to be agreed upon between him on the part of the United States and the minister of the government of Sweden and Norway at this capital on the part of the Norwegian bark Atlantic, the question of the liability of the United States upon the principles of law applicable between private parties for the damage caused to said bark Atlantic by said collision with the sloop of war Vandalia, and of the amount for which the United States should be so liable; and the amount, should any be found upon such arbitration to be justly due and payable by the United States, together with such proportion of the expenses of the arbitration as the Secretary of State shall approve, shall be paid out of the Treasury of the United States upon the warrant or requisition of the Secretary of State; and the necessary amount for such purpose is hereby appropriated thereto out of any moneys in the Treasury not otherwise appropriated.

Mr. EDMUNDS. Is there a report? If so, let it be read.

The Chief Clerk read the following report, submitted by Mr. MORGAN February 18, 1880:

The Committee on Foreign Relations, to whom was referred the bill (S. No. 850) to provide a commission for the adjudication of damages to the Norwegian bark Atlantic by collision with the United States steam sloop of war Vandalia, and for payment of any award made by said commission, have had the same under consideration, and report:

That the owners of the Norwegian bark Atlantic claim of the United States compensation for injuries to their vessel, and for losses by her detention in the port of Lisbon for repairs, under the following alleged state of facts:

That the bark Atlantic was upon the high seas, pursuing her voyage from the port of Ozan, in Algeria, to the port of Leith, in Scotland, on the 31st of October, 1876, when she was hailed by the United States steam war sloop Vandalia, who sent out a boat to the Atlantic with a request for newspapers.

That some delay occurred because the officer from the Vandalia and the captain of the bark could not converse in the same language.

During this delay the vessels collided, and it is claimed by the captain of the bark, in a public protest that he made on his arrival at Lisbon, that his vessel was wholly without fault.

The Norwegian bark was so damaged by the collision that the Vandalia found it necessary to tow her into Lisbon, Portugal, where she could be repaired.

The officer in command of the Vandalia claims that his ship was without fault, and so reported to the Secretary of the Navy.

The claim for compensation appears to be made in good faith, and is so far supported by evidence that it requires impartial examination.

The King of Sweden and Norway has caused his minister to the United States to bring this subject to the attention of this Government, and to ask that some action be had by Congress by which a mode of adjusting this dispute may be provided.

There is no provision of law by which the United States can be sued in courts of admiralty, and ships of war are not subject to any proceeding *in rem* by persons who may sustain damages by their negligent or improper navigation.

The Norwegian minister suggests in his correspondence with the Secretary of State that his government has provided by law so that suits may be brought against it in its own courts in such cases by persons who have unjustly sustained damages. He presents this as an additional ground for his request that Congress shall provide for a settlement of the claim of his countrymen by impartial arbitration.

Your committee agree that this request is reasonable and proper, and report back the bill referred to them with a substitute therefor, and recommend its adoption.

Mr. EDMUNDS. Mr. President, it appears to me that this provision as reported by the committee, requiring the Secretary of State to agree upon an arbitration with the government of Sweden and Norway, is rather trenching upon the executive power, which by the Constitution in such cases it is provided shall be exerted by the President of the United States, by and with the advice and consent of the Senate, in settling any question of a claim of the citizens of one government upon the other; and therefore it seems to me quite plain that it would not do to pass the bill in its present form. On the statement made in the report that the government of Norway—and I should like to see the correspondence—claims that it has provided for its own sovereignty being sued in its own courts in cases of this character, all that the United States would be called upon to do in a case of this kind would be done by a simple provision that could be put in ten lines, authorizing the owners of this vessel to sue the United States in the admiralty court on the instance side, as I believe my friend from Alabama would call it, for damages occasioned by this collision, and let the maritime court settle the question of who was in fault, and that would end the whole affair, and that we could do by law. But to provide in advance by law either that the Secretary of State (which it seems to me is totally out of the question) or the President should enter into an agreement for an arbitration with a foreign government, is I suggest going beyond the Constitution.

I think if this case were to go over an amendment could be prepared which would be satisfactory to the committee and would accomplish the object, simply providing that the owners of this vessel might within a limited time sue the United States on the instance side of the admiralty jurisdiction in the district court for the southern district of New York or in Connecticut or anywhere, for damages occasioned by this collision. Then it could be tried in just such a way as it is said the laws of Norway provide for claims against that government being tried in favor of foreign governments. And although the other government would have no power in that case to introduce a member of the court as in the case of an arbitration, still I believe the civilized nations agree that the maritime courts of each other are fair tribunals in which ordinary matters of this kind may justly and fairly and impartially be tried. If it should turn out afterward that the government of these owners thought that they had not had fair play, that through prejudice or otherwise the court had decided manifestly against the law or facts as to this collision, that would be a subject of arrangement to be tried over again by an arbitration. But to get up an organization and the expense of it to the two governments is needless, when it is so perfectly simple to provide that the admiralty court in any district you choose to name may try it as an instance cause, not *in rem*, and that the United States shall foot the bill found against it if one shall be found. I suggest that to my friend from Alabama.

The PRESIDENT *pro tempore*. The hour allowed by agreement for the consideration of the cases on the Calendar under the Anthony rule has expired, and the Chair lays before the Senate the unfinished business, which is the resolutions of the Committee on Privileges and Elections in regard to the seat of the Senator from Louisiana on the left of the Chair, [Mr. KELLOGG.]

Mr. MORGAN. I desire to inquire whether under the construction given by the Chair to what is known as the Anthony rule this bill will be the unfinished business to-morrow?

The PRESIDENT *pro tempore*. If this measure is undisposed of it remains on the Calendar, and of course will not be the unfinished business, but will be the second case on the Calendar when called, as there is another case previous to it which the Senate ordered to retain its place. The Senator from New York [Mr. KERNAN] is entitled to the floor upon the resolutions reported from the Committee on Privileges and Elections.

Mr. KERNAN. I yield to the Senator from Delaware, [Mr. BAYARD.]

SPECIAL DEPUTY MARSHALS.

Mr. BAYARD. I move to lay aside temporarily the present and all preceding orders, and proceed to the consideration of Senate bill No. 1726.

The PRESIDENT *pro tempore*. It is not the subject of a motion, but it is the subject of an agreement.

Mr. CONKLING. I think the Senator's motion (perhaps technically he should have used the word "postpone") is in order. He moves to postpone the present and prior orders.

The PRESIDENT *pro tempore*. Such a motion is in order, but not a motion to postpone temporarily.

Mr. CONKLING. I did not hear the Senator say "temporarily."

The PRESIDENT *pro tempore*. He did.

Mr. CONKLING. I object to this order being laid aside temporarily to take up the so-called marshals bill.

The PRESIDENT *pro tempore*. The Senator from Delaware can move to postpone the pending order.

Mr. CONKLING. That he may do.

Mr. BAYARD. If exception be taken to the phrase "to lay aside" instead of "to postpone"——

The PRESIDENT *pro tempore*. Objection is made.

Mr. BAYARD. Then I shall move to postpone the pending and preceding orders temporarily in order to take up Senate bill No. 1726.

The PRESIDENT *pro tempore*. The Chair will call the attention of the Senator from Delaware to the effect of his motion, he having moved to lay aside temporarily. If he moves to postpone the pending order the motion must be made without qualification.

Mr. BAYARD. I move to postpone it.

The PRESIDENT *pro tempore*. The Senator from Delaware moves to postpone the pending and all prior orders with a view to proceed to the consideration of the bill he has indicated.

Mr. EDMUNDS. Mr. President——

Mr. SAULSBURY. I would rather the usual motion——

Mr. EDMUNDS. I believe I have the floor.

The PRESIDENT *pro tempore*. The Senator from Vermont has the floor.

Mr. EDMUNDS. I hope the Senator from Delaware [Mr. BAYARD] will not persist in his motion, or if he does I hope the Senate will not agree to it. This case of the highest privilege has been before the Senate in its present attitude on the last report for a long, very long, time. It has been taken up from day to day, with odd intervals, for the convenience of excellent orations on both sides of the question, but we have come to a stage of it where it appears to me just and reasonable that it should be brought to a conclusion. It will take no more time, much less really, to bring it to a conclusion now. I do not mean at this instant, but to keep on with it. I do not mean to-day necessarily, because I am not at all disposed to force my friend from New York [Mr. KERNAN] to submit his observations at five o'clock, when there is other business with closed doors that demands our attention, but we should keep on with it until it is done. I may say the same in reference to every other case, although it has not the privilege that this has, that is before the Senate, that a vast amount of time is continually lost by our taking up one subject and devoting ourselves to it for half an hour or an hour, or two hours, or three, and then dropping it without any real necessity to get some further information, but as a mere matter of convenience to take up something else and going on with something else, because when the matter comes up again we have found by experience that all that has been said before has to be repeated in order that Senators not present before and those who were present and busy about something else or had forgotten what was said might understand the subject over.

I think a great deal is lost in respect of our morning hour in the same way, and that we should advance the business of the Senate immensely if the unfinished business of the preceding day began immediately when we had finished the order of the introduction of resolutions, and if we were to stick to that unfinished business until it is done, and then take up the next subject, whatever it may be, and stick to that until it is done.

But in this particular case this is a matter that everybody agrees is a subject of high and important privilege. If the sitting Senator from Louisiana is not justly and lawfully entitled to hold his place among us, then we are doing a wrong not only to his State, but to all of the States and all the people of all the States in postponing a decision upon this question while he is continuing to affect the welfare of this country by his voting upon one side or the other of every question that is presented. On the other hand, if he is rightly entitled to his seat, then every interest of justice and fair play requires us now that the question has been forced again upon the attention of the Senate to say so, and have done with it once for all, until at the next session somebody tries it again, because of course there is no end of anybody's right to try to overset what has been already decided.

Therefore, I submit with great respect to my honorable friend from Delaware that it is not just, it is not right in any respect, to postpone this important matter of privilege in order to take up a subject of ordinary legislation that has come much later before the Senate, to say nothing of its not being a matter of privilege, and which gives rise to considerations not only of law and proper polity but of political bias and all that sort of thing, as is supposed.

I hope that the Senate will not postpone this matter, but will stick to it until it is disposed of. In saying that I have no intention of having it understood that I desire that the Senator from New York should be compelled to go on at this late hour in the afternoon, but we can proceed to business which also demands our attention and which can be considered without displacing anything.

Mr. BAYARD. I apprehend that the business of the Senate will be conducted according to its own discretion of what is due to public interests——

Mr. EDMUNDS. That is what I was trying to make out.

Mr. BAYARD. And also according to what is due to the courtesy of the body. The honorable Senator from New York on my left is not prepared and does not desire to address the Senate at this time upon the question of the Louisiana senatorial election. I am charged by a committee of this body with the presentation of the measure to which I have referred. It is in the power of the Senate to consider which measure they see fit. Therefore I shall deem that I am acting in accordance with the best public interests as well as the courtesy of this body in reference to the Senator from New York when I ask the Senate to proceed to the consideration of this bill. I have made the motion, and I ask that the question be put.

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

The PRESIDENT *pro tempore*. The Senator from Delaware moves that the Senate postpone the pending and all prior orders in order to proceed to the consideration of Senate bill No. 1726, pending which the Senator from Rhode Island moves that the Senate proceed to the consideration of executive business. The question is on the motion of the Senator from Rhode Island.

The motion was not agreed to, there being on a division—ayes 17, noes 26.

Mr. VOORHEES. Before another vote is taken I wish to announce that the Senator from Iowa [Mr. ALLISON] has been paired with the Senator from Maryland, [Mr. WHYTE,] who is absent on account of sickness in his family. I have been paired for a long time with the Senator from Illinois, [Mr. LOGAN.] The Senator from Iowa and myself have agreed that the Senator from Maryland and the Senator from Illinois shall be paired, and that will release us from the pairs that have been subsisting heretofore, so that I shall be at liberty to vote on these questions.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Delaware, that the pending and all prior orders be postponed in order to proceed to the consideration of the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals.

The question being put, there were on a division—ayes 24, noes 15.

Mr. CONKLING. I ask for the yeas and nays. This may be a very important vote.

The yeas and nays were ordered.

Mr. CONKLING. I wish to make an inquiry, so as to be sure that no Senator can be mistaken as to the character and effect of this motion. If I understand it aright, it is a motion to postpone the further consideration of the so-called Kellogg case, so that if the motion prevails that subject will never be in order again until it is taken up by a vote of the Senate.

Mr. BAYARD. By a vote of the Senate.

Mr. CONKLING. Yes, I say until it is taken up by a vote of the Senate it will never again come up for consideration.

Mr. SAULSBURY. I desire to say, as the chairman of the committee who reported the resolutions, that I would vote against the motion of my colleague if I did not believe that he and the other gentlemen who will support his motion would vote with me to take the resolutions up hereafter.

Mr. KERNAN and others. Certainly we will.

Mr. EATON. There is no doubt of that.

The Secretary proceeded to call the roll.

Mr. VOORHEES, (when Mr. ALLISON'S name was called.) The Senator from Iowa [Mr. ALLISON] in leaving the Senate Chamber awhile ago desired me to announce that he is paired with the Senator from Kentucky, [Mr. BECK.]

Mr. BLAINE, (when his name was called.) I am paired on all political questions (and should have thought of it sooner in voting on divisions) with the Senator from New Jersey, [Mr. MCPHERSON.] If he were present, I should vote "nay."

Mr. BOOTH, (when his name was called.) On this question I am paired with my colleague, [Mr. FARLEY.]

Mr. DAVIS, of West Virginia, (when his name was called.) I am paired with the Senator from Michigan [Mr. BALDWIN] on all political questions, and this seems to be considered a political question.

Mr. EATON, (when his name was called.) I am paired with my friend the Senator from Wisconsin [Mr. CARPENTER] on all political questions. I cannot conceive myself that this is a political question, and yet I shall withhold my vote, as other gentlemen have suggested that it is a political question.

Mr. HEREFORD, (when his name was called.) I am paired with the Senator from Colorado, [Mr. HILL.] If he were here, I should vote "yea."

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Virginia, [Mr. WITHERS.]

Mr. ROLLINS, (when his name was called.) On this question I am paired with the Senator from Kentucky, [Mr. WILLIAMS,] who was obliged to leave the Chamber on account of illness. If he were present, I should vote "nay."

Mr. TELLER, (when his name was called.) On this subject I am paired with the Senator from Illinois, [Mr. DAVIS.] If he were present, I should vote "nay."

Mr. COCKRELL, (when Mr. VEST'S name was called.) My colleague [Mr. VEST] is paired with the Senator from Connecticut, [Mr. PLATT.] If my colleague were here, he would vote "yea."

Mr. MCMILLAN, (when Mr. WINDOM'S name was called.) My colleague [Mr. WINDOM] is necessarily absent from the Senate Chamber this afternoon and is paired with the Senator from North Carolina, [Mr. VANCE.] If my colleague were here, he would vote "nay," and the Senator from North Carolina would vote "yea."

The roll-call was concluded.

Mr. BURNSIDE. The Senator from Michigan [Mr. FERRY] is paired with some one, I have forgotten now with whom. He asked me to announce the pair.

The result was announced—yeas 25, nays 16; as follows:

YEAS—25.

Bailey,	Gordon,	McDonald,	Slater,
Bayard,	Groome,	Maxey,	Thurman,
Butler,	Hampton,	Morgan,	Voorhees,
Call,	Harris,	Pendleton,	Walker.
Cockrell,	Johnston,	Pryor,	
Coke,	Jones of Florida,	Randolph,	
Garland,	Kernan,	Saulsbury,	

NAYS—16.

Anthony,	Cameron of Wis.,	Hoar,	Morrill,
Blair,	Conkling,	Jones of Nevada,	Paddock,
Burnside,	Dawes,	Kirkwood,	Plumb,
Cameron of Pa.,	Edmunds,	McMillan,	Saunders.

ABSENT—35.

Allison,	Blaine,	Carpenter,	Eaton,
Baldwin,	Booth,	Davis of Illinois,	Farley,
Beck,	Bruce,	Davis of W. Va.,	Ferry,

Grover,	Jonas,	Ransom,	Wallace,
Hamlin,	Kellogg,	Rollins,	Whyte,
Hereford,	Lamar,	Sharon,	Williams,
Hill of Colorado,	Logan,	Teller,	Windom,
Hill of Georgia,	McPherson,	Vance,	Withers.
Ingalls,	Platt,	Vest,	

So the motion to postpone was agreed to.

The PRESIDENT *pro tempore*. The Senator from Delaware [Mr. BAYARD] now moves to proceed to the consideration of the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1726) regulating the pay and appointment of special deputy marshals, the pending question being on the amendment proposed by Mr. CONKLING, to insert in line 1 of section 2, after the words "deputy marshals," the words "appointed only;" so as to read:

That all deputy marshals appointed only to serve in reference to any election shall be appointed, &c.

The PRESIDENT *pro tempore*. On this amendment the yeas and nays have been ordered.

The Secretary proceeded to call the roll.

Mr. BOOTH, (when his name was called.) On this question I am paired with my colleague, [Mr. FARLEY.]

Mr. CAMERON, of Wisconsin, (when Mr. BURNSIDE's name was called.) The Senator from Rhode Island [Mr. BURNSIDE] requested me to announce that he is paired with the Senator from New Jersey, [Mr. RANDOLPH.]

Mr. EATON, (when his name was called.) On this question and all political questions I am paired with the Senator from Wisconsin, [Mr. CARPENTER.]

Mr. GROOME, (when his name was called.) Upon this and all political questions, this afternoon, I am paired with the Senator from Rhode Island, [Mr. ANTHONY,] with the understanding that I can vote to make a quorum, but not otherwise.

Mr. HEREFORD, (when his name was called.) I am paired on all political questions with the junior Senator from Colorado, [Mr. HILL.]

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Virginia, [Mr. WITHERS.]

Mr. JONES, of Florida, (when his name was called.) I am paired with the Senator from New York, [Mr. CONKLING.]

Mr. RANDOLPH, (when his name was called.) I am paired with the Senator from Rhode Island, [Mr. BURNSIDE.]

Mr. ROLLINS, (when his name was called.) I am paired with the Senator from Kentucky, [Mr. WILLIAMS.]

Mr. TELLER, (when his name was called.) On this subject I am paired with the Senator from Illinois, [Mr. DAVIS.] If he were present, I should vote "yea."

Mr. MCMILLAN, (when Mr. WINDOM's name was called.) My colleague [Mr. WINDOM] is paired with the Senator from North Carolina, [Mr. VANCE.] My colleague, if here, would vote "yea."

The roll-call was concluded.

Mr. KIRKWOOD. My colleague [Mr. ALLISON] is not present. He is paired with the Senator from Maryland, [Mr. WHYTE.]

Mr. VOORHEES. The Senator from Iowa is mistaken. An arrangement has been made by his colleague [Mr. ALLISON] and myself by which the pair between Mr. ALLISON and the Senator from Maryland [Mr. WHYTE] is released, and he is paired for the afternoon only with the Senator from Kentucky, [Mr. BECK.]

Mr. KIRKWOOD. I wished to make the announcement of my colleague's pair once for all on this bill.

Mr. BLAINE. I am paired with the Senator from New Jersey, [Mr. MCPHERSON.] If he were present, I should vote "yea."

Mr. EATON. I desire to announce that my colleague [Mr. PLATT] is paired with the Senator from Missouri, [Mr. VEST.]

Mr. BUTLER. I am paired with the Senator from Pennsylvania, [Mr. CAMERON.]

The result was announced—yeas 10, nays 22; as follows:

YEAS—10.

Blair,	Hoar,	McMillan,	Saunders.
Cameron of Wis.,	Jones of Nevada,	Morrill,	
Edmunds,	Kirkwood,	Plumb,	

NAYS—22.

Bailey,	Gordon,	Maxey,	Thurman,
Bayard,	Hampton,	Morgan,	Voorhees,
Call,	Harris,	Pendleton,	Walker,
Cockrell,	Johnston,	Pryor,	Wallace.
Coke,	Kernan,	Saulsbury,	
Garland,	McDonald,	Slater,	

ABSENT—44.

Allison,	Conkling,	Hill of Colorado,	Randolph,
Anthony,	Davis of Illinois,	Hill of Georgia,	Ransom,
Baldwin,	Davis of W. Va.,	Ingalls,	Rollins,
Beck,	Dawes,	Jonas,	Sharon,
Blaine,	Eaton,	Jones of Florida,	Teller,
Booth,	Farley,	Kellogg,	Vance,
Bruce,	Ferry,	Lamar,	Vest,
Burnside,	Groome,	Logan,	Whyte,
Butler,	Grover,	McPherson,	Williams,
Cameron of Pa.,	Hamlin,	Paddock,	Windom,
Carpenter,	Hereford,	Platt,	Withers.

The PRESIDENT *pro tempore*. There is not a quorum voting.

Mr. EDMUNDS. Call the roll.

Mr. GORDON. If it is in order, I wish to move that the Committee on Commerce be allowed to sit during the sessions of the Senate.

Mr. EDMUNDS. There is no quorum.

The PRESIDENT *pro tempore*. That motion is not now in order. No motion is in order but to adjourn or for a call of the Senate.

Mr. INGALLS, (at five o'clock and twenty-seven minutes p. m.) I move that the Senate adjourn.

The motion was not agreed to.

Mr. BAYARD. I move a call of the Senate.

The PRESIDENT *pro tempore*. It is the duty of the Chair, without any motion, to have a call of the Senate.

Mr. EDMUNDS. Let the Chair do its duty.

The PRESIDENT *pro tempore*. The Secretary will call the roll.

The Secretary called the roll and forty-four Senators answered to their names.

During the call of the roll,

Mr. SLATER. I desire to say that my colleague [Mr. GROVER] is detained from the Senate by indisposition.

Mr. COCKRELL. My colleague [Mr. VEST] is absent, necessarily so, and is paired with the Senator from Connecticut, [Mr. PLATT.]

The PRESIDENT *pro tempore*. Forty-four Senators are present; there is a quorum; and the question recurs on the motion of the Senator from New York [Mr. CONKLING] to amend the bill, on which the yeas and nays have been ordered. The Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. BLAINE, (when his name was called.) I am paired with the Senator from New Jersey, [Mr. MCPHERSON.]

Mr. BOOTH, (when his name was called.) I am paired with my colleague, [Mr. FARLEY.]

Mr. BUTLER, (when his name was called.) I am paired with the Senator from Pennsylvania, [Mr. CAMERON.]

Mr. RANDOLPH, (when Mr. BURNSIDE's name was called.) The Senator from Rhode Island [Mr. BURNSIDE] is paired with me.

Mr. DAVIS, of West Virginia, (when his name was called.) I am paired with the Senator from Michigan, [Mr. BALDWIN.]

Mr. HEREFORD, (when his name was called.) I am paired with the Senator from Colorado, [Mr. HILL.] If he were present, I should vote "nay."

Mr. INGALLS, (when his name was called.) I am paired with the Senator from Virginia, [Mr. WITHERS.]

Mr. TELLER, (when his name was called.) I am paired with the Senator from Illinois, [Mr. DAVIS.]

The roll-call was concluded.

Mr. MCMILLAN. My colleague [Mr. WINDOM] is paired with the Senator from North Carolina, [Mr. VANCE.]

Mr. JONES, of Florida. I am paired with the Senator from New York, [Mr. CONKLING.]

Mr. EATON. I am paired with the Senator from Wisconsin, [Mr. CARPENTER,] and therefore I will vote as he would vote if he were here. I vote "yea."

Mr. MCMILLAN. The Senator from Michigan [Mr. FERRY] is paired with some Senator on the other side of the Chamber. The Senator from Michigan, if here, would vote "yea."

Mr. DAVIS, of West Virginia. If there is not a quorum I am at liberty to vote. If there is, I will not.

The PRESIDENT *pro tempore*. There is not a quorum voting as yet.

Mr. DAVIS, of West Virginia. Then I vote "yea," as my pair would vote if he were present.

Mr. GROOME. I am paired with the Senator from Rhode Island, [Mr. ANTHONY,] who if present would vote "yea." The pair was with the distinct understanding that I should have the right to vote to make a quorum. I therefore vote "nay."

Mr. BUTLER. I am paired with the Senator from Pennsylvania, [Mr. CAMERON,] but I will vote as he would vote, so as to help make a quorum, and therefore I vote "yea."

The result was announced—yeas 15, nays 22; as follows:

YEAS—15.

Blair,	Dawes,	Jones of Nevada,	Paddock,
Butler,	Eaton,	Kirkwood,	Plumb,
Cameron of Wis.,	Edmunds,	McMillan,	Saunders.
Davis of W. Va.,	Hoar,	Morrill,	

NAYS—22.

Bailey,	Gordon,	Maxey,	Thurman,
Bayard,	Groome,	Morgan,	Voorhees,
Call,	Hampton,	Pendleton,	Walker,
Cockrell,	Johnston,	Pryor,	Wallace.
Coke,	Kernan,	Saulsbury,	
Garland,	McDonald,	Slater.	

ABSENT—39.

Allison,	Conkling,	Ingalls,	Rollins,
Anthony,	Davis of Illinois,	Jonas,	Sharon,
Baldwin,	Farley,	Jones of Florida,	Teller,
Beck,	Ferry,	Kellogg,	Vance,
Blaine,	Grover,	Lamar,	Vest,
Booth,	Hamlin,	Logan,	Whyte,
Bruce,	Harris,	McPherson,	Williams,
Burnside,	Hereford,	Platt,	Windom,
Cameron of Pa.,	Hill of Colorado,	Randolph,	Withers.
Carpenter,	Hill of Georgia,	Ransom,	

The PRESIDENT *pro tempore*. There is no quorum voting. On the first call of the yeas and nays, no quorum voting, the Chair, pur-

suant to the rule, ordered a call of the Senate. That disclosed a quorum. Upon the second taking of the yeas and nays the votes taken and the pairs show a quorum present, but not a quorum voting. It is for the Senate now to decide what shall be done.

Mr. EDMUNDS. It is the duty of the Chair to have the roll called.

Mr. McDONALD. As it is evident that there is a quorum present, but for various reasons there does not seem to be a quorum voting, I move that the Senate do now adjourn.

The PRESIDENT *pro tempore*. The Senator from Indiana moves that the Senate do now adjourn.

The question being put, it was declared that the ayes appeared to prevail——

Mr. EDMUNDS. Divide.

The PRESIDENT *pro tempore*. The ayes have it——

Mr. EDMUNDS. Divide!

The PRESIDENT *pro tempore*. And the Senate stands adjourned until to-morrow morning at eleven o'clock.

HOUSE OF REPRESENTATIVES.

THURSDAY, *May* 20, 1880.

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

The Journal of yesterday was read and approved.

PUBLIC BUILDING, MILTON, PENNSYLVANIA.

Mr. KILLINGER. Mr. Speaker, I ask by unanimous consent to make a statement to the House.

The SPEAKER. The Chair hears no objection.

Mr. KILLINGER. I am obliged to be away for several days on account of sickness in my family. There came from the Senate yesterday a bill (S. No. 1774) to provide for the erection of a public building in the town of Milton, in the State of Pennsylvania, which was last week destroyed by fire. I therefore ask the indulgence of the House that it will allow me to take the bill from the Speaker's table and put it on its passage at this time. It met the unanimous approval of the Senate, and the urgency is so great in that stricken town that I think it will command the approval of every member of the House.

The bill was read.

Mr. BRAGG. I object.

MARYLAND AND DELAWARE SHIP-CANAL.

Mr. KIMMEL, by unanimous consent, was granted leave to print in the RECORD, as part of the debates, some remarks he had prepared on the subject of the Maryland and Delaware Ship-Canal. [See Appendix.]

EVENING SESSION FOR DEBATE.

Mr. BEALE. I ask by unanimous consent that Saturday next at four o'clock and thirty minutes p. m. the House take a recess until 7.30 o'clock p. m., for the purpose of holding an evening session for debate only.

Mr. STEPHENS. I object, as Saturday has been set apart for the consideration of bills for the erection of public buildings, and it may take us over into a night session to complete the work.

PUBLIC BUILDING, MONROE, LOUISIANA.

Mr. KING, by unanimous consent, introduced a bill (H. R. No. 6244) for a public building at Monroe, Louisiana; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

MAGNUS S. THOMPSON.

Mr. CARPENTER, by unanimous consent, introduced a bill (H. R. No. 6245) for the relief of Magnus S. Thompson; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

INTEROCEANIC CANAL.

Mr. PAGE. Mr. Speaker, I ask by unanimous consent at this time to present a memorial to the Senate and House of Representatives from the Board of Trade of San Francisco, representing over fifty millions of active capital, asking the construction of a ship-canal to connect the Atlantic and Pacific Oceans, which I ask may be referred to the Committee on the Interoceanic Canal and printed in the RECORD.

There was no objection, and it was ordered accordingly.

The memorial is as follows:

To the honorable the Senate and
House of Representatives in Congress assembled:

The Board of Trade of San Francisco, representing over fifty millions of active capital, controlled by two hundred and twenty-four business firms, respectfully call your attention to the great and urgent necessity existing for the construction of a ship-canal to connect the Atlantic and Pacific Oceans. Your memorialists have attentively considered this great question in the interests of our Commonwealth, our Pacific coast, and the whole commercial world. They have availed themselves of all the official information obtainable on the subject; they have examined professional experts on the surveys already made, as well as competent navigators, respecting the practical benefits attainable thereby. After impartial and careful consideration of the subject, and without any interests except as above stated, your memorialists desire, as a commercial body deeply interested in the practical solution of this great enterprise, to place on record their firm conviction that in point of economy of construction, availability for commercial purposes, and certainty of returns for the capital invested, the Nicaragua route for an interoceanic canal, as surveyed by Commander Lull, United States Navy, in 1873, offers the greatest advantages, and should therefore receive the unqualified indorsement of our Government and the capitalists of the world.

Our Pacific coast suffers and is retarded in its onward march of industrial and commercial development for the want of cheap transportation, and your memorialists look upon the Nicaragua Interoceanic Canal as the only available project which holds out to our producers and our merchants the prospect of permanent relief—in the desideratum of cheap freights to the great nations inhabiting the shores of the Atlantic. The millions of Europe and our own countrymen on our eastern seaboard want the varied products of our soil, but we are debarred from the benefit which should thereby accrue to our Pacific coast by the expanse of a continent and by the "Cape of Storms."

Your memorialists therefore pray that when an organization with proper guarantees applies to you for recognition and official encouragement, the Government of our country will assume the protection and support with its moral influence the execution of this great work, upon which so much depends. Your sanction and your encouragement will make this essentially an American enterprise, and afford such a guarantee of success as will attract the capital of Europe to complement our own. Our coast, our country, and the world are ready for this great and beneficent enterprise.

On the shores of the Pacific the sentiment of American nationality and patriotism appeals to you with the assurance of your cordial sympathy and support.

The Board of Trade of San Francisco:

JACOB S. TABER, *President.*
J. DUFFY, *First Vice-President.*
CHAS. F. WYMAN, *Secretary.*
WM. LAWRENCE MERRY, *Chairman,*
C. J. DEMPSTER, *Secretary,*
W. W. DODGE,
LEVI STRAUSS,
LOUIS SACKS,
Committee on Interoceanic Canal.

UNSOLD LANDS, VIRGINIA MILITARY DISTRICT, OHIO.

Mr. DICKEY. I move, Mr. Speaker, by unanimous consent to take from the Speaker's table the amendments of the Senate to an act (H. R. No. 580) to construe and define an act to cede to the State of Ohio the unsold lands in the Virginia military district in said State, approved February 18, 1871, and for other purposes.

I introduced this bill in the Forty-fifth Congress, where it was considered by the Committee on Public Lands, and unanimously agreed to, but failed for want of time. It has again been considered by that committee of this Congress, and reported unanimously. In the Senate slight amendments have been made which are perfectly satisfactory. The object of the bill is to enable certain landholders in that district to perfect their titles, which cannot be done under existing statutes. The claim of the Ohio Agricultural and Mechanical College to these lands, to which they at one time supposed themselves entitled under the act of February, 1871, has been abandoned, but the General Land Office can furnish no relief to these owners, because the time for procuring their patents, and so perfecting titles to which there is no other legal objection, has by law expired. The act of 1871, which ceded to Ohio certain lands, never was intended to embrace these lands, as is plainly shown by the remarks of Senator THURMAN at the time of its passage, and as I demonstrated in a speech I made on this bill in the Forty-fifth Congress, so there can be no just objection to its passage as amended.

There was no objection, and Mr. DICKEY's motion was agreed to.

The amendments of the Senate were read, as follows:

Page 1, line 10, after the word "all" insert "legal," so the section will read:

"SEC. 2. That all legal surveys returned to the Land Office on or before March 3, 1857, on entries made on or before January 1, 1852, and founded on unsatisfied Virginia military continental warrants, are hereby declared valid."

Page 1, line 22, strike out "Land Commissioner" and insert "principal surveyor of said district;" so the section will read:

"SEC. 3. That the officers and soldiers of the Virginia line on continental establishment, their heirs or assigns, entitled to bounty lands, which have, on or before January 1, 1852, been entered within the tract reserved by Virginia, between the Little Miami and Scioto Rivers, for satisfying the legal bounties to her officers and soldiers upon continental establishment, shall be allowed three years from and after the passage of this act to make and return their surveys for record to the office of the principal surveyor of said district, and may file their plats and certificates, warrants, or certified copies of warrants, at the General Land Office, and receive patents for the same."

Mr. DICKEY moved concurrence in the Senate amendments.

The motion was agreed to.

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

The latter motion was agreed to.

JOHN D. DEFREES.

Mr. GARFIELD. I now ask, Mr. Speaker, by unanimous consent, to call up Senate bill No. 1090, for the relief of John D. Defrees, the Public Printer.

Mr. SIMONTON. I object.

JOHN G. ABERCROMBIE.

Mr. GUNTER, by unanimous consent, introduced a bill (H. R. No. 6246) for the relief of John G. Abercrombie, of Benton County, Arkansas; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

ORDER OF BUSINESS.

Mr. BURROWS. Mr. Speaker, I demand the regular order of business.

Mr. STONE. I think it is about time we had the regular order of

business, because every proposition coming from this side seems to be objected to.

The SPEAKER. The Chair has recognized equally both sides of the House.

Mr. STONE. I do not complain of the Chair at all, but I do complain that, while propositions are allowed to pass through from the other side, every one coming from this side is objected to.

Mr. CONGER. While the Chair properly recognizes this side of the House, yet of the propositions offered here but one or two out of fifty for the last two weeks have gone through without objection from that side, and, while that is so, we may as well go on with the regular order of business.

Mr. SPARKS. The gentleman from Michigan occupies the floor more than any man on this side of the House.

Mr. CONGER. I am not referring at all to what men say in debate, but every proposition on this side is objected to.

Mr. BURROWS. I demand the regular order of business.

The SPEAKER. The regular order of business is the unfinished business coming over from last evening's session, on which the previous question has been seconded and the main question ordered.

Mr. BURROWS. I insist on my demand for the regular order of business.

Mr. RYON, of Pennsylvania. Will it be competent to make a motion to suspend the rules to take up that bill to authorize the building of a post-office at the town of Milton, Pennsylvania?

The SPEAKER. Not to-day.

Mr. KILLINGER. Would it be in order to move to go to business on the Speaker's table with a view to taking it up?

The SPEAKER. After the morning hour it would, and after the disposal of the unfinished business the Chair will then entertain the motion because the rule directs him so to do at that time.

Mr. SAPP. Is there not a special order assigned for to-day?

The SPEAKER. There is, but the previous question is now operating upon this bill to provide a municipal code for the District of Columbia.

DISTRICT CODE.

Mr. HUNTON. I now ask to call up the unfinished business, on which the previous question has been ordered.

The SPEAKER. The gentleman from Virginia will please indicate what amendments it is desired to have a separate vote upon, so that the remainder of the amendments coming from the Committee of the Whole on the state of the Union may be adopted in gross.

Mr. HUNTON. The several amendments on which a separate vote has been asked in the House are first the amendment offered by the gentleman from Rhode Island, on page 3, and then the amendment to section 3, on page 312, the amendment offered by the gentleman from Michigan in regard to transfer tickets. Mr. SAMFORD, of Alabama, also desires a separate vote on an amendment which was proposed in the Committee of the Whole and lost.

The SPEAKER. Therefore there are three amendments on which a separate vote is asked.

Mr. HUNTON. Yes, sir.

Mr. ALDRICH, of Rhode Island. I ask the reading of the amendments.

Mr. SAMFORD. The amendment which I offered in Committee of the Whole if not adopted to section 185 I was to have the privilege of offering it to the succeeding section.

The SPEAKER. Then there are four amendments on which a separate vote may be asked—the two indicated by the gentleman from Virginia and two indicated by the gentleman from Alabama.

Mr. SAMFORD. That is correct.

Mr. ALDRICH, of Rhode Island. I suggest that the amendment offered by the gentleman from Alabama was not adopted in Committee of the Whole.

Mr. NEAL. The committee agreed that there should be a separate vote on it in the House.

Mr. ALDRICH, of Rhode Island. But if it was not adopted in the committee I do not see how that could be done without consent.

The SPEAKER. That amendment not having been adopted in the committee will have to come in by unanimous consent, as the previous question has been ordered. The gentleman from Alabama had better submit his amendment now by unanimous consent.

Mr. CONGER. Let the amendment be read.

The SPEAKER. The Chair understands this amendment comes in by consent of the Committee of the Whole. It is often done, but the difficulty here is that the previous question is ordered and this amendment was not put in prior to the ordering of the previous question. Consent, however, has been given for it, and the Chair will direct that the amendment be read.

The Clerk read as follows:

Add to section 185 the following, as amended:

"*Provided*, The provisions of this section shall not apply to special assessments heretofore made, but as to them the law shall remain as it now is."

Mr. CONGER. I do not remember any agreement of that kind.

The SPEAKER. The Chair will cause to be read the proceedings in that connection, as shown by the RECORD.

The Clerk read as follows:

Mr. HUNTON. I do not propose to have a vote taken to-night on the passage of the bill, or on agreeing to the amendments; but I desire that the previous question be ordered.

Mr. ATKINS. I wish to make a parliamentary inquiry. If the previous question be ordered to-night, will it exclude the reading of the bill to-morrow, should any member demand it? I want to avoid the third reading in full.

The SPEAKER. The bill has already been read twice; the Chair presumes it will be read a third time by its title.

Mr. HUNTON. I propose to move the previous question, which I hope will be ordered; and then in the morning any gentleman can call for a separate vote on any amendment.

The SPEAKER. Then, the gentleman from Virginia had better content himself with calling the previous question on the amendments reported from the Committee of the Whole, and on the bill to its engrossment and third reading.

Mr. HUNTON. Will that bring the bill up as unfinished business to-morrow morning?

The SPEAKER. It will.

Mr. HUNTON. Then I am content.

The previous question was seconded and the main question ordered upon the amendments and on the engrossment and third reading of the bill.

Mr. SAMFORD. There was another amendment on which a separate vote was assented to——

Mr. HUNTON. This does not interfere with that.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage of the bill (H. R. No. 698) to establish a district and circuit court at Chattanooga, Tennessee, with amendments in which the concurrence of the House was requested.

DISTRICT CODE.

Mr. ROBINSON. What is the request now?

The SPEAKER. It is to allow the amendment offered by the gentleman from Alabama to be voted upon by the House. The committee seems to have bound itself to that arrangement, and the previous question was ordered by less than a quorum with that understanding.

Mr. ROBINSON. If that is the understanding, I do not object.

Mr. HUNTON. That unquestionably was the understanding.

The SPEAKER. The Chair will first cause a vote to be taken on the remaining amendments other than those indicated by the gentleman from Virginia and the gentleman from Alabama, on which separate votes are demanded.

The remaining amendments reported from the Committee of the Whole on the state of the Union were agreed to.

Mr. NEAL moved to reconsider the vote by which the several amendments were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The first amendment on which a separate vote has been asked will now be read.

The Clerk read as follows:

On page 212, after the word "crime," in line 69, insert "provided that at least 75 per cent. of all appointments hereafter made to the police force, and made prior to January 1, 1885, shall be made from persons who served in the Army or Navy of the United States in the late war and were honorably discharged, and such persons having the requisite physical and other qualifications may be appointed after a residence of three months in the District."

The SPEAKER. This amendment was offered in the Committee of the Whole by the gentleman from Rhode Island, [Mr. ALDRICH.] The vote will be now taken on its adoption and incorporation into the bill.

Mr. ALDRICH, of Rhode Island. That amendment was adopted by the Committee of the Whole.

The SPEAKER. Then the question is on concurring in the amendment reported from the committee.

The House divided; and there were—ayes 62, noes 60.

Mr. HUNTON demanded tellers.

Mr. ALDRICH, of Rhode Island. We might as well have a vote on that by yeas and nays at once.

The question was taken; and there were—yeas 95, nays 78, not voting 119; as follows:

YEAS—95.

Aldrich, N. W.	Daggett,	Kelley,	Reed,
Aldrich, William	Davis, George R.	Killinger,	Richardson, D. P.
Anderson,	Davis, Horace	Ladd,	Robinson,
Barber,	Davis, Lowndes H.	Lapham,	Russell, W. A.
Bayne,	De La Matyr,	Lewis,	Sapp,
Belford,	Deering,	Lindsey,	Sherwin,
Beltzhoover,	Dunnell,	Loring,	Stevenson,
Blake,	Errett,	McCook,	Stone,
Bland,	Farr,	McKinley,	Taylor,
Bouck,	Field,	Miles,	Thomas,
Boyd,	Frye,	Miller,	Thompson, W. G.
Brewer,	Garfield,	Mitchell,	Updegraff, J. T.
Briggs,	Gibson,	New,	Updegraff, Thomas
Brigham,	Gillette,	Newberry,	Valentine,
Browne,	Godshalk,	Norcross,	Van Aernam,
Burrows,	Hammond, John	O'Neill,	Vance,
Calkins,	Harmer,	Orth,	Waddill,
Carpenter,	Haskell,	Overton,	Wait,
Caswell,	Hayes,	Pacheco,	Ward,
Chittenden,	Hellman,	Page,	Washburn,
Claflin,	Henderson,	Phelps,	Willits,
Coffroth,	Horr,	Pierce,	Wilson,
Conger,	Houk,	Poehler,	Wright.
Cowgill,	Joyce,	Pound,	

NAYS—78.

Acklen,	Bright,	Cobb,	Culberson,
Aiken,	Buckner,	Colerick,	Davidson,
Armfield,	Cabell,	Converse,	Davis, Joseph J.
Bachman,	Caldwell,	Cook,	Dibrell,
Beale,	Chalmers,	Covert,	Dickey,
Berry,	Clardy,	Cox,	Evins,
Bicknell,	Clark, John B.	Cravens,	Felton,

Finley,	Jones,	Muldrow,	Sparks,
Forney,	Kenna,	O'Connor,	Springer,
Geddes,	Kimmel,	Persons,	Steele,
Gunter,	King,	Philips,	Thompson, P. B.
Hammond, N. J.	Knott,	Phister,	Tillman,
Hatch,	Lounsbery,	Reagan,	Turner, Oscar
Henry,	Manning,	Richardson, J. S.	Upson,
Herbert,	Martin, Benj. F.	Ryon, John W.	Whiteaker,
Hooker,	McLane,	Samford,	Whitthorne,
Hostetler,	McMillin,	Sawyer,	Williams, Thomas
Hull,	Mills,	Simonton,	Wood, Fernando.
Hunton,	Money,	Slemons,	
Hurd,	Morrison,	Smith, William E.	

NOT VOTING—119.

Atherton,	Ford,	Martin, Joseph J.	Singleton, J. W.
Atkins,	Forsythe,	Mason,	Singleton, O. R.
Bailey,	Fort,	McCoid,	Smith, A. Herr
Baker,	Frost,	McGowan,	Smith, Hezekiah B.
Ballou,	Goode,	McKenzie,	Speer,
Barlow,	Hall,	McMahon,	Starin,
Bingham,	Harris, Benj. W.	Monroe,	Stephens,
Blackburn,	Harris, John T.	Morse,	Talbott,
Bliss,	Hawk,	Morton,	Townsend, Amos
Blount,	Hawley,	Muller,	Townshend, R. W.
Bowman,	Hazelton,	Murch,	Tucker,
Bragg,	Henkle,	Myers,	Turner, Thomas
Butterworth,	Herndon,	Neal,	Tyler,
Camp,	Hill,	Nicholls,	Urner,
Cannon,	Hiscock,	O'Brien,	Van Voorhis,
Carlisle,	House,	O'Reilly,	Voorhis,
Clark, Alvah A.	Hubbell,	Osmer,	Warner,
Clymer,	Humphrey,	Prescott,	Weaver,
Crapo,	Hutchins,	Price,	Wellborn,
Crowley,	James,	Rice,	Wells,
Deuster,	Johnston,	Richmond,	White,
Dick,	Jorgensen,	Robertson,	Wilber,
Dunn,	Keifer,	Robeson,	Williams, C. G.
Dwight,	Ketcham,	Ross,	Willis,
Einstein,	Kitchin,	Rothwell,	Wise,
Elam,	Klotz,	Russell, Daniel L.	Wood, Walter A.
Ellis,	Le Fevre,	Ryan, Thomas	Yocum,
Ewing,	Lowe,	Scales,	Young, Casey
Ferdon,	Marsh,	Shallenberger,	Young, Thomas L.
Fisher,	Martin, Edward L.	Shelley,	

So the amendment was agreed to.

The following pairs were announced:

Mr. STEPHENS, for to-day and to-morrow, with Mr. RYAN, of Kansas, upon all questions where they would disagree, of which Mr. RYAN is to be the judge.

Mr. VAN VOORHIS with Mr. TOWNSHEND, of Illinois.

Mr. TOWNSEND, of Ohio, with Mr. WARNER, on all questions.

Mr. CONGER. I ask that the last announcement be again read.

The announcement was again read.

Mr. CONGER. The gentleman from Ohio [Mr. TOWNSEND] would vote for the soldier, and his colleague, [Mr. WARNER,] I suppose, would vote for the soldier, too. Why are they paired?

Mr. REAGAN. I object to this.

Mr. WARNER. The gentleman from Michigan having filled up all the soft places where there are cushioned seats and wood-fires in the winter and ice-water in the summer with politicians, now proposes to turn over the sidewalks to the soldiers.

Mr. CONGER. I find I was mistaken in the soldier from Ohio.

Mr. WARNER. The soldiers from Ohio know who are their true friends.

The Clerk continued to read the announcements of pairs, as follows:

Mr. MONROE with Mr. CLYMER.

Mr. BUTTERWORTH with Mr. MCKENZIE.

Mr. HALL with Mr. WELLBORN, on this bill.

Mr. SINGLETON, of Mississippi, with Mr. HAWLEY. If present, Mr. SINGLETON would vote "no" and Mr. HAWLEY would vote "ay."

Mr. DICK with Mr. SCALES, for to-day, Mr. SCALES being confined to his room by sickness.

Mr. CANNON, of Illinois, with Mr. BLACKBURN, on all questions for to-day.

Mr. HERNDON with Mr. STARIN.

Mr. TALBOTT with Mr. HALL.

Mr. URNER with Mr. MCMAHON.

Mr. YOUNG, of Tennessee, with Mr. SHALLENBERGER.

Mr. RICHMOND with Mr. JORGENSEN.

Mr. FORT with Mr. MYERS.

Mr. JOHNSTON with Mr. ROBESON.

Mr. JAMES with Mr. O'BRIEN.

Mr. DUNN with Mr. HARRIS, of Massachusetts.

Mr. SPEER with Mr. FISHER.

Mr. GIBSON with Mr. HUMPHREY.

Mr. HOUSE with Mr. PRICE.

Mr. PRESCOTT with Mr. ROBERTSON.

Mr. SMITH, of Pennsylvania, with Mr. MARTIN, of Delaware.

Mr. NICHOLLS with Mr. RICE.

Mr. THOMAS TURNER with Mr. MCGOWAN.

Mr. MYERS with Mr. SINGLETON, of Illinois.

Mr. KITCHIN with Mr. MARTIN, of North Carolina.

Mr. ELLIS with Mr. BAILEY.

Mr. SHELLEY with Mr. CAMP.

Mr. MCCOID with Mr. HARRIS, of Virginia.

Mr. HENKLE with Mr. NEAL.

Mr. HAWK with Mr. BRAGG.

Mr. HUTCHINS with Mr. KETCHAM.

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

Mr. ALDRICH, of Rhode Island, moved to reconsider the vote by which the amendment was adopted; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

The next amendment on which a separate vote was demanded was read, as follows, having been adopted in the Committee of the Whole on motion of Mr. CONGER:

After section 749 add as a new section the following:

"It shall be the duty of all conductors of street cars in the said city of Washington, at the place of all crossing or connecting car lines where continuous transfer passes are given to passengers, to give to any passenger requesting the same for transfer purposes a transfer pass before such passenger leaves the car to make such transfer."

Mr. HUNTON. I ask that a communication from the president of one of these roads, which I send to the desk, be read.

Mr. CONGER. I object to debate.

Mr. HUNTON. I believe I have some right to debate the question. I do not wish to indulge in any debate, properly so called, but merely desire to have that communication read.

The SPEAKER. The gentleman from Virginia would have been entitled to one hour under the rule if he had claimed it.

Mr. CONGER. Not now.

Mr. HUNTON. Since the amendment was adopted I have received that communication.

Mr. CONGER. The gentleman did not claim his hour.

The SPEAKER. That is true.

Mr. HUNTON. If the reading of the communication is objected to I will merely say that I hope the amendment will not be adopted.

The House divided; and there were—ayes 81, noes 12.

So (further count not being called for) the amendment was adopted.

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

The latter motion was agreed to.

The next amendment on which a vote was called for was read as follows, having been offered in Committee of the Whole by Mr. SAMFORD:

Add to section 185 the following:

"*Provided*, The provisions of this section shall not apply to special assessments heretofore made, but as to them the law shall remain as it now is."

Mr. ALDRICH, of Rhode Island. This amendment was rejected by the committee.

The SPEAKER. But by agreement allowed to be offered and voted on in the House.

Mr. CONGER. I do not know any rule under which that amendment can come in to be voted upon.

The SPEAKER. The committee, the Chair is advised, agreed to let the amendment come in notwithstanding the previous question.

Mr. CONGER. I do not know of any such agreement.

The SPEAKER. The understanding was read at the Clerk's desk and the statement was corroborated by the gentleman from Virginia, [Mr. HUNTON.]

Mr. HUNTON. Yes, sir; that was the understanding in the committee. I hope, however, the amendment will not be adopted.

Mr. NEAL. I trust the House will allow the amendment to be voted on.

The SPEAKER. Of course the time when the amendment should have been offered was in the House before the previous question was ordered.

Mr. SAMFORD. I called attention to this amendment last evening, and it was agreed that it should be admitted, but the RECORD fails to state it.

Mr. CONGER. I cannot conceive that such an amendment could have been adopted in the committee.

The SPEAKER. It was not adopted in the committee. But the committee, as the Chair supposes, having found itself without a quorum and to save being broken up for want of a quorum, agreed that the amendment should be offered and voted upon in the House.

Mr. HUNTON. It was agreed unanimously in Committee of the Whole that the amendment should be voted on.

Mr. CONGER. The gentleman from Virginia knows there was not a moment while the committee was in session that I did not sit here, and I have no recollection of any such agreement.

Mr. HUNTON. I cannot help that. I am not responsible for any want of recollection on the part of the gentleman from Michigan. But I state this, while I am opposed to the amendment and shall vote against it, that it was agreed in the committee a vote should be taken in the House upon it.

The question being taken the amendment was not agreed to.

The SPEAKER. The Chair understands that there is another amendment to be voted upon, the one of the gentleman from New York, [Mr. VAN VOORHIS.]

Mr. NEAL. The gentleman does not insist upon that.

The SPEAKER. The Chair has not been advised that he does not press his amendment.

Mr. VAN VOORHIS. After consultation with the gentleman having the bill in charge, I will waive the amendment.

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

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

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. DEERING. I now desire to have the unfinished business disposed of.

The SPEAKER. That will come up after the morning hour.

Mr. CONVERSE. I move that the morning hour for to-day be dispensed with.

SCHOONER REBECCA D.

Mr. COX. I ask the gentleman to yield to me for a moment, that I may call up from the Speaker's table a little bill to change the name of a vessel. It is a Senate bill, which has been favorably considered by the Committee on Commerce of the House, and relates to a vessel which was sunk, and was then raised and fixed over again; and this bill directs the Secretary of the Treasury to grant her a register in another name.

Mr. O'NEILL. Can I move to amend by adding a provision to change the name of another vessel?

Mr. COX. Do not do that, please.

The SPEAKER. Does the gentleman object?

Mr. O'NEILL. I do not make any objection to the consideration of the bill, but I desire to move an amendment by adding a provision to change the name of another vessel.

Mr. COX. I ask the gentleman not to do that.

Mr. O'NEILL. Very well; I will not move that amendment.

There being no objection, the bill (S. No. 1703) authorizing the change of the name of the schooner Rebecca D was taken from the Speaker's table and read a first and second time.

The bill directs the Secretary of the Treasury to allow the owner of the schooner Rebecca D to change her name, and provides that hereafter said vessel shall be known as the William H. Barnes.

The question was upon ordering the bill to a third reading.

Mr. GARFIELD. I hope nobody on this side will object.

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

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

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. CONGER. Now let us have the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Ohio, [Mr. CONVERSE,] to dispense with the morning hour for to-day. The Chair understands, however, that the gentleman from Wisconsin [Mr. POEHLER] desires, by instruction of the Committee on Indian Affairs, to submit a request to the House.

CESSION OF UTE RESERVATION IN COLORADO.

Mr. POEHLER. In the absence of the chairman of the Committee on Indian Affairs, [Mr. SCALES,] who is detained from the House by illness, I ask consent, by instruction of the Committee on Indian Affairs, to submit the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That at four o'clock and thirty minutes p. m. on Wednesday, May 26, the House take a recess until seven o'clock and thirty minutes p. m.; said evening session to be for the consideration of the bill of the Senate (No. 1509) to accept and ratify an agreement submitted by the confederated bands of Ute Indians of Colorado for the sale of their reservation in said State, and for other purposes, and to make the necessary appropriations for carrying out the same, to continue night after night until disposed of.

Mr. BURROWS. I will not object to that if the gentleman will modify it so as not to compel the House to take a recess at four and a half o'clock on that day. I have no objection to a night session.

Mr. POEHLER. I will modify it in that way.

Mr. HOOKER. I feel bound to object, unless it is understood that when we go into Committee of the Whole for the consideration of business from the Committee on Indian Affairs the Choctaw claim bill be considered, it being unfinished business in Committee of the Whole.

Mr. HASKELL. I hope that the gentleman from Mississippi [Mr. HOOKER] will not object. From every point whence advices have come to the Committee on Indian Affairs it is universally agreed that there will be an Indian outbreak unless this matter can be settled.

The SPEAKER. And that is the reason that the Chair took the liberty at this time of interposing this request to the House.

Mr. BURROWS. I do not object to the consideration of that bill on that evening.

Mr. HOOKER. I must insist that the unfinished business in Committee of the Whole shall be first disposed of.

The SPEAKER. That is equivalent to an objection.

ORDER OF BUSINESS.

Mr. CONGER. I call for the regular order.

The SPEAKER. The regular order is the motion of the gentleman from Ohio, [Mr. CONVERSE,] to dispense with the morning hour for to-day.

The question was taken; and the motion was agreed to upon a division—ayes 110, noes 26; two-thirds voting in favor thereof.

GREAT AND LITTLE OSAGE INDIANS.

Mr. DEERING. I now call up the unfinished business, being the bill (H. R. No. 6112) to carry into effect the second and sixteenth articles of the treaty between the United States and the Great and Little Osage Indians, proclaimed January 21, 1867, reported from the Committee of the Whole on the state of the Union with an amendment.

Mr. CONVERSE. I move that the House now proceed to the consideration of the special order, being business from the Committee on Public Lands.

The SPEAKER. The Chair thinks the bill called up by the gentleman from Iowa [Mr. DEERING] will not require much time for its disposition.

Mr. REAGAN. I desire to raise the question of consideration for the purpose of proceeding with the consideration of the interstate-commerce bill.

Mr. DEERING. It will require but a few minutes to dispose of the bill I have called up.

The SPEAKER. The Chair thinks the unfinished business should come in at this juncture.

Mr. REAGAN. How does it come in now?

The SPEAKER. The bill was considered in the Committee of the Whole on the state of the Union and reported favorably to the House, and the previous question was demanded upon it.

Mr. DEERING. The bill has the favorable recommendation of the Committee on Indian Affairs, and is approved by the Secretary of the Interior and the Commissioner of Indian Affairs.

The SPEAKER. The question is upon the demand for the previous question.

The previous question was seconded and the main question ordered.

The SPEAKER. The first question is upon the amendment reported from the Committee of the Whole, which will be read.

The amendment, which was read, was to insert, in line 6, after the words "United States," the following:

Either by the act of January 29, 1861, entitled "An act for the admission of Kansas into the Union," or.

The amendment reported from the Committee of the Whole was agreed to.

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

The question being on the passage of the bill,

Mr. DEERING called for the previous question.

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

Mr. SPARKS. Mr. Speaker, this bill appropriates money, and very likely, as it seems to me from hearing the bill read, an immense sum of money. I submit that under the rules the question upon its passage must be taken by yeas and nays.

The SPEAKER. That rule applies to general appropriation bills.

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

The yeas and nays were ordered.

The question was taken; and there were—yeas 120, nays 60, not voting 112; as follows:

YEAS—120.

Acklen,	Daggett,	Jones,	Pound,
Aiken,	Davis, George R.	Joyce,	Reed,
Aldrich, William	Davis, Horace	Keifer,	Richardson, D. P.
Anderson,	Deering,	Kelley,	Robinson,
Bachman,	Deuster,	Kenna,	Russell, W. A.
Barber,	Dunnell,	Kimmel,	Ryon, John W.
Belford,	Dwight,	Klotz,	Sapp,
Bicknell,	Einstein,	Ladd,	Sawyer,
Bingham,	Elam,	Lapham,	Sherwin,
Blake,	Errett,	Loring,	Smith, Hezekiah B.
Bowman,	Farr,	Manning,	Smith, William E.
Boyd,	Ferdon,	Marsh,	Steele,
Brigham,	Field,	McCook,	Thomas,
Browne,	Frost,	McKinley,	Thompson, W. G.
Buckner,	Frye,	McLane,	Tyler,
Burrows,	Garfield,	Miller,	Updegraff, J. T.
Butterworth,	Gillette,	Money,	Valentine,
Calkins,	Godshalk,	Muldrow,	Van Aernam,
Carpenter,	Gunter,	New,	Vance,
Caswell,	Hammond, John	Newberry,	Van Voorhis,
Chalmers,	Hammond, N. J.	Norcross,	Voorhis,
Claflin,	Harmer,	O'Neill,	Waddill,
Clardy,	Haskell,	O'Reilly,	Wait,
Coffroth,	Hawk,	Orth,	Ward,
Colerick,	Hayes,	Page,	Washburn,
Conger,	Henry,	Persons,	Wellborn,
Cowgill,	Herbert,	Phelps,	Whiteaker,
Crapo,	Hooker,	Phister,	Wilson,
Cravens,	Horr,	Pierce,	Yocum,
Crowley,	Houk,	Poehler,	Young, Thomas L.

NAYS—60.

Armfield,	Covert,	Hull,	Samford,
Atherton,	Culberson,	Hunton,	Simonton,
Beale,	Davidson,	Killinger,	Slemons,
Beltzhoover,	Davis, Joseph J.	Knott,	Sparks,
Berry,	Davis, Lowndes H.	Lewis,	Stevenson,
Bland,	Dibrell,	Lounsbery,	Taylor,
Bouck,	Dickey,	Lowe,	Thompson, P. B.
Brewer,	Evins,	Martin, Benj. F.	Tillman,
Briggs,	Felton,	Martin, Edward L.	Turner, Oscar
Bright,	Finley,	McKenzie,	Upson,
Cabell,	Geddes,	McMillin,	Whitthorne,
Caldwell,	Hatch,	Mills,	Williams, Thomas
Clark, John B.	Henderson,	Philips,	Willis,
Converse,	Hill,	Reagan,	Willits,
Cook,	Hostetler,	Richardson, J. S.	Wright.

NOT VOTING—112.

Aldrich, N. W.	Fort,	McGowan,	Scales,
Atkins,	Gibson,	McMahon,	Shallenberger,
Bailey,	Goode,	Miles,	Shelley,
Baker,	Hall,	Mitchell,	Singleton, J. W.
Ballou,	Harris, Benj. W.	Monroe,	Singleton, O. R.
Barlow,	Harris, John T.	Morrison,	Smith, A. Herr
Bayne,	Hawley,	Morse,	Speer,
Blackburn,	Hazelton,	Morton,	Springer,
Bliss,	Heilman,	Muller,	Starin,
Blount,	Henkle,	Murch,	Stephens,
Bragg,	Herndon,	Myers,	Stone,
Camp,	Hiscock,	Neal,	Talbott,
Cannon,	House,	Nicholls,	Townsend, Amos
Carlisle,	Hubbell,	O'Brien,	Townshend, R. W.
Chittenden,	Humphrey,	O'Connor,	Tucker,
Clark, Alvah A.	Hurd,	Osmer,	Turner, Thomas
Clymer,	Hutchins,	Overton,	Updegraff, Thomas
Cobb,	James,	Pacheco,	Urner,
Cox,	Johnston,	Prescott,	Warner,
De La Matyr,	Jorgensen,	Price,	Weaver,
Dick,	Ketcham,	Rice,	Wells,
Dunn,	King,	Richmond,	White,
Ellis,	Kitchin,	Robertson,	Wilber,
Ewing,	Le Fevre,	Robeson,	Williams, C. G.
Fisher,	Lindsey,	Ross,	Wise,
Forney,	Martin, Joseph J.	Rothwell,	Wood, Fernando
Ford,	Mason,	Russell, Daniel L.	Wood, Walter A.
Forsythe,	McCoid,	Ryan, Thomas	Young, Casey.

So the bill was passed.

The following pairs were announced from the Clerk's desk:

Mr. BRAGG with Mr. HAZELTON, on all questions for this day.

Mr. CARLISLE with Mr. HUBBELL, for to-day.

Mr. SINGLETON, of Mississippi, with Mr. HAWLEY, on all political questions.

Mr. FORNEY with Mr. BAKER, during the present session of the Committee on Appropriations.

Mr. HISCOCK with Mr. COBB, for to-day.

The result of the vote was announced as above stated.

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

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. CONVERSE. I rise for the purpose of calling up the business assigned as a special order for to-day, being business reported from the Committee on Public Lands.

Mr. REAGAN. Against the business indicated by the gentleman from Ohio [Mr. CONVERSE] I raise the question of consideration in favor of House bill No. 4748, to establish a board of commissioners of interstate commerce, and for other purposes.

The SPEAKER. The gentleman from Ohio [Mr. CONVERSE] now claims the floor under the order of the House fixing to-day for the consideration of measures reported from the Committee on the Public Lands, upon which the gentleman from Texas [Mr. REAGAN] raises the question of consideration.

Mr. REAGAN. The interstate-commerce bill was made a special order for March 24, and from day to day until disposed of.

Mr. FERNANDO WOOD. I rise to a privileged motion. I move that the House go into Committee of the Whole on the state of the Union for the consideration of a revenue bill.

The SPEAKER. The order of the House fixing to-day, and to-day only, for the consideration of reports from the Committee on the Public Lands was made by unanimous consent, being equivalent to a suspension of the rules. While the Chair recognizes that the House has its remedy if it does not wish to proceed with this business by raising the question of consideration, yet the Chair thinks that the right of recognition by the Chair for the motion which the gentleman from New York [Mr. FERNANDO WOOD] indicates is equitably suspended from precedence by the operation of the order fixing to-day for this particular business.

Mr. FERNANDO WOOD. I call the attention of the Chair to the last clause of Rule XVI, where it is stated substantially that after the morning hour the motion I make is a privileged motion.

The SPEAKER. It is a privileged motion, and the Chair will recognize it; but the order of business indicated by the gentleman from Ohio [Mr. CONVERSE] has been fixed by a vote of the House, under unanimous consent, which the Chair thinks meant that the first recognition should be in favor of report from the Committee on Public Lands.

Mr. FERNANDO WOOD. I rise to make a parliamentary inquiry. If the decision of the question of consideration raised by the gentleman from Texas should result in taking the gentleman from Ohio, with his special order, off the floor, will not my motion then be a privileged one?

The SPEAKER. The Chair would then entertain the motion. He now simply rules that where unanimous consent has been given to fix a particular day for the consideration of certain business, the Chair is in duty bound to give the House the opportunity of going on with the consideration of such business. But if the majority shall have changed its mind, it can refuse to proceed.

Mr. PAGE. Can a majority set aside the order of the House?

The SPEAKER. The House can fix an order by suspension of the rules, and yet when the time comes a majority can refuse to consider it. The House has control of its own business.

Mr. REAGAN. I wish to say a word on the point of order. I do not understand the bill to regulate interstate commerce in any respect or in any way can be in a worse condition than the order setting apart this day for the business of the Committee on Public Lands. It is a special order from day to day and from term to term and is a prior order, having been made on the 26th of February last.

The SPEAKER. The gentleman will see by a moment's reflection that injustice might be done if the Chair recognized running orders as against a particular assignment for a particular day and refused to recognize that particular assignment for a particular day. And for this reason: The gentleman from Ohio, if he was not allowed to be recognized to-day, would not have any opportunity to-morrow or hence to consider the business which the House has by unanimous consent said should be considered this day, while on the other hand the proposition of the gentleman from Texas suffers nothing, because it runs from day to day. It was not originally assigned for this day, but the business indicated by the gentleman from Ohio was specially and particularly assigned for this day.

Mr. REAGAN. If it is in order and the gentleman from Ohio will consent I will move to postpone the special order for to-day until this day next week in order that we may have an opportunity to bring up and consider at this time the interstate-commerce bill.

Mr. CONVERSE. I cannot consent to that.

Mr. O'NEILL. In that case I will, then, move that the interstate-commerce bill shall be indefinitely postponed.

The SPEAKER. The vote is to be taken on the question of consideration. If the bill is taken up, it will be time, then, to determine whether the motion to postpone to a particular day is in order.

Mr. BICKNELL. I represent, Mr. Speaker, a question which has precedence of both these. The bill to regulate the counting of the electoral vote for President and Vice-President was made the special order for the 29th of January and from day to day thereafter until disposed of. I submit that is the regular order now.

The SPEAKER. The Chair gives the same reasons in reply to the gentleman from Indiana why he in preference recognized the gentleman from Ohio, who represents the special order for to-day, that he gave to the gentleman from Texas in reply to a similar question which he propounded.

Mr. CONVERSE. I now move that the House proceed to consider the business specially set apart for this day.

The SPEAKER. The gentleman from Texas raises the question of consideration, which the Chair will first submit.

Mr. BICKNELL. And I raise the question of consideration afterward with my bill.

The SPEAKER. The affirmative to consider shuts out all other subjects of course. The gentleman from Indiana has his remedy by uniting with those who do not want to consider the reports coming from the Committee on the Public Lands.

Mr. CONVERSE. I rise to a parliamentary inquiry. I understand these special orders represented by the gentleman from Texas and the gentleman from Indiana were made months ago, and that they were made from day to day; and I now submit this point to the Chair: whether a privilege which has never been claimed, but which, on the contrary, has been allowed to lapse for weeks and months, does not cease to be a pending order of the House.

The SPEAKER. The Chair would rule on that point that orders running from day to day until disposed of take precedence in the order in which they were made. But the Chair rules that where a special order is made for a particular day on a particular subject, it is his duty to recognize the gentleman on the floor representing that subject on that particular day in preference to running orders. The equity of it is perfectly manifest on a moment's consideration, for unless the gentleman from Ohio now gets the opportunity to test the sense of the House as to whether it will proceed to consider the particular subject which he represents assigned for this day, he would lose all his rights, because after to-day the order ceases to have effect, while running orders will not lose any of their rights by preference in recognition being given to the particular assignment for a particular day.

Mr. HOSTETLER. If we go to the House Calendar, I shall claim my rights.

The SPEAKER. The Chair will protect the gentleman in every right. The question is, Shall the House now proceed to the consideration of the special order, being reports from the Committee on the Public Lands.

The House divided; and there were—ayes 101, noes 45.

Mr. REAGAN. I call for the yeas and nays to determine whether members will refuse to take up the interstate-commerce bill or not.

The House divided; and there were—ayes 28, noes 116; not one-fifth voting in the affirmative.

Mr. REAGAN demanded tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

So the motion was agreed to.

Mr. BICKNELL. I now raise the question of consideration with the electoral bill.

The SPEAKER. The House has just taken a vote on the question of consideration and decided to proceed with the special order.

Mr. BICKNELL. But not on the electoral bill.

Mr. CONVERSE. I move the House proceed to the consideration of the business of the Committee on the Public Lands.

Mr. McCOOK. I rise to a parliamentary inquiry. I wish to know if I can raise the question of consideration now upon this bill?

The SPEAKER. The House by a majority vote has agreed to consider the special order set for to-day.

Mr. McCOOK. I would like to raise the question of consideration upon a subject which was made a special order very early in the session, that is the Fitz-John Porter case.

The SPEAKER. The House has decided that it will consider this subject to the exclusion of all other subjects.

Mr. TUCKER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. TUCKER. Is it competent now to raise the question of going into the Committee of the Whole on the state of the Union?

The SPEAKER. The House has determined to proceed to the consideration of this business which was made a special order, and the Chair recognized the gentleman from Ohio [Mr. CONVERSE] in accord with the voice of the House to make such motion as he might deem appropriate to facilitate this special order.

PUBLIC LANDS OF THE UNITED STATES.

Mr. CONVERSE. I move that the business fixed to-day by special order of the House be considered to-day in the House as in Committee of the Whole.

Mr. GARFIELD. If the gentleman asks that some special bill be taken up it would be an intelligible thing, but the whole business of the Committee on Public Lands it seems to me would be objectionable.

The SPEAKER. There is objection.

Mr. GARFIELD. No, I do not object; but I merely ask the gentleman if it is not better that he shall indicate some bill.

Mr. CONVERSE. I wish to have taken up and considered all of the bills reported from that committee as fast as they can be disposed of.

Mr. GARFIELD. I think it would be better to take them up *seriatim*, and designate one bill on which his motion shall first be considered.

Mr. CONVERSE. It will take, I think, only two or three hours to get through with the whole thing.

Mr. GARFIELD. I make no objection. I merely suggested to the gentleman what I regarded as a better plan.

The SPEAKER. The Chair supposes that they will be taken up in the order in which they appear upon the Calendar.

Mr. CONGER. The bill in regard to the public lands, which refers to trespassers, has been committed to the Committee of the Whole, and that bill I wish to have considered in the Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman from Ohio had better indicate the first bill under the order which should be taken up.

Mr. CONVERSE. The first bill I propose to take up is House bill No. 1846, which relates to timber lands of the United States.

The SPEAKER. The title of the bill will be read.

The Clerk read as follows:

A bill (H. R. No. 1846) relating to the public lands of the United States.

The SPEAKER. This bill is in Committee of the Whole on the state of the Union, and it is necessary in order to reach it, except by unanimous consent, that the House shall resolve itself into the Committee of the Whole on the state of the Union.

Mr. CONVERSE. I ask unanimous consent to consider it as in Committee of the Whole on the state of the Union.

Mr. CONGER. I object.

Mr. CONVERSE. Then I move that the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering that bill.

The motion was agreed to.

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

The CHAIRMAN. The House is now in Committee of the Whole on the state of the Union, to consider reports from the Committee on Public Lands. The title of the first bill will be read.

The Clerk read as follows:

A bill (H. R. No. 1846) relating to the public lands of the United States.

Mr. TUCKER. I rise to a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. TUCKER. As we are now in Committee of the Whole on the state of the Union is not the first bill before the committee the bill for refunding the public debt?

The CHAIRMAN. By a special order of the House, reports from the Committee on Public Lands were to be considered and the committee cannot change the rule of the House, of course. The Clerk will read the bill.

Mr. CONVERSE. I ask now for the reading of the bill by sections for amendments.

Mr. CONGER. I desire to say a word about this bill before it is read by sections.

It is well known, Mr. Chairman, to this House and to the country that trespasses upon the public lands of the United States in many parts of the Union have been committed to such an extent that unusual efforts have been found necessary to check such depredations. Combinations were made, or, as they are called, conspiracies, to mislead the officers of the Government who are seeking out persons who are committing these depredations and stripping the public lands of their valuable timber. Whole townships, whole regions of country have been stripped of the most valuable timber by persons wholly unauthorized to take a stick from the lands. This Congress has appropriated a good many thousand dollars to follow up these trespassers and bring the wrong-doers to justice. Property thus stolen from the public lands has been seized in many parts of the United States in the timber regions. Such property has been sold more or less by order of the courts. The sums paid for it have been turned over to the Government. Prosecutions have been commenced—criminal prosecutions—and are pending now against many of these persons engaged in this business, and others are about to be commenced. I cannot now state how many thousand dollars have been expended by the Government in following these trespassers and wrong-doers.

If the property of private individuals had been taken by trespassers, to call it by no harsher term, to the extent of a hundredth part that the Government property has been taken, and no measures were instituted for the relief of those who suffered, such a hue and cry would be raised in this country as would prevent any man from undertaking to defend the criminal. But this is the "public property." This is the public land of the Government, which has been taken possession of by trespassers, and the property stolen from it; and here is a bill introduced to condone all of these offenses, to stay all prosecutions, civil or criminal, upon the mere permission to come in and pay the Government price for the lands, and to pay back the cost of prosecution thus far. This is not an exact statement of the case. Where the trespass has been upon lands which were rated under the laws of the United States at $2.50 per acre, this bill authorizes the trespassers on those lands to have a reduction in their favor of $1.25.

The bill says where these lands are situated alongside of railroad lands on the alternate sections, and were rated at $2.50, the law shall be complied with on the payment of $1.25.

Mr. HERBERT. That is where the land has been in market for twenty years.

Mr. CONGER. That is where the legal price of those lands to-day is $2.50. I do not care how long it is since their first survey.

Now, here is a bonus of half the value of those lands offered to those who have trespassed upon them.

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

Mr. CONGER. Yes, sir.

Mr. DUNNELL. While it may be true that trespassers are allowed to come in and take for $1.25 what was rated at $2.50, yet this section opens up the whole of these lands not only to those who trespass but to every other citizen of the United States.

Mr. CONGER. The gentleman is right. This bill has gathered around it and has put upon it honey in many cases to attract flies, and it may also attract bees. There are a good many things in this bill on the ground of which it will be urged that it should be passed for considerations of benefit to the country and to the settlers.

Mr. ELAM. Will the gentleman permit me to ask him a question?

Mr. CONGER. Yes, sir.

Mr. ELAM. Does the gentleman not know that the most of these lands have been settled upon and are in cultivation where the alternate sections, six miles wide, have been donated to the railroads?

Mr. CONGER. The lands I am referring to are the wild pine lands of the South and the North; and their value was on account of their timber.

Mr. ELAM. One moment. I know that in the upper part of my State and in my own district there are immense quantities of land held alongside railroad grants made in 1856, and the people who settled them have never been able to buy them yet; and they have got farms on those lands and are raising families and are supporting and taking care of them. They clear the land and cultivate it and support themselves and their families. Thousands and thousands of acres are occupied in this way; and this bill, as I understand, will afford an opportunity to these people to get title.

Mr. CONGER. This is another of those honeyed things thrown around what I consider an infamous bill to attract the sympathies of members in behalf of perhaps here and there one or two scattered settlers in regions of hundreds of miles in extent.

Oh, no; this bill is not for the benefit of the settler on the land. Nobody dare pretend it is. I know the laugh that would arise upon the face of every member of this whole committee if any gentleman should dare to assert that this was for the benefit of the settler would rebuke him. It is not that. It is for the benefit of those who have individually and collectively, directly by themselves, and through their agents all over large tracts of land, robbed the Government of its timber and violated the law. It is a wonder to me that those who introduced the bill did not introduce a bill to give them the lands to encourage future stealing. Such a bill would differ from this one only in degree.

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

Mr. CONGER. Yes, sir.

Mr. HERBERT. Does the gentleman not know there is in the bill a provision that it shall not apply to any trespasses committed after the 1st March, 1879, and that it has no future operation at all?

Mr. CONGER. There have been but few trespasses since the 1st March, 1879. At that time the agents of the Government, paid with

money that this Congress appropriated to ferret out these wrongs, were scouring the country all over the South and all over the North. There has not been much time to steal since. We gave money enough to stop it. That is another of the honeyed things thrown around this bill.

Before we get done with this discussion, when the gentlemen that defend the bill come to tell of its virtues and of its good qualities, there will be hundreds of just such things stated to show we should pass the bill in the interest of the settler and the squatter upon these lands in order to cover up the enormities of the trespasses to the extent of hundreds of thousands of dollars, by placing between the eyes of members and those trespassers some poor squatter here and there—a dozen of them it may be—on tracks of several hundreds of miles in extent. I wait with considerable impatience. I shall cut short my own remarks, that I may hear what the advocates of this bill may present to this House for the purpose of preventing the arm of the law from bearing with some little weight at least upon those who have been for many years past trespassing upon the public lands, violating the laws of the land, and combining and conspiring together to prevent detection until they could take the proceeds of these trespasses away from the lands and sell them and receive the money.

If I am not mistaken, there will gather around this bill a great many honeyed remarks; if I am not mistaken, the wrong-doing of those who have stolen the timber from the lands of the United States and violated, in some instances openly and publicly and in other instances secretly, the laws of the land in many particulars will not be alluded to much. We will be told that there is simply a desire for peace, a desire for conciliating the Government with these trespassers; that will be the main stock in trade of the arguments which I expect to hear. If there be a good, solid, substantial reason why the trespasser should not suffer for his trespasses, why he should not be left to the courts, I hope it will be shown to this committee.

I have said enough to indicate a few of the reasons for my opposition to this bill. I have said at least enough to call upon the advocates of the bill for some solid, substantial reason, after we have appropriated many thousands of dollars to bring trespassers to justice, and when we have now got them within the grasp of the law, why we should give them a free discharge, accompanied with a premium and the blessing of the nation.

Mr. VAN VOORHIS. Can the gentleman state how many suits are pending for these trespasses?

Mr. CONGER. I cannot tell how many suits there are now pending. I know that a year or two ago this House rang with an account of the number of prosecutions which were then pending; and I know that the same influences which have brought in this bill brought in at that time resolutions to stop the Government from ferreting out these trespassers. I know that many men in this House opposed the appropriation and finally cut off the appropriation which would enable the Government to ferret out these trespassers and save the property of the United States.

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

Mr. CONGER. Yes, sir.

Mr. BELFORD. I want to ask the gentleman whether it is not the fact that the opposition to these prosecutions grew out of the fact that the settlers in the West were unable to get timber with which to construct their houses and to fence their farms, to cook their food, to erect their churches and school-houses without trespassing upon the public lands, because there was no law upon the statute-book authorizing the settlers to purchase public timber for these purposes?

Mr. CONGER. I will answer the gentleman. The gentleman himself did not ask that timber should be given for building churches.

Mr. BELFORD. I merely alluded to that.

Mr. CONGER. Some Christian gentleman (I do not see him here now) did request it. [Laughter.] I do not see that Christian gentleman here now, but I remember that there was such a proposition. [Laughter.] There was no fault found, there never has been any fault found, with a settler cutting from the public lands such timber and firewood as he needed for his own individual and family use.

Mr. BELFORD. They were prosecuted for it nevertheless.

Mr. CONGER. The suits commenced unadvisedly by the agents of the United States in such cases were all discontinued, every one of them. And when we proposed to pass a law here to enable the settlers themselves to get their firewood on the borders of the western prairies simply for their own purposes it was said that there was no necessity for such a law, for the rules of the Department would not permit them to be molested for so doing. The gentleman knows that very well.

Mr. PAGE. May I ask the gentleman one question?

Mr. CONGER. Is it about building churches? [Laughter.]

Mr. PAGE. No, it is nothing about churches. My question is this: did not the commission on public lands, selected by the President of the United States, after a long and careful investigation, report to this House at this session of Congress a recommendation that all these suits be abandoned?

Mr. CONGER. I will answer the gentleman. So far as the suits related to timber taken from the public lands for the individual purposes of the settler, of the squatter, yes. So far as they related to this wholesale trespass by which thousands and millions of feet of pine lumber were taken from the public lands, I do not know of such a recommendation.

Mr. RYAN, of Kansas. Allow me to correct the gentleman; the report recommended a condonation of all such offenses.

Mr. PAGE. Every one of them.

Mr. CONGER. That may be so. I know that in the course of the struggles which men make in this world, either for good or for bad, they sometimes get tired out. In the struggle which the Commissioner of the Land Office and the Secretary of the Interior have been engaged in with these trespassers, with their friends who have come to their offices to plead for them, with those here in Congress who desire to pass this law in order to save them, I do not wonder that they have become exhausted and have finally yielded to the pressure.

My friend from California [Mr. PAGE] has yielded to the pressure, and he is a strong, robust man. [Laughter.] He is advocating here to-day and will vote for a bill which, if there had not been that pressure upon him, his sense of justice to the Government and to the people would not, in my judgment, permit him to vote for, even at the urgency of some of his mountain constituents. I guess that is so. [Laughter.] The gentleman himself admits that he has some ideas of justice. [Laughter.]

I have now accomplished the object I had in view—not by an elaborate argument upon this question, not even by making assertions further than I know them, and all know them to be true in regard to what has been done. Upon the face of the bill, on the record itself, there is enough to condemn the bill.

Now, if a bill could be brought in shielding innocent parties, authorizing prosecutions to be stopped against those who unwittingly and unadvisedly, through agents acting without instructions from them, have committed these depredations, it would meet my approbation. But somewhere in the Congress of the United States there must certainly be men enough representing the Government, representing honesty, representing the protection of Government property whether in the forest or in the Treasury—men enough who ought to know what the effect of this bill will be and how it rather rewards than punishes trespass upon the property of the United States.

Mr. PAGE. Mr. Chairman, I do not desire to detain the committee with any extended remarks, but I simply wish to reply to some observations which have been made by my distinguished friend from Michigan, [Mr. CONGER.] In the course of my legislative duties I have had some occasion to look into this question of the timber lands of the Government. In the last Congress, about a year ago, I found it necessary to appeal to this House for aid from the Government of the United States to prevent the people of California, Oregon, and Nevada from being arrested and fined and imprisoned for having cut timber upon the public lands for mining and agricultural purposes. Up to that time there was no law by which the people of this country, at least that section of the country, could obtain titles to any of these timber lands. They were trespassers under the law for every stick of timber cut to build a fire, for every saw-log used to build their cabins.

Now, Mr. Chairman, I know that the law upon the statute-book makes it a trespass for any person to cut timber upon the public lands except as provided in the act of June 3, 1878, which applies only to a few of the States and the Territories. I presume some people in one section of the country down South have cut timber upon these lands, and have been arrested for the trespass. This bill proposes to condone the offense and to let these parties purchase the land. What Representative is there upon this floor who wants to stand up here and Shylock-like demand his "pound of flesh." I believe the people of this country are naturally and by instinct honest; they do not desire to take any timber from the public land without paying the Government a fair price for it. But these men, by force of circumstances perhaps, have been forced to trespass upon these lands, and they are to-day under indictment. The question for this committee to determine is whether these prosecutions shall continue, or whether the Government in its magnanimity and justice shall remove the charge of trespass from these persons and condone the offense upon their simply complying with the provisions of this bill.

Now, as has been stated, the commission selected by the President of the United States for the purpose of examining these and all other questions relating to public lands reported unanimously in favor of abandoning all these prosecutions and providing that in the future parties might obtain titles to timber lands in a legitimate way. How is it with my friend from Michigan, [Mr. CONGER?] He represents a State where the pine lands were offered by proclamation of the President to the highest bidder, and in very few instances did those lands bring fifty cents an acre. My friend from Michigan says to me now that some of them have brought ten shillings an acre. I say that if you will examine the records of the General Land Office you will find that the timber lands of this country have not averaged fifty cents an acre. I am not mistaken on this point.

Mr. ROBINSON. Referring to the law to which the gentleman has alluded, passed in the Forty-fourth Congress, I find that by its provisions relief was afforded to all those who had not been prosecuted for cutting timber on the public lands for purposes of exportation. Persons of this class were not relieved. But the present law relieves all such persons—not simply small farmers and others who have cut small quantities of timber for their personal use.

Mr. PAGE. That law applies principally to the Territories of the West. I am not here to defend men who have engaged in wholesale trespasses for the purpose of exporting lumber.

Mr. ROBINSON. Does not this bill relieve such persons?

Mr. PAGE. I am not speaking to the main provisions of the bill. I am talking about the general principles which I think ought to govern this House. If an amendment of the sort indicated by the gentleman be necessary, let it be offered and adopted. But I say that this bill in principle is right and ought to be passed by the House. I do not care to detain the committee any longer, because I believe that the good sense and judgment of the House will pass a bill something like this.

Mr. CONVERSE. I move that the committee rise so that the House may limit general debate. We can then take up the bill by sections for amendment under the five-minute rule.

The motion that the committee rise was agreed to.

The committee accordingly rose; and, the Speaker having resumed the chair, Mr. SPARKS reported that the Committee of the Whole on the state of the Union had had under consideration the bill (H. R. No. 1846) relating to the public lands of the United States, and had come to no resolution thereon.

Mr. CONVERSE. I move that when the Committee of the Whole shall resume the consideration of the bill (H. R. No. 1846) relating to the public lands of the United States general debate be limited to one minute.

The motion was agreed to.

Mr. CONVERSE. I move that the House again resolve itself into Committee of the Whole for the consideration of the bill relating to the public lands of the United States.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, (Mr. SPARKS in the chair,) and resumed the consideration of the bill (H. R. No. 1846) relating to the public lands of the United States.

Mr. CONVERSE. Mr. Speaker, for the purpose of consuming the one minute to which general debate has been limited I will call the attention of the committee to the fact that only two years ago a bill similar to this was passed in reference to California, Nevada, Oregon, and Washington Territory, and so just were its provisions deemed that there was not a division in the House on the passage of the bill. It authorized settlements to be made with trespassers upon the public lands in the way in which they are here proposed by the pending measure.

The CHAIRMAN. The time for general debate has expired.

Mr. CONVERSE. I ask now that the bill be read by sections for amendment.

The first section of the bill was read, as follows:

That when any lands of the United States shall have been entered, and the Government price paid therefor in full, no suit or proceeding, civil or criminal, by or in the name of the United States, shall thereafter be had or further maintained for any trespasses upon, or for or on account of any material taken from, said lands, or on account of any alleged conspiracy in relation thereto, prior to the approval of this act: *Provided*, The defendants in such suits or proceedings begun before such full payment shall exhibit to the proper court or officer the evidence of such entry and payment, and shall pay all costs accrued up to the time of such payment.

Mr. CONVERSE. By instruction of the Committee on the Public Lands, I move, in line 9, to strike out the words "approval of this act" and in lieu thereof to insert "March 1, 1879." The object of that is to limit it to trespasses committed prior to March 1, 1879.

Mr. BRAGG. I desire to amend that by moving to strike out the whole section. Mr. Chairman, it seems to me, if this bill is to be passed——

Mr. CONVERSE. I rise to a point of order. I suggest the gentleman's motion is not in order until we have had an opportunity to perfect this section.

The CHAIRMAN. The vote will first be taken on the amendment to the text; after which the motion to strike out will be in order.

Mr. CONVERSE. Therefore the motion to strike out is not in order, and debate is not in order upon it. The only question debatable is, as I understand, the amendment I have moved.

Mr. BRAGG. The gentleman from Ohio, if he will listen to me, will know whether what I say applies to his amendment or not.

I say, Mr. Chairman, if we are to pass this bill, the title ought to be amended so as to read "an act to license thieves on the public domain." The facts as stated by the gentleman from Michigan were aptly stated and well put. If we are to pass acts to relieve men just so soon as they are caught the provision in this bill that it shall not apply to future trespasses goes for naught, because if people go on trespassing after the passage of this act until they shall be arrested and brought to justice, and then find there is no other way out, they will come to Congress and say, "You ought to pass laws and condone our trespasses, because a year ago you passed laws to condone all trespasses which had taken place prior to that time."

It is all well enough to talk about honesty; it is all well enough to talk about the timber you want to use for the homes of settlers; but when the members of this committee understand and know, as there are many men on this floor who do, that men engaged in the lumber business, many of them, will enter forty acres of land and have a mill on it near a water-site; they will acquire a title to the land where their little saw-mill is and engage in a legitimate business until they contract with men to furnish them logs. Then they contract with men to furnish them logs at a nominal price and those men steal the logs from the public domain year after year and turn them in to be cut at this saw-mill. It is supplied with stock, although no timber is cut upon the land upon which the mill is located; and when we spend hundreds of dollars searching out these trespassers, finding where the timber has been taken from, by what mill it has been cut, and the mill-owner is brought into court to answer by civil or criminal indictment; when he says he has made a contract with somebody else, innocently, as he alleges, and the Government is able to prove he had not a foot of land but hired men simply for the purpose of stealing logs from the public domain, and it is further able to establish conspiracy, then, when the fruits of the investigation are about to reach results, they come to Congress, and we have this amount of sympathy for the poor settlers. It is sympathy, Mr. Chairman, for the thief, and for nobody else; and the thief does not ask for sympathy until such time as he gets caught in the meshes of the law and is unable to go further.

[Here the hammer fell.]

Mr. HERBERT. Mr. Chairman, it is an easy matter for the gentleman from Wisconsin to denounce the laboring-men who are mostly to be benefited by this bill as thieves; but the fact is all the arguments advanced by him and by gentlemen on the other side against this bill were duly considered and the whole situation taken in by the committee, which, after due deliberation, unanimously reported this bill to the House with the recommendation it should pass. The committee in the Senate has reported, as I understand, unanimously to that body a similar bill. And this question was submitted to the Commissioner of the General Land Office, who is better acquainted with the lands of this country and their general condition than any other officer of the Government, and it was approved by him. These amendments that the committee have instructed their chairman to propose were suggested really by him after consultation with his law officer.

The whole truth in a nutshell is this: The Government for a great many years, almost from its beginning, failed to take any proper steps to prevent trespasses on the public lands of the United States until in the North and the South and the West trespasses had become common. There is no doubt about that fact. All at once, suddenly, prosecutions were begun against these parties, and in order to carry on those prosecutions the Government of necessity was obliged to resort to a system of spies and informers throughout the country for the execution of the law, which up to that time had remained a dead letter upon the statute-book.

Taking into consideration this state of affairs, the committee have proposed and recommended the passage of this bill as a fair, just, and equitable mode of settling these trespass suits. It provides that the party claiming the benefit of its provisions shall first pay the Government price for the land upon which he has trespassed, it matters not how small the trespass may have been. It provides, secondly, that he shall pay all of the costs of any kind accruing in the prosecution of any suits which may have been begun against him before he shall be entitled to the benefits of the bill.

It provides further that it shall have no reference to trespasses committed after a certain date, and its application is limited to trespasses committed prior to March 1, 1879; the reason for that limitation being this: The policy of the Government after the present administration came into power was changed. Large numbers of prosecutions were begun suddenly in all parts of the country against persons claimed to have been trespassers upon the public land, which prosecutions caused great distress to the people in many sections of the country.

This bill recognizes the fact that while it is fair and just and equitable to settle with these persons who were led by the policy of this Government into these trespasses prior to that date, it would not be right or proper to allow its provisions to apply to persons trespassing after a fair notice had been given and that after a certain date such trespasses would be prohibited and punished in the manner prescribed now by law.

[Here the hammer fell.]

Mr. DOWNEY. I have an amendment which I would like to offer.

The CHAIRMAN. Further amendment would not be in order at this time.

Mr. HOOKER. I will yield to the gentleman from Alabama if I am recognized by the Chair.

The CHAIRMAN. Discussion on the pending amendment has closed.

Mr. LOWE. I move to strike out the last word, and will yield my time to the gentleman from Alabama, [Mr. HERBERT.]

Mr. HERBERT. Mr. Chairman, I do not desire to consume any considerable length of time in the consideration of this question, and I shall not ask more than the five minutes so kindly granted to me by my friend. I have said nearly all I think necessary to say in a case of this kind. The Government loses nothing here whatever. All the lands are to be paid for according to the Government price, and all costs are to be paid before any person can get the benefit of this law. There is one clause of the bill to which I ought, perhaps, especially to allude—the section which provides that where lands have been in the market at $2.50 an acre for more than twenty years, the price of such lands shall be reduced, not for the benefit of the trespassers alone but for the benefit of the people of the whole country, to $1.25 an acre. That is a provision of the bill.

Mr. ELAM. I would like to ask the gentleman from Alabama what effect this will have, if any, upon those persons who have acquired homesteads and have been required under certain contingencies to abandon them? In my own and many other Southern States lands have been taken up for homesteads, and afterward they were forfeited——

Mr. HERBERT. As I have but very little time remaining, I shall have to anticipate the question of the gentleman from Louisiana, and answer him as I understand his question, that in all cases of forfeited entries the land is not to go back into market again until it has been first offered at public sale as the law provides, and that the provisions of this bill do not apply to the lands to which he now refers. I want to say further that the Government has been liberal to many classes of people throughout the whole country. It is unnecessary for me to speak of the liberality and generosity of this Government to other classes of people. I simply ask this House whether or not it is willing to make a fair, just, and equitable settlement with these persons who have been led into trespassing upon the Government lands by the conduct of the Government itself. In regard to that provision which reduces the price of lands from $2.50 to $1.25 an acre, I desire to say further only this, that the fact that these lands have been in market for such a length of time and have not been taken up, is a conclusive demonstration that they are not worth $2.50 an acre. In the flush times of the past, before, during, and after the war when money was plentiful, they were subject to entry at the price stated, and yet they have not been sold. If these lands had been sold at $1.25 an acre twenty years ago and the Government had put out the money at interest, or invested it in its own bonds bearing 4 per cent. interest semi-annually, it would have realized on every acre of land at least $3.25 an acre by the compounding of interest, instead of the price fixed—$2.50. That provision seems to be one of the best and wisest provisions in this bill.

[Here the hammer fell.]

Mr. HOOKER. Mr. Chairman, I desire to say but a few words upon this bill. I wish, however, before proceeding to consider the bill itself to notice the remarks made by the gentleman from Michigan and the gentleman from Massachusetts in reference to the effect of the bill, and particularly that portion of it which relates to the settlement of the suits or prosecutions brought against persons who have been found trespassing upon the public lands. Sir, years ago there was a system inaugurated in the Interior Department which related in a very important degree to a portion of my own State, the State of Mississippi, which is largely occupied by lumbermen on the rivers running through its southern portion where the Pearl and Pascagoula Rivers debouch into the Mississippi Sound. Seventy-two suits were instituted in the United States courts; armies of detectives were sent out for the purpose of ascertaining where men had depredated on the public lands; deputy marshals *ad infinitum* were scattered all over the lower portion of Mississippi; and they came upon the rafts of timber cut by the men of hardy industry in that country and seized all the timber in the Pascagoula and Pearl Rivers. One man who had become notorious in that country was selected as the deputy marshal, acting under the regular marshal of the court, and every single mill—twenty-seven in number—within three miles from the mouth of the Pascagoula was stopped by the dictatorial order of the Interior Department acting through these marshals and deputy marshals. All the mills on the Pearl River, involving millions of dollars in their construction, were stopped. One mill alone had been built within a year at a cost of $175,000. All were obliged to cease operations; and for nine long months this great industry was paralyzed by the policy of the Interior Department in seizing all the lumber in both these rivers.

From Pearl River alone there was a commerce in lumber to the amount of four millions, coastwise and foreign. From the Pascagoula River there was about the same amount. And all of this industry, because of this policy of preventing depredations on the public lands, was absolutely stopped and paralyzed for nine months.

What was the result of these suits? All except twelve were dismissed by the district attorney because there was no proof to sustain them. It was an effort to prosecute innocent men who had become purchasers, because the Government wanted to prevent stealing from the Government property. Nobody wants to protect the thieves. There is no man on this floor who represents a lumber district who would do so. But when Government commences a promiscuous seizure of private property, holding it by its marshals under a special process of a court, we do want to say that innocent parties shall be protected and that these suits thus instituted improperly shall be dismissed upon the payment of the costs and after evidence of that fact has been given to the proper officers of the Government.

I say the policy of the Secretary of the Interior was designed and intended to reach the real thieves; and we do not object to that policy. We do not object to the prosecution of real depredators on the public lands. But when the Government prosecution reached, as it did in a great number of instances, innocent men, then we think the provision of this bill which proposes to dismiss the suits on entry of the public lands and payment of costs is a wise one; that it is a policy which, so far from its being proper to characterize it as the gentleman from Wisconsin did, as a policy of protecting thieves, should be characterized as a policy of shielding innocent men from unjust prosecution by their own Government.

[Here the hammer fell.]

The *pro forma* amendment was withdrawn.

The question being taken on Mr. CONVERSE's amendment, it was adopted.

Mr. CONVERSE. I offer also the following amendment, by direction of the Committee on Public Lands:

In lines 10 and 11, strike out the words "begun before such full payment;" so that it will read, "the defendants in such suits or proceedings shall exhibit to the proper court or officer the evidence of such entry and payment," &c.

The amendment was adopted.

Mr. CONVERSE. I have one more amendment to offer by order of the committee.

The Clerk read as follows:

In line 13, section 1, strike out the word "payment" and insert "entry;" so that it will read, "and shall pay all costs accrued up to the time of such payment."

The amendment was agreed to.

Mr. ROBINSON. I offer the amendment which I send to the desk.

The Clerk read as follows:

In line 8, after the words "said lands," insert as follows:

"In the ordinary clearing of land, in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any *bona fide* settler."

Mr. ROBINSON. I think, Mr. Chairman, the committee will understand what the purpose of that amendment is.

Mr. MAGINNIS. I reserve points of order.

Mr. ROBINSON. I do not know that the amendment is subject to any point of order.

Mr. CONVERSE. Will the gentleman, before he proceeds, allow me to ask him a question?

Mr. ROBINSON. Certainly.

Mr. CONVERSE. I wish to ask the gentleman whether the law does not now authorize timber to be taken from public lands for mining purposes and domestic use?

Mr. ROBINSON. It seems to me the statutes which have been referred to, as the statutes of California, Oregon, Nevada, and Washington Territory, have in them a saving clause similar to the amendment I now offer.

Gentlemen say they want to protect the innocent miner and *bona fide* settler. So I say. I think we are all agreed about that. Let us do that, and let us leave out all talk about the marshals who have paraded over the country. Let us come down to the solid facts. I find in the report of the committee indorsing this bill this language:

It is true that many of the persons thus proceeded against are both legally and morally guilty, and deserve punishment.

And yet the committee bring into this House a bill that would free all those criminals, men upon their own statement that are morally and legally guilty and that deserve punishment.

I want to say I wish to have no part in such a release as that. When the committee say they have before them a class of men that they know are criminals and ought to be punished, I beg them not to pass a law that will in a wholesale manner excuse those parties. I think the committee are called upon either to justify their report or their bill.

I come now to the merits of this proposition. Take the California act, to which my friend from California [Mr. PAGE] has alluded. From an examination of that act I find that an exception of this character was made relieving these persons, but not allowing parties to be relieved when they have cut timber or taken material for export purposes, or by wholesale, as we may say. Yet this committee gives us a bill that will relieve every man, the intentional trespasser as well as the unintentional; the corporation which perhaps may have been organized in some Eastern State and gone out there and stolen this timber from the public lands. If any persons have gone there innocently, without the intent to evade the law and violate it, let them be relieved.

But if persons have gone there knowingly with a full intent to violate and avoid the law, are we to be told that we should enact a law so that when they come to the court and say that they give the Government $2.50 an acre—no, $1.25 an acre—for the land upon which they have committed these trespasses, they shall be excused although we know they are guilty? That is the attitude of this committee and the attitude of this bill. I hope the amendment will be adopted.

Mr. CONGER. Let the section be read as it will be if amended.

The Clerk read as follows:

That when any lands of the United States shall have been entered, and the Government price paid therefor in full, no suit or proceeding, civil or criminal, by or in the name of the United States, shall thereafter be had or further maintained for any trespass upon or for or on account of any material taken from said lands in the ordinary clearing of land, in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any *bona fide* settler, or on account of any alleged conspiracy in relation thereto prior to March 1, 1879, &c.

Mr. HERBERT. It is true that the committee say in their report that some of the persons who will be relieved by this bill are both morally and legally guilty. But it is impossible to enact or pass any general law that will work perfect and exact justice in every case, especially if it be in the nature of an act of general amnesty, which seems to be called for by the circumstances surrounding the parties to be affected by the bill.

The amendment of the gentleman from Massachusetts [Mr. ROBINSON] would confine the relief proposed to be given by this bill to agriculturists and miners and other classes of that kind. Now, is

the laboring-man, who cuts one mast or one spar from one acre and another from another, less deserving before this House than the agriculturist who enters upon land without any right whatever to do so and cuts down every stick of timber upon it, clears up the land, and wears it out absolutely, leaving it worthless to the Government and to all future generations? I cannot see so great a difference between them.

Adverting to the expressions in the report of the committee quoted by the gentleman, this bill does not propose to relieve trespassers from punishment. It is a punishment to a man to compel him to pay all the costs of the suit, and to compel him to enter and pay for at the Government price the land upon which he may have committed a trespass, although he may have taken but a single stick of timber from an acre of land. Under the circumstances it is for the House to judge whether it is not fair and just to pass this general bill relating to all cases that occurred prior to March 1, 1879.

One difference, as I understand, between this bill and the bill relating to the States of California, Oregon, and Nevada is, that that bill operated prospectively, while, as I said before, this bill does not so operate. This bill simply grants amnesty for past offenses under certain circumstances and on certain conditions. It seems to me that those conditions are hard enough. They seemed so to the Commissioner of the General Land Office; they seemed so to the gentlemen of the committee who have considered all the circumstances out of which grew the necessity for this bill.

I appeal to members of this House to do this act of justice, of liberality if they choose so to term it, to these men who have been led by the conduct of the Goverment, by its failure to prosecute them for years and years, to commit trespasses. The Government will lose nothing; it will sell its land, and the costs of the suits which it has instituted will be paid; that is the whole proposition.

The CHAIRMAN. Debate upon the pending amendment has been exhausted.

Mr. WASHBURN. I move to strike out the last word. I hope the amendment offered by the gentleman from Massachusetts [Mr. ROBINSON] will not be agreed to. It would not really change existing law. Parties have at present, as I understand it, substantially the same rights under existing law as they would have should this amendment be adopted, while it would emasculate and utterly destroy the force of the bill under consideration.

The remarks of the gentleman from Michigan [Mr. CONGER] and of the gentleman from Wisconsin [Mr. BRAGG] seem to have quite a familiar sound. I have heard just such kind of talk before. Those in want of legitimate arguments are very likely to ring the changes on the terms "thief," "swindler," "scoundrel," and everything of that kind. It seems to me that it is entirely unfair.

Now, what are the facts. This bill was submitted to the Committee on Public Lands of this House early in the session, and after careful consideration by it was unanimously reported. A similar bill has already been considered by the Committee on Public Lands of the Senate, and unanimously reported by that committee. The Public Lands commission, which was appointed by the President, in its general revision of the land laws has introduced a provision doing precisely what this bill proposes—making a clean sweep of all litigation relating to old trespass cases. The Commissioner of the General Land Office has also recommended the plan of settlement proposed in this bill as the most practicable and equitable that can be had.

Now, there certainly cannot be such swindling and thieving operations as the gentleman would indicate. Such statements place the matter in an entirely false position. The facts are simply these: For many years this Government permitted timber to be cut from the public lands. It was not until the incoming of the present Administration that any efficient steps were taken to put a stop to this practice. This Administration has taken efficient steps in that direction, and I commend it for doing so. Now, in the course of the examination which Government officers have made, they have gone back and found timber cut from the public lands as long as seven or eight years ago, when it was the practice of the Government to permit such cutting. They have traced timber taken at that time into the hands of innocent persons, who paid the full price for it. The Government now demands that these parties shall pay for it a second time. And now suits are being brought against these parties who have already paid for timber which the Government permitted to be cut by others.

Mr. DWIGHT. If they have paid for the timber once how can they be compelled to pay again?

Mr. WASHBURN. They have paid for it once, simply, because they bought the logs in good faith of men who cut them from the Government land; for these logs they have paid the entire value. It is their misfortune that they are put in this position, and they simply ask Congress now to allow them to do what might have been done at the time the logs were bought if they had known a trespass was being committed. They merely ask that they may be permitted to go back and enter the land, paying the Government price therefor.

I am sorry that my friend from Michigan, [Mr. CONGER,] generally so good-natured, is so anxious for the "pound of flesh." It is unlike him. I think the position taken by him is ungenerous and illiberal. I hope the amendment will be rejected, and that the bill will pass as reported from the committee.

Mr. BRAGG. Mr. Chairman, I am not surprised to hear from the gentleman from Minnesota [Mr. WASHBURN] that he has heard something about "timber thieves" before. If the history of the Northwest has been properly reported there are in a congressional district in Northern Minnesota corporations and mill-owners that have largely and often heard the term "timber thieves" applied to them.

What I have stated has been learned by me in the progress of litigation in the courts. I learned that men who it is claimed preserved their honesty and integrity by always purchasing timber in "good faith" had employed worthless, irresponsible men to go out and cut logs, and then bought the logs in "good faith." When they have been followed up and the agents of the Government have been able to show that their "good faith" consisted in knowing that the men from whom they bought the logs, and to whom they furnished supplies, did not own a foot of land in the world, the "good faith" disappears; and hence the term "conspiracy" which finds its way into this bill found its way into the courts, because the courts maintained that the transaction was but a conspiracy in order to protect the wealthy mill-owner from being charged with trespasses upon the public lands by enabling him to allege that he had purchased the timber in "good faith" from A B, or C D, or E F, when in truth he knew that they had nothing to sell.

Now, what I stated to this House was learned in the course of a litigation which took place in the northern part of Minnesota last winter. So great is the evil that in my State a law has been passed by which in the case of lumber taken illegally from private lands the person recovering in an action of trover or replevin obtains three times the value of the property taken, and has the right to have his damages assessed upon the value of the timber in a manufactured state rather than in the rough. I am speaking of things which have a history all through our country and of which the gentleman from Minnesota has undoubtedly heard.

Mr. WASHBURN. I withdraw the *pro forma* amendment.

Mr. BELFORD. I ask that the amendment of the gentleman from Massachusetts be read.

The Clerk read as follows:

After the words "said lands," in the eighth line, insert the following:

"In the ordinary clearing of land in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any *bona fide* settler."

Mr. BELFORD. I move to amend the amendment of the gentleman from Massachusetts by adding the following:

This amendment shall not be construed to repeal or modify the act of June 3, 1878.

Several MEMBERS. That is right.

Mr. CONGER. I suppose there will be no objection to that; but I desire to make a few remarks.

Mr. ROBINSON. Allow me to say that it was not the intention of my amendment to affect that statute at all. If gentlemen will read the statute of 1878, I think they will see that the amendment does in no way affect it.

Mr. PAGE. Then the amendment will do no harm.

Mr. ROBINSON. The statute of 1878 authorizes the taking of timber, &c., for certain specified purposes. No prosecution could be maintained under that act for taking timber for such purposes, because there would be no trespass if the deed was committed in conformity with the act of 1878. Therefore there is no need of inserting this amendment. I have not the slightest objection to it except that it would be, as it were, a blot upon the law.

Mr. PAGE. I think it had better go in, and then there will be no dispute.

Mr. ROBINSON. I suggest to my friend from Colorado [Mr. BELFORD] that it should be inserted, not after the amendment I have submitted, but at the end of the section.

Mr. BELFORD. I withdraw the amendment for the present.

Mr. CONGER. I renew it.

Now, I desire to say, Mr. Chairman, that the amendment offered by the gentleman from Massachusetts covers the entire case advocated by those who spoke upon this bill prior to what I said a few minutes ago. It meets those who are so anxious to protect the settlers, the innocent man, the miner, the man who cuts timber for his house, or for his fire.

I did say perhaps that would not cover all of these cases. I find there is another class of cases alluded to and brought out by this amendment. It is claimed this is of no particular benefit to those who seek relief under this bill. I venture to say that is so; that this bill was not intended at all for miners and settlers, or for the building of houses or cutting timber for their fires or fencing their farms. I have used no words in regard to this case except these were trespassers upon the property of the United States. I have used no other expression. I carefully avoided it. It is strong enough for my purpose to talk of trespassers upon the property of the United States.

If this amendment is adopted, I have no objection to this section of the bill, and shall vote for it very cordially, for that is the class of men I desire to protect, and it is a class of men suggested by gentlemen who favor this bill that they desire to protect. Now, let us see if in good faith that shall be done.

I withdraw the formal amendment.

Mr. DWIGHT. I move to strike out the last word.

Now, Mr. Chairman, if I understand this bill, its title should be

amended so as to read "a bill to condone crime and invite trespass and encourage theft."

As the bill is proposed to be amended, it certainly protects the settler, and if it is the object of those who have introduced it, in good faith to protect the settler and those who use timber because they absolutely need it, then they will vote for that amendment of the gentleman from Massachusetts. But to pass the bill in the terms in which it has been reported from the Committee on Public Lands would, it seems to me, allow a man of straw, not owning a foot of land in the world, to go out into the country upon the public domain where there is timber and to cut it and sell it to those who need timber for the purpose of manufacturing lumber. The latter will take large quantities of it and they must know when they purchase it that the man who sells it to them does not own any timber, but that in order to furnish it he has committed a trespass upon the public lands. The trespasser furnishes a large amount of timber to manufacturing establishments and the latter get the benefit of his theft. Now, somebody should be made responsible. This man of straw may easily be set up where the object is to cheat the Government and to protect the man who has purchased the timber unlawfully taken from the public lands. The man who purchases that timber should be made responsible to know of whom they purchase.

There can be no valid objection, Mr. Chairman, in holding men to a strict account for their criminal acts. If they do trespass and commit theft, they should be made responsible for it. There is no hardship in that whatever. You certainly should not permit men to range all over the public domain and cut and trespass and steal the very best timber upon it. Nor is it right when they are caught three or four or five years after the theft has been committed, to allow them to pay only what they would be required to pay by the law in the beginning, cheating the Government out of the interest in the mean time.

But you do more than that here; you give lands for railroad purposes, granting alternate sections for the sake of having the railroads constructed and the lands thereby opened up to settlers. You encourage, by the provisions of this bill, men to go upon the public lands and steal timber from them, and then, if they are caught, you condone the offense by allowing them to pay only one-half what they would be required to pay in the beginning. It is wrong in principle and must result in wrong all the way through. I am therefore opposed to its passage.

Now, you do not deal with other thieves in this way. You do not condone crimes generally in any such manner. Why, therefore, make a special rule here offering an inducement for men to become timber thieves with the promise of condoning their offense? I can see no good reason in the world why men who steal timber should not be held to the same account with other thieves under the law, and be made equally responsible for their wrong-doing.

Any one who objects to the adoption of the amendment moved by the gentleman from Massachusetts has some other theory. It means something beyond what appears on its face. I know it is easy to say we deal harshly with these men. There is no harshness, sir, in dealing with thieves and trespassers upon the public domain in the country as other thieves and trespassers are dealt with. I withdraw my formal amendment.

The question recurred on Mr. ROBINSON'S amendment.

The committee divided; and there were—ayes 44, noes 63.

Tellers were ordered; and Mr. CONVERSE and Mr. ROBINSON were appointed.

The committee again divided; and the tellers reported—ayes 47, noes 72.

Mr. CONGER. That is not a quorum. If, however, the gentleman in charge of this bill agrees that this amendment may be offered in the House before the previous question is demanded, so we may have a vote upon it there, I will not make the point that no quorum has voted.

Mr. CONVERSE. I will make that agreement.

Mr. CONGER. Very well; I withdraw the point of order.

So the amendment was rejected.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, announced the passage, without amendment, of the bill (H. R. No. 4214) to amend and re-enact sections 2552 and 2553 of the Revised Statutes.

It further announced the passage of the following bill; in which concurrence was requested:

A bill (S. No. 1331) to authorize a retired list for the non-commissioned officers of the United States Army who have served therein honorably and faithfully for a period of thirty years or upward, and for other purposes.

PUBLIC LANDS OF THE UNITED STATES.

The committee resumed its session.

Mr. POEHLER. I offer the following amendment to this section:

Insert between the words "and" and "the," in line 4 of section 1, the word "double;" so that if amended it will read:

"That when any lands of the United States shall have been entered and double the Government price paid therefor, &c.

Mr. Chairman, I do not know who this bill affects in other States. I know what its effect would be in my own State. It affects the trespassers upon the public lands who ought to be subject to and who deserve some punishment. This is done not by persons who are ignorant of the wrong they do or who are innocent of any purpose of wrong, but it is done by those who know well what they are doing, and I offer this amendment as a slight punishment. I think it is very liberal, and I hope it will be adopted.

Mr. CONVERSE. I desire to say upon this amendment that in my judgment it ought not to be adopted. But more especially I desire to say that there is but one proposition in this bill and we desire, if possible, to perfect the bill as far as we can and then to come to a vote upon that main proposition.

I do not believe this Government has ever prosecuted to any considerable extent persons who cut timber for domestic or mining purposes on public lands and used in the ordinary way. The law, as I understand it, now authorizes timber to be taken from the public lands for purposes of mining and domestic use. The fact is that this bill is intended to compromise a large number of lawsuits already begun and others to be begun. This compromise is made in the interest not of revenge, but is made in the interest of economy. If these suits are to be prosecuted all over the country there is no result in revenue. It does not add a dollar to the revenues of the Government. It adds to lawyers' fees. It adds to court costs and the business of hunting them up. All that will be realized from it, and more too, but nothing will result to the Treasury.

Now, the question is, whether it is the best policy to pursue these prosecutions or whether it is better to let them pay for the lands, pay the costs of the court, and let the matter rest there. That is all there is in this bill. I beg gentlemen to allow us to go on and perfect the bill as rapidly as possible and then come to a vote on the main proposition connected with it, as there is much more business which the Committee on Public Lands desire to bring before the House and have considered at this time.

The CHAIRMAN. The question is on the adoption of the amendment offered by the gentleman from Minnesota.

The House divided; and there were—ayes 32, noes 50.

So the amendment was not agreed to.

Mr. BRAGG. I offer an amendment to line 12.

The Clerk read as follows:

Amend by inserting, after the word "costs," in the twelfth line of the first section, the words "and expenses."

Mr. BRAGG. I understood from the gentleman, the chairman of the Committee on the Public Lands, that this condonation of all these offenses and the settlement of these suits against trespassers is urged upon the ground that it was an economic measure. Now, the bill as it stands provides merely that those persons who shall have cut timber on the public lands may, if they desire to have the offense condoned, be permitted to do so simply by coming into court and paying the costs which have been incurred and the value of the land.

Now, what does the committee mean by "costs?" Do you mean the taxable costs in the Federal courts? If so, the taxable costs proper in the Federal courts are merely nominal—the docket fee and the witnesses, if they have been subpœnaed. In criminal cases they are also merely nominal—simply fees, &c., for docketing the case.

The Government has appropriated fifty to a hundred thousand dollars a year to investigate this fraudulent trespassing upon its property and this depredation upon the public domain. An agent of the Government we say is sent to my own State, as I know one was sent last year. This agent goes into the pinery and spends the whole winter traveling from camp to camp to ascertain what camp is cutting logs on the Government lands, and, after having the proper evidence to lay before the district attorney, he goes to where the United States court is held, at the city of Milwaukee, and there lays the proof before the district attorney, which evidence is submitted to the grand jury. The grand jury meet, the witnesses are sworn, the grand jury find their bill, and the persons against whom the indictment is found or suit commenced, so soon as they ascertain that the proof has been already properly prepared sufficient to convict and secure judgment against them, propose to settle upon the payment of costs. I think they should be compelled to pay the costs and expenses to which the Government has been put in sending its agents into the pinery for the purpose of ferreting out the trespassers upon the public lands. While technically this is not to be added to the costs, still it is really the great expense incurred in it. For that reason I do not think this bill goes far enough in the way of penalties and it is important that these words should be added.

Mr. CONVERSE. It is very impracticable to undertake in a bill like this to require the expenses to be paid in the settlement of these suits. It will be far better if the defendant be allowed to go into court and pay the costs.

The money expended in hunting up those persons engaged in trespassing upon the public lands might be a very considerable sum, and it would be a matter of injustice if the whole expense incurred in this search should be levied upon one defendant who might be the only one caught in the act. There would be nothing at which the court or anybody else could get in order to compute that portion of the expenses.

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

Mr. CONVERSE. Yes, sir.

Mr. BRAGG. Suppose an agent goes from here to a certain county in Wisconsin. He spends the winter in examining the lumber camps. He finds that five lumbermen are engaged in the business

of trespassing on the public lands; he goes to Milwaukee, enters a complaint, and has indictments found against those five men. What are his expenses? His expenses are what the Government has paid for the time he has been engaged in ferreting out the facts on which those actions are based.

Mr. CONVERSE. That is a small portion of the expense. The agent's expense is his salary from the time he starts from Washington—his hotel bill, his wash bill, every payment he has to make; and if he is obliged to hire a conveyance in going from one camp to another, his expenses will embrace that. They will embrace all the extras of this jaunt; and if you undertook to get to the bottom facts, it would be difficult to tell which was the biggest thief of the two, the man who had trespassed or the man who was sent out to detect trespassers, and who had charged whatever he thought fit to charge in the shape of expenses in the prosecution of trespassers.

The result would be no settlements whatever would be made; and it would be far better to defeat this bill and let the law take its usual and ordinary course.

But there are already in the courts a large number of these cases. They are consuming the time of the people; witnesses are spending their time; court costs are accumulating; and you cannot prosecute whole communities. It is not the policy of the Government to prosecute whole communities. The bill is to prevent trespasses in the future; and if the Government receives pay for the timber that has been cut and stops the trespasses in the future, it is all that the Government, it seems to me, ought to ask, and all that in fact it does ask. This bill will go far toward stopping trespasses in the future on the public lands.

I hope we may be allowed to perfect the bill as far as we can, and then take the vote on the single proposition whether we will allow those actions to be settled or whether we will let the cases go on.

The question being taken on Mr. BRAGG'S amendment, to insert the words "and expenses" after the word "costs," in line 12 of section 1, it was not agreed to.

Mr. BRAGG. I withdraw the motion to strike out the section.

The Clerk read section 2, as follows:

SEC. 2. That persons who have heretofore under any of the homestead laws entered lands properly subject to such entry, or persons to whom the rights of those having so entered for homesteads, may have been attempted to be transferred by *bona fide* instrument in writing, may entitle themselves to said lands by paying therefor $1.25 per acre, and the amount heretofore paid the Government upon said lands shall be taken as part payment of said price: *Provided*, This shall in no wise interfere with the rights or claims of others who may have subsequently entered such lands under the homestead laws.

Mr. CONVERSE. I am instructed by the committee to offer the following amendment:

In lines 6 and 7 strike out the words "one dollar and twenty-five cents" and insert in lieu thereof the words "the Government price;" so that it will read:

"By paying therefor the Government price per acre."

Mr. BRAGG. I would like to inquire of the gentleman from Ohio what that means?

Mr. CONVERSE. The object is where lands are rated at $2.50 or a higher price the parties shall be permitted to pay the Government price.

Mr. BRAGG. Is it not rather the purpose that where lands would be subject to entry under the graduation act they may be bought at twenty-five cents or fifty cents or seventy-five cents an acre?

Mr. CONVERSE. I understand there is no law now in force whereby lands can be entered under the graduation act. I understand that $1.25 an acre is the lowest Government price.

Mr. CONGER. I suppose the object is to bring in the graduated lands that come down to seventy-five cents, fifty cents, and for a certain number of years twenty-five cents an acre. That, it seems to me, is the effect of this amendment.

Mr. CONVERSE. I suggest to the gentleman from Michigan to offer an amendment providing that the parties shall pay not less than $1.25 an acre.

Mr. CONGER. That will do. I offer the amendment in this form:

In line 8, strike out the words "$1.25 per acre" and insert in lieu thereof "the Government price, and in no case less than $1.25 per acre."

Mr. CONVERSE. I accept that as a substitute for mine.

The amendment was agreed to.

Mr. BARBER. I offer as an addition to the section the amendment which I send to the desk.

The Clerk read as follows:

And provided, That when settlers under the homestead laws are compelled to abandon claims in consequence of a general failure of crops by reason of drought or other cause, the right to perfect title shall remain for the period of two years.

Mr. BARBER. I do not profess to have any peculiar knowledge on this subject; but I received through the mail last evening a letter originally addressed to a friend of mine in Chicago, on this subject, which I desire to have read in support of the proposition I have offered.

The Clerk read as follows:

MILLBROOK, *May* 10, 1880.

HONORABLE SIR: I thought I would write to you for a little advice and assistance, if you could give it. I am now in Kansas on a homestead, and we are having a very dry spring in this part, (Graham County,) and we fear we shall be obliged to abandon our claims for a time, and, if so, under the present laws will be sure to lose them with all our improvements, for men are coming in with money enough to carry them through, that are ready to jump our claims as soon as we leave. Now could there not be sent in to Congress by some of you men of influence in time to help us to two years of absence from our claims, and still hold them? We have worked hard and lived close in order to make our homes here, the soil is good, and the prospects fair to be a rich country when once under cultivation. If you can do anything or advise us so that we can do anything in order to hold our homes and yet go where we can get employment and live, there will be many thankful hearts.

Yours, respectfully,

ELI CORBIN,
(Millbrook, Graham County, Kansas,)
Formerly sergeant Company L, Seventeenth Illinois Cavalry.

Mr. RYAN, of Kansas. I want to say to the gentleman from Illinois that on the 26th day of last month a bill passed this House providing a complete remedy for such cases. It obtained the unanimous consent of the House to be brought before it for consideration and it passed the House unanimously. It provides that all such parties may have a leave of absence from their claims until October 1, 1881, and that in the mean time no adverse rights shall attach to their claims. It gives to the pre-emptor one year after expiration of leave of absence in which to perfect his title and make final payments. That bill is now pending in the Senate and I am informed is likely to become a law in a very few days.

Mr. BARBER. Then the object I had in view in bringing this to the attention of the House is accomplished. I withdraw the amendment.

The Clerk read as follows:

SEC. 3. That the price of lands now subject to entry which were raised to $2.50 per acre more than twenty years prior to the passage of this act by reason of the grant of alternate sections for railroad purposes is hereby reduced to $1.25.

Mr. CONVERSE. I move to amend the section just read by adding the words "per acre;" so that it will read "reduced to $1.25 per acre."

Mr. PAGE. I would ask the gentleman if he will not also agree to strike out "twenty years" and insert "ten years?"

Mr. POEHLER. I have an amendment to offer which will reach that point.

Mr. ANDERSON. I desire to ask whether the price of lands within railroad limits was not fixed at $2.50 per acre by the act of 1864, or whatever act it was that granted these lands to railroads? And then I desire to ask this further question: whether, if that be so, we can now reduce the price of those lands from $2.50 to $1.25 per acre? in other words, whether we have now the power to make that reduction in price? I am most heartily in favor of the reduction if it can be made. I ask for information on this point, for the reason that in my judgment this will not be an operative provision; it is held out as a boon which will simply prove to be valueless.

Mr. CONVERSE. I have no doubt that Congress has the power to reduce the price of land within the limits of railroad land grants.

Mr. RYAN, of Kansas. There can be no doubt about that.

Mr. CONVERSE. This section applies to lands granted more than twenty years prior to the passage of this act; which will be several years prior to the date of the act to which the gentleman refers.

Mr. PAGE. I desire to move to amend the section so as to strike out "twenty years" and insert "ten years." It seems to me that where land has been upon the market for ten years at $2.50 per acre and has not been sold it is time the price was reduced to $1.25 per acre.

Mr. CONVERSE. That amendment has no relation to the one I have offered.

Mr. PAGE. Well, I will withdraw it now.

The amendment offered by Mr. CONVERSE was agreed to.

Mr. POEHLER. I move to strike out the words "more than twenty years prior to the passage of this act," and to add to the section the words "to all actual settlers." The section will then read:

That the price of lands now subject to entry which were raised to $2.50 per acre by reason of the grant of alternate sections for railroad purposes is hereby reduced to $1.25 per acre to all actual settlers.

The object of my amendment is to place all lands within the limits of railroad grants at a dollar and a quarter per acre. I think that is a timely amendment to our land law. I think that actual settlers ought to be allowed to take these lands at that price; and therefore I have moved this amendment.

Mr. CONVERSE. I hope the amendment will not be adopted. It is foreign to the provisions of this bill—is not germane to the bill. If my friend from Minnesota [Mr. POEHLER] is in favor of such a law as that, let him bring in a bill upon the subject and we will consider it by itself.

The amendment of Mr. POEHLER was not agreed to.

The Clerk read the following:

SEC. 4. This act shall not apply to any of the mineral lands of the United States; and no person who shall be prosecuted for or proceeded against on account of any trespasses committed or material taken from any of the public lands after the passage of this act shall be entitled to the benefit thereof.

Mr. CONVERSE. By instructions of the Committee on the Public Lands I move to amend the section just read by striking out the words "the passage of this act" and inserting in lieu thereof the words "March 1, 1879;" so as to make this section conform to the other sections of this bill as they have been amended.

The amendment was agreed to.

Mr. CONVERSE. I have one more amendment to offer by instructions of the committee. It is to add to section 4 the following proviso:

Provided, This act shall not apply to lands in California, Oregon, Nevada, or Washington Territory.

Mr. POEHLER. Will the gentleman explain the reason for that amendment?

Mr. CONVERSE. I will. The act of June 3, 1878, contains this section:

SEC. 5. That any person prosecuted in said States and Territory for violating section 2461 of the Revised Statutes of the United States who is not prosecuted for cutting timber for export from the United States may be relieved from further prosecution and liability therefor upon payment, into the court wherein said action is pending, of the sum of $2.50 per acre for all lands on which he shall have cut or caused to be cut timber, or removed or caused to be removed the same: *Provided*, That nothing contained in this section shall be construed as granting to the person hereby relieved the title to said lands for said payment; but he shall have the right to purchase the same upon the same terms and conditions as other persons, as provided hereinbefore in this act: *And further provided*, That all moneys collected under this act shall be covered into the Treasury of the United States. And section 4751 of the Revised Statutes is hereby repealed, so far as it relates to the States and Territory herein named.

It will be seen that trespassers in the States and the Territory excepted by the proviso I have offered are covered by the section of the act of 1878 which I have read.

Mr. PAGE. Does the gentleman from Ohio [Mr. CONVERSE] understand that this bill is in any way in conflict with the act of 1878?

Mr. CONVERSE. It might be so construed, unless the exception is made which I have here moved.

Mr. HERBERT. We do not want to repeal the act of 1878.

Mr. RYAN, of Kansas. This amendment is necessary out of an abundant caution.

The amendment was agreed to.

Mr. DOWNEY. I move to amend section 4 by adding thereto that which I send to the Clerk's desk.

The Clerk read as follows:

Provided, That in the State of Colorado, and in all the Territories of the United States, the citizens thereof may take from the public lands such timber as they may need for domestic and other uses within the said State and Territories; *Provided further*, That no timber shall be taken from the public lands for exportation or sale outside of the limits of the said State or Territories.

Mr. DOWNEY. Mr. Chairman, it will be observed by referring to the act approved June 3, 1878, that it contains the language "mineral lands." In other words, the people of the Territories referred to have the right, according to the ruling of the Secretary of the Interior, to go upon surveyed mineral lands and take timber for domestic purposes; but the very minute they go outside of surveyed mineral lands he claims that they are trespassers, and that, if this is a hardship, it is the fault of this legislative body, not his fault.

The act of June 3, 1878, is objectionable with the construction placed upon it by the Secretary of the Interior. In the Territory which I have the honor to represent, embracing about four hundred miles in each direction, we have surveyed mineral lands to the extent of perhaps twenty or thirty townships; the remainder of the land in our Territory, agricultural, pastoral, and otherwise, is not mineral. Hence no actual settler in our Territory who is not a miner and not adjacent to the mineral belt has any right to take any public timber for domestic purposes of any kind.

Mr. CONVERSE. Will the gentleman allow me to call his attention to the law?

Mr. DOWNEY. I have it before me.

Mr. CONVERSE. Let it be read. It settles the question. It authorizes everybody to take timber for domestic purposes.

Mr. DOWNEY. Before the act is read I will state that the Delegates from Idaho and Montana and the Representatives from Colorado and Oregon, in company with myself, held a consultation with the Secretary of the Interior upon this very point. His regulations as issued declare as his construction of the law that except upon surveyed mineral lands the people of the States and Territories named in the act of June 3, 1878, have no right to take any timber. This is a matter of great importance to our people; they are constantly harassed upon this subject. There is a timber agent in our Territory now who is giving great trouble to the actual settlers. I desire that the first section of the act of June 3, 1878, be read. It will be observed that the word "mineral" is used throughout.

Mr. CONVERSE. Oh, no!

The Clerk read as follows:

An act authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes.

Be it enacted, &c., That all citizens of the United States and other persons, *bona fide* residents of the State of Colorado, or Nevada, or either of the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, or Montana, and all other mineral districts——

Mr. DOWNEY. That is the point—"mineral districts."

The Clerk (continuing) read as follows:

of the United States, shall be, and are hereby, authorized and permitted to fell and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said States, Territories, or districts of which such citizens or persons may be at the time *bona fide* residents, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other purposes: *Provided*, The provisions of this act shall not extend to railroad corporations.

Mr. DOWNEY. Now, Mr. Chairman, it will be observed that this act applies only to mineral lands. In the Territory of Wyoming there is a range of country three hundred miles in length by two hundred and fifty in width within which there are no mineral lands. Under the law as construed by the Secretary of the Interior actual settlers in that part of the Territory cannot go to the Medicine Bow range of mountains to get their timber. All I ask is that these settlers in any part of the Territories may be permitted to take for actual domestic purposes timber necessary to fence their claims, to make their fires, to build their houses.

Mr. PAGE. Does the gentleman offer his amendment as an additional section?

Mr. DOWNEY. No, sir.

Mr. PAGE. I think it had better be offered in that form.

Mr. DOWNEY. I have no objection.

The CHAIRMAN. The amendment of the gentleman from Wyoming will be read.

The Clerk read as follows:

After the proviso just adopted insert the following:

"*Provided further*, That in the State of Colorado and in all the Territories of the United States the citizens thereof may take from the public lands such timber as they may need for domestic and other uses, within the said State and Territories: *And provided further*, That no timber shall be taken from the public lands for exportation or sale outside of the limits of the said State or Territory."

Mr. CONVERSE. I think that amendment is in conformity with the existing law, with a single exception. If the gentleman will limit the amendment by striking out the words "and other" after the word "domestic," and will strike out at the end of the amendment the words "outside of the limits of the said State or Territory," I have no objection to the amendment.

Mr. DOWNEY. I am willing to modify the amendment in any way so that the settlers shall have the right to take timber for domestic purposes. I accept the modification suggested by the gentleman from Ohio.

The question being taken on agreeing to the amendment of Mr. DOWNEY, as modified, there were—ayes 28, noes 25.

Mr. ATHERTON. I make the point that no quorum has voted. I want tellers. I think that gentlemen ought to vote when we are giving away the timber on the public lands of the Territories.

Tellers were ordered; and Mr. ATHERTON and Mr. DOWNEY were appointed.

The committee divided; and the tellers reported—ayes 34, noes 39.

So the amendment was not agreed to.

Mr. WHITE. I move to amend by inserting as an additional section what I send to the desk.

The Clerk read as follows:

SEC. —. That so much of section 2309 Revised Statutes as provides "but such claimant in person shall within the time prescribed make his actual entry, commence settlements and improvements on the same, and thereafter fulfill all the requirements of law" shall be so altered and amended as to read "but such claimant shall in person or by tenant *bona fide*, employed by such claimant to act in his place and for him, within the time prescribed, make his actual entry, commence settlements and improvements on the same, and thereafter otherwise fulfill the requirements of law."

Mr. WHITE obtained the floor.

Mr. HERBERT. I make the point of order that this amendment is not germane to the present bill. So far as the amendment itself is concerned, I dislike very much to oppose it. I am in favor of such a provision if offered in a separate bill and will heartily support it, but it is certainly not germane to the pending proposition and is only loading it down with provisions foreign to its purpose. I therefore insist on the point of order.

Mr. WHITE. I regret exceedingly the gentleman from Alabama has raised at this stage the point of order which he has stated. I do not, however, think it is well taken. And one word on that subject.

It will be observed this is a bill which is entitled "a bill relating to the public lands of the United States." The first section is in the nature of a condonement of certain trespasses and offenses committed against the public lands. The second section provides specifically for preserving the rights of persons who have purchased by instruments in writing from actual settlers looking to a method of acquiring title to the public lands. The third section graduates the prices of certain public lands. Consequently the purpose of the bill is to regulate the method and manner of acquiring title to public lands of the United States.

Now, the amendment I offer is germane to the subject-matter of the bill itself, because it indicates a method of acquiring title not already provided for by law. So much for the point of order.

Mr. HERBERT. Before the gentleman gets to the merits of the question I wish to say——

Mr. WHITE. To continue further on the point of order, [laughter,] I find here by section 2309 of the Revised Statutes, which is the section referred to in the proposed amendment, the following:

Every soldier, sailor, marine, officer, or other person coming within the provisions of section 2304,—

That is as to the time of service—

may, as well by an agent as in person, enter upon such homestead by filing a declaratory statement, as in pre-emption cases.

What I refer to in the amendment are the words which come after what I have read.

But such claimant in person shall within the time prescribed make his actual entry, commence settlements and improvements on the same, and thereafter fulfill all the requirements of law.

The change I make is that instead of requiring the soldier to go upon the land in person, giving him credit for his time and service, to allow him to employ a *bona fide* tenant. I do this so that constituents of my friend from Indiana who were soldiers, and so that the

constituents of other gentlemen upon this floor who served during the war, may have the privilege, if this amendment shall prevail, of employing *bona fide* tenants, and thereby at the end of five years acquire title to their land.

This, I submit, is in the interest and policy of the legislation of 1872. And if this House desires in this respect to deal substantial kindness to the soldiers of the country in the manner of offering the public lands to them they will at once adopt the amendment I have moved. For, I submit, as the law now is it is practically nugatory. It requires soldiers shall go upon the land themselves, and only in the very smallest number of cases is that done.

Mr. Chairman, the amendment is germane to the bill, and its policy is such as to commend it to the approval of the House.

Mr. HERBERT. There is nothing in relation to regulating the manner of acquiring title to lands in this bill.

Mr. WHITE. Certainly there is.

Mr. HERBERT. I say the point of order I raise is a good one, and that the amendment is not germane to the pending bill.

Mr. WHITE. What does section 2 provide?

That persons who have heretofore under any of the homestead laws entered lands properly subject to such entry, or persons to whom the rights of those having so entered for homesteads may have been attempted to be transferred by *bona fide* instrument in writing, may entitle themselves to said lands by paying therefor $1.25 per acre, and the amount heretofore paid the Government upon said lands shall be taken as part payment of said price: *Provided*, This shall in no wise interfere with the rights or claims of others who may have subsequently entered such lands under the homestead laws.

My amendment is cognate to the subject-matter of that section, as it is also to the subject-matter of the third section.

Mr. CONVERSE. This bill simply proposes to arrange with persons who are guilty of trespassing upon the public lands. I hope my friend from Pennsylvania will not endeavor to mix up homestead rights of soldiers with this bill. There is already a bill pending before the House making provision for such persons.

Mr. WHITE. There is no hope of reaching or passing it except in this way.

Mr. CONVERSE. If the gentleman will introduce a bill on that subject, or move to take the pending bill up, I do not think there will be a single objection to it.

Mr. WHITE. I have introduced a bill.

Mr. CONVERSE. I hope the gentleman will not put it on this bill.

Mr. RYAN, of Kansas. There is one more point of order I desire to call to the attention of the Chair; that is, according to the statement of the gentleman from Pennsylvania himself, this amendment is the substance of a pending bill, and therefore not in order as an amendment?

Mr. WHITE. There is no pending bill on this particular matter. There is a pending bill on the subject, but not of this character.

Mr. RYAN, of Kansas. In substance it is the same.

Mr. WHITE. No, sir; I deny it.

Mr. RYAN, of Kansas. What is it?

Mr. WHITE. There is a bill to amend section 2304.

The CHAIRMAN. The facts presented in the point of order raised against the amendment of the gentleman from Pennsylvania show substantially this state of case: that the pending bill affects the settlement of conflicting interests between parties who have been guilty of depredations upon the public lands and the Government; and also makes provision for the sale of these lands to these parties, how they may be bought by them at a specified price to be paid, &c., and hence affects the title or the mode of conveying title to the public lands to a certain extent, and is therefore connected with the general subject of the disposition, sale, &c., of the public lands. This is clearly and obviously the object and import of this bill.

Now there is a statute in force making provision for certain homestead pre-emptions or locations of public lands by those persons who have performed military services, &c., and which of course relates to the disposition, &c., of the public lands. The gentleman from Pennsylvania seeks by offering this amendment to the bill now pending to modify or amend a portion of that statute.

The only rule bearing upon this question known to or which occurs to the present occupant of the chair is the latter clause of the seventh paragraph of Rule XVI, and is in the following words:

And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment.

This amendment, as it strikes the Chair, is not different, but is on the same line and touches the same subject-matter as that involved in the pending bill, both and equally alike relating to the disposition of the public lands. The point of order is therefore overruled.

The question is on the amendment offered by the gentleman from Pennsylvania.

Several members demanded the reading of the amendment.

The amendment was again read.

Mr. ROBINSON. Mr. Chairman, I do not wish to speak of the merits of the question, but simply as to the form of the proposition. As the gentleman has sent it up it will lead to confusion. The gentleman's proposition is to amend this section of the statutes so that it will read in manner as he suggests; but his amendment affects only two or three lines. I think there is great objection to changing a statute in that way. It would be much better to rewrite the whole statute.

Mr. WHITE. My friend from Massachusetts is all right, but I change simply the last three lines of this section and in reference to a subject that is connected with this pending proposition, and thereby make the section homogeneous and harmonious.

Mr. ROBINSON. I do not think it is a wise plan to change a statute in that way. [Cries of "Question!" "Question!"]

The committee divided; and there were—ayes 4, noes 45.

Mr. WHITE. I am disgusted with the friends of the soldier. [Laughter.]

Mr. CONVERSE. I move that this bill be laid aside to be reported favorably to the House.

The motion was agreed to.

The CHAIRMAN. The Clerk will report the next bill on the Calendar.

The Clerk read as follows:

A bill (H. R. No. 269) supplemental to an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862.

Mr. CONVERSE. I object to the consideration of that bill, and also to the consideration of the next bill on the Calendar, No. 1059, and ask to have these passed over. We have not time to discuss them, and there are other matters of importance that we desire to dispose of to-day.

Mr. WRIGHT. That bill, Mr. Chairman, was reported in the early part of the session, and I have been anxiously waiting to have an opportunity of getting a hearing for it.

The CHAIRMAN. Objection being made to the consideration of the bill the title of which has just been read, the committee will now rise to report the objection to the House.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPARKS reported that the Committee of the Whole on the state of the Union, having the calendar of reports from the Committee on the Public Lands generally under consideration, had reached the bill H. R. No. 269, when objection was made to its consideration, and under the rules the committee had risen for the purpose of reporting that objection to the House.

The SPEAKER. The question is, will the House direct the committee to lay aside the bill?

Mr. WRIGHT. I ask to be heard with regard to that matter.

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

Mr. WRIGHT. I wish to know, if we pass the bill over now, will it lose its place on the Calendar?

The SPEAKER. It will not lose its place, but its present consideration.

The question was taken; and upon a division there were—ayes 67, noes 15.

So the House directed the committee to lay aside the bill.

The Committee of the Whole resumed its session.

The CHAIRMAN. The Clerk will report the title of the next bill.

The Clerk read as follows:

A bill (H. R. No. 1059) to authorize the Secretary of the Interior to ascertain and certify the amount of land located with military warrants in the States described therein, and for other purposes.

Mr. CONVERSE. I object to the present consideration of that bill.

The CHAIRMAN. Objection being made, the committee will rise and report the objection to the House.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPARKS reported that the Committee of the Whole on the state of the Union, having the calendar of reports from the Committee on the Public Lands generally under consideration, had reached the bill H. R. No. 1059, when objection was made to its present consideration, and under the rules the committee had risen for the purpose of reporting that objection to the House.

The SPEAKER. The question is, will the House direct the committee to lay aside the bill?

The question was taken; and it was decided in the affirmative.

So the House directed the committee to lay aside the bill.

The Committee of the Whole resumed its session.

The CHAIRMAN. The Clerk will report the next bill.

GRANT OF A BAYOU TO COUNCIL BLUFFS.

The next bill on the Calendar reported by the Committee on the Public Lands was the bill (H. R. No. 1064) to grant to the corporate authorities of the city of Council Bluffs, in the State of Iowa, for public uses, a certain lake or bayou situated near said city.

The bill was read, as follows:

Be it enacted, &c., That there shall be, and is hereby, granted to the corporate authorities of the city of Council Bluffs, in the State of Iowa, and their successors in office, the meandered lake, situated in sections 11, 13, 14, 15, 22, and 23, in township 75 north, range 44 west of the fifth principal meridian of Iowa, upon the express conditions that the premises shall be held for public use, resort, and recreation; shall be inalienable for all time; but leases not exceeding ten years may be granted for portions of said premises, all incomes derived from leases of privileges to be expended in the preservation and improvement of the property, or the roads leading thereto; the boundaries to be established, at the cost of the corporation of the said city of Council Bluffs, by the United States; and the official plat, when affirmed by the Commissioner of the General Land Office, shall constitute the evidence of the *locus*, extent, and limits of the said meandered lake; the premises to be managed by the said corporate authorities, or such commissioners as they may elect, and who shall receive no compensation for their services. And the said corporate authorities may proceed, under the laws of the State of Iowa, to condemn and take for the public use any and all lands on the border of said lake, not to exceed in extent a belt or strip six hundred and sixty feet in width along the meandered marginal line of said lake.

The following amendment was reported by the Committee on the Public Lands:

Strike out all after the word "services" to the end of the bill, namely, these words: "And the said corporate authorities may proceed, under the laws of the State of Iowa, to condemn and take for the public use any and all lands on the border of said lake, not to exceed in extent a belt or strip six hundred and sixty feet in width along the meandered marginal line of said lake."

Mr. SAPP. I am instructed by the Committee on the Public Lands to offer the amendments which I send to the desk.

The Clerk read as follows:

In line 3, strike out the word "granted" and insert "conveyed."

In line 5, after the word "office," insert the words "the title of the United States to."

Strike out all from the word "thereto," in line 14, to the word "lake," in line 19, inclusive.

Mr. CONGER. Let the bill be read as it is proposed to be amended.

The Clerk read as follows:

Be it enacted, &c., That there shall be, and is hereby, conveyed to the corporate authorities of the city of Council Bluffs, in the State of Iowa, and their successors in office, the title of the United States to the meandered lake, situated in sections 11, 13, 14, 15, 22, and 23, in township 75 north, range 44 west of the fifth principal meridian of Iowa, upon the express conditions that the premises shall be held for public use, resort, and recreation; shall be inalienable for all time; but leases not exceeding ten years may be granted for portions of said premises, all incomes derived from leases of privileges to be expended in the preservation and improvement of the property, or the roads leading thereto; the premises to be managed by the said corporate authorities, or such commissioners as they may elect, and who shall receive no compensation for their services.

Mr. REAGAN. How much land does this bill convey?

Mr. SAPP. The bill does not convey any land. It simply conveys a lake that is fed by two large springs, that lake being about a mile and a half in length and half a mile in width.

Mr. BRIGHT. Is the land covered by water?

Mr. SAPP. I suppose there is land under the lake when you go down below the water. But this is a lake which has been there as long as any one has known anything about that country.

I would like to say further in reply to suggestions by some gentlemen around me that it is not salt water, and yet there are fish in it. [Laughter.]

The question being taken on the amendments reported by the committee, they were adopted.

Mr. SAPP. I move that the bill, as amended, be laid aside to be reported favorably to the House.

The motion was agreed to.

SURVEY IN CRAWFORD COUNTY, WISCONSIN.

The next bill on the Calendar reported by the Committee on the Public Lands was the bill (H. R. No. 4596) authorizing the survey of parts of certain townships in Crawford County, Wisconsin, and making an appropriation therefor.

The bill was read, as follows:

Be it enacted, &c., That the Commissioner of the General Land Office is hereby directed to cause to be surveyed that part of townships numbered 9 and 10 north, of range 4 west, in the county of Crawford, State of Wisconsin, which lies east of the Kickapoo River, this part of said townships having never been properly surveyed; and that there be appropriated, out of any money in the Treasury not otherwise appropriated, a sum sufficient to pay the expense thereof, not exceeding $1,000.

Mr. SAPP. Mr. Chairman, I want to say one word in explanation of this bill. It provides for a survey of part of two townships in the county named in the bill, in the State of Wisconsin, that were not surveyed at the time the public surveys were made. Although they were mapped and platted and returned to the office of the Commissioner of the General Land Office, they were in point of fact never surveyed. This is recommended by the Commissioner of the Land Office, and I believe similar appropriations were made for surveys in the State of Michigan. We think that the provisions of the bill are right; and I ask that it be laid aside to be reported favorably to the House.

Mr. DUNNELL. Are those townships now occupied by settlers?

Mr. SAPP. I think they are. It is so reported by the gentleman from Wisconsin [Mr. HAZELTON] who introduced the bill.

Mr. DUNNELL. Does it protect those settlers?

Mr. SAPP. It is for their benefit, as the gentleman would have seen if he had listened to the reading of the bill.

Mr. DUNNELL. That is very satisfactory. [Laughter.] I would like to hear the bill read again.

The bill was again read.

The bill was laid aside to be reported favorably to the House.

TRANSFER OF BAYOUS, ETC., TO THE STATES.

The next bill on the Calendar reported by the Committee on the Public Lands was the bill (H. R. No. 4378) to transfer to the States the title to all islands, beds of lakes not navigable, bayous, sloughs, ponds, &c., which at the time the public lands were surveyed by the Government were meandered.

The bill was read, as follows:

Be it enacted, &c., That the title of the United States in and to all islands, beds of lakes not navigable, bayous, sloughs, and ponds, as well as the beds of all such lakes, bayous, sloughs, and ponds that have, by evaporation or drainage, become dry lands, suitable for agricultural purposes, and which at the time of the surveys of the public lands by the Government were meandered, and are still undisposed of, be, and the same are hereby, given to the States in which the same are situated respectively.

SEC. 2. That the islands, lakes, bayous, sloughs, ponds, and lands conveyed to the several States in the preceding section shall be disposed of by the Legislatures thereof in such manner and under such regulations as the same shall see proper to provide for by law, having due regard to the rights and equities of all persons in possession under the pre-emption and homestead laws of the United States at and prior to the passage of this act of such lands as have become suitable for agricultural purposes by evaporation or drainage.

SEC. 3. All acts and parts of acts inconsistent with this act are hereby repealed.

The amendments reported by the Committee on the Public Lands were read, as follows:

In line 6, section 1, after the word "become" insert "or shall hereafter become."

In section 2, line 8, strike out the words "have become" and insert the words "may be."

After the word "drainage," in line 9, section 2, insert the following:

"*Provided*, That the States shall have the right to retain any or all the property hereby conveyed if the Legislature thereof shall so determine: *And provided further*, That nothing herein shall be so construed as to interfere with the rights of riparian owners at common law."

Mr. BOUCK. I desire to offer an amendment.

Mr. SAPP. There is another amendment which the committee have agreed upon and which they have directed me to report. I ask the Clerk to read it.

The Clerk read as follows:

In line 14, section 2, after the word "law," at the end of the amendment heretofore reported by the committee, insert:

"Nor with any pre-emption or homestead claim made prior to the passage of this act; and all such claims shall be proceeded in and established and the title perfected as now provided for by law."

Mr. BOUCK. The amendment just read is satisfactory to me. It covers mine and is all I want.

Mr. SAPP. I now ask that the bill be read by sections for amendment.

Mr. CALKINS. Before the bill is read by sections I desire to say, if I understand it, I do not think it ought to pass. I think it overturns a doctrine which has been recently established by many of the supreme courts of the States and the Supreme Court of the United States, and that it will make simply a fruitful field of litigation in all those cases. I understand the doctrine announced with reference to these titles to islands and to the beds of lakes where the waters recede and uncover the lands to be this: that the United States having sold, not by a meander line, because a meander line establishes no boundary, but having sold all the lands up to certain natural obstructions or water courses, they run the meander lines simply to determine the number of acres to sell; it being the intentiou of the Government to part with all the lands which they own up to the natural obstructions which form the boundary. No meander line is a line for the establishment of the number of acres or for any such purpose.

Now I understand the supreme court of Indiana, in the well-known Madison case, the Supreme Court of the United States in the Saint Paul case, the Michigan supreme court in a series of cases, have all determined that where the Government of the United States sells a pond, a lake, or a river, it parts with all the lands under the water to the riparian owner to the middle of the stream. The same rule applies to non-navigable lakes as to non-navigable rivers.

That doctrine has been established by the decisions of the supreme court of the State of Indiana in a great many cases, by the decision of the Supreme Court of the United States in the Saint Paul case, and by the decisions of the supreme courts of several of the States. If we pass this bill we will open up a fruitful field for litigation in every part of the country where the beds of ponds and lakes have been uncovered by evaporation, or where there are islands which people have squatted upon and now claim under pre-emption.

As I understand it, this bill recognizes a doctrine which is diametrically opposed to the doctrines established by the supreme courts of several of the States and by the Supreme Court of the United States; that is, if I understood the bill when it was read. I assert that the Government of the United States has no title to the bed of any river or pond or lake where there was a meandered line up to which the Government sold land as laid out on the maps; it being the intention of the Government to sell all the land which it had. Such a sale conveyed the right of the Government to all the land to the middle of the stream or to the middle of the lake.

Mr. SAPP. If there has been any such line of decisions as the gentleman from Indiana [Mr. CALKINS] refers to, I would be very glad to have him produce them. To say that the doctrine of riparian proprietor applies to ponds and lakes that are not navigable, and to sloughs and bayous, it seems to me is a new doctrine for a lawyer to advance anywhere.

I assert as a legal proposition that the doctrine of riparian proprietor does not apply even to navigable lakes, although it does to navigable streams and rivers. If what the gentleman claims with respect to the doctrine of riparian proprietor be true we have provided in this bill that it shall not in any way interfere with the rights of such riparian proprietors. Therefore the objection of the gentleman, if there was any ground for it, is completely met by the provisions of the bill.

One word in relation to the necessity for the passage of this bill. As is well known to every man who has made any observations as to the conflicts in various parts of this country, there is and has been for years a controversy as to whether these non-navigable lakes and these sloughs, ponds, and bayous belong to the States under what is known as the swamp-land agent act, or whether they belong to the Government of the United States. In view of that conflict, the Commissioner of the General Land Office and the Secretary of the Interior in

at least two reports to this House have urged that lands such as are described in this bill shall be transferred to the States, so that the States may dispose of them rather than they should be left to be disposed of by the General Government.

Mr. CALKINS. Allow me right there.

Mr. SAPP. Not for a speech.

Mr. CALKINS. No, not for a speech. I assert that the Land Department of the Government has always been in harmony with the theory of this bill; but the courts have always decided the other way. I know that you will find in a report made by Land Commissioner Wilson that he asserts the same doctrine which the gentleman from Iowa does; but it is not the doctrine of the law as construed by the courts.

Mr. SAPP. I cannot yield to the gentleman for another speech. If the gentleman can find a single case where any court has decided that the doctrine of riparian proprietor applies to a pond or a slough or a bayou, I should like him to produce such a reported case.

It is true that there are constant applications made to the Commissioner of the General Land Office to have surveyed lands that have become dry by evaporation or drainage, involving much expense to the Government. It is also true that there is a conflict on the part of claimants of such lands.

I appeal to Representatives on this floor whether it is not better that these lands which have become dry by evaporation or drainage, these sloughs and ponds and lakes not navigable, should be transferred to the States, and that the States be authorized to dispose of them to her citizens rather than they should remain longer a bone of contention.

Mr. REAGAN. I desire to call the attention of the gentleman from Iowa [Mr. SAPP] to section 2476 of the Revised Statutes, which reads:

All navigable rivers within the territory occupied by the public lands shall remain and be deemed public highways; and in all cases where the opposite banks of any streams not navigable belong to different persons, the stream and the bed thereof shall become common to both.

Mr. SAPP. Nobody disputes that doctrine at all. This bill is intended to apply to the States of the South, the Southwest, the West, and the Northwest, where there are almost innumerable lakes, bayous, and sloughs; and it is certainly important to those States.

Mr. DUNNELL. I am unwilling generally to oppose anything that comes from the Committee on the Public Lands; but I must raise my voice against the passage of this bill, for I believe the principle of it is all wrong.

If there be a lake that has become dry, there ought to be a general law authorizing the Commissioner of the General Land Office to survey it and put it into the market for sale. I do not believe the General Government should surrender the ownership of all the lakes and beds of lakes of this country to the States in which they are located.

Mr. SAPP. Only the lakes not navigable.

Mr. DUNNELL. These lakes are part of the scenery of the country; they contribute to the health of the State in which they are located; they add to the beauty of the State. The General Government owns them, and to turn them over to the State Legislatures to be traded upon, to be drained, to be utilized for any other purpose than that for which God intended them, is something that I do not approve. I am unwilling to vote for such a measure as that, even though it will give to my State thousands of acres.

Mr. CALKINS. If the gentleman will allow me, I will state that the Government does not own the beds of any non-navigable lakes.

Mr. DUNNELL. Then why is this legislation asked?

Mr. CALKINS. That is what I want to know. It seems to me it is designed to make a multiplicity of lawsuits all over the country.

Mr. DUNNELL. Mr. Chairman, this bill does not simply cover non-navigable lakes; it embraces also navigable lakes.

Mr. SAPP. No, sir; I deny that. The bill says "lakes not navigable."

Mr. DUNNELL. If there is anything to be gained by any State from the passage of this bill, these lakes have a value. Otherwise what advantage can it be to the State of Iowa, for instance, to own a non-navigable lake?

Mr. SAPP. Allow me to answer. The Legislature of our State has memorialized Congress to pass this bill in order that she may beautify Spirit Lake, Storm Lake, and a number of other lakes.

Mr. DUNNELL. I assume that the Government will never deny to a State the privilege of utilizing any lake for purposes of recreation. We have already to-day passed a bill giving a lake to the city of Council Bluffs. My opposition to this bill is that it opens up the lakes of the country to the vandalism that will creep into State legislation. I am not willing that the scenery of the country should be subjected to the legislation of the States.

These lakes of the country are valuable. I am unable to see why we should give over a lake covering twenty acres of ground to a State any more quickly than we would give twenty acres of prairie land to a State. Why not turn over to each of the States all the lands as well as all the streams, bayous, &c., within the territorial limits of the State? Why give up the jurisdiction of a lake any more than the jurisdiction of a piece of land of similar size?

Mr. SAPP. I will state to the gentleman the reason, if he will allow me. The land is useful for settlement and cultivation, but a lake such as this bill contemplates is of no use to anybody.

Mr. DUNNELL. A lake of no use to anybody?

Mr. SAPP. Except to citizens of the State or the State itself to make it a place of resort.

Mr. BRIGGS. Why do the States want lakes, bayous, &c., that have dried up?

Mr. SAPP. Simply because the General Government ought to be glad to get rid of them, and the States can utilize them.

Mr. CALKINS. The difficulty is that gentlemen assume that the Government of the United States owns these lakes when it does not own them at all.

Mr. DUNNELL. A few years ago there was a lake in Indiana containing more than two thousand acres. For the first time within my knowledge the Indiana delegation was united. It was entirely united in asking the Government to grant to it twenty-six hundred acres of the dry bed of the lake. If the State of Indiana already owned that lake thus dried up, why did she come here and ask us to give it to her?

Mr. CALKINS. Yes; and that has caused more litigation in Indiana than anything else that ever took place in any legislative body.

Mr. DUNNELL. It ought to have troubled the members who asked the passage of the measure.

Mr. CALKINS. If the matter had been allowed to stand as the courts decided it, it would have been settled long ago.

Mr. DUNNELL. The State of Minnesota has probably a thousand lakes—more than that—an empire of lakes—the most beautiful portion of the entire Republic. We are satisfied to let the title to these lakes remain with the General Government. The beauty of these bodies of water will be better preserved under the jurisdiction of the General Government than if they should be transferred to the State. I am opposed to giving up to the mercy of State legislation the water of the country, the scenery of the country.

Mr. SAPP. It does seem to me that the views expressed by the gentleman from Indiana [Mr. CALKINS] and the gentleman from Minnesota [Mr. DUNNELL] opposing this bill for directly opposite reasons furnish the very best argument that can be presented for the passage of this measure, in order that property of the description contemplated by the bill, useless to the General Government, may be transferred and left to the disposition of the States.

Mr. HENDERSON. I wish to inquire of the gentleman from Iowa whether this bill does not interfere with private rights where there is litigation now pending before the Secretary of the Interior, and whether it does not interfere with such rights so as to destroy them?

Mr. SAPP. I wish to say to my friend from Illinois I think all private rights are maintained. We have especially protected the pre-emption and homestead claims. We have especially protected all riparian rights, if any exist. We have protected all these private rights by the provisions of the bill and amendments reported from the committee.

Mr. HENDERSON. I am informed by a gentleman from my own State, who I know is interested in a case now pending before the Secretary of the Interior, that this bill does interfere with his suit or claim now pending.

Mr. SAPP. I wish to say to my friend from Illinois that an amendment has been moved from the committee to meet the very point which he has stated.

Mr. REAGAN. I do not know, Mr. Chairman, that I fully understand the scope and purpose of this bill, but it provides for the transfer to the States of the United States titles to all islands, beds of lakes, bayous, sloughs, ponds, &c. How much land are we to transfer by the grant of all these islands to the States? Why is it sought to make such transfer? A number of questions connect themselves with the navigable waters of the States and the commerce of the States. The navigable rivers within the Territories occupied by the public lands, it is provided by the Revised Statutes, shall remain and be deemed public highways.

Mr. WHITE. What section is that?

Mr. REAGAN. Section 2476. Now, suppose you cede the jurisdiction over these waters to the States, what is to be the effect in restricting the power of the United States under the general law and under its maritime and commercial jurisdiction over these rivers?

I cannot see exactly what this statute means. It means evidently more than lies on the surface of it. You propose by it a wholesale transfer of the islands and lakes of this country to the States. I am not concerning myself about the rights of riparian ownership, but I am looking especially to the provisions which contemplate the transfer of the islands and lakes of this country to the States. I am not able now without having investigated the matter to say to what extent the jurisdiction over these streams where navigable will be affected.

Mr. SAPP. Allow me to call the attention of the gentleman from Texas to the fact that the lakes here referred to are not navigable lakes, but lakes which expressly are not navigable.

Mr. REAGAN. The bill does not say so.

Mr. SAPP. Yes, it does.

Mr. REAGAN. Read the section.

Mr. SAPP. Let the Clerk read the first section.

The Clerk read as follows:

That the title of the United States in and to all islands, beds of lakes not navigable, bayous, sloughs, and ponds, as well as the beds of all such lakes, bayous, sloughs, and ponds that have, by evaporation or drainage, become *or shall hereafter become* dry lands, suitable for agricultural purposes, and which at the time of the surveys of the public lands by the Government were meandered, and are still undisposed of, be, and the same are hereby, given to the States in which the same are situated respectively.

Mr. REAGAN. Now read the next section.

The Clerk read as follows:

SEC. 2. That the islands, lakes, bayous, sloughs, ponds, and lands conveyed to the several States in the preceding section shall be disposed of by the Legislatures thereof in such manner and under such regulations as the same shall see proper to provide for by law, having due regard to the rights and equities of all persons in possession under the pre-emption and homestead laws of the United States at and prior to the passage of this act of such lands as may be suitable for agricultural purposes by evaporation or drainage: *Provided*, That the States shall have the right to retain any or all the property hereby conveyed if the Legislature thereof shall so determine: *And provided further*, That nothing herein shall be so construed as to interfere with the rights of riparian owners at common law.

Mr. REAGAN. I wish to say, without having had an opportunity carefully to examine this bill, that it seems to me to cover much more than appears from a casual reading of it, and that it is altogether too large in its grant, and I shall therefore not support it.

Mr. SAPP. My friend from Texas will see it refers to lakes which are not navigable.

Mr. BERRY. I should like to inquire of the gentleman from Iowa (although I am a member of the Committee on the Public Lands, but was not present at the time this proposition was considered by that committee, and my attention has not been called to its provisions until this discussion arose) as to the precise effect intended by the passage of this bill. It appears it is extensive enough in its scope to convey all islands. The inquiry I wish to propound is, will this bill convey to the States military reservations—for instance, Goat Island and Angel Island? Will it not place those islands at the disposal and under the control of the State?

Mr. SAPP. Most assuredly it will not.

Mr. REAGAN. It reads that the title of the United States in and to all islands, and then goes on to say "beds of lakes not navigable," and that is the only place where the words "not navigable" are inserted. It conveys bayous, sloughs, and ponds. Now, take the bayous in Louisiana and let them be conveyed to that State, and what will be the result? Except the Mississippi and Red Rivers they constitute the entire navigation of that State. They contain more navigable water than any other——

Mr. SAPP. Are the bayous and ponds navigable down there?

Mr. REAGAN. Certainly they are.

Mr. SAPP. I did not know there were any ponds which were navigable.

Mr. REAGAN. Many of them, perhaps a great majority of them, are.

Mr. SAPP. There may be bayous that are navigable. If they are, they must form a part of another stream.

Mr. ATHERTON. I would like to ask the member of the committee having this bill in charge a single question, and it is this: Why is it that the land that may be reclaimed from the bed of a lake or a bayou which has become dry should any more become the property of the State than any other portion of the public domain?

Mr. SAPP. I will answer that the purpose and object of the committee——

Mr. ATHERTON. That is exactly what I want to get at, the purpose and object of the committee.

Mr. SAPP. That the purpose and object of the committee was to transfer these lands which had been reclaimed by the lake or bayou becoming drained to the States, believing that the States can dispose of them to their own citizens more equitably, more justly, and more properly than the General Government.

Mr. ATHERTON. These lands which may be reclaimed in that way may have been entered under the homestead laws; and if the General Government should occupy any portion of these lands at all, why should it not occupy lands in a State and own lands just as much which have been left after a lake or a bayou has gone dry as any other part of the public domain? Why should it not retain such lands for sale just the same as any other portion of the public lands? It would seem to be in reason for the Government to take possession of these lands and dispose of them for its own use as it disposes of other public lands rather than to give them up to the States.

Mr. NEW. Will the gentleman [Mr. SAPP] give me his attention for a moment? I wish to ask him a question, and before doing that will say that I have seen the lakes in Minnesota described by the gentleman from that State, [Mr. DUNNELL,] and have heard that those in Iowa are almost identical in appearance. Those in Minnesota are beautiful almost beyond description. The pen of the poet would hardly be able to describe their beauties, or the brush of the painter to illustrate or portray the glorious landscape of which they are a conspicuous and valuable part. Those lakes are numerous and vary in size from one mile to one hundred miles in circumference. Most of those lakes are from ten to fifteen miles around them, and with inlets and outlets too small for vessels to pass through. Now the question I wish to ask the gentleman from Iowa is this: Does he mean to include these lakes among those named in the bill as non-navigable? Is it intended by this bill to transfer the titles to these lovely and valuable lakes from the General Government to the States? For one, I must say that I am not prepared to admit that it ought to be done. We ought not to legislate hastily upon a subject of so much importance. I hope the measure will not be further pressed at this time.

Mr. SAPP. Most assuredly I did not, nor did the committee contemplate including any lake that could be navigated by steam-vessels or was of any commercial value. It was only intended to include lakes that are too small for navigation, and which may be beautified and reserved for little sail-vessels and for ornamental purposes. It was not intended to include any body of water susceptible of navigation by steam-vessels or which may be improved for that purpose.

Mr. BERRY. Mr. Chairman, I wish to call the attention of the gentleman from Iowa——

Mr. SAPP. I have not concluded. Mr. Chairman, I would like to say this, that there is——

Mr. BERRY. Have I the floor?

The CHAIRMAN. The Chair has recognized the gentleman from California.

Mr. BERRY. I want to ask the gentleman from Iowa to state to the House what kind of islands it is intended to include in this bill. I am much interested in the subject of islands.

Mr. SAPP. I will state, in reply to the gentleman from California, that the word "islands" may be stricken out altogether if it is objectionable. I have no objection to striking it out, and am willing that it be done.

As this committee has probably a large number of bills that will call for discussion, I have no objection for the present to withdraw this from consideration, as I do not want to consume any time that is not necessary.

Mr. REAGAN. I simply wish to say, Mr. Chairman, in addition to what I have already said, that there are lakes which are used largely for fishing and sailing purposes in which the whole neighborhood is interested, and this bill proposes to give these lakes into the control of the General Government, and under the jurisdiction of one body of men or of one man.

Mr. PAGE. I understand the gentleman from Iowa wishes to withdraw the bill for the present.

Mr. ELAM. Mr. Chairman, before doing so I wish to say a few words upon this subject. There are to my knowledge many lakes in our southern country which have been filled up in the process of time by deposits of soil in their beds by the Mississippi, Red, and other rivers. There was a ruling of the Land Office in relation to the acts in 1849 and 1850 in reference to swamp lands in Arkansas and Mississippi that when these lakes had been dried up or had become drained by artificial or natural causes the lands did not pass to the State, but went to the General Government. The first ruling of the Land Office was that they did; and that was the practice of the Land Office for many years. The first case that came up for adjudication under that ruling was in the State of California. The Commissioner of the General Land Office has referred in his report to this subject.

There is a lake called Silver Lake, just below the city of Shreveport, which is actually filled up. People are living on it; but no survey will be ordered by the United States. There are a great many instances of that kind.

I wish to advert to another point. I think the gentlemen who have this bill in charge should so amend it that it shall be perfectly clear that it shall not interfere with navigable bayous. There are many such in Louisiana, running through the richest country there. I ask the gentleman so to amend the bill that navigable bayous shall be put on the same footing as navigable rivers and lakes.

Mr. MILLS. I will interrupt my friend from Louisiana [Mr. ELAM] to suggest to him that it is contemplated to have a night session and the time for taking a recess has now about arrived. The gentleman from Georgia [Mr. BLOUNT] desires the House to be in session to-night that he may report from the Committee on Appropriations the sundry civil appropriation bill and have it printed.

Mr. CONVERSE. I move that the committee rise.

Mr. SAPP. I object to the further consideration of this bill, and ask that its consideration be laid aside.

The CHAIRMAN. The pending motion is the motion of the gentleman from Ohio, [Mr. CONVERSE,] that the committee rise.

Mr. SAPP. Can we not object to the further consideration of the bill and have it laid aside?

The CHAIRMAN. The gentleman cannot do that. The Chair presumes that a statement heretofore made by him may have misled the gentleman from Iowa. The Chair understands the gentleman cannot make the objection under the rule after the bill has been partially considered.

Mr. SAPP. That is all right.

The motion that the committee rise was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. SPARKS reported that the Committee of the Whole on the state of the Union, having had under consideration the bill H. R. No. 1846, the bill H. R. No. 1064, and the bill H. R. No. 4596, had directed him to report the same to the House with various recommendations; also that the committee having had under consideration the bill (H. R. No. 4378) to transfer to the States the title to all islands, beds of lakes, (not navigable,) bayous, sloughs, ponds, &c., which at the time the public lands were surveyed by the Government were meandered, had come to no resolution thereon.

Mr. CONVERSE. I move that the House take a recess until half past seven o'clock, the object being the further consideration of the reports from the Committee on the Public Lands under the order of the House.

EVENING SESSION FOR UTE BILL.

Mr. BELFORD. I ask the gentleman from Ohio to withhold his motion for a moment that I may offer a resolution to which I think there will be no objection.

Mr. CONVERSE. Let it be read.

The Clerk read as follows:

Resolved, That Wednesday night next be set apart for the consideration of what is known as the Ute agreement bill, and its consideration shall be continued from night to night thereafter until it is disposed of.

Mr. MILLS. Let the gentleman confine his request to one night.

Mr. BELFORD. I will modify the resolution so as to make the order apply only to Wednesday night.

Mr. ROBINSON. I suggest also that appropriation bills be excepted.

Mr. BELFORD. I agree to that.

Mr. POEHLER. Let it be part of the arrangement that one hour shall be allowed for the Choctaw bill.

Mr. BOUCK. Oh, no! If you put "Choctaw" in I will object.

The SPEAKER. Is there objection to the proposition of the gentleman from Colorado, that the session of Wednesday evening, commencing at half past seven o'clock, be set apart for the consideration of what is known as the Ute agreement bill?

Mr. HAYES. There may be appropriation bills that will then require to be acted on.

The SPEAKER. A reservation has already been made in the case of appropriation bills on the suggestion of the gentleman from Massachusetts, [Mr. ROBINSON.]

There was no objection, and the resolution, as modified, was agreed to.

REPORTS OF COMMITTEE ON MILITARY AFFAIRS.

Mr. SPARKS. I ask that a session of the House on Monday evening at seven and a half o'clock be allotted to the consideration of bills reported by the Committee on Military Affairs, the order to include only bills as to which there is no minority report. I am unanimously directed by the Committee on Military Affairs to make that request.

Mr. MILLS. I would ask when are we to do anything with the Private Calendar?

Mr. SPARKS. This is a committee which has had no time allowed for the consideration of its reports during this session. It will be remembered that an evening session was assigned to the Committee on Naval Affairs for the business of that committee.

Mr. HUTCHINS. I object.

Several members called for the regular order.

The SPEAKER. The regular order is the motion for a recess.

Mr. PAGE. What is the purpose of the evening session to-night?

The SPEAKER. The consideration of bills reported by the Committee on the Public Lands under the order which the House has been executing to-day.

Mr. HUTCHINS. I withdraw the objection to the request of the gentleman from Illinois, [Mr. SPARKS.]

The SPEAKER. The gentleman from Illinois, the chairman of the Committee on Military Affairs, asks that there be a session of the House on Monday evening at half past seven o'clock for the consideration of reports of that committee where there is no division of sentiment thereon in the committee.

Mr. ROBINSON. The right to consider appropriation bills being reserved?

Mr. SPARKS. Yes, sir.

Mr. CONGER. Is it proposed to consider bills at that evening session under the old objection rule?

The SPEAKER. Not all. The proposition is that only reports which have received the unanimous approval of the Committee on Military Affairs shall be considered.

Mr. BERRY. I object to that reservation.

Mr. SPARKS. Let it go, then. I call for the regular order. If a committee of the House cannot get an evening for the consideration of its business I shall insist on the regular order.

ENROLLED BILLS SIGNED.

Pending the motion for a recess,

Mr. KENNA, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (S. No. 1703) authorizing the changing the name of the schooner Rebecca D.

Mr. ALDRICH, of Illinois, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 580) to construe and define "An act to cede to the State of Ohio the unsold lands in the Virginia military district in said State," approved February 18, 1871.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted to Mr. ACKLEN for one week.

The motion of Mr. CONVERSE was then agreed to; and accordingly (at four o'clock and twenty-eight minutes p. m.) 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.

ORDER OF BUSINESS.

Mr. CONVERSE. I ask consent of the House that I may be allowed, under instructions of the Committee on the Public Lands, to arrange the business to come up for consideration this evening. There are a great many bills which will excite considerable discussion, and which it is very evident we will not have time to pass upon in Committee of the Whole. There are other bills of much importance which will not excite any discussion. I suppose that by unanimous consent I may be allowed the privilege of indicating the business to be considered this evening.

The SPEAKER. Does the gentleman ask that by instruction of the Committee on the Public Lands?

Mr. CONVERSE. I do.

The SPEAKER. The gentleman from Ohio asks unanimous consent that he may be allowed, under the direction of the Committee on the Public Lands, to indicate the order of the bills to be considered in Committee of the Whole this evening. Is there objection? [After a pause.] The Chair hears none.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. DAVIS, of California, until Monday next, on account of public business;

To Mr. FORD, indefinitely, on account of important business;

To Mr. ELLIS, for two days, on account of important business; and

To Mr. ROTHWELL, indefinitely, on account of important business.

LAWS OF UTAH.

The SPEAKER, by unanimous consent, laid before the House a letter from the secretary of Utah Territory, transmitting two copies of the laws and resolutions passed at the twenty-fourth session of the Utah Legislature; which was laid on the table.

LIFE-SAVING SERVICE ON THE LAKES.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury, in reply to a resolution of the House calling for information relative to disasters to vessels and the operations of the Life-Saving Service on the great lakes since the commencement of the present fiscal year; which was referred to the Committee on Commerce.

DOUBLE-TURRETED MONITORS.

The SPEAKER also laid before the House the following; which was referred to the Committee on Naval Affairs, and ordered to be printed in the RECORD:

NAVY DEPARTMENT,
Washington, May 20, 1880.

SIR: My attention has been called by the Committee on Naval Affairs of the House of Representatives to the fact that in my communication of the 11th instant, in reference to the double-turreted monitors Puritan, Monadnock, Terror, and Amphitrite, I omitted to accompany the same with my opinion upon the necessity and propriety of their completion. Having failed to observe that this was required of me, I now beg leave to supplement that communication with the following:

Upon an inspection of the reports of the several boards, it will be seen that upon the first question required to be answered by the joint resolution under which they were organized, that is, "whether it is to the interest of the Government to complete said vessels," they have all reached the same conclusion.

The board of which Rear-Admiral Selfridge was president says, in reference to the Puritan, "in consideration of the very efficient and excellent workmanship manifested in the present structure, and the large sum which has already been expended on this vessel, that it is to the interest of the Government to have her completed."

That of which Rear-Admiral Preble was president says, in reference to the Amphitrite and Terror, "that it is decidedly to the interest of the Government to finish these vessels. As they now stand they represent a large amount of money, which would be almost entirely lost to the Government if they were to be sold or otherwise disposed of. If completed, as herein proposed, we believe they would be of great service to the country in case of threatened or actual war, and return full compensation for whatever sum their completion may require."

And that of which Commodore E. R. Colhoun was president says, in reference to the Monadnock, "that it is to the interest of the Government to complete said vessel."

The unanimity of opinion in reference to each of these vessels would seem to leave no room for doubt, therefore, that the interest of the Government requires the completion of all of them. In this opinion I concur, for two controlling reasons: First, that to leave them uncompleted, after so large a sum of money has been expended upon them, would be bad economy, inasmuch as the loss would be very heavy to the Government; and second, because, when completed, they would undoubtedly be equal, if not superior, to any other vessels of their class in the world.

The only question about which there is room for doubt is that which arises upon the second branch of the joint resolution; that is, "whether it is to the interest of the Government to complete them according to the existing plans, models, and agreements."

The board which examined the Puritan says: "That it is not to the interest of the Government to complete her wholly according with existing plans, models, and agreements."

That which examined the Amphitrite and Terror says: "That it is not to the interest of the Government to complete these vessels according to the existing plans, but that changes specified below should be made to increase their safety and qualities of attack and defense."

And that which examined the Monadnock suggests certain modifications of the existing plans and models.

It appears, therefore, that according to the opinions of these boards it is desirable, if these vessels are completed, that the work upon each of them should be done upon plans and models differing somewhat from those originally contemplated. These conclusions are attributable to the fact that since these original plans were designed repeated experiments made in Europe, at immense cost, have demonstrated the necessity of changes in the construction of vessels, varying them from those of the old type, and thereby greatly increasing their efficiency both for attack and defense. It turns out to be fortunate that delay in the completion of these

vessels has occurred, inasmuch as we now have the opportunity of availing ourselves of the benefits resulting from these experiments without the cost of making them on our own account.

In my opinion the modifications of the original plans of the Puritan, Amphitrite, and Terror, as proposed by the boards of which Rear-Admiral Selfridge and Rear-Admiral Preble were presidents, are wise and should be made. Those suggested in reference to the Monadnock are not such as affect the plan and model of the vessel but only the armor, the method of raising the battery, and the character of the engines.

In a communication made by me to the House of Representatives, January 9, 1879, it was estimated that the amounts necessary for the completion of these vessels were as follows:

In the Bureau of Construction and Repair.

Puritan	$789,614
Terror	348,000
Amphitrite	348,000
Monadnock	410,000
Total	1,895,614

In the Bureau of Steam Engineering.

Puritan	$420,000
Terror	230,000
Amphitrite	230,000
Monadnock	285,000
Total	1,165,000

If the modifications are made in the plan of the Puritan as recommended by the board, it will require an appropriation of $339,614, or $50,000 for the modifications proposed. This includes the cost of the turrets. If those recommended upon the Amphitrite and Terror are made it will require an appropriation of $1,369,000 for these vessels. When the former estimate was made, in 1879, it was contemplated to put the old turrets, now on hand, upon these two latter vessels; but the board, in view of the experiments since made in ordnance, whereby it is demonstrated that these old turrets would be of far less value than such as should be placed upon vessels of this character, have recommended new ones of greater capacity of resistance. The cost of these is embraced in the foregoing estimate. And if those upon the Monadnock are made it will require an appropriation of $639,222.14, or $219,222.14 for the modifications proposed. Thus it will be seen that the aggregate appropriation for construction necessary to secure the completion of the four vessels, according to the proposed modifications, is $2,847,836.14.

For steam-engineering an appropriation of $1,250,000 will be required for the completion of all four of the vessels, including machinery of turrets. This is an increase above the estimate of 1879 of $75,000, and is made up as follows: for the turret machinery of Amphitrite and Terror $15,000 each, or $30,000; for that of the Puritan, $25,000; and for that of the Monadnock, $20,000.

From the foregoing it will appear that the sum necessary to be appropriated for the completion of all four of these vessels is $3,098,836.14. Considering the necessities of the service and the character of these vessels if completed, this sum of money would, in my opinion, be well applied in their completion.

In reference to the contracts of March 3, 1877, providing for work upon these vessels, it will be perceived that the board which examined the Puritan have suggested that, in so far as the contract for that vessel involves construction, no more work should be done under it, and that a new contract should be made providing for the proposed modifications. This, as well as the other contracts of that date, was suspended by me, and the suspension yet remains, because neither at that time nor subsequently have appropriations been made to carry them out. All the contracts for steam-engineering were accompanied by plans and specifications which were made parts of them, and the boards have recommended no change in them, nor do they make any suggestions in reference to the other contracts for construction. Therefore their recommendation to set aside the one having reference to construction on the Puritan does not include that for steam-engineering on that vessel. Yet in view of the fact that both are with the same party, it is for Congress to decide whether either or both shall be affirmed or not. In reference to the whole of the contracts—that is, for the completion of all the vessels—it is proper to say that they each contain a stipulation that they shall not take effect until an appropriation is made by Congress to carry them out; and that, notwithstanding their suspension, all the subsequent estimates of the aggregate cost of the vessels have been based upon the prices specified in them. If, therefore, these estimates should be now adopted and appropriations be made accordingly, it would, in the absence of anything to the contrary, be indicative of a purpose by Congress that they should be executed. If, however, Congress should otherwise direct, and should require that all the contracts be set aside, then it is desirable that it should, at the same time, decide whether new contracts are to be entered into with the same or other parties.

In this connection it is proper for me to say that there is no evidence in the possession of the Department showing or tending to show that any of the parties to these several contracts have exhibited bad faith toward the Government in anything done under them. They have kept the vessels in their yards, and have thereby been subjected, as they allege, to expenses which the Department has not felt itself at liberty to adjust. And it is undoubtedly both to their interest as well as that of the Government, that all matters in reference to them should be finally disposed of.

Very respectfully,

R. W. THOMPSON,
Secretary of the Navy.

Hon. SAMUEL J. RANDALL,
Speaker of the House of Representatives.

ORDER OF BUSINESS.

Mr. CONVERSE. I move that the House now resolve itself into Committee of the Whole on the state of the Union.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. ROBINSON in the chair.

The CHAIRMAN. The House is now in Committee of the Whole for the purpose of considering business reported from the Committee on the Public Lands.

MEANING OF THE WORD "ORPHAN."

Mr. CONVERSE. Under the order of the House I ask the Committee of the Whole to first consider House bill No. 4561, to declare the meaning of the word "orphan."

The bill was read, as follows:

Be it enacted, &c., That in all cases arising under an act of Congress in relation to orphans, except where otherwise expressly provided, a fatherless child shall be taken and held to be an orphan.

SEC. 2. That under section 5 of an act approved the 17th day of July, 1854, amendatory of the Oregon donation law, (Statutes at Large, volume 10, page 306,) the death of either parent, entitled to land as in said section provided, shall be taken and held to constitute an orphan under the provisions of said section, and entitled to lands within the district as specified in the section aforesaid: *Provided*, That in case of the death of such parent *en route* to either of said Territories, that such minors shall have been immediately conveyed into and become residents thereof: *And provided further*, That all applications for land under the provisions of the said section 5 shall be presented to the proper officers within two years from the passage of this act or be forever barred.

The CHAIRMAN. The Chair is informed that this bill is upon the House Calendar; if it is considered in Committee of the Whole it must be by unanimous consent.

Mr. CONVERSE. I yield to the gentleman from California [Mr. BERRY] to explain the bill.

Mr. BERRY. The object of the first section of this bill is to define the meaning of the word "orphan." In several cases the question has arisen whether the word "orphan" signified a child who has lost both parents or only one.

Mr. LAPHAM. I would inquire if it is proposed to take up now cases on the House Calendar instead of proceeding with the consideration of business on the Calendar of the Committee of the Whole?

The CHAIRMAN. The Chair would state that the House is now in Committee of the Whole; but previous to going into committee the House gave permission to the gentleman from Ohio, [Mr. CONVERSE,] chairman of the Committee on the Public Lands, to designate the bills which that committee desired to have considered this evening. The Chair understands this to be one of the bills they desire to have considered.

Mr. LAPHAM. There is a very important bill upon the House Calendar to which I shall object if it is proposed to take it up to-night.

Mr. CONVERSE. To what bill does the gentleman refer?

Mr. LAPHAM. I refer to the bill to quiet title of settlers on the Des Moines River lands in the State of Iowa, and for other purposes.

Mr. CONVERSE. I propose to ask for the consideration of that bill to-night.

Mr. LAPHAM. I cannot consent to that. My colleague, [Mr. PRESCOTT,] who is deeply interested in that bill, is absent from the city, as gentlemen are aware, by order of the House.

The CHAIRMAN. At present that bill is not before the committee.

Mr. LAPHAM. I only want to give notice in regard to it.

Mr. LOUNSBERY. I desire to make the point of order that the Committee of the Whole cannot consider a bill which is not upon the Calendar of the Committee of the Whole.

Mr. CONVERSE. The point of order is certainly not well taken. The House has given the Committee on the Public Lands the right to call up any business reported from that committee for consideration this evening. This day was set apart by the House for the consideration of business from the Committee on the Public Lands.

Mr. LOUNSBERY. I raise the point of order and ask the Chair to rule upon it. The bill which has just been read is not upon the Calendar of the Committee of the Whole, and therefore the Committee of the Whole, has no jurisdiction to consider that bill.

The CHAIRMAN. In the opinion of the Chair the bill which has been read is not before the Committee of the Whole. There are two calendars of public bills; one the House Calendar and one the Calendar of the Committee of the Whole. As the House is now in Committee of the Whole, it can consider only the bills upon the Calendar of the Committee of the Whole, if the point of order is made.

Mr. CONVERSE. I would like to have read the order of the House setting apart to-day for the consideration of bills from the Committee on the Public Lands, and also the order made this evening in regard to the order of business for the evening.

Mr. LOUNSBERY. Has the Chair ruled upon the point of order which I have raised?

The CHAIRMAN. The Chair has not yet decided the point. Before doing so, he will direct the reading of the order of the House made several days ago with reference to business of to-day, and also the order made this evening.

Mr. LAPHAM. I did not understand that the order of the House made this evening related to anything but cases upon the Calendar of the Committee of the Whole.

Mr. CONVERSE. Let it be read. The original order made last Tuesday was not confined to business in Committee of the Whole at all.

Mr. BOUCK. I suggest to the chairman of the Committee on the Public Lands that the business of the House to-night can be stopped at any moment. The gentleman had better be conciliatory.

Mr. CONVERSE. That is undoubtedly so; but the order having been made, we may as well go as far as we can in that direction. If gentlemen desire to stop business, let it stop.

Mr. HORR. I would inquire whether there are not on the Calendar of the Committee of the Whole quite a number of bills just as important as any others reported from the committee?

Mr. CONVERSE. That may be so; but the House having ordered the manner in which business shall be transacted, we might as well proceed in accordance with that order. I understand the order to have been explicit in giving us authority to present our measures as we may desire.

Mr. LAPHAM. We proceeded in regular order all day, and when a bill which it was not desired to consider was reached it was passed over in the regular way by objection being made and referring the

question to the House. Now, if the chairman of the committee had the right to select for consideration whatever bills he chose, there was no necessity for all that.

Mr. PAGE. An order, I understand, was just made to-night.

Mr. LAPHAM. The order made to-night related to the Calendar of the Committee of the Whole only; it certainly did not relate to the House Calendar.

The CHAIRMAN. The Chair will now have read the order made in regard to business for to-day.

The Clerk read as follows:

On motion of Mr. CONVERSE, by unanimous consent,

"*Ordered*, That Thursday next after the morning hour be assigned to the consideration of reports from the Committee on the Public Lands."

Mr. LAPHAM. That does not touch the question.

The CHAIRMAN. So much of the order of this evening as touches the question will also be read.

Mr. WASHBURN. I will ask the chairman of the Committee on the Public Lands what objection there is to taking the business on the Calendar of the Committee of the Whole and proceeding with it; and then, when we get to bills on the House Calendar, we can go into the House.

The CHAIRMAN. The Clerk is now prepared to read the order made this evening.

The Clerk read as follows:

The SPEAKER. The gentleman from Ohio asks unanimous consent that he may be allowed, under the direction of the Committee on the Public Lands, to indicate the order of bills to be considered in Committee of the Whole this evening. Is there objection? The Chair hears none.

Mr. LAPHAM. That relates to the Calendar of the Committee of the Whole; not to business on the House Calendar.

Mr. CONVERSE. The original order did not confine us to the Committee of the Whole; it related to any business which might come from the Committee on the Public Lands. The objection which gentlemen make now is not to the present bill, I imagine——

Mr. LAPHAM. No, sir; not at all.

Mr. CONVERSE. So I understand. But there are a thousand settlers in Iowa to-day who are being driven from their lands for want of a little needed legislation. The point of order which is now made is presented for the purpose of preventing the consideration of that bill. I ask now that the point of order be decided; not that I or the committee care particularly about the bill now under consideration, but the bill which is intended to be shut out under this point of order is a matter of vast importance to at least a thousand families.

The CHAIRMAN. Does the gentleman from New York [Mr. LOUNSBERY] insist on his point of order?

Mr. LOUNSBERY. Yes, sir.

The CHAIRMAN. The Chair will say, without regard to the merits of the case, that whatever order the House passed to-night was designed to be executed in accordance with the rules of the House. The business upon the House Calendar is not before the Committee of the Whole. The House in Committee of the Whole can take up no other business than that upon the Calendar of the Committee of the Whole. For this reason, the point of order being insisted upon, the Chair holds that the present bill is not properly before the committee for consideration. The point of order is sustained.

Mr. VAN VOORHIS. I will ask the chairman of the Committee on the Public Lands how the Des Moines River land bill got upon the House Calendar. It has no business upon that Calendar.

Mr. ANDERSON. As I understand, there is no objection to the consideration of this bill at this time.

The CHAIRMAN. The point of order has been made that the bill is not properly before the Committee of the Whole for consideration. The Chair sustains the point of order. There is nothing before the Committee of the Whole at present.

SUPPLEMENT TO THE HOMESTEAD ACT.

Mr. CONVERSE. Mr. Chairman, under the order made this evening I will commence by asking for the consideration of the bill (H. R. No. 269) supplemental to an act entitled "An act to secure homesteads to actual settlers on the public domain," approved May 20, 1862, and, after fifteen or twenty minutes spent in the discussion of the merits of the measure, will ask for action upon it.

The bill was read, as follows:

Be it enacted, &c., That from and after the passage of this act, any person who is entitled to, and shall comply with, the provisions of the act to which this is supplemental, as well as all the requirements imposed by this act, shall receive from the Treasury of the United States, out of any moneys not otherwise appropriated, the sum of $500 in a loan, to be repaid as hereinafter provided; which money so loaned shall be appropriated solely, by the person who shall receive the same, in improvements upon the land entered and settled upon, under the terms and conditions imposed by the said homestead law, including the erection of buildings, the purchase of seeds, implements of husbandry, and such necessary household articles and means of subsistence as may be necessary in the commencement of a permanent farming residence.

SEC. 2. Every person having thus complied shall, in addition, produce to the register or receiver of the land office of the United States convenient to the homestead selected satisfactory proof to the said register or receiver, by affidavit or otherwise, that he or she does not own goods or effects, money or other property, in excess of $300; that it is his intention or her intention *bona fide* to settle upon and occupy the land entered and selected under the provisions of the said homestead law, and to make the same a permanent abode; that such person shall also make and subscribe an affidavit before the said register or receiver that the money so received under the provisions of this act shall be expended for no other purpose than that named in the first section of this act, which affidavit and all other evidence shall be filed and preserved in the land office of the United States where the proceedings are had.

SEC. 3. Whereupon the said register or receiver shall cause to be prepared a mortgage to the United States, to be duly executed by the applicant, conveying the land so selected and entered, and which he or she contemplates settling upon, conditioned for the payment of $500, with interest at the rate of 3 per cent. per annum, as follows: $100, with the interest thereon, on the fifth year after the date of the mortgage, and $100, with its interest, yearly thereafter, till the whole sum shall be fully paid; when the said mortgage shall be satisfied by the said register or receiver, or by such person as may be designated for that purpose by the Commissioner of the General Land Office. A copy of each mortgage made in pursuance of this act shall, after the original has been duly recorded in the proper office for the recording of deeds most convenient to the land described therein, under the certificate and seal of the register of the land office where executed, be forwarded to the General Land Office at Washington, the original to be retained in the land office where executed. The said registers shall keep a journal of all loans, the names of the persons making them, their places of birth, and their respective ages. The said certified copies are hereby declared to be evidence on the part of the United States, and suits for foreclosure may be instituted upon them as effectually as upon the originals. The said several registers and receivers shall make monthly reports to the General Land Office of the United States of all acts done by them in the premises.

SEC. 4. Upon a full compliance of the terms and conditions hereinbefore stated, as well as those of the law to which this act is supplemental, by the person availing himself or herself of the benefits thereof, the receiver of the land office where the proceedings have taken place shall pay him or her $100, and $100 monthly thereafter till the said sum of $500 shall have been fully disbursed. But before the payment of any one installment of $100 subsequent to the first one, the said receiver shall be satisfied by other testimony than the oath of the applicant that he or she has expended the money loaned, and will expend the money received in accordance with the true intent and meaning of this act. And if it shall appear that any money has not been so expended, no further payment in the particular case shall be made, and the mortgage given shall be forthwith foreclosed, and all rights and privileges under this act, and the one to which it is supplemental, shall become forfeited, and the title to the land entered shall revert to the United States. The several duties to be performed by the register and the receiver shall be generally under the direction and control of the Commissioner of the General Land Office, and who shall also fix a schedule of fees for each officer in each separate case, but which shall not exceed $10 for them both. And the said Commissioner of the General Land Office, in conjunction with the Secretary of the Treasury, shall make and establish such rules and regulations as to the mode and manner of the transmission and payment of the money appropriated by this act as they may deem proper.

SEC. 5. No patent shall be issued under the act of May 20, 1862, and to which this act is supplemental, where a mortgage has been given under the terms of this act, until such mortgage has been fully paid.

SEC. 6. All such parts and clauses of the said act of May 20, 1862, which prohibit persons from the benefits of the same "who have borne arms against the United States Government or given aid and comfort to its enemies" are hereby repealed.

SEC. 7. Whenever the amount of the loan hereby created shall have reached the sum of $20,000,000 this act shall cease and determine so far as the appropriation of money is concerned. And a certificate of the Secretary of the Treasury that that sum has been applied as herein stated shall be evidence of the same.

SEC. 8. All the several penalties imposed in the act to which this is supplemental for false swearing and other offenses therein named are herein incorporated and made a part of this act.

Mr. CONGER. I object to the consideration of that bill now. There are some other bills we want to take up and pass.

The CHAIRMAN. The House allowed the chairman of the Committee on the Public Lands to designate the bills he desired to have considered.

Mr. CONGER. That is all right; but the House can object to their consideration when they come up. But I will withdraw my objection, as I understand the gentleman from Pennsylvania [Mr. WRIGHT] who introduced the proposition desires to submit some remarks.

Mr. WRIGHT. Mr. Chairman, I rise somewhat reluctantly to speak with regard to the merits of this bill for the reason that I know the sentiment and opinion of a large majority of the gentlemen who compose this Chamber are in opposition to the views that I entertain on this subject. I was a member of the Congress, in 1862 I think it was, which enacted the homestead law. Mr. Grow, who was then Speaker of the House of Representatives, took an unusual interest in the preparation and passage of that measure. He was, in fact, the father of the law. I stood by him on that occasion manfully because I believed it was a great charity, as well as an act of justice, to permit the public lands of this country to be occupied solely by those persons who wanted to settle upon them, so they might go there free of cost and without any restriction. We passed the homestead law, but it was in the face of a strong opposition. However, finally we prevailed in placing upon the statute-books of the United States the privilege for any man who is a citizen of the United States, or who has filed his declaration to become one, as the head of a family, to have the opportunity of entering upon one hundred and sixty acres of the public domain, and use it and occupy it as his own without compensation and without price. It was a glorious enactment—a righteous law.

I had an important part in the passage of that bill. Years afterward, when it became manifest that the great measure of charity could not be enjoyed by all those who sought the opportunity of settling on the public lands, it occurred to me there should be some means or facilities afforded by the National Government to enable the poorer classes of our people to enter upon these lands and enjoy them to the same extent as those who had the means to go there and avail themselves of the great privilege. Hundreds of poor men, without the means of transportation or for the commencement of a settlement, saw the promised land afar off; but to them it was not available. Poverty could not make its way there. The more fortunate in this world's goods made the gift available and millions of hearts were made happy.

Whatever may be said as to my ideas on this subject, as to impugning my motives, I stand before you to-night, Mr. Chairman, and the Congress of this nation to proclaim that the object I have in my heart is the result of an honest conviction—to do good for the poor laboring-man who is willing to work but is denied it, and who seeks a share of

God's bounty in common with his more prosperous fellows. There are certain great elements which enter into the subsistence of life which ought not to be made the subject of monopoly. Air, light, and water are the common inheritance of us all, the gift of God—and no one has an exclusive right to these privileges, neither kings nor commons—an inalienable right of man, and should not be abridged. Land which yields the subsistence of life ought to be included in that great catalogue; no one has a right to a monopoly in it.

I would not reward idleness by giving people material aid to settle on the public lands who are not inclined to help themselves; but we all know there is a class of people in this country who are in poverty and want, and it is relief to that class of people which is the aim of this bill and the design I seek to carry out in its passage.

I believe in this country we cannot tolerate the individual ownership of immense tracts of territory. This is monopoly, and monopoly of the worst kind—monopoly that takes the food from the mouths of starving men. I cannot believe the title to these farms and plantations, which amount to sixty, seventy, and a hundred thousand acres, will stand the test of time. John Bright, and I regard him as good authority, has been talking for years in the British Parliament to the great landed proprietors, warning them that the time would come when they must make partition of their vast estates—not to divide them up upon the principle of agrarianism, but that the time would come when the people would refuse to tolerate a monopoly of the immense tracts of land held by individuals, and individuals alone. It is an encroachment on God's prerogative. Such is not the policy of good government. That great difficulty we now see growing in Ireland to gigantic proportions is a question of land; the great privilege of life—the right to live. Air, nor light, nor water, nor land can be surrendered to class. It is common to us all. Let us, like men, resolve to assert this doctrine. Let us file our protest, and even if it shall upset the British empire, who will shed tears over the catastrophe, especially if the moving cause be one which destroys the happiness and welfare of the millions?

The same policy which is foreshadowed in the bill I offer in this House was urged upon the proprietary government of Pennsylvania before the Revolution through the instrumentality of Benjamin Franklin. The great counties of Berks and Bucks and Lancaster and Delaware and Chester and Montgomery were seated and occupied by proprietary aid. But then, sirs, of what account are the precepts of Franklin? I know men in this Chamber who think they can drive to the shade the memory of the great philosopher and belittle him in a comparison with themselves. John Bright may hurl his anathemas at the lords of the parks and pleasure-grounds of Great Britain; he may tell the English Cabinet that the lands in Ireland owned by absentees should be sold in small quantities to the Irish tenants and paid for out of the British treasury, or loaned at a small rate of interest, repayable in twenty-five years; but I suppose this act of John Bright may be offset by learned American statesmen on the general charge that he is either a fool or a demagogue. Will he not be sorry when he hears of it? Oh, sir, what profound wisdom we sometimes meet with in legislative bodies! Suspend and exterminate your CONGRESSIONAL RECORD which notes down every word repeated here, and you will save a few millions a year to the Government, but you may possibly destroy a score of embryo statesmen. What a privilege to get in the RECORD daily!

But I wander. It is not a new theory that I introduced in this bill. The same principle was adopted in the settlement of all the provinces acquired by the valor of Roman arms. Territories were added, provinces were annexed, and the people were assisted in the settlement of these provinces. The Roman senate was generous in this particular. Monopoly did not rule Rome. The people in the days of her great renown had a controlling voice in her affairs. Would that our people could only be made to believe that freedom is better than slavery!

Will this knowledge come too late? The hardy pioneer has the courage to reclaim and make a garden of your great desert, and you refuse to aid him. You will make liberal grants for poor-houses and prisons, but when the sacred name of home, household, and the domestic hearth is made the subject of popular favor, a howl comes up in response. What poor, little, feeble creatures some of us are in legislative halls—but then we are well paid. And oh, how patriotic we are, living on Government aid. But let the man in rags, with an empty stomach, ask aid. Down with the vagrant! Away with the tramp!

The bill I have introduced, Mr. Chairman, is carefully prepared and drawn up after mature deliberation and reflection. I have spent much time and thought upon the subject, and I believe it is as perfect a project of law as can be made if you are willing to give aid and assistance at all. The business men of the country, I mean the producing classes, whom I have consulted upon the merits of the bill, very generally give it their approval and encourage the idea of Government aid. Others with less liberal views, and especially those who make the great struggle of life one of selfishness and oppose every measure of legislation which does not benefit themselves personally, oppose the principles of the bill.

There is another class of our people, large in numbers, but men of generous impulses, and who have the power to divest themselves of cramped prejudices, with hearts in sympathy with the woes of the poor and lowly, who do not favor the idea of a small loan payable on time at a low rate of interest, but prefer the plan of colonization—aiding poor emigrants with means to reach the promised land. I do not care what plan is adopted so you give relief to the poor mechanics and laboring-men of the country who are striving to live and who have not the means to live. I provide in this bill that any man, or the head of a family, who shall settle on the public lands under the operations of the homestead bill, may have a small loan from the Government. That loan is fully guarded with respect to expenditures and repayment, and he cannot take advantage of any circumstances by which he may receive his money and then abandon his improvements. It is so guarded that a man who avails himself of the privilege must show after he settles on the public lands that he has expended all the money paid to him up to that time before he may receive any more assistance.

Now, you may not be aware of the fact, but it is true, that I have presented the petition and humble prayers, to this and the last Congress, of over two hundred thousand men, asking for the passage of this law or some other law providing for small aid in the settlement of the public lands, whether by loans, by colonization, or by some other means of settlement. These petitions have gone daily into Mohammed's coffin. How many of you, my colleagues, that know they sleep there. It is the petition of the money king that arouses the lethargy of Congress. The passage of this bill is not a question in which I have any personal pride with regard to its final success. I am influenced by but one solitary motive, and that is to aid and assist this class of people who never can reach the public lands unless you furnish them some aid in order that they may get there and commence their improvements. They are our poor. They have a claim upon our generosity. The heart of the nation is sensitive. Famine and want abroad bring out our ships laden with corn. The individual purse of the nation is generously opened. Greece and Ireland are our witnesses. We have done much; we have the power and the will to do more. And why can we not respond to the calls of our own people? Sir, there are tens of thousands of our own people in want. Strong men go to bed hungry, and women and children cry daily for bread.

Now, Mr. Chairman, a man knows but little with regard to the extent of this country and its vast resources until he travels over that great line of road from Chicago to San Francisco, some three thousand miles in extent. He does not know, he has formed but a feeble conception of the capacity of this country till he has made this journey; he is ignorant of it until he makes that tour. I made it during the last recess of Congress. Why, sir, there is what we put down upon the map as the great American desert, that portion of the country extending from the western boundary of Nebraska to the tops of the Sierra Nevadas, two thousand miles in extent, and ranging in width from five to six hundred miles, nothing visible to the eye but sand and sage. And yet that great desert, with a little assistance upon our part, can be made from one end to the other a fertile field. It is productive; all that it needs is irrigation. As you pass along upon the iron road that threads the great desert, and stop at the little wayside inn, erected to furnish you with scanty accommodations, you will find an acre or two fenced in; an artesian well, and rich vegetation growing all over it with the aid of water alone. You will find luxuriant grass, and rich verdure as rank and luxuriant as any of the bottom lands of the river valleys can produce. It all may be made fertile. The settlement of the Utah Valley—Salt Lake—is an indication of what industry can accomplish in reclaiming a desert. These vast sand fields, which were considered as deserts between us and the Pacific slope, may be made the most productive lands on the globe. A little water is all that is needed. Why, sir, in Salt Lake Valley I was informed during my visit there that before that settlement was made there was nothing but sage and sand. Sage and sand everywhere. A boundless arid desert of sage and sand. But after a settlement in Salt Lake Valley was made, and a careful irrigation through the industry of its people, the heated, arid plain assumed new life, the waste became a flourishing field to the husbandman. A great problem was solved. I saw crops of corn yielding a hundred bushels to the acre. I was shown crops of wheat that yielded fifty bushels to the acre, upon what had been once a barren waste, an unproductive soil, that allowed nothing but a stunted growth of wild sage. Salt Lake Valley may be reproduced everywhere on the vast plain east of it. Water is all that it requires. This territory must be reclaimed. Millions of our worthy and industrious poor, now homeless, should be afforded means to reach it. Why, why, Mr. Chairman, can we not open our hearts, and seat an empire? Churches, and schoolhouses, and the noisy hum of machinery are not now there—nor the smiling faces of prosperous men and laughing children—but a more liberal policy and a more generous Legislature will do in years to come what the force and power of public opinion has not yet compelled. Bourbonism cannot withstand forever the march of intelligence.

Now, sir, in my judgment, it is the policy of the country to occupy this vast desert. It is our duty to do it. How can reasonable and thinking men hope to escape the public censure? That it may be settled and occupied you must give some kind of inducement, offer some kind of aid, or the desert will remain a desert. Bourbonism would have it so. What a sprag on the wheels of progress. The whole of it is susceptible of the highest cultivation. But it requires our assistance, it requires our aid, it requires energy upon our part.

Famine abroad is driving thousands upon thousands for relief here. We have the means placed by a bountiful Providence in our hands. Shall we be false in the discharge of the great trust? This bill by giving a small loan to the adventurer and hardy pioneer will aid to bring about that great and desirable result. It is to be accomplished sooner or later. It is a part of our destiny. The good Samaritan lives here, and who through narrow and contracted parsimony shall stay the hand of his bounty? Our gifts to the industrious poor of this land will be bread thrown upon the waters. Progress is in motion. The power of restraint will grow weaker and weaker. Cabinets, and councils, and legislative bodies will be compelled to realize the fact that money is not king; that the thinking people shall rule.

Of the vast quantity of land of this country, all of it that may be described as agricultural lands—that is, lands where the plow may be introduced and the glebe turned over and the crop secured as the result of the farmer's first season of industry—is mostly appropriated. Corporations have gobbled up as Government subsidies more than two hundred million of acres. There is not more than 5 per cent. of the unreclaimed land in our western territory that we can regard as agricultural. The great portion of that unoccupied, but a vast amount of it fertile, must be irrigated. It must be brought into a state of production by the hard-handed industry of the poor men of the nation. There are farms enough for them all, and, in my judgment, it would be better policy to give this class of people a little aid and assistance than to expend your money in building alms-houses and prisons and other like institutions, where too many of our poor must necessarily go who have not the means of subsistence and are driven to vicious habits for lack of employment or the money to carry them to this great western domain in reserve for them, and could be made available with a small sum of money judiciously given.

Why, sir, in our eastern cities the amount of crime is immense; the number of paupers is immense. It ought to be the policy of the Government, in my judgment, and I have looked at it with a great deal of solicitude and careful attention, to give encouragement to this class of people and aid them in an honest effort to live honest lives and become good citizens. Want of employment and poverty will lead to crime. It is inevitable. The poor laws make no reform; the prison door closed upon the convict forever shuts him out from the society of good men. Honor, justice, philanthropy, all demand that at least that charity which we bestow upon the people of other lands should find a foothold and abiding place in this.

Against an appropriation of this kind by Congress it may be said that it is a bad precedent, possibly an unconstitutional measure; and that other and feeble objection, a reward for idleness. You know yourselves, you who are listening to me to-night, that there are thousands and hundreds of thousands of men in this land who would be willing to labor if they could only find employment. Other unfortunate poor land upon your shores daily by thousands, most of them immigrants, driven from home in despair, and really the objects of pity and commiseration. They are here; there is no alternative left but to give them our care and protection. Those of them who have not the means to reach the great West must remain in our crowded cities, and in too many instances their habits become vicious and they are a load upon the State. And yet these very men, if we give them some aid, in order that they may make a permanent home upon our great unpeopled domain, will become good citizens and industrious men, and fill the rank and file of our armies when occasion shall demand their service. The policy of our Government has been for a hundred years to throw wide open our gates to immigrants. It has been a wise and just policy. It should not be changed. Our country is the house of refuge to the oppressed of mankind. It has ever been so, and so it will remain. That is, I would measure my language in this particular, and confine this invitation to those who will come here to make this land a permanent home, act in concert with us, and help to sustain our Constitution and laws and worship the God of our fathers. The Caucasian feature is the one distinctive and noble outline of our race. It has the pride as well as courage to maintain its ascendency.

I consider that the question of providing homes for our population and the great question of agriculture are the first things that should demand and receive the attention of Congress. You talk about your great debt. Why, sir, look at the resources of your great country. Your wheat crop and your corn crop, if they could be applied for a single year and sold at the ordinary prices in the eastern market, would pay the whole of the national debt, estimating your corn crop at fourteen hundred millions of bushels and your wheat crop at half that number of bushels. These are the sources from which you are to draw your supplies, and it is from the products of the earth that you are to pay the debt of the nation. It is from the results of the industry of your producing classes that you are to pay this debt, if it is to be paid at all. I am one of those who believe that we have the means to pay that debt and that we must pay it. I do not believe in that old English idea, however, that a national debt is a national blessing. I believe that our resources are competent for paying off the debt; and, as I have said already, a single crop that the earth produces in this broad Union of States would dispose of the whole national debt at a dash. Your millionaires of Wall street, who produce nothing and who do neither "weave nor spin," cannot pay the debt. Their schemes of funding and issuing interest-bearing bonds and cunning devices will not do. The crops raised upon the land and the men who raise the crops must pay the debt. The drones in the public hive may live on the labor of the producer, but they are powerless to pay the debt. They prefer speculating in our debt on 'change. They do not want it paid so long as they can hold Government interest-bearing bonds and avoid the payment of an income tax. Ah, sir, your bondholder is a very cunning, shrewd gentleman; very patriotic, very loyal, so long as he is allowed to have both arms up to the elbow in the public Treasury. Are these the men to fill the rank and file of your Army; to clear your forest and break the prairie? If they had to depend upon their own industry for food and raiment they would go hungry and ragged the year round.

These are the finished gentlemen who cry demagogue when generous hearts appeal for aid and assistance for the poor; they say "prisons, penitentiaries, and poor-houses!" Sensible arguments! Wise men! I stand here to-night advocating ideas based upon the eternal principles of right, the cause of equal and exact justice, ten years ahead of my time but twenty behind the opinions and ideas of the intelligent masses of the country. But you shall see the time, you men of this Chamber who oppose the great measures of this bill, when a Congress shall and will be glad to indorse them; the time when public opinion shall be cast from the mold of the great producing classes. Why do they sleep now? They should stand upon the watch-tower. The money power is upon the steps of the Capitol; so were the auctioneer soldiers of Rome one day. I am not ahead of my time. Those contemporaneous with me are in the rear—public men, I mean, not the masses. I am marching under the flag of Franklin and of John Bright. I refer you to the largesses that Rome bestowed upon the people who settled the provinces that were won by Roman valor.

It is not a new question I am agitating. I am pleading for the establishment of a principle that shall reclaim the desert and make millions of poor people happy in the thought that the roof they sleep under is their own; that they have bread to eat and garments to protect them from the cold; that their life of fearful dependency has become the plane of elevated manhood.

It is the true policy of a great nation to protect and care for its people. Even those who come to our shores are entitled to our generosity; for famine drives them here, hunger pinches them, and they flee to this land as their home of refuge. God has made ample provision for his children. Every acre upon which your generosity shall place an occupant is an argument against a house of correction. I believe, as thoroughly as I believe in my own existence, that that principle in this bill is founded in a wise charity and is based upon the soundest policy of national legislation. It is both just and merciful; it is right before God and man. Time will vindicate my position to-night.

I do not wish to detain this committee. I see that members are restive, and that my remarks are not palatable to many of my colleagues of this Chamber. Will they feel more at ease in recording their votes against the bill? But what may be indifferent to some of you is a subject that touches my heart. I have been engaged for years in the advocacy of this principle; I introduced this bill in the last Congress. It was defeated then, but still there were a number of gentlemen who were willing to stand by me. I know that my views are not in accord with those of a majority of this House; but I tell that majority that the day will come when the attention of this nation will be directed to the amelioration of the condition of its poor people and to the measures necessary to enable them to settle upon the public lands of this country.

Although, considering the short lease of life that I have left, I may not live to see that day, yet I prophesy here to-night that the day will come when material aid will be given to the poor in our land to enable them to build homes upon our desert and raise up their families, and educate them, too, where wild beasts and wild men can now scarcely sustain life. To prevent this progress is a want of conception of the true spirit that should characterize statesmanship.

I leave the subject. The idea I will never abandon. In victory or defeat, I shall work on, because in my judgment one of the most important considerations is contained in it, the elevation of man. To its accomplishment I devote the small remnant that is left to me of life. If I fail, I shall have the proud satisfaction of having discharged a duty which to me is paramount to all other matters of public concern. And let my epitaph be:

> In common ways, with common men,
> I served my race and time.

Mr. CONVERSE. In order that the gentleman from Pennsylvania [Mr. WRIGHT] may have an opportunity to get a vote upon his bill I move that it be laid aside and reported unfavorably to the House.

Mr. WRIGHT. All I want is an opportunity to record my vote in favor of this bill.

Mr. CONGER. I object to this bill being reported to the House either favorably or unfavorably.

Mr. WRIGHT. All that I want is an opportunity to record my vote in the House upon this bill.

The CHAIRMAN. The gentleman from Ohio [Mr. CONVERSE] moves that this bill be laid aside to be reported unfavorably to the House.

Mr. CONGER. I object to that. If the committee has no other business to consider I will move that the committee now rise.

Mr. WRIGHT. All that I want is to have the bill go to the House, where it can be voted upon.

Mr. CONGER. After we have perfected the bill it can be reported to the House, but until then it cannot be.

The CHAIRMAN. Does the gentleman call for the reading of the bill by sections for discussion and amendment?

Mr. CONGER. No; I want it to be laid aside and other business, if there is any, taken up. If there is no other business to be taken up, then I will move that the committee rise.

Mr. WRIGHT. If the committee does not choose to recommend the passage of this bill, then let members vote against it.

Mr. CONGER. I withdraw my objection to the consideration of this bill to-night, on the express statement of the chairman of the Committee on the Public Lands [Mr. CONVERSE] that the gentleman from Pennsylvania [Mr. WRIGHT] wanted fifteen or twenty minutes to speak on this bill, and that then it should be laid aside and other business taken up for consideration.

Mr. CONVERSE. That was my understanding, but the gentleman from Pennsylvania desires to have a vote on it in the House.

Mr. WRIGHT. What objection has the gentleman from Michigan [Mr. CONGER] that the bill be reported to the House with an unfavorable recommendation?

Mr. VAN VOORHIS. Is this the unanimous report of the Committee on the Public Lands?

Mr. CONVERSE. At the request of the gentleman from Pennsylvania [Mr. WRIGHT] the bill was reported back to the House without any recommendation.

The CHAIRMAN. Does the gentleman from Ohio [Mr. CONVERSE] insist upon his motion, that the bill be laid aside to be reported unfavorably to the House?

Mr. CONVERSE. I ask the gentleman from Michigan to consent that that may be done.

Mr. CONGER. The bill cannot be reported to the House without being perfected by amendment. I am one of those who stand by the gentleman from Pennsylvania, [Mr. WRIGHT,] he with his million acres of land and I with only one. We are both struggling to give land to the landless and homes to the homeless.

Mr. WRIGHT. The lands which I have in Pennsylvania others have had the benefit of as well as myself.

Mr. CONVERSE. I will ask, then, that this bill be passed over.

Mr. VAN VOORHIS. I object to the further consideration of this bill.

The CHAIRMAN. Does the gentleman from Ohio insist upon his motion, to lay this bill aside to be reported favorably to the House?

Mr. CONVERSE. If I can do it I will object to the further consideration of the bill.

Mr. BRIGGS. I desire to make a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. BRIGGS. This bill is now before the committee for consideration, and debate has taken place upon it. Is it not too late to object under the rule to its consideration?

Mr. CONVERSE. The bill has not been read by sections for amendment.

Mr. BRIGGS. A half an hour has been wasted in its consideration.

Mr. WRIGHT. Let the committee vote down the bill if they want to.

Mr. CONGER. The condition of this bill is very plain. As I had the right to do, I objected to the consideration of the bill when it was first reached, and that objection under the rule would have required the committee to rise in order that the House might act upon the matter. At the request of others, I stated publicly that I would withdraw my objection so far as to permit the gentleman from Pennsylvania [Mr. WRIGHT] to occupy the floor for fifteen or twenty minutes. Otherwise I would not have withdrawn my objection.

Mr. RYAN, of Kansas. That is a fair statement.

Mr. CONGER. I think that is a fair statement of the case.

Mr. CONVERSE. In order to get out of this difficulty, I will ask a vote on the motion I made awhile ago, that the bill be laid aside to be reported to the House unfavorably.

Mr. CONGER. I object to that. Of course the gentleman knows that he cannot go a step further to-night if we see fit to prevent.

Mr. CONVERSE. Certainly.

Mr. CONGER. Then, why make such a motion?

Mr. CONVERSE. What would the gentleman have us do?

Mr. CONGER. Lay the bill aside, as I have a right to ask.

Mr. CONVERSE. Objection is made to that.

Mr. WRIGHT. Gentlemen in this House may have the power to kill this bill to-day, but the time will come when they will not have the power to kill it. The laboring-men of this country have rights here which ought to be respected.

Mr. CONVERSE. I will say to the gentleman from Michigan that I am willing to make any arrangement which may be satisfactory to both sides of the House.

The CHAIRMAN put the question on the motion of Mr. CONVERSE, that the bill be laid aside to be reported unfavorably to the House, and declared that the ayes seemed to prevail.

Mr. PAGE. The gentleman from Michigan [Mr. CONGER] objected to the consideration of this bill, and if he had insisted on that objection the committee would have been compelled to rise that the House might take action. But he withdrew his objection simply that the gentleman from Pennsylvania [Mr. WRIGHT] might make a fifteen or twenty minutes' speech. After that speech he had the right to renew his objection, upon which the committee should rise and report the question to the House.

The CHAIRMAN. It is the impression of the Chair that after the gentleman from Michigan made his objection he withdrew it, and that the Committee of the Whole proceeded to consider the bill.

Mr. PAGE. He withdrew his objection that the gentleman from Pennsylvania might speak fifteen or twenty minutes.

The CHAIRMAN. The objection was not withdrawn conditionally, as the Chair understands. The question has been taken on the motion of the gentleman from Ohio. The Chair waits for any other motion.

Mr. CONVERSE. I call for the reading of the next bill.

Mr. CONGER. I call for a division on this question. I suppose the Chair can recognize that, if he cannot recognize me for a conditional withdrawal of an objection. After I had stated that I withdrew the objection conditionally, the Chair has assumed to say that I did not. But I can now call for a division, which I do. [Cries of "Too late!"]

Mr. CONVERSE. The question has been decided.

The CHAIRMAN. The Chair is of opinion that the call for a division comes very late; but he will recognize it.

The question was again taken; and there were—ayes 21, noes 24.

Mr. WRIGHT. I call for tellers.

Tellers were ordered; and Mr. CONGER and Mr. WRIGHT were appointed.

The committee divided; and the tellers reported—ayes 33, noes 21.

Mr. VAN VOORHIS. No quorum!

The CHAIRMAN. Is the point of no quorum insisted upon?

Mr. CONGER. I withdrew my objection to give the gentleman from Pennsylvania an opportunity, which I was told he desired, to speak upon this bill. I withdrew the objection conditionally in order that he might have fifteen or twenty minutes. Having obtained that permission, he now desires to carry a motion to report this bill unfavorably to the House. I, the friend of this bill, am opposing it.

Mr. RANDALL, (the Speaker.) The gentleman can vote against the proposition in the House.

Mr. CONGER. I will not make any further point. By what I have said I have put myself right on the record and put the gentleman from Pennsylvania in the wrong.

The CHAIRMAN. As the Chair understands, the point that no quorum has voted is not insisted on.

Mr. VAN VOORHIS. I made the point because I thought that so important a bill as this ought not to be defeated by a majority of twelve in so thin a House.

The CHAIRMAN. Does the gentleman insist on the point that no quorum has voted?

Mr. VAN VOORHIS. I withdraw it.

The CHAIRMAN. The motion of the gentleman from Ohio is agreed to; and the bill will be laid aside, to be reported unfavorably to the House. The Clerk will read the next bill on the Calendar reported from the Committee on the Public Lands.

RELIEF OF SETTLERS ON PUBLIC LANDS.

The next bill on the Calendar reported from the Committee on the Public Lands was the bill (H. R. No. 3171) for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees and commissions paid on void entries of public lands.

The bill was read, as follows:

Be it enacted, &c., That in all cases where it shall, upon due proof being made, appear to the satisfaction of the Secretary of the Interior that innocent parties have paid the fees and commissions and excess payments required upon the location of claims under the act entitled "An act to amend an act entitled 'An act to enable honorably discharged soldiers and sailors, their widows and orphan children, to acquire homesteads on the public lands of the United States,' and amendments thereto," approved March 3, 1873, and now incorporated in section 2306 of the Revised Statutes of the United States, which said claims were, after such location, found to be fraudulent and void, and the entries or locations made thereon canceled, the Secretary of the Interior is authorized to repay to such innocent parties the fees and commissions and excess payments paid by them, upon the surrender of the receipts issued therefor by the receivers of public moneys, out of any money in the Treasury not otherwise appropriated, and shall be payable out of the appropriation to refund purchase-money on lands erroneously sold by the United States.

SEC. 2. In all cases where homestead or timber-culture or desert-land entries or other entries of public lands have heretofore or shall hereafter be canceled for conflict, or have been abandoned, or where, from any cause, the entry has been erroneously allowed and cannot be confirmed, the Secretary of the Interior shall cause to be repaid to the person who made such entry, or to his heirs or assigns, the fees and commissions, amount of purchase-money, and excesses paid upon the same, upon the surrender of the duplicate receipt and the execution of a proper relinquishment of all claims to said land, whenever such entry shall have been duly canceled by the Commissioner of the General Land Office.

SEC. 3. The Secretary of the Interior is authorized to make the payments herein provided for out of any money in the Treasury not otherwise appropriated.

SEC. 4. The Commissioner of the General Land Office shall make all necessary rules, and issue all necessary instructions, to carry the provisions of this act into effect.

The amendments reported from the Committee on the Public Lands were read, as follows:

In lines 3 and 4 of section 2, strike out the words "or have been abandoned."

At the end of the second section insert the following words:

"And in all cases where parties have paid double-minimum price for land which has afterward been found not to be within the limits of a railroad land grant, the excess of $1.25 per acre shall in like manner be repaid to the purchaser thereof, or to his heirs or assigns."

Mr. CONVERSE. I yield the management of this bill to the gentleman from California, [Mr. BERRY.]

Mr. BERRY. Mr. Chairman, this bill, which was introduced by my colleague, [Mr. PAGE,] has but one object, to make repayment to parties who have made payment in the shape of fees and double-minimum price for land where the Government has failed to make title to the land or where it has afterward been ascertained that the lands were not double minimum. This is the only object of the bill, and if properly guarded the measure is manifestly just. The Government certainly should not retain the money of the people, either in the shape of fees or double price, where the Government has failed to pass title. Section 2362 of the Revised Statutes was intended to cover cases of this kind; but under the construction of the Secretary of the Interior the Department refuses to refund the money in these cases. I will read section 2362:

The Secretary of the Interior is authorized, upon proof being made, to his satisfaction, that any tract of land has been erroneously sold by the United States, so that from any cause the sale cannot be confirmed, to repay to the purchaser, or to his legal representatives or assignees, the sum of money which was paid therefor, out of any money in the Treasury not otherwise appropriated.

Now, he contends before he is authorized to pay back that money it must be for the purchase, and this bill looks to returning fees and commissions paid to the land offices by the parties when they failed to obtain the title. I suppose perhaps under the present law the Secretary would be authorized to return the excess of payment, but in drawing up this bill it was the purpose to remove all doubts so the Secretary of the Interior should not construe that section 2362 to apply to the purchase-money, but that he might be at liberty to return fees and commissions.

There were under what is known as "the bounty and homestead law for soldiers" many fraudulent warrants issued. The law provided where a soldier had taken less than one hundred and sixty acres as a homestead he might enter an additional quantity to make up, in addition to what he had already taken, one hundred and sixty acres. Many fraudulent pieces of scrip or warrants were issued in excess and fees and commissions were paid on those fraudulent warrants. This bill aims to return those fees and commissions paid upon warrants found to be fraudulent, and which have been canceled. The object of the measure is, Mr. Chairman, that where the party who has honestly entered land upon those fraudulent warrants, and where they have lost the land, they ought not to be required to lose also the fees and commissions paid to the Government. If the bill is properly guarded it is manifestly just.

I will now yield to my colleague, [Mr. PAGE,] who originally introduced the bill into the House.

Mr. BOUCK. The gentleman from California says "fees paid to the Government." Now, are they paid to the Government or to the Land Office?

Mr. BERRY. To the Land Office.

Mr. BOUCK. The Government never got the fees.

Mr. PAGE. Yes; I say they have been paid to the Government. The Clerk will please read the report.

The Clerk read as follows:

Mr. BERRY, from the Committee on the Public Lands, submitted the following report, (to accompany bill H. R. No. 3171:)

The Committee on the Public Lands, to whom was referred bill H. R. No. 3171, have considered the same, and report as follows:

The object of the bill is to refund to innocent purchasers of public lands all moneys they have paid the Government as fees and commissions and excess purchases where, from any cause, the Government fails to make title. The bill as amended also provides that in cases where parties have been required to pay double-minimum price for lands supposed to be within railroad reservations, and it afterward proved not to be within said reservations, and was not double minimum, upon due proof being made the Secretary of the Interior shall refund the extra $1.25.

Your committee think the bill properly guarded and its object manifestly just. The Government should certainly refund the money to the parties to whom it justly belongs, and has no right to retain money for which it gave nothing. Your committee therefore recommend the passage of this bill with the amendments proposed.

Mr. PAGE. I do not desire, Mr. Chairman, to detain the committee with any speech.

The first section of this bill, as it will be observed, provides that in all cases where it shall upon due proof being made appear to the satisfaction of the Secretary of the Interior that innocent parties have paid the fees and commissions and excess payments required upon the location of claims under the act entitled, &c., he shall refund the money so paid.

The second section provides that in all cases where homestead or timber-culture or desert-land entries or other entries on public lands have been canceled for conflict, or where from any cause the entry has been erroneously allowed, the fees paid into the Land Office, which have afterward gone into the Treasury of the United States, may be refunded to those parties.

Of course, if the members of this committee will reflect for a moment, they will see it is unjust to those parties that the Government should retain their money when they have had no value for it in a single instance. The money was paid as fees and commissions to the registers and receivers of the Land Office. When they came here it was found the entries had been erroneously allowed, and the Government could not comply with the conditions of the law, and therefore it is wrong these people should lose the fees and commissions paid by them.

Under what is known as the additional homestead act for soldiers it was found soon after its passage there were thousands of fraudulent certificates issued. Innocent parties purchased them in good faith and undertook to locate lands under them. In course of time they were rejected, and these innocent parties lost not only the money paid for the fraudulent certificates, but also the fees and commissions they had paid into the General Land Office.

Mr. DUNNELL. Does the gentleman refer to the soldiers' homestead act?

Mr. PAGE. Yes, sir; you remember we repealed the law simply because of the immense frauds practiced on the people of the country under it. Men in good faith purchased those certificates and attempted to locate lands under them. They paid commissions and fees, but it was afterward shown in many instances they were fraudulent and were forgeries on their face.

This bill simply provides when, in the judgment of the Secretary of the Interior, proof shall be made to justify him in refunding this money thus unjustifiably paid, he shall so refund it. There is no law by which you can reach it now, because the money has gone into the Treasury and can only be drawn out again by an act of Congress.

Mr. BERRY. One more word. One feature of the bill is to refund the extra dollar and a quarter where the amount was supposed to be double minimum when the Government sold it and the price $2.50 per acre was paid, but which was afterward ascertained not to be double-minimum land. This $1.25 per acre lies in the Treasury of the United States and properly belongs to the men who paid it into the Treasury. There is no means by which you can get it. There have been from time to time special bills presented to refund money in certain cases and to certain individuals, and the committee deemed it better to frame a general law to cover all these cases.

Now, I ask the adoption of the amendment proposed by the committee.

Mr. LOUNSBERY. Before that I would like to ask the gentleman from California a question.

Mr. BERRY. Certainly.

Mr. LOUNSBERY. Can the gentleman refer to any opinion of the Secretary of the Interior in which it is held that he has not the power to refund money under the section of the statute which has been read here where a double-minimum price has been paid and double-minimum lands have not been granted?

Mr. BERRY. I do not know that I can refer directly to any written opinion of the Commissioner or the Secretary of the Interior, but I called upon the Commissioner myself, and he informed me that he could not refund this money for the reason, I believe it was, that at the time of the sale the Government regarded that as a double minimum. I have not a written opinion, and do not know that I remember exactly the reason, but that was the substance of it; and besides, he said he did not find anything in the law to warrant him in refunding the money. I framed a general bill myself, which I have now in my possession, to cover these cases.

Mr. LOUNSBERY. The question I put is whether you can refer to any opinion of the Secretary of the Interior in reference to this subject where the Government has refused to refund the difference between the double-minimum price of the land and the real value of the land.

Mr. BERRY. I can refer the gentleman to parties who made application to the Department and who received that information in response to their applications. There is no authority of law to pay it out of the Treasury.

Mr. LOUNSBERY. But the statute which has been read authorizes the Secretary of the Interior to pay it.

Mr. BERRY. I think it has been held differently in the Department.

Mr. PAGE. No, there is no law by which it can be paid. I would like to ask my colleague from California a question, and that is whether this bill has not been prepared or favorably recommended by the Commissioner of the General Land Office?

Mr. BERRY. I am not able to answer that exactly, but I had a conversation myself with him, and he recommended its passage.

Mr. HERBERT. If the gentleman from California will permit me, I can answer the question of the gentleman from New York. I made application myself to have refunded quite a number of entries that were canceled some twenty years ago because of a conflict with a railroad grant. The Secretary of the Interior or the Commissioner of the General Land Office had held that these lands were not subject to entry; that they were improperly permitted to be entered, and thereupon had canceled them; but because the entries had been canceled more than two years prior to the time that the application was made for refunding the purchase-money, the Secretary of the Interior and the Commissioner of the General Land Office, under some decision of the Secretary of the Treasury which they regarded as binding in such cases, held that the applicants could not be paid without a special appropriation by law. I do not now remember the section of the Revised Statutes upon which the Secretary of the Treasury based his ruling, but such was the ruling.

Mr. LOUNSBERY. It was based then, I presume, on the statute of limitations, two years having elapsed. The same ruling would apply here if this bill passed.

Mr. HERBERT. No, sir; not the statute of limitations, but some other statute that affected it; but what it was I do not now remember. I desire to offer an amendment at the close of this bill to cover just such cases.

Mr. BERRY. I now ask a vote upon the amendment.

The CHAIRMAN. The Clerk will read the amendment proposed by the committee.

The Clerk read as follows:

It is proposed to strike out the words "or have been abandoned" in lines 3 and 4 of section 2, so that it will read: "Or shall hereafter be canceled for conflict, or where from any cause," &c.

The amendment was agreed to.

The CHAIRMAN. The Clerk will read the next amendment.

The Clerk read as follows:

Add to line 12, at the end of section 2, the following:

"And in all cases where parties have paid double-minimum price for land which has afterward been found not to be within the limits of a railroad land grant, the excess of $1.25 per acre shall in like manner be repaid to the purchaser thereof, or to his heirs or assigns."

The amendment was agreed to.

Mr. HERBERT. I ask now to offer this amendment, to come in at the close of the bill:

And for the repayment of the purchase-money and fees herein provided for, the Secretary of the Interior shall draw his warrant on the Treasury, and the same shall be paid without regard to the date of the cancellation of the entries.

The CHAIRMAN. Is this intended to be inserted as a separate section?

Mr. HERBERT. No, sir; to add to the fourth section, at the end of the bill.

The amendment was agreed to.

Mr. BENNETT. I suggest that the title should be amended by inserting, after the word "fees," the word "purchase-money;" so that it will read "for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees, purchase-money, and commissions," &c.

The CHAIRMAN. The Chair would suggest that this amendment should properly be made in the House. The title can be amended there.

Mr. BERRY. I now move that the bill be laid aside to be reported favorably to the House.

The motion was agreed to; and the bill was accordingly laid aside to be reported to the House with favorable recommendation.

CERTIFICATION OF SCHOOL LANDS IN KANSAS.

Mr. CONVERSE. I now call up the joint resolution (H. R. No. 123) authorizing the Secretary of the Interior to certify school lands to the State of Kansas.

The joint resolution was read, as follows:

Whereas the United States has sold and disposed of sections 16 and 36 in certain Indian reservations embraced within the territorial limits of the State of Kansas, in pursuance ot treaty obligations; and

Whereas the State of Kansas, in pursuance of a decision of the General Land Office, dated August 14, 1877, has selected for school purposes other equivalent lands in lieu of such sections 16 and 36, disposed of as aforesaid: Therefore,

Resolved, &c., That the lands so selected by the State of Kansas be, and the same are hereby, confirmed to said State; and the Secretary of the Interior be, and hereby is, authorized to certify the same to said State, in lieu of sections 16 and 36, sold and disposed of by the United States, within the limits of any former Indian reservation as aforesaid.

Mr. RYAN, of Kansas. I move that the joint resolution be laid aside to be favorably reported to the House.

Mr. CONGER. How much land does this joint resolution cover?

Mr. RYAN, of Kansas. Only forty-five thousand acres.

Mr. CONGER. Is that all.

Mr. RYAN, of Kansas. That is all.

Mr. CONGER. I thought it might be fifty thousand acres. [Laughter.]

The motion of Mr. RYAN, of Kansas, was agreed to.

OSAGE INDIAN LANDS.

Mr. CONVERSE. I now call up the bill (H. R. No. 5629) to graduate the price and dispose of the residue of the Osage Indian trust and diminished-reserve lands, lying east of the sixth principal meridian, in Kansas.

The bill was read, as follows:

Be it enacted, &c., That all of the lands known as the Osage Indian trust and diminished-reserve lands, lying east of the sixth principal meridian, in the State of Kansas, remaining unsold on the 30th day of June, A. D. 1881, shall be offered for sale at public auction to the highest bidder for cash at not less than seventy-five cents per acre; and all of said lands remaining unsold on the 30th day of June, A. D. 1882, shall be offered for sale to the highest bidder for cash, at not less than fifty cents per acre; and all of said lands remaining unsold on the 30th day of June, A. D. 1883, shall be offered for sale to the highest bidder for cash, at not less than twenty-five cents per acre; and all of said lands remaining unsold after the last said public offering shall be subject to be disposed of by cash entry at twenty-five cents per acre, and the Secretary of the Interior may offer the same as aforesaid, in such quantities as may seem to him best; and may make all needful regulations, including the publication of notice of sale, as he may deem proper, to carry out the provisions of this act: *Provided, however*, That no proceeding shall be taken under this act until the Osage Indians shall assent to the foregoing provisions.

Mr. RYAN, of Kansas. I move that the bill be laid aside to be reported favorably to the House.

Mr. CONGER. I object to the consideration of that bill.

Mr. RYAN, of Kansas. I do not think the gentleman would object if he understood the bill. If he desires, I can explain it in such a way that I think he will be satisfied.

Mr. CONGER. I understand that this bill provides for the sale of certain trust lands of the Osage Indians.

Mr. RYAN, of Kansas. Yes, sir.

Mr. CONGER. And that it proposes to reduce the minimum price from $1.25 to twenty-five cents an acre after three years?

Mr. RYAN, of Kansas. The gentleman does not state it quite accurately; but it will have that effect substantially.

Mr. CONGER. It is that substantially. That there are lands in Kansas which are to be sold within three years at twenty-five cents an acre.

The CHAIRMAN. Does the gentleman from Michigan object to the consideration of this bill?

Mr. CONGER. I do, unless the gentleman from Kansas wants to discuss it and have some action on it. The gentleman moved that it be laid aside to be reported favorably to the House.

The CHAIRMAN. The Chair understood the gentlemen were discussing the bill.

Mr. CONGER. I was merely asking the gentleman a question or two.

Mr. RYAN, of Kansas. I do not understand what the gentleman from Michigan is aiming at.

Mr. CONGER. I think for the Government to make such a disposition of trust lands belonging to Indians would be a betrayal of the trust of the Government. That is my impression at least, unless there can be some satisfactory explanation. I should hope the bill would be allowed to go over for discussion at some other time.

Mr. RYAN, of Kansas. I will give an explanation, and then if the gentleman from Michigan wants the bill to go over I do not know if I shall have any particular objection.

The lands covered by this bill are Indian trust lands—lands which by treaty we are required to sell for the Indians at not less than $1.25 per acre. Those lands have been in the market all the way from seven years to fifteen years. The remaining lands are refuse lands. Some of them are unfit for purposes of agriculture; they are fit only for pastoral purposes, and cannot be disposed of under the present law.

Now, this bill simply proposes after 1881 to submit those lands to sale at public auction at not less than seventy-five cents per acre. One year thereafter all remaining are to be exposed to public sale at not less than fifty cents per acre, and all remaining one year thereafter are to be exposed at public sale at not less than twenty-five cents per acre.

Mr. CONGER. That is what the bill says.

Mr. RYAN, of Kansas. That is the provision of the bill. But the bill is not to have effect or to go into operation at all until this tribe of Indians assent to it.

Mr. DEERING. How is that assent to be given? What number of Indians are required to assent to it?

Mr. RYAN, of Kansas. The assent is to be given under such regulations as the Secretary of the Interior may prescribe.

Mr. CONGER. What amount is there of those lands?

Mr. RYAN, of Kansas. Most of the lands within those limits have been taken.

Mr. CONGER. About how much are left?

Mr. RYAN, of Kansas. I cannot state definitely. They do not embrace all the trust lands, but only that portion of the lands lying east of the sixth principal meridian that remain unsold.

Mr. BRIGHT. May I ask the gentleman from Kansas a question?

Mr. RYAN, of Kansas. Yes, sir.

Mr. BRIGHT. Do I understand the gentleman to say that the Indians have consented to this diminution of the price?

Mr. RYAN, of Kansas. Oh, no, sir; I say that it is provided in this bill itself that it shall have no effect whatever until the Osage Indians shall assent to its provisions.

Mr. CONGER. Have they petitioned for the sale?

Mr. RYAN, of Kansas. No, sir; they have not.

Mr. BRIGHT. Does the bill prescribe the manner in which they shall assent to it?

Mr. RYAN, of Kansas. It does not. That is left to the Secretary of the Interior.

Mr. BRIGGS. Who ask for the passage of the bill?

Mr. RYAN, of Kansas. The people of that section of the country ask for it. Our people want these lands disposed of and the State developed. They cannot be sold under the existing law. It is better for the Indians that they be sold, or if it is not better for them they would probably not consent to the provisions of this bill.

Mr. BRIGHT. Permit me to make another inquiry.

Mr. RYAN, of Kansas. Certainly.

Mr. BRIGHT. Is there not a prospect of an increase of the price of land in the State of Kansas as it is settled up, and may not these lands bring the trust price by waiting a few years?

Mr. RYAN, of Kansas. That is very possible. It may be that after the lapse of many years these lands will bring the price of $1.25 per acre. That, however, is very doubtful in regard to a large portion of these lands. As I have already stated, much of these lands are unfit for agricultural purposes. It seems to me that no harm can be done to the Indian or to anybody else by simply permitting the Indians to allow us to sell these lands at this price and for as much more as they will bring at public auction.

Mr. BRIGHT. Still you provide for a diminution of the trust fund.

Mr. RYAN, of Kansas. No, we do not make any provision whatever in regard to the fund. The trust fund is simply the amount of the proceeds of these lands. This is a bill which cannot injure any one.

Mr. HASKELL. The trust fund is simply the amount which these lands will bring at public sale.

Mr. BRIGHT. I understood the gentleman to say that these lands were trust lands, and that there was authority with the United States to sell these lands at not less than $1.25 an acre.

Mr. RYAN, of Kansas. That is correct.

Mr. BRIGHT. And now you propose to sell these lands at a minimum price of twenty-five cents per acre in certain contingencies. In other words, you provide for diminishing the trust fund. It is a variation of the original trust and obligation of the Government toward these Indians.

Mr. RYAN, of Kansas. We provide simply that the balance of these lands remaiuing unsold at a given time shall be sold at a price specified in this bill, and in the manner therein provided, if this tribe of Indians, who are alone interested in this trust fund, shall agree thereto. If they do not agree to it, the provisions of this bill will not be operative at all.

Mr. DEERING. I cannot see any wrong that will be done anywhere, in view of the second article of the treaty, whereby the trust was created, provided the assent of the Indians is obtained in a proper manner. That would be the only reason for objecting to the bill.

Mr. CONGER. I think I will risk a vote on this bill. I do not wish to make any further opposition to it than to have a vote taken on it after the explanation which we have heard.

Mr. RYAN, of Kansas. Very well. Then I move that the bill be laid aside to be reported to the House with a favorable recommendation.

The question was taken; and upon a division there were—ayes 29, noes 13.

Before the result of this vote was announced,

Mr. BRIGHT said: I shall have to ask for tellers on this motion. This is a very important bill, and I would like to have a full vote of the House upon it.

Mr. CONGER. Only Indians are concerned in this; there are no white men to be wronged.

Mr. CONVERSE. The gentleman from Tennessee can have a vote upon this bill in the House.

Mr. BRIGHT. Very well; I will reserve my right to call for a vote in the House.

No further count being called for, the bill was laid aside to be reported favorably to the House.

UNIVERSITY LANDS FOR THE TERRITORIES.

Mr. CONVERSE. I ask that House bill No. 1327 be now taken up for consideration.

The Clerk read the bill, as follows:

A bill (H. R. No. 1327) to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes.

Be it enacted, &c., That there be, and are hereby, granted to the Territories of Dakota, Montana, Arizona, Idaho, and Wyoming respectively, seventy-two entire sections of the unappropriated public lands within each of said Territories, to be selected and located under the direction of the Secretary of the Interior, and with the approval of the President of the United States, for the use and support of a university in each of said Territories: *Provided*, That none of said lands shall be sold except at public auction, and after appraisement by a board of commissioners, to be appointed by the Secretary of the Interior: *Provided further*, That none of said lands shall be sold at less than the appraised value, and in no case at less than $2.50 per acre: *Provided*, That the funds derived from the sale of said lands shall be invested in bonds of the United States and deposited with the Treasurer of the United States; that no more than one-tenth of said lands shall be offered for sale in any one year; that the money derived from the sale of said lands, invested and deposited as hereinbefore set forth, shall constitute a university fund; that no part of said fund shall be expended for university buildings, or the salary of professors or teachers, until the same shall amount to $50,000, and then only shall the interest on said fund be used for either of the foregoing purposes till the said fund shall amount to $100,000, when any excess, and the interest thereof, may be used for the proper establishment and support respectively of said universities.

Mr. CONVERSE. I yield to the gentleman from Dakota [Mr. BENNETT] to explain this bill.

Mr. BENNETT. I deem it necessary only to say that this bill is carrying out, with regard to the Territories therein named, the same policy which the Government has hitherto adopted toward all the States and Territories having public lands within their limits. I think the bill is well guarded in all its provisions.

Mr. WILLITS. Is this the first grant of land for this purpose to these Territories?

Mr. BENNETT. It is. I move that the bill be laid aside to be reported favorably to the House.

The motion was agreed to, upon a division—ayes 40, noes 4; no further count being called for.

SCHOOL LANDS FOR NEVADA.

Mr. CONVERSE. I ask that House bill No. 3708 be now taken up.

The Clerk read the bill, as follows:

A bill (H. R. No. 3708) to grant to the State of Nevada lands in lieu of the sixteenth and thirty-sixth sections in said State.

Whereas the Legislature of the State of Nevada on March 8, 1879, passed an act accepting from the United States a grant of two millions or more acres of land in lieu of the sixteenth and thirty-sixth sections therein, and relinquishing to the United States all such sixteenth and thirty-sixth sections in said State as have not been heretofore sold or disposed of by said State, and which act of said State is in words as follows, to wit:

"An act accepting from the United States a grant of two millions or more acres of land in lieu of the sixteenth and thirty-sixth sections, and relinquishing to the United States all such sixteenth and thirty-sixth sections as have not been sold or disposed of by the State.

"The people of the State of Nevada represented in senate and assembly do enact as follows:

"SECTION 1. The State of Nevada hereby accepts from the United States not less than two millions of acres of land in the State of Nevada in lieu of the sixteenth and thirty-sixth sections heretofore granted to the State of Nevada by the United States: *Provided*, That the title of the State and its grantees to such sixteenth and thirty-six sections as may have been sold or disposed of by the State prior to the enactment of any such law of Congress granting such two millions or more acres of land to the State shall not be changed or vitiated in consequence of or by virtue of such act of Congress granting such two millions or more acres of land, or in consequence of or by virtue of this act surrendering and relinquishing to the United States the sixteenth and thirty-sixth sections unsold or undisposed of at the time such grant is made by the United States.

"SEC. 2. The State of Nevada, in consideration of such grant of two millions or more acres of land by the United States, hereby relinquishes and surrenders to the United States all its claim and title to such sixteenth and thirty-sixth sections in the State of Nevada heretofore granted by the United States as shall not have been sold or disposed of subsequent to the passage of any act of Congress that may hereafter be made granting such two millions or more acres of land to the State of Nevada: *Provided*, That the State of Nevada shall have the right to select the two millions or more acres of land mentioned in the act:" Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there be, and are hereby, granted to the State of Nevada two million acres of land in said State in lieu of the sixteenth and thirty-sixth sections of land heretofore granted to the State of Nevada by the United States: *Provided*, That the title of the State and its grantees to such sixteenth and thirty-sixth sections as may have been sold or disposed of by said State prior to the passage of this act shall not be changed or vitiated in consequence of or by virtue of this act.

SEC. 2. The lands herein granted shall be selected by the State authorities of said State from any unappropriated, non-mineral, public land in said State, in quantities not less than the smallest legal subdivision; and when selected in conformity with the terms of this act the same shall be duly certified to said State by the Commissioner of the General Land Office and approved by the Secretary of the Interior.

SEC. 3. The lands herein granted shall be disposed of under such laws, rules, and regulations as may be prescribed by the Legislature of the State of Nevada: *Provided*, That the proceeds of the sale thereof shall be dedicated to the same purposes as heretofore provided in the grant of the sixteenth and thirty-sixth sections made to said State.

SEC. 4. This act shall take effect from and after its passage.

Mr. CONVERSE. I will move that the bill be laid aside to be reported favorably to the House. I yield to the gentleman from Dakota [Mr. BENNETT] to explain the bill.

Mr. BENNETT. If there is no objection to the bill, I do not desire to occupy the time of the committee in explaining it.

Mr. SPARKS. There is objection to the bill.

Mr. BENNETT. Then I ask that the report be read. It will fully explain the provisions of this bill.

The report was read, as follows:

The Committee on the Public Lands, to whom was referred bill H. R. No. 3708, being a bill to grant to the State of Nevada lands in lieu of the sixteenth and thirty-sixth sections in said State, having duly considered the same, respectfully submit the following report:

On the admission of Nevada into the Union as a State, in 1864, the Federal grant of the sixteenth and thirty-sixth sections of the public lands within her borders for school purposes gave the State title to one-eighteenth of the entire area of the State, or something over three million nine hundred thousand acres.

Unlike any other State to which similar grants have been made by the General Government, the surface of Nevada is in a large part marked by sparsely-timbered mountain ranges and intervening stretches of valueless desert basins and dry sage-brush valleys, susceptible of irrigation only by means of artesian wells, the few small streams within the State not affording water sufficient to irrigate the valleys through which they pass.

The sixteenth and thirty-sixth sections falling alike upon mountain and desert, and the dry sage-brush lands being unsalable, except in large tracts for cattle ranges or experimental irrigation by artesian wells, the State has been unable to dispose of more than seventy thousand acres in fifteen years, with the certainty of the demand growing less from year to year hereafter. By a provision of the constitution of the State, the proceeds of the sales of these lands become a part of the irreducible school fund of the State, and are devoted exclusively and perpetually to educational purposes. Thus far, it will be seen, the school fund of the State has derived but little benefit from this grant of the sixteenth and thirty-sixth sections, while a burdensome property tax is every year required in the several counties of the State for the support of their public schools.

The people of Nevada now ask that they may be permitted to exchange the three million eight hundred thousand or more acres still remaining unsold of the grant referred to for two million acres of non-mineral public lands within the State, to be selected in such localities and such bodies as will be most likely to render them salable, and thus meet the aim of the General Government in creating for them a serviceable school fund.

In furtherance of this request, and in anticipation of the exchange being authorized by Congress, the last Legislature of Nevada enacted a law formally relinquishing the title of the State to the three million eight hundred thousand or more acres remaining unsold of the sixteenth and thirty-sixth sections, and accepting in lieu thereof the two million acres, to be selected as in this bill provided.

As your committee understand it to be the purpose of the State to attempt to reclaim the desert and sage-brush lands now asked in exchange for its school grant through the inducement of special bounties for sinking of artesian wells, and as this seems to be the only method by which purchasers can ever be found for the most of these lands, your committee recognize the justice and propriety of the proposed exchange, and therefore report the bill back with the recommendation that it do pass.

The CHAIRMAN. Does the gentleman from Dakota desire to occupy the floor?

Mr. BENNETT. I do not.

Mr. SPARKS. I thought the gentleman from Dakota was going to explain the bill.

Mr. BENNETT. No further than the report now explains it. The gentleman from Nevada [Mr. DAGGETT] will occupy the floor for a few minutes.

Mr. DAGGETT. Mr. Chairman, as this bill involves neither expenditure of money by the Government nor any loss of lands, it seems unnecessary for me to add anything to this report, which very succinctly gives the reasons why the people of Nevada ask for this exchange and why Congress should grant it. It appears to me that the propriety of this bill cannot be questioned, and therefore I am willing to submit it to

the judgment of the House upon the report itself. At the same time I hold myself ready to answer any question in relation to the report, or outside of it, which members may choose to ask.

Mr. SPARKS. Mr. Chairman, the principle involved in this bill disagrees with that of all other donations or gifts of land by the General Government to the various States for school purposes. This bill makes provision that in lieu of the lands granted to the State of Nevada for school purposes, namely, the sixteenth and thirty-sixth sections of every township, that that State shall be at liberty to select lands wherever they may be found in the State, and in such subdivisions as it may choose to make in amount equal in aggregate to two sections to every township. Such a measure was never adopted by Congress with reference to any other State within my knowledge. The practice of granting to the States a certain portion of the public lands for school purposes has prevailed since the organization of the Government; but no State since this policy began has ever been permitted to select these lands at discretion and thereby get the choicest lands for this purpose; and in my judgment this ought never to be allowed.

I think it will not be denied by the gentleman from Nevada, [Mr. DAGGETT,] or any other gentleman familiar with that portion of the country, that if this bill should become a law the State of Nevada will get every acre of public land in the State susceptible of cultivation. Is not that a fact?

Mr. DAGGETT. It is not.

Mr. SPARKS. The gentleman from Nevada disputes that point. I am of course simply giving my conviction, which, however, is based upon some personal knowledge of that country. But of course I have not the same knowledge of the State of Nevada that the gentleman representing it has. However, I have gone through that country three times and think that I cannot be far wrong in saying that if this bill should pass every acre of arable land in Nevada will be taken up by the State. I object to that. I am willing that Nevada should receive lands in the same manner as other States have received them from the National Government for school purposes, but I am not willing that she should come in and in this exceptional manner select all the choice lands in the State, leaving only a worthless refuse to the General Government. This is a species of favoritism in her favor and odious discrimination against the other States which can never be sanctioned by my vote.

Mr. DAGGETT. Mr. Chairman, there are about sixty million acres of land in Nevada remaining unsold. Nearly all these lands remaining unsold are desert lands. There are not to-day two million acres of arable land in Nevada; not a million acres that can be cultivated without irrigation by means of artesian wells. It is not the purpose of our State to select the best lands, because there are no such lands unsold. Our purpose is simply to select large tracts, so that by means of bounties offered by legislative action we can redeem lands otherwise utterly valueless. Our sixteenth and thirty-sixth sections, falling as they do upon mountain and desert, are utterly valueless. As the report states, we have been fifteen years in selling seventy thousand acres of land; and our school fund amounts to almost nothing. The railroad companies are not taxed upon their lands which are unsold; the mining companies pay no tax upon anything except their improvements. All the burdens of taxation fall upon the little property we have there.

Our school system is one of the best in the world, and it is sustained by very heavy taxation. We want relief from that. The only mode of relief is by the sale of our school lands, to swell our school fund, our irreducible school fund. I call the particular attention of the House to the fact that the money derived from the sale of these lands will go into our irreducible school fund. Can there be any objection to that? Is it not proper that legislation should look in that direction?

But I repeat, we do not want to monopolize the best lands in Nevada. We simply wish the privilege of taking land in large quantities—desert lands, sage-brush valleys—for the redemption of which by means of artesian wells we expect to offer bounties. The Government itself will be benefited by this measure. By our relinquishment of the sixteenth and thirty-sixth sections the Government will be able to compact its own lands and thereby sell them in large quantities, the lands having the advantage of the irrigation system which the State expects to inaugurate. I say, Mr. Chairman, there is nothing wrong in this bill. It is inspired by the very best motives. Neither the State nor the Government can suffer. It will simply interest our school funds, and I ask the committee to give it the favorable consideration it deserves.

Mr. BERRY. I should like to offer an amendment which I think the gentleman will not object to, and that is, in the third line to insert the words "other than mineral," so the State shall not select mineral lands.

Mr. DAGGETT. That is excepted in the bill.

Mr. BELFORD. It is excepted under existing law.

Mr. BERRY. And timber lands also.

Mr. BELFORD. Why, of course.

Mr. SPARKS. Mineral lands are all excepted.

Mr. BELFORD. And have been for years. So there is nothing in that point.

Mr. CONVERSE. I move the bill be laid aside to be reported to the House with the recommendation that it do pass.

The committee divided; and there were—ayes 52, noes 8.

So the motion was agreed to.

Mr. CONVERSE. I now move the committee rise.

The motion was agreed to.

The committee accordingly rose; and Mr. MILLS having taken the chair as Speaker *pro tempore*, Mr. ROBINSON reported that the Committee of the Whole House on the state of the Union had, according to order, had under consideration various bills reported from the Committee on the Public Lands, and had directed him to report the same back to the House with various recommendations.

ORDER OF BUSINESS.

Mr. CONVERSE. I now move, Mr. Speaker, without reading the bills reported from the Committee of the Whole House on the state of the Union, that by unanimous consent the previous question shall be considered as seconded and the main question ordered on them all, and that the vote shall be taken in the morning in a full House. I will state that several gentlemen desired to be heard or have their votes recorded on these propositions coming from the committee, but they have gone away under the belief no final vote would be taken to-night.

Mr. DEERING. Does this apply to all the bills?

Mr. CONVERSE. All that have been reported favorably.

Mr. DEERING. Then I ask that an exception be made to one bill to which I wish to offer an amendment.

Mr. CONVERSE. If I have the power I will agree to that.

Mr. RYAN, of Kansas. Offer your amendment now.

Mr. CONGER. I shall object to the previous question being seconded on the bill in regard to trespassers upon the public lands. I do not object to the other bills.

Mr. RYAN, of Kansas. Let the Clerk read the amendment which by unanimous consent is considered to be pending to the bill referred to.

Mr. DEERING. I ask the Clerk to read my amendment to a bill (H. R. No. 5629) to graduate the price and dispose of the residue of the Osage Indian trust and diminished-reserve lands lying east of the sixth principal meridian in Kansas, which by agreement is considered as pending.

The Clerk read as follows:

Strike out all after the word "until," in the twenty-third line, and in lieu thereof insert "at least two-thirds of the adult males of the said Osage Indian tribe shall assent to the foregoing provisions."

The SPEAKER *pro tempore*. Is there objection to the previous question being considered as seconded and the main question ordered on all the bills reported favorably from the Committee of the Whole House on the state of the Union?

Mr. CONGER. The chairman of the Committee on the Public Lands has agreed that on the bill to which I have referred there shall be given thirty minutes in opposition with the right to offer amendments afterward to be voted on without debate.

The SPEAKER *pro tempore*. Is there objection to that proposition?

Mr. KEIFER. Does that apply to all bills reported?

The SPEAKER *pro tempore*. Only to those which have been favorably reported.

Mr. SPARKS. What effect will that have? Will those bills come up as unfinished business to-morrow?

The SPEAKER. They will.

Mr. SPARKS. To the exclusion of other business?

The SPEAKER. Certainly.

Mr. SPARKS. Then I object to it.

The SPEAKER. The Clerk, then, will read the first bill.

Mr. SPARKS. I withdraw my objection.

Mr. HERBERT. Unless objection is withdrawn to the first bill, I shall be compelled to insist upon objection to all the others.

Mr. HOOKER. Objection has been withdrawn to that bill.

Mr. CONGER. There is no misunderstanding about this, Mr. Speaker, that when this bill in regard to trespassers comes up, whoever has charge of it shall give at least thirty minutes to me or some other member to oppose it.

Mr. CONVERSE. That is the understanding.

Mr. CONGER. And afterward that it shall be open to such amendments as may be desired to be offered, to be voted on without debate.

Mr. HERBERT. And that ten minutes shall be given to reply in favor of the bill.

Mr. SPARKS. And they are all to come up as unfinished business to-morrow.

Mr. CONVERSE. Mr. Speaker, I move now to take up House bill No. 1067 from the House Calendar, the Des Moines land bill.

Mr. SAPP. I want to know what the understanding is in reference to the previous question.

Mr. CONVERSE. The previous question operates on all bills reported from the committee.

I move to take up House bill No. 1067 from the House Calendar in order that it may be made the special order and be allowed to stand as the unfinished business. I will state that my object in taking that up is not to act upon it to-night or to discuss it, but simply to move the previous question on it that it may go over as unfinished business.

Mr. BOUCK. I object. The gentleman from New York is not here who has a special interest in this measure.

The SPEAKER *pro tempore*. Does the Chair understand that the

previous question is to be considered as pending upon all the bills reported from the committee?

Mr. CONGER. On all bills favorably reported from the committee.

The SPEAKER *pro tempore*. Then it is now understood that the previous question operates upon all the bills and upon the bill mentioned by the gentleman from Michigan, with the privilege of thirty minutes' debate on each side, and also that amendments may be offered and be voted upon without debate.

Mr. CONGER. On all bills reported favorably, and amendments to be offered without debate to the bill I have mentioned after the time fixed for general discussion upon it.

The SPEAKER *pro tempore*. The gentleman from Ohio now calls up the bill No. 1067, the title which he has mentioned.

Mr. VAN VOORHIS. I shall be obliged to object to the previous question being moved on that bill.

Mr. CONVERSE. I thought the gentleman had agreed to this arrangement?

Mr. VAN VOORHIS. No, sir; not to this bill. Mr. PRESCOTT has a great deal of interest in the bill and desires to be heard upon it. He has been and is now upon a committee somewhere between this and New Orleans, I suppose. It is a bill of great importance to citizens of the State of New York, and it is not a bill which should pass with any limitation of the debate. It takes two hundred and thirteen thousand acres of land——

The SPEAKER *pro tempore*. Does the gentleman object to the arrangement heretofore entered into?

Mr. VAN VOORHIS. The only objection I make is in reference to this particular bill. This bill is on the House Calendar. It takes two hundred and thirteen thousand acres of land away from citizens of the State of New York, which were bought twenty years ago and paid for, and upon which they have paid taxes for twenty years.

The SPEAKER *pro tempore*. The previous question being demanded, no debate is now in order.

Mr. VAN VOORHIS. The previous question has not been ordered upon this bill. This bill is on the House Calendar.

Mr. PAGE. The gentleman from Ohio [Mr. CONVERSE] moves to take up the bill from the House Calendar. This is a different bill altogether from those on which the previous question has been ordered.

Mr. VAN VOORHIS. And that is the bill that I object to.

Mr. CONVERSE. I rise to a point of order. The House to-day directed that the business to be considered should be taken up as designated by myself, as chairman of the Committee on the Public Lands. Now, this bill comes up in the regular order under that arrangement.

The SPEAKER *pro tempore*. What does the gentleman propose to do?

Mr. CONVERSE. I ask to have the title of the bill read, after which I wish to make a brief statement.

The SPEAKER *pro tempore*. The Clerk will read the title of the bill.

The Clerk read as follows:

A bill (H. R. No. 1067) to quiet title of settlers on the Des Moines River lands in the State of Iowa, and for other purposes.

Mr. CONVERSE. I desire now to demand the previous question on that bill, with the understanding that the gentleman shall have three-quarters of the time allowed for discussion, and if the House will consent to extend the time for one hour longer than is allowed under the rule, then that he shall have three-quarters of any extension of time that may be granted.

Mr. SPARKS. Is not the gentleman just cutting out work enough to occupy this House from now until the time fixed for the final adjournment? The proposition to go on with the work that he has fixed and in the manner that he suggests, with unlimited time for discussion, is all very fair, but I do not think it is fair to take up the time of the House in this way when other important matters are waiting to be acted upon.

Mr. CONVERSE. I desire to state that this is a matter in which the interests of one thousand families are involved. Settlers are being turned out of their homes who have lived there for twenty-five years; children and women are ordered out of their homes, and under the operation of a law from which they are unable to obtain any redress. It is important that this question should be settled one way or the other. Now, the gentleman from New York [Mr. VAN VOORHIS] claims that if this bill passes in another direction it will take from his constituents a large sum of money, so that it is important to settle the matter one way or the other. I hope the House will allow it to be taken up.

Mr. WEAVER. This bill does not grant lands to anybody. I am interested in this matter somewhat in behalf of the thousand families mentioned by the gentleman from Ohio.

Mr. VAN VOORHIS. That is all moonshine.

Mr. WEAVER. It is not all moonshine. It is important that it should be acted upon. I know of a case of a family being taken in mid-winter with their children, one of them sick with diphtheria and laid out on a stretcher, and turned out in the snow in Iowa, in order to gratify the maw of these corporations trying to rob these people of their homes. That is the reason why I am interested in this matter and want to have it settled. This bill only allows these men to go into the court and test their title, and because the men the gentleman from New York represents are afraid of their title, and afraid that they cannot keep their stolen property if they go into court, he makes the objection.

Mr. VAN VOORHIS. The gentleman is deceived.

Mr. WEAVER. I am not deceived. I know all about it.

Mr. VAN VOORHIS. There is not a word of truth in that statement. This case has been in the Supreme Court of the United States thirteen times, and on every occasion the Supreme Court of the United States have held that these men who live in New York, who bought the lands in the State of Iowa and who paid for them twenty years ago, have got a perfect title.

Mr. WEAVER. The Supreme Court of the United States have never decided any such thing.

Mr. VAN VOORHIS. Yes, sir; they have, and that they are *bona fide* purchasers and *bona fide* holders of these bonds.

Mr. WEAVER. They never decided that in a single case.

Mr. VAN VOORHIS. And that their land cannot be taken from them.

Mr. WEAVER. If that is so, why does the gentleman object to the title being decided in court?

The SPEAKER *pro tempore*. To whom does the gentleman from Ohio [Mr. CONVERSE] yield?

Mr. CONVERSE. I do not yield at all. [Laughter.] I ask a vote on my motion for the previous question.

Mr. VAN VOORHIS. Have I not the floor? I make the point of order that I had the floor.

The SPEAKER *pro tempore*. The gentleman from Ohio having charge of the bill had the floor. The gentleman from New York only had the floor by his grace.

Mr. CONVERSE. I insist on my motion for the previous question.

The question being taken on seconding the demand for the previous question, the Speaker *pro tempore* pronounced the previous question seconded.

Mr. VAN VOORHIS. No quorum! I call for a division.

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

Mr. CONGER. The gentleman from New York has raised the question of a quorum on seconding the demand for the previous question. Does the Chair entertain the point made by the gentleman from New York?

The SPEAKER *pro tempore*. How does the gentleman know there is not a quorum when there was not a division?

Mr. WILLITS. The gentleman from New York called for a division.

The SPEAKER *pro tempore*. The gentleman had the right to call for a division. But he could not make the point that there was no quorum when there was nothing to show whether there was a quorum or not. The Chair will again put the question on seconding the demand on the previous question, on which the gentleman from New York calls for a division.

Mr. CONVERSE. Is the gentleman not too late in calling for a division?

The SPEAKER *pro tempore*. It is stated that he called for it in time. The Chair will again put the question.

The question being taken, there were—ayes 44, noes 4.

Mr. VAN VOORHIS. A quorum has not voted.

The SPEAKER *pro tempore*. In the absence of a quorum, only two motions are in order, the motion for a call of the House and the motion to adjourn.

Mr. CONVERSE. I hope this measure will not be left in this shape. This is the only chance we will have to vote upon it this session.

Mr. VAN VOORHIS. Will the gentleman from Ohio allow me to say a word?

Mr. CONVERSE. I will. I understood the gentleman to agree that he would not object to the previous question being ordered if I gave him time to speak.

Mr. VAN VOORHIS. Oh, no; I could not make that agreement in the absence of the gentlemen from New York [Mr. PRESCOTT and Mr. LAPHAM] and others. I am willing some day shall be fixed when the gentleman from New York, [Mr. PRESCOTT,] who is away attending to his duties on a committee of this House, shall be here, and also Judge LAPHAM, and when there will be a chance to debate this case; for I believe there are not ten men in this House who will vote for this bill if they understand it.

Mr. CONVERSE. I will agree to the motion to adjourn.

Mr. TUCKER. I am willing to withdraw it if any arrangement can be made about this bill.

Mr. CONVERSE. I think there cannot to-night.

Mr. BERRY. If the motion to adjourn has been withdrawn I renew it.

Mr. CONGER. I desire to know what is the condition of the pending question.

The SPEAKER *pro tempore*. No quorum voted.

Mr. CONGER. Has the previous question been seconded?

The SPEAKER *pro tempore*. There was no quorum on that vote.

The motion to adjourn was agreed to; and accordingly (at nine o'clock and fifty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following memorials, petitions, and other papers were laid on the Clerk's desk, under the rule, and referred as follows, viz:

By the SPEAKER: The petition of Mrs. Margaret D. Marchand,

widow of the late Commodore T. B. Marchand, United States Navy, for a pension—to the Committee on Invalid Pensions.

Also, the petition of lumber merchants and manufacturers of cooperage materials, against any change of the duty on sugar—to the Committee on Ways and Means.

By Mr. AIKEN: The petition of citizens of Columbia, South Carolina, for the reduction of the duty on earthenware—to the same committee.

By Mr. BALLOU: The petition of merchants and manufacturers of cooperage materials, against any change of the duty on sugar—to the same committee.

Also, the petition of importers of and dealers in sugars in Boston, Massachusetts, for one specific rate of duty on all grades of raw sugar up to No. 13, Dutch standard—to the same committee.

By Mr. BUTTERWORTH: The petition of manufacturers of vinegar, against the repeal of section 3282 Revised Statutes—to the same committee.

By Mr. CALKINS: The petition of Joseph J. Martin, for an allowance in a contested-election case in the Forty-sixth Congress—to the Committee on Elections.

By Mr. CHITTENDEN: The petition of manufacturers of plug tobacco, against the reduction of the duty on licorice—to the Committee on Ways and Means.

Also, the petition of merchants and manufacturers of cooperage materials, against any change of the duty on sugar—to the same committee.

By Mr. HORACE DAVIS: Papers relating to the claim of John H. W. Riley, for pay for services as phonographic reporter at Mare Island, California—to the Committee on Naval Affairs.

By Mr. DE LA MATYR: The petition of H. W. Long and 37 others, for the amendment of the patent laws—to the Committee on Patents.

Also, the petition of M. W. Long and 58 others, for the passage of the Reagan interstate-commerce bill—to the Committee on Commerce.

Also, the petition of Hallweg Reese and 48 others, for the revision of the tariff on earthenware—to the Committee on Ways and Means.

By Mr. DUNNELL: The petition of E. C. Eckenbeck and 50 others, citizens of Waseca, Minnesota, for the repeal of the duty on salt—to the same committee.

By Mr. FINLEY: The petition of ex-soldiers of Ohio, against the passage of the sixty-surgeon bill, and for the passage of the Geddes pension-court bill—to the Committee on Invalid Pensions.

Also, the petition of Robert W. Burns and others, that all soldiers of the late war who served in the Army for fourteen days be granted a land warrant for one hundred and sixty acres of land—to the Committee on Military Affairs.

By Mr. GARFIELD: The petition of A. C. White and 225 others, citizens of Youngstown, Ohio, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the Committee on Ways and Means.

By Mr. GIBSON: The petition of Rev. Father Coeppens and citizens of Donaldsonville, Louisiana, that the altar, chimes, granite, and marble columns for the church of the Sacred Heart of Jesus, in that place, may be imported free of duty—to the same committee.

By Mr. HAYES: The petition of citizens of Will County, Illinois, for the equalization of the pay of ex-Union soldiers—to the Committee on Military Affairs.

Also, the petition of ex-Union soldiers, of Chamahon, Illinois, for the passage of the bill for the equalization of bounties—to the same committee.

Also, the petition of lumbermen and others, that there be no increase in the duty on low-rate sugars—to the Committee on Ways and Means.

By Mr. KETCHAM: The petition of 14 soldiers of New York, for the creation of a court of pensions—to the Committee on Invalid Pensions.

By Mr. LAPHAM: The petition of lumber merchants and manufacturers of cooperage materials, that there be no increase in the duty on low-rate sugars—to the Committee on Ways and Means.

By Mr. MILES: The petition of citizens of Norfolk, Connecticut, for the passage of the Eaton bill providing for the appointment of a tariff commission—to the same committee.

By Mr. MITCHELL: The petition of J. W. Sturtevant and G. W. Worden, of Daggett's Mills, Tioga County, Pennsylvania, against the passage of the Withers bill, and in favor of the Geddes bill creating a court of pensions—to the Committee on Invalid Pensions.

Also, the petition of 2 late Union soldiers and 25 citizens, of Elk, Pennsylvania, for the passage of the Weaver soldier bill—to the Committee on Military Affairs.

Also, the petition of 49 late Union soldiers, of Potter County, Pennsylvania, for the equalization of bounties—to the same committee.

By Mr. MURCH: The petition of John Morgan, for a pension—to the Committee on Invalid Pensions.

By Mr. ROBINSON: The petition of George B. Loring, relating to his expenses in the contest of E. Moody Boynton against him for a seat in Congress—to the Committee on Elections.

By Mr. ROSS: The petition of masters and owners of vessels engaged in the coasting trade of the United States, for the repeal of all laws enforcing compulsory pilotage through the channel of the East River—to the Committee on Commerce.

By Mr. PHILIP B. THOMPSON: Papers relating to the pension claim of George W. Waddle—to the Committee on Invalid Pensions.

By Mr. TUCKER: The petition of citizens of various States, against any discriminating duty against low grades of sugars—to the Committee on Ways and Means.

By Mr. J. T. UPDEGRAFF: The petition of the yearly meeting of Friends, of Pennsylvania, New Jersey, and Delaware, representing fifteen thousand persons, for a commission of inquiry concerning the alcoholic liquor traffic—to the Committee on the Alcoholic Liquor Traffic.

By Mr. WHITEAKER: The petition of J. C. Koudrup, for compensation for services rendered as messenger for the reporters of debates—to the Committee on Claims.

By Mr. WALTER A. WOOD: The petition of lumber merchants and manufacturers of cooperage materials, against any discriminating duty against low grades of sugars—to the Committee on Ways and Means.

By Mr. THOMAS L. YOUNG: The petition of internal-revenue officers of the sixth district of Indiana, for the passage of the bill (H. R. No. 4802) relating to granting leaves of absence to certain revenue officials—to the same committee.

Also, the petition of Benjamin Burgess & Sons and 27 other sugar merchants and manufacturers, of Boston, Massachusetts, for the passage of a law placing a uniform tariff on all grades of sugar up to No. 13, Dutch standard—to the same committee.

IN SENATE.

FRIDAY, *May* 21, 1880.

The Senate met at eleven o'clock a. m. Prayer by the Chaplain, Rev. J. J. BULLOCK, D. D.

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

PETITIONS AND MEMORIALS.

Mr. BOOTH presented a petition numerously signed by citizens of Fall River Mills, California, praying for the passage of a bill compensating Captain Samuel G. Goodrich for eight years' service rendered the Government of the United States during the Florida war; which was referred to the Committee on Pensions.

He also presented a petition of importers of crockery at San Francisco, California, praying for a reduction of the duty on the importation of crockery; which was referred to the Committee on Finance.

Mr. MCMILLAN presented the petition of the Duluth Iron Company, of Duluth, Minnesota, manufacturers of charcoal iron, employing three hundred and twenty-five hands, praying for the passage of the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

Mr. SAUNDERS presented the petition of the members of the Society of Friends, in their yearly meeting, represented by members from Pennsylvania, New Jersey, and Delaware, praying Congress to cause a commission of inquiry to be raised to investigate the alcoholic liquor traffic in regard to its relations to crime, pauperism, public health, and general welfare; which was referred to the Committee on Finance.

Mr. JOHNSTON presented the petition of Wissler, Armstrong & Stone, of Liberty Furnace, Virginia, manufacturers of iron, employing one hundred and twenty-five hands, praying for the passage of what is known as the Eaton bill providing for the appointment of a tariff commission; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. COCKRELL. I am instructed by the Committee on Claims, to whom was referred the bill (H. R. No. 4435) making appropriations for the payment of claims reported allowed by the commissioners of claims under the act of Congress of March 3, 1871, and acts amendatory thereof, to report it favorably, with three amendments. I shall call the bill up at the very earliest possible day and ask for its passage. The amendments are immaterial.

The PRESIDENT *pro tempore*. The bill will be placed on the Calendar.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the bill (S. No. 1614) to regulate the promotion and fix the rank of line officers of the Army, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. MCPHERSON, from the Committee on Naval Affairs, to whom was referred the bill (H. R. No. 3983) to provide a permanent construction fund for the Navy, and for other purposes, reported it without amendment, and submitted a report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 231) to establish upon a permanent footing the professorships of modern languages and of drawing at the United States Naval Academy, reported adversely thereon, and the bill was postponed indefinitely.

BILLS INTRODUCED.

Mr. BURNSIDE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1782) for the relief of William G. Budlong; which was read twice by its title, and referred to the Committee on Patents.