

By Mr. RIGGS: Petition of S. B. Tovee and 49 others, asking passage of House bill 4006, to pension Capt. B. F. Slaten—to the Committee on Invalid Pensions.

By Mr. THOMAS: Petition of 116 officers of steam-vessels of the Mississippi and Ohio Rivers, praying for the passage of House bill 4991 providing for the purchase of snug-harbors for disabled officers and seamen of the American domestic merchant marine—to the Committee on Commerce.

By Mr. WILKINS: Petition of M. R. Trace, J. A. Moorhead, and 47 others, citizens of Ohio, relative to the restoration of the tariff on wool—to the Committee on Ways and Means.

By Mr. WOOD: Two resolutions of Grand Army of the Republic, Post 102, Kentland, Ind., praying for bounties, pensions, and land-warrants—to the Select Committee on Payment of Pensions, Bounty, and Back Pay.

Also, petition of soldiers, asking Congress to act on the bills in their behalf without delay—to the same committee.

SENATE.

FRIDAY, March 21, 1884.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.
The Journal of yesterday's proceedings was read and approved.

NAMING OF A PRESIDING OFFICER.

The PRESIDENT *pro tempore*. The Chair expects to be absent for two or three days of next week, and asks unanimous consent that the Senator from Ohio [Mr. SHERMAN] perform the duties of the Chair during Monday, Tuesday, and Wednesday next. Is there objection? The Chair hears no objection, and it is so ordered.

ADJOURNMENT TO MONDAY.

On motion of Mr. DAWES, it was

Ordered, That when the Senate adjourns to-day it be to meet on Monday next.

PEDESTAL OF GARFIELD STATUE.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Appropriations, and ordered to be printed, as follows:

To the Senate and House of Representatives:

I transmit herewith a communication from the Secretary of War, of the 18th instant, submitting a letter from Col. A. F. Rockwell, United States Army, in charge of public buildings and grounds, embodying an estimate in the sum of \$30,000 for a pedestal for the statue of General James A. Garfield, to be erected in the city of Washington by the Society of the Army of the Cumberland, together with a letter upon the subject from General Anson G. McCook, on behalf of the Society of the Army of the Cumberland, the object in view being the procurement of an appropriation by Congress of the amount of the accompanying estimate.

I commend the subject to the favorable consideration of Congress.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, March 20, 1884.

CONSULAR SERVICE.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States; which was read, and referred to the Committee on Appropriations, and ordered to be printed, as follows:

To the Senate:

In accordance with the provisions of the act making appropriations for the diplomatic and consular service for the year ending June 30, 1883, I transmit herewith a communication from the Secretary of State in relation to the consular service.

EXECUTIVE MANSION, March 20, 1884.

CHESTER A. ARTHUR.

(The documents referred to herein have been transmitted to the House of Representatives.)

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting a report of the Chief of Engineers, submitting reports from Maj. W. H. H. Benyaurd of the results of an examination and survey of certain portions of the Illinois, La Salle, and Sangamon Rivers, in the State of Illinois, made to comply with the requirements of the river and harbor act of August 2, 1882; which, with the accompanying papers, was referred to the Committee on Commerce, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of the Interior, submitting a preliminary report of the Commissioner of the General Land Office concerning the roll of the Cherokee Indians east of the Mississippi River, in accordance with a resolution of the 13th instant; which, with the accompanying papers, was referred to the Committee on Indian Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. McMILLAN. I present the petition of a large number of citizens of Minnesota, praying for such a change in the laws in regard to the public lands that all *bona fide* purchasers from the original locators may be protected in their titles in cases where the receipts have been issued to the original locators previous to sales by them. I present this

petition in behalf of my colleague [Mr. SABIN], who is necessarily absent, and move that it be referred to the Committee on Public Lands. The motion was agreed to.

Mr. VEST presented the petition of Margaret Kimble, widow of Richard Kimble, late private Company K, Twentieth Regiment Indiana Volunteers, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. HARRISON presented a preamble and resolutions adopted by the Charles W. Heath Post, No. 109, Department of Indiana, Grand Army of the Republic, and resolutions adopted by the C. C. Mason Post, No. 235, Department of Indiana, Grand Army of the Republic, favoring the passage of various relief measures for the benefit of soldiers now pending before Congress; which were referred to the Committee on Pensions.

He also presented the petition of Catharine Carney, of Rossville, Clinton County, Indiana, praying for an increase of her widow's pension; which was referred to the Committee on Pensions.

Mr. MANDERSON presented a petition of John Simmons and other letter-carriers of Lincoln, Nebr., praying for the passage of a bill granting them thirty days' leave of absence yearly with pay; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented the petition of W. H. Tibbits, a citizen of Nebraska, late private Fifty-second Illinois Infantry, praying that his title to a certain tract of public land be confirmed; which was referred to the Committee on Public Lands.

Mr. CALL presented a paper to accompany the bill (S. 1002) for the relief of C. T. Jenkins; which was referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. VEST, from the Committee on Commerce, to whom was referred the bill (S. 219) to authorize the construction of bridges across the Missouri River between its mouth and the mouth of the Dakota or James River, and across the Mississippi River between the port of Saint Paul, in the State of Minnesota, and the port of Natchez, in the State of Mississippi, and across the Illinois River between its mouth and Peoria, in the State of Illinois, and to prescribe the character, location, and dimensions of the same, reported it with an amendment.

Mr. McMILLAN, from the Committee on Commerce, to whom was referred the bill (S. 1797) to authorize the construction of a railroad bridge across the Saint Croix River, in the States of Wisconsin and Minnesota, reported it with amendments.

He also, from the same committee, to whom was referred the bill (S. 1567) to authorize the construction of a railroad bridge across the Saint Croix River, in the States of Wisconsin and Minnesota, reported it adversely; and the bill was postponed indefinitely.

Mr. BUTLER, from the Committee on Territories, to whom was referred the bill (S. 954) for the relief of F. Prosh and T. F. McElroy, submitted an adverse report thereon, which was agreed to; and the bill was postponed indefinitely.

Mr. BECK, from the Committee on Finance, to whom was referred the bill (S. 956) for the relief of Pattison & Caldwell, reported it without amendment, and submitted a report thereon.

BILLS INTRODUCED.

Mr. CULLOM (by request) introduced a bill (S. 1896) to empower the Secretary of War to permit the establishment, under certain conditions, of a horse-railway upon and over the island of Rock Island and the bridges erected by the United States connecting the cities of Davenport and Rock Island therewith; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. SAWYER introduced a bill (S. 1897) granting a pension to James Mullen; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

Mr. PLATT introduced a bill (S. 1898) to provide for the admission into the Union of the State of Tacoma, and for other purposes; which was read twice by its title.

Mr. PLATT. The bill relates to the admission of Washington Territory as a State. I move that it be referred to the Committee on Territories.

The motion was agreed to.

AMENDMENTS TO BILLS.

Mr. FRYE submitted an amendment intended to be proposed by him to the bill (H. R. 4716) making appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes; which, with the accompanying paper, was referred to the Committee on Naval Affairs, and ordered to be printed.

Mr. PLATT. I think that amendments which are presented to appropriation bills ought to be placed upon our desks. Since the new rule by which only reports and bills reported from committees and placed on the Calendar are put upon our desks, we do not find before us proposed amendments to appropriation bills or to any bills which are under consideration. I think that papers of that character ought to be distributed and placed upon our desks. I do not know that any rule is necessary on that subject.

The PRESIDENT *pro tempore*. If there be no objection amendments offered to appropriation bills and printed will be distributed on the

desks of Senators. Is there objection? The Chair hears none, and it is so ordered.

SALARIES OF DISTRICT JUDGES.

Mr. HOAR. I move to take up the bill (S. 1852) fixing the salaries of the several judges of the United States district courts at \$5,000 per annum.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 1852) fixing the salaries of the several judges of the United States district courts at \$5,000 per annum, the pending question being on the amendment proposed by Mr. MORGAN to add to the bill the following proviso:

Provided, That this act shall apply only to judges that shall be hereafter appointed.

The PRESIDENT *pro tempore*. The Senator from Alabama [Mr. MORGAN] is entitled to the floor on the pending amendment.

Mr. MORGAN. Mr. President, I had nearly concluded my remarks on this bill yesterday, and would not go on to-day, I believe, but for the earnest and polite invitation extended to me by the Senator from Massachusetts [Mr. HOAR], who expressed for the first time in his life a very amiable desire that I should be heard further upon the bill. I am always disposed to yield to any such request coming from that Senator, for he very rarely makes it, and I regard it as a great compliment. The Senate always loves to find the Senator from Massachusetts in a nice, good humor. It reminds one of washing-day with the scolding left out, and I always feel disposed to take a holiday when I find the Senator from Massachusetts wants me to proceed to discuss any question in the spirit of amiability which he indicated yesterday.

The question is a grave one for this body to consider. I mentioned yesterday the effect that our legislation would have upon the future of this country if we should raise this salary to \$5,000 for all the judges of the district court and supplement it, as we should be compelled to do, I suppose very soon, by raising the salaries of the Territorial judges to the same amount of money.

We give to the district judges of the United States under this bill what is equivalent to an annuity for life of \$5,000 per annum. The sum of money at 6 per cent. which would be necessary to raise that annuity would be \$83,333.33. At the present time it is between \$63,000 and \$66,000. We propose to raise it \$20,000 in the case of each of these judges, which is equivalent to taking out of the Treasury of the United States \$20,000 and putting it at interest at 6 per cent. for the purpose of raising this additional stipend in favor of men who accepted their offices upon a very much lower basis of pay.

I referred yesterday to the advantages also of having a life estate in an office, an income upon which a person could rely during the whole period of his life. I expressed the opinion, which I still entertain and which I think is just, that an estate of that kind limited to a man for life is of very much higher value than would be an annual office of \$5,000, such as a Senator or a member of the House of Representatives gets, and for which he has to take the chances of election and re-election from time to time. Therefore we are conferring upon these gentlemen a very large bounty.

I have sought to obtain from the Committee on the Judiciary some information, some state of facts, that would justify us in increasing this stipend so largely, predicated upon some additional reasons, some public service, some improvement of the public service to be gained by the money that we are thus expending. Nothing of that sort has been argued, nothing has been stated or suggested of that kind, except that Senators have essayed to say that as a matter of policy, as a matter of principle, we ought to give large salaries to our judges. Suppose that is a correct principle, I contend that the application of it in the present case is wrong. There is no necessity for it. We get nothing by the outlay. We do not improve the service merely by increasing the pay from \$3,500 to \$5,000 a year of those men who are now in office. We get no return for it at all. It might be a gracious thing to do; it might be a benevolent thing to do; but the question that we are to consider here is, is the public service improved by this expenditure? Does the Government of the United States gain anything by this additional expenditure which it has not already acquired? If there is a necessity in any case for the increase of salary, is there any reason why a Senator should not get up here and propound that necessity in the form of a bill, as has been done heretofore frequently, and let us vote upon the particular case and upon the particular necessity?

There is no reason why some judges who are not worth more than \$3,500 a year should be boosted up into salaries of \$5,000 a year because some other judges are entitled to \$5,000 who are only getting \$3,500. There is no logic in that statement of the proposition, and there is no justice in it.

It has been urged against the amendment which I have had the honor to propose that it would be a hard requirement upon a judge to say to him, "If you want to get the five-thousand-dollar salary you must resign your position and get a reappointment and a reconfirmation by the Senate." There is no injustice in that, for if the judge has earned a reputation upon the bench in the public service which entitles him to a reappointment he would undoubtedly get it, and he need have no false modesty or reluctance about resigning in order to get it. There

is no stigma put upon him when we place before him the reward of an additional salary upon the condition that he sees proper to release his hold upon his office and let us examine his record and see whether in the particular case he is a man who deserves it or who has earned the reputation upon which we propose to reward him.

I have no disposition to strike at the Federal bench, to reduce salaries, if I had the power (and we have no power of that kind), or to put them under any new conditions that are not consistent with a sound public policy and with wisdom. All my inclinations have been the other way. During my whole life as a lawyer I have been in favor of giving to the judicial officers, both of the State and the Federal Government, ample compensation, so that they should live lives of entire independence and some degree of comfort, so that they should have an opportunity also of devoting themselves assiduously and without unnecessary interruption from poverty or other causes to the public service. I believe in the doctrine of placing the judges of the United States in a position of independence. But, sir, we have been growing in this country not alike in all parts of it. Some portions of our country have become much more important and populous than others in consequence of the fact that they have enjoyed larger commerce, larger influx of population, greater accumulations of wealth. In those regions of country it is due to the public service that we should increase the judicial salaries. Yet in a large portion of the country the work of the judiciary remains comparatively unimportant. The time of the judges is not very largely occupied in some of the districts. Some of them are small, unimportant districts in respect to the litigation that is pending in them. Why should we abandon the system under which we have put the salaries of the different judges in the more heavily populated communities at higher rates, and thereby have equalized the salary according to the labor that is to be performed, and strike out for a new one which places \$5,000 as the uniform salary of the judges throughout the United States and fixes that upon us beyond the power of appeal?

I have had occasion in discussing this measure to make reference to the fact that some of the judges of the Southern States in my opinion are not men who are in every sense qualified for the high positions that they are intrusted with. That has been the misfortune of the country. It has been the inconvenience that the Government has been placed under of finding political partisans in the South who are men of competent ability to discharge the duties of these high offices. The result is that we have had to take men of inferior capacity and sometimes of very low character.

When a man through these misfortunes has been fixed upon a section of the country we find that there is no chance to get rid of him except by impeachment, and we find that that is a remedy which is entirely ineffectual, because no one would think now of putting a judge before the House of Representatives for impeachment or before the Senate for trial with any expectation of having the case determined during a session of Congress. So the remedy by impeachment upon which our fathers relied for freeing the bench of incompetent persons is a remedy which by stress of circumstances has become obsolete. It has been a number of years since any impeachment was attempted. The last one that was attempted in the House of Representatives I believe was of a judge from my own State, and there was so much difficulty and embarrassment about getting the matter attended to for want of time, that he would have gone scot-free; it would have been impossible to have impeached him; and had it not been for the pressure of public opinion that enabled us to free ourselves of that judge we should not have been relieved.

The honorable Senator from Massachusetts [Mr. HOAR], in a very splendid speech that he made once in this body while conducting an impeachment against a public officer, referred to the fact that he had witnessed the pressure of public opinion driving I believe as many as three judges from the bench. They were not impeached but driven off. They could not probably have been impeached for want of time on the part of these bodies to try them.

Now you propose to increase these salaries. I say I will vote for your bill to give \$5,000 salary, though I think that is a very exorbitant rate, if you will put a proviso in it that the measure shall apply *in futuro* only, and if there are any judges in the United States who wish to retain their places at \$3,500 let them put their own prices upon themselves. Let them say, "I would prefer to hold this place at \$3,500 rather than take the risk of going before the President of the United States and the Senate of the United States for the vindication of my record and my conduct and my character as a judge."

The Department of Justice has been pretty active during the last twelve months in the investigation of officers connected with the courts in almost all the Southern States and in some of the Northern States. About \$24,000 of public money has been expended in those investigations, and the subject is still going on, not merely through the officers of the Department of Justice, but it is going on in the other House of Congress. A committee has been organized there for the purpose of investigating what? Frauds and villainies in the administration of law in the United States. The Department of Public Justice, of which of course the circuit and district courts comprise the most essential element, is arraigned now before the people of the United States upon charges connected with its administration; and what do we find? We

find developments there that would have shocked any people in the worst days of fraud in the English Government or in fact in any government in the world. We find the reports of the officers of the Department of Justice showing that subordinate officers of the judicial establishments in this country have been systematically and regularly swindling the people out of thousands and thousands of dollars and persecuting the people also, in order to get a chance to swindle the Government. Says the chief special agent of the Department in his report to the Attorney-General:

You are aware that the fee system of compensating court officers has been found unreliable and unjust to the Government as well as to the citizen forced to appear in the United States courts. As a result of the examiners' investigations of the accounts of marshals, commissioners, and others, you were pleased to recommend to Congress in your last annual report the propriety of compensating court officers by salaries instead of fees. In the interest of the Government and the citizens it is hoped that your recommendation will be favorably acted upon, for it will be seen by reference to reports made by different examiners concerning the business of the courts in Alabama, Arkansas, Georgia, New York, Pennsylvania, and Texas that the abuses of the fee system are not confined to any district or section of country, but are, with a few notable exceptions, so prevalent and so odious that it is not to be wondered at that deputy marshals and deputy collectors of internal revenue have been shot down as if they were the enemies of the people.

The fact of their having been shot down is a fact that had escaped my attention in the portion of the country to which my attention has been particularly directed, my own State. But here is a revelation of which that is a substantial statement, a revelation of fact showing maladministration in the management of the courts in the South and in the North, in New York and Pennsylvania as well as in the Southern States, which is utterly shocking, and which, I must say, is sustained by the facts which are presented by this agent, and are also further sustained by the facts which have come out in the testimony before the committee of the House of Representatives. Now, what effect, it may be inquired, has this upon the judges? Why, sir, the very worst men in the whole South in the abuse of what is termed justice there have been the United States commissioners. In my own State the records show that there are men there who have been for years and years tolerated in office when the judges knew, for their attention was specifically called to it, not only in person, but I have called their attention and the attention of the country to it on the floor of the Senate myself—the judges knew that these commissioners were sending out drag-nets throughout the entire country to haul in innocent men, white and black, for alleged offenses against the public domain, such as cutting timber and the like, nine out of ten of whom were discharged upon a hearing. They were brought from distances varying from fifty miles to three hundred. They were incarcerated in prison without any necessity for it at all, and enormous expenses were incurred against the Government. The bills have been sent here and they have been paid, and these commissioners would so manage, having the deputy marshals circulating about distant regions of the State, as that they would sit in Montgomery day after day during almost every working day in the year, and they would demand in addition to their ordinary fees in each case \$5 a day from the Government of the United States for sitting in those courts. A more gross and unjustifiable, a more cruel abuse of liberty in the name of justice was never inflicted upon a people in this world. It is stated that in the county of Covington in my State there is scarcely any who have not been called to Montgomery for the purpose of being tried by a United States commissioner upon some allegation connected with the taking of timber or the taking of wood or something of that sort from the public land.

These judges have sat there and they have known this thing to be going on. They have not removed these men; they have not indicted them; they have not rebuked them. They have encouraged them in their wrong, and that extends through various of the Southern States according to the report of the Department of Justice made to Congress.

I should like to know in the presence of these facts whether the Senate expects me to reward those judges by raising their salary from \$3,500 to \$5,000. The reward that I would give them, if I had the power to do it, would be to bring them to judgment before the Senate for their misbehavior in the neglect of their duties upon the bench whereby the people have been made to suffer and the Government has been swindled. I wish when the vote is taken on this bill that it shall be in contrast with these facts, and I desire to hear some Senator who proposes to support this bill to add this \$1,500 a year reward to these men to rise in his place and deny what I have stated upon this subject. If he can do that successfully he can answer my argument, but he can not do it otherwise.

Here, sir, we are passing over reports of this kind that are brought to the Senate and laid upon our table, facts which ought to arouse the Senate to demand investigation and inquiry into these wrongs and outrages by the judges; and the first thing we do, instead of inquiring and instead of exposing and holding up to public scorn and contumely the men who are engaged in these things, is to reward them by increasing their salary \$1,500 a year, not merely for their lives, but as long as this Government shall stand this is to be the law, for when you put it on the statute-book you can never afterward repeal it.

Mr. President, I have gone as far in this matter as I intend to go, so far as I am personally concerned. I have stated my reasons for desiring that this measure shall not apply to the bench as it exists unless they on their part shall consent to come back before this body and give us

some opportunity to inquire into their character and their doings. I want investigation of this matter, and it is the only means I know of by which it can be obtained.

The district judges, the circuit judges, and the Supreme judges of the United States are the only men in the whole Government, except the Army and Navy officers, who are entirely independent of public opinion; and enough has been disclosed in the facts laid by the President before the Senate during the present session of Congress to satisfy us that we ought not to encourage and reward men who, while they are made by the law independent of public opinion, seem to have no respect for it. The safeguard of the liberties of this country depends upon the fact of the responsibility of all men in this land, as far as our Constitution will admit it, to the people of this country. If I felt that I had a life estate in the Senate I should dread, I should shudder, to think of the impression it might make on my mind of independence toward the people I represent, which would after a while culminate into antagonism, perhaps into tyranny, on my part. Here we have the judges of the district court of the United States who have no responsibility whatever to the people of the States in which they hold their courts. They do not confess to any moral responsibility, any legal responsibility, or any social responsibility to those people. Perhaps it may be one of the qualities of judgment upon the bench that a man shall be removed from responsibilities of this kind; but when that is the case and we find that the functions of office are being discharged in a way to wrong whole communities and to assist fraud and wrong against the Government instead of being a check upon it, then I am for seizing any opportunity that may come along that will enable me to lend a hand to its correction. I can not sit down idly and refuse to speak lest I might by speaking offend the delicate taste of some gentlemen and allow matters of this kind to go on without some examination.

Mr. BAYARD. Mr. President, the picture drawn by the Senator from Alabama of the oppression of the citizens of certain States is very shocking, and I am disposed to believe that it is entirely true, for he has vouched for many of these facts by the authority of the agents of the Attorney-General as stated in his last annual report.

I find by law that the power of appointment of United States commissioners is vested in the circuit courts of the United States. So it reads in section 627 of the Revised Statutes:

Each circuit court may appoint, in different parts of the district for which it is held, so many discreet persons as it may deem necessary.

Now in the first place if this power of appointment is vested in the circuit courts, perhaps it may disarm part of the Senator's criticism upon the results of the misconduct of these commissioners that the salaries proposed to be affected by this law are not those of the judges of the circuit court.

Mr. MORGAN. The Senator from Delaware will allow me to suggest to him that the judges of the district court frequently hold the circuit court, and have the right to do it when no circuit judge is present.

Mr. BAYARD. The district judge may hold a circuit court in the absence of the circuit judge, but they do not constitute the circuit court, nor can they make the appointments now in question, nor do they. That I think my friend will agree to. I am not speaking of the circuit court powers of the district judges, but I am speaking of the powers of the circuit courts to appoint the commissioners. I believe that it is so. Section 627 provides for their appointment.

Now if it be true that the district judges have not the power nor responsibility for the appointment of the commissioners under whose authority this monstrous system of injustice and outrage upon the citizens has been conducted, then it seems to me that the objection to the district judges' salaries can scarcely be said to be applicable. If it were applied to the circuit judges, the effect of the argument might possibly be different.

But I would ask this of my friend from Alabama, how many of the district judges have the control in any way over the cases of abuse of power to which he has referred brought before them under warrants issued by the commissioners? How many does he believe to have been connected with an approval or rather with a failure to disapprove of this system of terrorization and outrage? There are fifty district judges in the United States; how many come within the Senator's view in the condemnation to which I think he has very properly given vent in this Chamber?

Mr. MORGAN. I will say that none of them have come within my personal view except as an observer of the current of events in my own State. I, however, referred to the report made by the officers of the Department of Justice as showing that this has prevailed in several of the States. They are named, and I have read them. The States of Texas, Pennsylvania, New York, Georgia, Arkansas, and Alabama have been named in this report.

Mr. BAYARD. I think therefore the number of inculpatated district judges is six out of fifty. If it were a separate question or capable of being made a separate question, whether I would increase the salary of any judge of the United States who was proven to have aided, permitted, or winked at oppression, who it was proven having the power to repress or rebuke these outrages had yet consented to them, I would be not only

reluctant but absolutely unwilling to assist in any such inferential approval of his conduct. I go with the Senator from Alabama and say that there may be acts of omission as fatal, as dangerous as any of commission, that a judge who permits his court to be made the theater of oppression and outrage is just as guilty as the witness who is suborned or as the district attorney or prosecuting officer who suborns him or in any way prostitutes the powers of his office.

And, Mr. President, I am sorry to say that I also believe that the entire machinery of legislation, certainly that connected with the elections in this country, has been conceived in a partisan spirit and has been executed in a basely partisan manner. I think I am safe in standing here in the Senate and proclaiming, as I now do, that none but men of one political party have ever been indicted or called to answer at the bar of justice for violation of the United States election laws. I answer for that part of the country with which I am personally acquainted, and there I allege it to be the case. I will not speak so confidently in regard to other parts of the country with which I am not so personally acquainted; but having been a careful, interested, a vigilant observer, I state these facts here in the face of the Senate without fear of contradiction.

If this be so, certainly that judiciary that should hold the scales of justice evenly ought to be protectors of the parties defendant in those courts when they believe that the instigating cause of the prosecution has been the prejudice and heat of politics, and not the desire for public justice. All this is true. It is sadly true. It is one of the serious facts which the American people will soon be called upon to consider, together with the many others that affect their interests and welfare. But, Mr. President, I see these things, I recognize their danger, because he must be short-sighted indeed who does not see that these precedents of injustice and abuse of power will always come, like chickens, back to roost; that in the ebb and flow of political power, in its shifting sands that change from one side to the other, it may well be, and at a day not far distant, when this dangerous power of using legislative and judicial influences to persecute and punish party opponents may recoil upon those who have invented and set them in motion. But the cure undoubtedly lies in the administration. Bad administration, whether of the powers of prosecution or the powers of judgment and the conduct of cases, will alike produce utter injustice and overthrow laws which in just hands might be capable of beneficent operation. It is that broad question as to whether the great powers of the Government that were designed for the benefit and protection of all have been confined to the single use of one party's hostilities, and that party vindictiveness and not public justice has been both the object and the result of the administration of great public powers. That, sir, is a question which the history of this country in the past ten years will go far to illustrate, and which will at no distant day be submitted to the people of this country for their judgment.

But this bill does not, in my opinion, touch that important question. It is another question of broad and important public policy, as to the compensation of judicial officers who have not the control of the appointment or removal of this delinquent class—I call them delinquents, but might better style them criminals—the commissioners who prostitute their powers by issuing warrants in the wholesale, shameful, cruel, and oppressive manner which has been depicted by the Senator from Alabama. Those judges have not their pay in question. It is fifty men, whose number may from time to time be enlarged, who are intrusted with duties calling for a high degree of legal learning, personal character, and professional ability. Of these fifty but six are alleged to have condoned these offenses either by express or tacit approval, and surely it is not just to visit the supposed sins of the six upon the forty-four who are not implicated. Is it economy to the people, is the poor man and the friendless assisted by having an incompetent and unlearned judge? Is he benefited by having some weak tool of power, who is either corrupt or corruptible, to sit upon his case? No, sir. His only chance, and the great chance for the unfriended and for the weak, is the elevation of character and the ability of the court before whom he goes for trial.

I do not say that excessive salaries will procure a proportionate ability; but I do say that an insufficient salary excludes from the office the class of men whom it is the highest interest of the people should occupy the bench. My friend from Mississippi [Mr. GEORGE] read a very interesting and elaborate historical sketch of the gradual increase of judicial salaries from the earlier and simpler days of the Republic to the present time. It was well that he should have read it. It was instructive. It told of the march of luxury, of the growth of the country, the increase of the duties, and of the popular opinion of appreciation of those duties that has dictated a corresponding advance in the pay. Why, sir, until the act of 1870 was passed it was an absolute reproach and scandal to the people of this country that men were kept upon the bench and upon the Supreme Bench of the United States compelled after long and faithful service to the country, not to be measured by pecuniary salaries, but to be measured by a people's gratitude and an appreciation of those services that would endure for generations—men were kept upon the bench because no degree of frugality, no manner of life, however simple and consistent with their position, would permit them to lay by one dollar for the support of their families. When borne down

by age and infirmities they were obliged still to carry their enfeebled forms upon the bench in order to receive the salary necessary to keep them from starvation. Sir, it was the conspicuous case of that great, learned, and excellent jurist and patriot Roger B. Taney that caused the Congress of the United States, with too tardy recognition after his death, to say that men who had served so long and well should be enabled to retire for a little breathing space between their labors and the grave, and not be condemned to pass their last hours in want and suffering. Sir, it is known that the children, the widowed daughters of that great man were compelled to labor for their daily bread, and to be the recipients of voluntary aid from members of the legal profession throughout this country because their father during the long years of his faithful public service never had received such a salary as would have permitted him to lay by a moderate sum that might stand between his children and the absolute poverty they were compelled to face.

There never was a more just or a wiser act passed by Congress than that law by which a man 70 years old who had served ten years on the bench should for the remnant of those days, if he chose, if ill-health or disease compelled him, be allowed to retire from labor and be supported for the short remnant of his days with propriety and comfort.

Sir, this bill may in some instances reward men who do not deserve it, but shall we for that reason withhold it from the many who do deserve it? While this bill was under discussion the other day I met a professional friend from the city of New York in whose law firm were two gentlemen who had been district judges of the United States, one in Connecticut and the other in the State of New York, and who, as he said, had borne starvation as long as they could, and had finally been compelled to resign from the district bench and go back to the ranks of the profession, where their abilities enabled them to earn many times over the present judicial salary.

So, Mr. President, I will go heart and hand with my friend from Alabama in condemning and in voting for the reformation of the evils and the outrages which he has referred to; but I do not think this amendment is the way to meet them. I do not think it would be an efficient way to meet them. I can not, therefore, support his amendment.

Sir, it is all-important for the people of this country that nothing should exist to keep the highest class of professional talent and personal character from administering the laws of this country from judicial station. It is in that view that I have voted for this general advance in salary of the judges, and not from any failure on my part to appreciate fully the wrongs, the cruelties, the maladministration which has gone on in many parts of this country and which seems to have met unfortunately so little disapproval in quarters where it ought to have been disapproved. The country in certain portions is ransacked to find some element to condemn among the disorderly classes, who will stain the good name of any community. Such disorder undoubtedly is to be condemned, but I declare it is not one-tenth part so dangerous, not one-tenth part so reprehensible, as the use of public power given for the sacred purposes of justice and perverted to individual oppression by partisan and official malignity.

Mr. GARLAND. Mr. President, there has been no bill before the Committee on the Judiciary since I have been connected with that committee which has given me as much work and as much labor and investigation as this bill. I support the bill as it came from the committee, and I will give the reasons briefly to the Senate which induce me to do so.

Very early in the session general bills were introduced and various bills to increase the salaries of the district judges in particular cases. They all went to the Committee on the Judiciary, and they were reported back by the Senator from Massachusetts [Mr. HOAR] with a list increasing the salaries of some fourteen or fifteen probably to the sum of \$5,000 and several others to the sum of \$4,000. That bill was scarcely reported at the Secretary's desk before there was a buzz in the Senate to know why this judge was omitted and that one and the other; and upon the request of the Senator from Indiana [Mr. HARRISON], he stating that there was some cause of complaint of this discrimination in his State, the bill was recommitted to the committee. Thereupon a number of communications were received in the way of data as to the labor of the different district judges and as to the number of days it required them to do their work; in other words, the exaction upon their time. The committee, not being able to come to any other conclusion, finally agreed to report an increase of all to \$5,000. If they had stopped short of that and met simply the personal demands of Senators and other persons in reference to particular district judges the list probably would have been at least thirty-four or thirty-five. We were brought to this alternative: not to increase at all or to take the entire list.

The opponents of this measure, as I understand, are willing to vote for an increase in particular cases where the facts would warrant that increase. The committee found that at least thirty-four or thirty-five are entitled to an increase, and in view of the objection made to discriminations we became satisfied that no bill would pass unless we increased them all to \$5,000. I am aware that the services of some of the district judges may not be worth that much, but there are others worth much more than this sum, and who perform duties for which a much larger sum would not compensate. So I was not willing for one to refuse to

increase the pay of these meritorious judges if we were compelled even to increase the pay in doubtful cases or in cases that we knew were not meritorious.

Now, take the State that I represent in part on this floor. We have a district judge with circuit-court powers at Fort Smith. He is occupied two hundred and ninety-two days in the year holding his court, and it is not a holiday court; it is not a fashionable court; but it meets at 8 o'clock, takes a recess for dinner, and adjourns at about 6 in the evening, in the fashion of the old school. The district judge at Little Rock has to go to Helena to hold his court at a great expense, and his court at Little Rock is held open for the same length of time as the court at Fort Smith. There are two cases where if the judges are worth \$100 according to any standard by which I can compute such services they are worth \$5,000. A number of cases which the Senator from Massachusetts has on his list are equally striking as the two I have instanced.

Mr. President, the theory on which salaries were fixed at the foundation of the Government, on which they were regulated many times in the past, it will not do to apply at this particular time and period for several reasons. The Senator from Oregon [Mr. DOLPH] yesterday gave one of them when he stated that the purchasing power of the \$3,500 that Chief-Justice Marshall received on the Supreme Bench went further than \$10,000 goes now that the judges on the same bench receive at this day. So the salaries of \$1,000 and \$1,200 or of \$2,000 for district judges alluded to yesterday by the Senator from Mississippi [Mr. GEORGE] in his very able speech went further in that day than three times the same salary would go now.

The analogy fails for another reason. When the district courts were organized, in the early part of the Government, they had but little business comparatively speaking. The business of the country in those courts has grown enormously, and almost every conceivable question that can be imagined is before them for adjudication. The district judge that sat at Little Rock when the war came on had, I believe, about thirty-five cases, all told, upon his docket. Now the judge on that same bench has between three hundred and fifty and five hundred cases; and it is in the same ratio with the court at Fort Smith.

Both as to the purchasing power of the salary and as to the amount of labor the comparison fails utterly. The theory of fixing these salaries started on the idea that we would give the United States district judges the salaries the States gave their highest judges; but for the two reasons stated it was found that that would not do, and so a change was made.

In addition to that, it will not do to say because the poverty-stricken State of Arkansas, for instance, is only enabled to give her supreme judges, I am ashamed to say, \$3,000 a year, therefore the United States, that is able to compensate its judges, should not give them more than \$3,000 a year. If the argument is good, it will hold good in a respect which I wish to state now for the benefit of gentlemen. When the present government of Arkansas was organized the public officials received their pay in State scrip. I happened to be one of them then, the governor of the State of Arkansas. State scrip at that time and for four and a half months afterward was worth 22 cents on the dollar. That was all the pay we got. Now, if the argument is good that we should regulate the salaries according to what the States pay, we should follow this barometer according to the State scrip or currency, or whatever it is paid in, as it rises or goes down. The salary of the supreme judges of Arkansas cited by the Senator from Mississippi is lamentably and ridiculously low, but it is the best that the State can do. There are great exactions on the time of these judges. The State is not able to pay them better, but we are looking forward to the day when we hope we shall be able to pay them better.

The instance of the pay of a member of Congress has been cited. That is ridiculously low, and but for the retroactive effect that was given to the law raising it to \$7,500 it would be that sum now.

So, Mr. President, on all the grounds of the comparison, I can not see that the theory of this bill is at all interfered with. We know that it is difficult to fix any rate, difficult to fix any standard. If you take the standard now contended for by my friend from Alabama [Mr. MORGAN], of course we see that that will not hold good. He admits we should pay more in individual cases that are meritorious. The bill first reported proposed to raise thirty-four or thirty-five of the judges in their salary, and at once objection was made to that that it did not include some who ought to be increased. It is not a contention for high or extravagant salaries, but it is simply a contention for good, substantial, reasonable, fair pay for the performance of these duties. The people will not, as I understand, quibble or quarrel about good, substantial salaries; they are willing to pay such salaries; but they want vigorous and diligent and conscientious work in return for it. This rendered, they will not and do not grudge liberal compensation.

Something has been said as to the effect of a life tenure of office. It is true that that circumstance attaches to the office of United States district judge, but there are other circumstances that attach also. Here the judge is taken from the ordinary business of men; he can not engage in speculation, he can not attach himself to corporations, because he does not know when they may come before him for adjudication. He lives to his good, ripe old age, if you please, with a family growing up around him to be fed and educated. In the case indicated yester-

day by the Senator from Mississippi about pensioning special judges—that was the case of Judge Hunt—I can not believe there was anything wrong in that. That was a particular case.

Mr. GEORGE. I did not say there was anything wrong in it.

Mr. GARLAND. No; but it was specially mentioned.

Mr. GEORGE. I referred to it as one of the results of the life tenure; that was all. There was no other way of getting rid of him.

Mr. GARLAND. Exactly. He was upon the bench, he was paralyzed, unable to perform the duties of his office, he had nothing to go back on; he was gone beyond the chance of practicing his profession; he had become paralyzed in the public service; the docket was accumulating, and it was necessary something should be done for him with a view to the public business. Now, the docket of the Supreme Court stands here every year with 1,200 to 1,300 cases to be determined and passed upon by that court in some way or other, whereas in the olden times, before the war, there were hardly ever more than two hundred cases on that docket. On the 14th of April, 1861, there were but two hundred and twenty cases on the docket of the Supreme Court undisposed of.

These are the reasons, which, after careful consideration of this subject, prompted me to vote for the bill before the committee and will prompt me to vote for it here.

Mr. GEORGE. I should like to ask the Senator from Arkansas a question. He made a statement as to the purchasing power of a dollar in the early part of the century, that it was three times as great as it is now. I should like to know from the Senator what information he has on that subject which authorizes him to make such a statement, contrary to my observation and to my reading.

Mr. GARLAND. I think, as a fact, that the sum of \$1,000 from 1843 to 1860 and the coming on of the war would purchase more than the sum of \$3,000 in the last ten years here. I can take the bills of fare of the country, the simplest things we consume every day, and show this to be the fact. In 1849, for example, when I traveled from Bardstons, Ky., on horseback to Arkansas, I with my horse staid overnight at as good a place as a man would want to stay this side of heaven and it never cost me over 50 cents a night for me and my horse. And as the Senator from Kentucky [Mr. BECK] is near me, I should like to know where there is now a house on that road where a man and a horse could be taken care of for a night, get breakfast, and leave next morning for less than a dollar and a quarter or a dollar and a half. At that day and time the Senator from Kentucky knows well enough that as good a pint of liquor as ever cheered the fallen or depressed spirit of men could be purchased for from 5 to 10 cents, and he knows and I know that it can not be purchased now for less than 25 or 30 cents. [Laughter.]

Mr. MORGAN. If we could repeal the tax on whisky we should relieve the bench to that extent to say the least, and I have no doubt that would be a relief, and a good many of them would be very much obliged to us for cheapening whisky.

My amendment does not attack the amount of this salary; it is only intended to provide what I think the committee omitted to notice as to the persons to whom it shall apply and the conditions upon which it shall apply. I propose that it shall apply to those persons only who shall hereafter be appointed. I appreciate the difficulties of the Committee on the Judiciary in arriving at a just sum to be fixed as compensation for these judges, the embarrassments that they had when they reported back certain bills to increase the salaries of some fifteen or eighteen judges as I believe the Senator from Arkansas said, and I have not as yet undertaken to reduce the amount of \$5,000 provided for in this bill.

But I rose, Mr. President, for the purpose of calling the attention of the Senate, and of the Senator from Delaware particularly who is not now in his seat, to the fact that the accounts of the different officers, the marshals, clerks, attorneys, and commissioners of the circuit courts, before they are sent to the Treasury of the United States to be audited, are required by section 846 of the code to be examined and certified by the judge of the district for which they are appointed. It may be true, as the Senator from Delaware contends, that the commissioners of the United States are appointed by the circuit courts and are to be removed by the circuit courts, and that the circuit courts in that sense can only be held by circuit judges. I do not concede the proposition, but I will do it for the sake of the argument. The point I made, however, on the report made by the chief examiner of the Department of Justice was that on the examination of the accounts of the commissioners, of the clerks and marshals in the Southern States and in the Northern States too, they found a vast amount of fraud and speculation, and this fraud and speculation had escaped the discernment of the judges whose duty it is to examine and certify to the accounts. It is the district judges who have that duty, and not the circuit judges.

We have an able circuit judge in the fifth circuit, a man whose course on the bench I am very proud to applaud on the floor of the Senate; but he has five or six States, from Georgia to Texas, an enormous area of territory, over which he has to travel, and it is a matter of impossibility that he should watch the conduct of the different commissioners and clerks and marshals throughout the districts. Congress recognized that it was impossible for him to do it, and required of the district judges that they should make these examinations.

Now, let me ask any man who has ever practiced before the bar of any court of this country, or any man who has ever witnessed the conduct of business within a court, if he finds the officers of that court slack and negligent in their dealings with public affairs, and the very affairs about which this criminal conduct exists have to pass under the examination of the judge and receive his certificate, and where the matter is carried on from year to year and in the face of protests, would he not come to the conclusion that that judge was himself a delinquent, that he cared nothing for the responsibilities or duties of his office?

Here your officers go to the States of Alabama, Georgia, Texas, Mississippi, Pennsylvania, New York, and elsewhere. They make these examinations; they find fraud abounding throughout the whole history for years past in these courts. Cases have lain there of criminal conduct toward the Treasury of the United States without investigation, and the statute of limitations comes in as a bar, and men can not be indicted, and it is so stated in these reports, because of the bar of the statute of limitations. Now, are we to infer that these judges who have the control over these officers have been performing their duty when the law requires that they shall examine and certify the various accounts in which these frauds exist? Let me demonstrate to you the impossibility of such a thing as that.

Here is the commissioner that I mentioned in Alabama; he sits almost every day in the year, and his accounts in the Treasury show it, and charges the Government of the United States \$5 a day for a session in addition to the fees that belong to the respective cases that he hears. He returns case after case into the courts until the docket accumulates by hundreds—many hundreds of cases. The judge opens his court, and the country is surprised, and the Senate has often been surprised, and Senators have remarked their surprise upon that proposition here, to see that the courts when they are opened employ themselves for hours and hours each day in simply nolprossing cases. So flagrant has this evil become in Alabama, that when Judge Pardee came around and examined into the condition of affairs there he caused orders to be issued and circulated to the different commissioners that they should not send out a warrant of arrest against any human being for any offense at all unless the man who asked for that warrant should swear to his personal knowledge of a violation of the laws. What were those requirements meant for? To meet the case that men were employed by the commissioners day after day to stand at their side and make affidavits and swear out warrants against persons whom they might suspect of being implicated, knowing nothing of the facts at all. These cases accumulate on the docket, hundreds and hundreds of them. The judge finds it necessary on the presentation of the facts by the district attorney to nolpross them, turn them out of court. The commissioner comes in who caused these arrests and the marshal and deputy marshals who are alleged to have made the arrests come in with their accounts predicated upon the very service which the court has been notified of upon the records of the court, and thereupon the judge makes examination, if he does his duty under the statute, and gives his certificate that these accounts are just and true and lawful claims against the Government of the United States. And yet your Department of Justice here is now engaged in a praiseworthy necessary vindication of the Treasury of the United States against the corrupt practices of these subordinates certified to by the judges on the bench.

It makes no difference whether these officers are appointed by the circuit court or whether they are removed by the circuit court; the accounts through which and in which they offend against public justice and the criminal laws of the land are accounts that are examined and certified to by these very district judges whose salaries we are trying to raise \$1,500 a year. These judges know that these accounts can not be just. Here is a circuit judge issuing an order that all these commissioners, trying to hold them down, shall receive affidavits from men who know something about the facts; and here the judges are engaged in nolprossing these numerous cases from the docket sent in by these commissioners, and yet they turn around and pretend to make an examination of the accounts so that they can certify them either upon their oaths or upon their honor as judges and they come here, and the Department of Justice in the execution of its duties investigates them and exposes this serious fraud before the world; and before the Senate of the United States has even adopted resolutions for an examination into these charges we go on to reward these men by an increase of their salaries \$1,500 a year. No, sir; let us postpone the operation of this law to appointments hereafter to be made, and let these men come forward and account for these things. Give to a Senator from Texas or Georgia or Alabama or elsewhere where these allegations have been made against these judges and against their administration of public justice the right when a man has been reappointed to get his \$5,000 to get up here and show what this judge has been doing in his pretended administration of public justice in the State.

I am willing that they shall have salaries of \$5,000; but, Mr. President, if they feel conscious of their rectitude, and if they have the moral support of the country in which they live and of the bar by which they are surrounded and the Government at large, they need have no apprehension that they will not be reappointed. It will only be too gracious a duty for us to perform, too pleasing a duty for us to perform, then to reward such a man with reappointment. We should never crush

a man who would say to the Senate of the United States, "I feel that I am entitled by my record and my course of public conduct to this increase of salary; I therefore lay down my commission, and I ask the President to reappoint and the Senate to reconfirm me, so that I can get the \$5,000." That would be a fair measure of public justice. There would then be the honorable men on the bench, and it would rid us of some of the bad material which is now disgracing the bench of the United States.

If I had not believed that there was real merit in this, that it would accomplish something for the purification and exaltation of the bench itself, I certainly would not have offered the amendment.

The PRESIDING OFFICER (Mr. PLATT in the chair). The question is on the amendment proposed by the Senator from Alabama [Mr. MORGAN].

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

The yeas and nays were ordered.

Mr. COCKRELL. Let the amendment be reported again.

The PRESIDING OFFICER. The amendment will be read.

The SECRETARY. At the end of the bill it is proposed to add:

Provided, That this act shall apply only to judges that shall be hereafter appointed.

The Secretary proceeded to call the roll.

Mr. BECK (when his name was called). I am paired with the Senator from Maine [Mr. HALE]. I do not know how he would vote on this question.

Mr. HAMPTON (when his name was called). I am paired with the senior Senator from Rhode Island [Mr. ANTHONY].

Mr. HILL (when his name was called). I am paired with the Senator from Arkansas [Mr. WALKER]. Will his colleague state how he would vote on this question?

Mr. GARLAND. The Senator from Arkansas [Mr. WALKER] would vote "nay" if here.

Mr. HILL. Then I vote "nay."

Mr. LAMAR (when his name was called). I am paired with the Senator from New Jersey [Mr. MCPHERSON].

Mr. CAMERON, of Wisconsin (when Mr. SAULSBURY'S name was called). The Senator from Delaware [Mr. SAULSBURY] is absent this morning and is paired with the Senator from Arkansas [Mr. WALKER]. The Senator from Delaware [Mr. SAULSBURY] would vote "yea" on this amendment and the Senator from Arkansas [Mr. WALKER] would vote "nay."

The roll-call was concluded; and the result announced—yeas 14, nays 45; as follows:

YEAS—14.		
Brown,	Farley,	Morgan,
Cockrell,	George,	Pugh,
Coke,	Groome,	Ransom,
Colquitt,	Harris,	Vance,
NAYS—45.		
Aldrich,	Edmunds,	Kenna,
Allison,	Frye,	Lapham,
Bayard,	Garland,	Logan,
Blair,	Gibson,	McMillan,
Bowen,	Gorman,	Mahone,
Butler,	Harrison,	Manderson,
Camden,	Hawley,	Maxey,
Cameron of Wis.,	Hill,	Miller of Cal.,
Conger,	Hoar,	Miller of N. Y.,
Cullom,	Ingalls,	Mitchell,
Dawes,	Jackson,	Morrill,
Dolph,	Jonas,	Pike,
ABSENT—17.		
Anthony,	Hale,	McPherson,
Beek,	Hampton,	Palmer,
Call,	Jones of Florida,	Pendleton,
Cameron of Pa.,	Jones of Nevada,	Sabin,
Fair,	Lamar,	Saulsbury,
Van Wyck, Williams.		
Platt, Plumb, Riddleberger, Sawyer, Sewell, Sherman, Slater, Vest, Wilson.		
Voorhees, Walker.		

So the amendment was rejected.

Mr. VAN WYCK. I desire to offer an amendment, to substitute the word "four" for "five;" so as to read "four thousand" instead of "five thousand" dollars.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Nebraska [Mr. VAN WYCK].

Mr. VAN WYCK. In the somewhat lengthy discussion upon this bill I have been listening to hear something of a public reason why the Senate should stop at this time to pass a bill of this nature. I have not discovered that there is any danger of the bench being deprived of the judges who are presiding over it. True the Senator from Massachusetts [Mr. HOAR] mentioned the great qualifications which are needed in every person occupying a position upon the bench, but I failed to hear him follow it up with the statement that those upon the bench now did not possess those qualifications. I take it for granted that they do, and that all that is sought for by the Senator from Massachusetts we already have in the judges who are presiding. So there can be no reason on that ground at this time.

Then the Senator from Delaware [Mr. BAYARD] in his lengthy statement urged a reason purely of sympathy. One thing is noticeable, Mr. President, that there is one class of American citizens who always find a vast deal of sympathy on this floor and in the American Congress, and that is those who hold official positions. So it was with my friend

from Delaware. His sympathy overflowed. He could see much of hardship in the family of Judge Taney, who he said were poor; but does my friend from Delaware call up to his recollection other distinguished lawyers who are not upon the bench whose families also are poor and destitute? Is there any reason why there should be any more particular consideration for a distinguished lawyer who goes upon the bench and unfortunately may be poor than for a distinguished lawyer who does not go upon the bench and whose family also may be poor and necessitous?

There is another feature which appears in discussions of this kind. First, I say we always find sympathy for the office-holder. Then some gentlemen believe that the highest privilege of the American citizen and his greatest enjoyment is to pay taxes. Gentlemen point to our overflowing Treasury as an evidence of the great enjoyment it furnishes the American people to fill it.

My friend from Delaware probably does not go down to the thousands of families who are poor, who not only die poor but live poor, thousands of families from whose pockets are extracted the dollars that go into an overflowing Treasury. That is another proposition which always appears in these liberal discussions and liberal appropriations—the pleasure it is to the American people to pay taxes. And then, of course, the necessary corollary is the necessity of the American Congress being liberal in paying out the money. The proposition is first to fill up, and then deplete. There are various ways of doing this. One is the ease with which public offices are filled, and next the apparent ease with which salaries are made and increased.

The Senator from Arkansas [Mr. GARLAND] speaks of the necessity of the salaries of the judges being equal. Will my friend from Arkansas reflect on the Congress which passed the present law? It was supposed in 1867 when this law was passed that the salaries should be graduated, and they were graduated from \$3,500 to \$5,000. Was that law just then? Has it been just from 1867 to this day? Gentlemen say no; many judges do more labor than others; it would be liberal and generous to put them all on the same basis. From 1867 to now there has been this discrimination, twelve judges receiving from \$4,000 to \$5,000; the remainder receiving \$3,500. That proposition was just, was equitable. It has remained upon our statute-book from 1867 to now, and there has been no murmur of complaint. Now it is proposed to equalize them. I would ask our generous brethren here, after you have equalized the salaries and placed them all upon the basis of \$5,000 a year, how long will it be before judges in districts requiring all of their time will come and find Senators who will ask that that injustice shall be righted? Then we shall hear piteous appeals for them. Is it right that the overtaxed and overworked judges in New York and in Massachusetts and in Pennsylvania should receive no more salary than the judges in the rural districts, where such intricate and difficult questions do not come up for consideration?

Mr. HOAR. The Senator propounds, as I understand, a question to me, and if he would like to have the answer now I will tell him what is my answer to that difficulty. I think the law which has been recently passed would be made practical still more than it is now, requiring the judges to go out of their districts when directed by the circuit judge. So I look forward, I will tell the Senator very frankly, to a period soon to come when every district judge of the United States will be employed all his time, and will be obliged to go about to other districts besides his own. In Massachusetts the district judge in my own district is employed the whole year, and it is a very hard and laborious year's work for him; and for one or two years he has scarcely had a vacation of more than two days. I suppose there are nearly two men's work in that court now, but when a judge comes occasionally from Maine, from New Hampshire, from Rhode Island, the labor will be still more equalized.

Mr. VAN WYCK. The Senator concedes the fact, I suppose, that there are very many districts where the judges are not overworked, and where probably not half their time is required in discharging their official duties.

Mr. HOAR. There are twelve or thirteen districts out of the fifty, as near we can make out, in which the judges now are not worked a hard year's work. I expect that within a very few years every judge within those thirteen districts will be obliged to be constantly employed in doing the work which the others can not perform.

Mr. VAN WYCK. Then would it not be best for Congress to wait until that time does arrive?

Mr. HOAR. It has come near enough now.

Mr. VAN WYCK. The Senator thinks it has come near enough now. Possibly that may be in his idea of excessive generosity and liberality; but would it not be well to wait until that time does come if it is to be used as an argument why the salaries are to be increased? The Senator's hope is that in the future it will be so arranged that the district judge of Iowa may be ordered into the district of Nebraska or the judge of the district of Colorado—

Mr. HOAR. The district judges do not go out of the circuit in which their district is.

Mr. VAN WYCK. Then that will not meet the difficulty. I take it in the New York and Pennsylvania circuits every district in those circuits is now probably worked up to the maximum of what the Sena-

tor considers to be a hard year's labor. Maritime questions, great commercial questions, where large amounts of property are involved, are seldom heard in the interior districts. Therefore it is that in the far distant districts, in the rural districts, where the position is a comparatively easy one, the injustice would still continue, and there is not in those districts for half the year the labor that there is in a hard-worked district the whole year. Therefore, the objection is not removed, and the condition of things that my friend suggests can not possibly exist where the increase will apply most actively. I think that just at this juncture there is no necessity for the proposed increase of these salaries.

It would seem from all the hardships that are mentioned as if there were some sort of draft or conscription into the civil service of this country. When a gentleman overflows with sympathy for the hard-worked office-holder, you would naturally suppose that there was a draft or a conscription which forced the private citizen into a position of trust. But one thing is very remarkable in his suggestion in regard to the profession to which my friend belongs and that of the Senator from Arkansas. It is very remarkable when any position is suggested which that profession can fill that we hear so much of the great sacrifices which gentlemen who come from the bar and from the profession of the law give up to serve their country. We find that from considerations of patriotism the most distinguished lawyers in this country are willing to surrender their chances of fortune to take a position upon the bench; and they are willing from their great degree of patriotism to surrender positions of profit even to take seats in the American Congress, whereas Senators claim they are so hard worked that it is necessary to furnish a clerk to each of them to aid them in the discharge of their duties.

As I said there is no conscription, there is no draft that will take a man out of the legal profession and put him on the district bench or the circuit bench or the Supreme Court. There is no power on earth that can take a distinguished lawyer from his remunerative practice and place him in a seat in this Chamber or in the other House. And yet it is impossible, so these gentlemen say, to get a lawyer of distinguished ability to fill these positions at the salary now paid. When there is a district judgeship vacant the whole State is torn up, and every lawyer of prominent position is anxious, if possible, to fill that chair. If there is a vacancy in a circuit judgeship, half a dozen States are torn up, as my friend from Kansas knows—Minnesota, Wisconsin, Iowa, Kansas, Nebraska, and Colorado.

Mr. CAMERON, of Wisconsin. Not Wisconsin.

Mr. VAN WYCK. Fortunately for Wisconsin that State is not in the circuit to which I allude where a vacancy now exists. The other States I named are in that circuit and they are all torn up. Each has distinguished lawyers, the ablest lawyers, and not too much can be said in their favor, to fill the circuit judgeship. To-day a struggle is going on in that circuit in which my friend from Wisconsin does not reside and in which my friend from Kansas does, and the President is besieged by delegation after delegation from each branch of Congress and citizens from the States probably come in regiments to beg the President to recognize the great merit of a distinguished lawyer in their State. Kansas presents her best man; Minnesota hers, Colorados hers, and Iowa hers, and they come here struggling for this judicial position. Yet we are told of the hardship they have undertaken, and that this great consideration must be extended to them. Certainly when gentlemen accepted the office of district judges at \$3,500 it was rather in the nature of a contract; and why should we increase their compensation while they hold their office?

The Senator from Delaware is anxious that the judges shall be well paid. He agrees, he says, with the Senator from Alabama that great outrages have been perpetrated through the judiciary. Did I understand the Senator from Delaware to agree with the Senator from Alabama? The Senator from Alabama was stating his grievances, and I understood the Senator from Delaware to assent to them and to say that there were grievances.

Mr. BAYARD. I was accepting the statement of the Senator from Alabama as true; and if the facts he stated were true, they were gross outrages upon the rights of American citizens which ought to subject their perpetrators to punishment.

Mr. VAN WYCK. Then I understood either that Senator or the Senator from Alabama, I think it was the Senator from Delaware, to state that it was the circuit judge who made the appointments from which the people suffered in Alabama.

Mr. MORGAN. The circuit judges made the appointment of commissioners, not of marshals, of course. The marshals are confirmed here.

Mr. VAN WYCK. Precisely; but I wanted in that connection to suggest that it was the high-priced judges that are the cause of the most outrage upon the State of Alabama. The district judges to-day receive \$3,500, the circuit judges receive \$6,000, and it was the high-priced judges who produced the troubles under which you labor in Alabama, as I understand.

Mr. MORGAN. I went entirely on the report made to the Department of Justice by its chief agent, which I have before me and from which I read. I made no statement of my own in regard to that point.

Mr. VAN WYCK. Then I was correct about that.

I have made all the suggestions I desire to make upon this matter.

I was anxious principally to see what reason was to be given for this proposed increase, and, with all deference to the distinguished Senator from Massachusetts, I fail to see any force in his reasoning. As my friend from Delaware was anxious to have high-priced judges, and as I thought the Senator from Alabama had read that the high-priced judges produced the greatest iniquity in his State if not in other States of the South, I wished merely to draw the parallel, and also to show that in my judgment for this proposed legislation to-day it might be well to level the salary up to \$4,000.

Mr. HOAR. I hope we may have a vote.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, it is the duty of the Chair to lay before the Senate the unfinished business.

Mr. HOAR. I ask unanimous consent to have a vote on the bill which has just been debated.

The PRESIDING OFFICER. The unfinished business will be laid before the Senate. It is the bill (S. 398) to aid in the establishment and temporary support of common schools. The Senator from Massachusetts asks unanimous consent that the vote may be taken upon the amendment proposed to the bill which was just under consideration.

Mr. COKE. I shall object, because I have an amendment that I desire to present, and I wish to make some remarks upon it.

The PRESIDING OFFICER. The Senator from Texas objects, and the unfinished business is before the Senate.

URGENT DEFICIENCY BILL.

Mr. ALLISON. The Senator from New Hampshire has kindly consented to give way at this moment that I may ask the Senate to take up a deficiency bill. I do not think it will occupy much time.

Mr. BLAIR. I understand the Senator has the right of way for his bill, it being an appropriation bill.

Mr. ALLISON. I believe I have under the rule. Nevertheless I wished the consent of the Senator in charge of the unfinished business.

Mr. BLAIR. I do not wish to be understood as giving any assent that will deprive the unfinished business of any right.

Mr. ALLISON. Not at all. I understand that.

Mr. BLAIR. It is to be resumed as soon as we get through with the deficiency bill.

Mr. ALLISON. I understand the Senator to yield informally.

The PRESIDING OFFICER. The Senator from Iowa asks that the pending order may be laid aside informally in order that the Senate may consider a deficiency appropriation bill. If there be no objection, the Senate will proceed to the consideration of the bill indicated.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 6073) to provide for certain of the most urgent deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1884, and for other purposes.

The bill was reported from the Committee on Appropriations with amendments.

Mr. ALLISON. I ask that in the consideration of the bill the first reading may be dispensed with and that the amendments may be considered as the reading progresses.

The PRESIDING OFFICER. Is there any objection. If not, that will be taken to be the order of the Senate.

The Secretary proceeded to read the bill. The first amendment of the Committee on Appropriations was, under the head of "Treasury Department," in line 30, to increase from \$105,000 to \$128,000 the appropriation "for fuel, lights, and water, required by the janitors and firemen in the proper care of the buildings, furniture, and heating apparatus, exclusive of personal services, for all public buildings under the control of the Treasury Department, inclusive of new buildings."

The amendment was agreed to.

The next amendment was, after line 31, to strike out the following words:

For furniture and repairs of furniture and carpets for all public buildings under the control of the Treasury Department, \$100,000.

And in lieu thereof to insert:

For furniture and repairs of furniture and carpets for the following public buildings, namely: For post-office and subtreasury at Boston, \$30,000; for custom-house at Cleveland, Ohio, \$5,000; for court-house and post-office at Montgomery, Ala., \$10,000; for post-office and court-house at Philadelphia, \$15,000; and for custom-house and post-office at Saint Louis, Mo., \$10,000; in all \$70,000; and each of said amounts shall be so expended as to complete the furnishing of said buildings; and all furniture now owned by the United States in other buildings in said cities, respectively, shall be used as far as practicable, whether it corresponds with the present regulation plans for furniture or not.

The amendment was agreed to.

The reading of the bill was continued. The next amendment of the Committee on Appropriations was to strike out lines 66 and 67, in the following words:

For heating, hoisting, and ventilating apparatus for public buildings, \$16,000.

Mr. ALLISON. The items for buildings at different points named, comprising lines 49 to 67, inclusive, are not deficiencies; they are considered, however, by the committee necessary, because by making the appropriation now the buildings can be occupied sooner than they could be occupied if they were to await the annual appropriation bills. The item in lines 66 and 67, "for heating, hoisting, and ventilating appa-

ratus for public buildings, \$16,000," is entirely a new item, and relates to an expenditure which can just as well wait six months, or at least await the regular appropriation bill, as to be provided for now; therefore the committee, regarding this especially as not a deficiency, recommend that it be stricken out. So I will say of the custom-house and post-office at Cincinnati, where we have appropriated in this bill \$100,000, it is not a deficiency, it is really an advance of the regular appropriation of next year in order to facilitate the completion of the building. I mention these facts in order that the Senate may not understand that these are pressing deficiencies.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the committee.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was under the head of "Interior Department," after line 71, to insert:

STATIONERY.

For stationery for the use of the Department of the Interior in wrapping and mailing the reports of the Tenth Census ordered by Congress to be distributed by this Department by the act of August 7, 1882, \$5,333.18.

The amendment was agreed to.

The next amendment was, in line 80, to increase the appropriation "for incidental expenses of the several land offices" from \$10,000 to \$20,000.

Mr. ALLISON. The committee recommend an increase of this item for incidental expenses of the several land offices because it is necessary that the Land Office should now know what amount they can rely upon for the entire period from April 1, to July 1, as they must arrange their expenditures now for that period.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, to strike out the clause from line 98 to line 107, inclusive, as follows:

That the Secretary of the Interior is authorized to transfer from appropriations for the Freedmen's Hospital and Asylum for the fiscal year 1884 any unexpended balances and apply the same to purposes for which the appropriations for said institution for the current fiscal year are exhausted; but the aggregate amount appropriated for the expenses of the Freedmen's Hospital and Asylum for the fiscal year 1884 shall not be exceeded because of the transfer herein authorized.

And in lieu thereof to insert:

That the Secretary of the Interior is authorized to transfer the sum of \$1,000 from the appropriation for clothing, bedding, forage, and transportation for the Freedmen's Hospital and Asylum for the fiscal year 1884, and apply said sum as follows: \$600 to repairs and furniture and \$400 to fuel and lights for said hospital for said fiscal year; but the aggregate amount appropriated for the expenses of the Freedmen's Hospital and Asylum for the fiscal year 1884 shall not be exceeded because of the transfer herein authorized. And the accounting officers of the Treasury are hereby authorized to settle and allow, if found correct, the accounts of the disbursing officers of the Interior Department for payments to clerks, watchmen, laborers, and teamsters of said hospital for the fiscal years 1882, 1883, and 1884, out of the appropriations for clothing, bedding, forage, transportation, and miscellaneous expenses for said fiscal years, respectively.

The amendment was agreed to.

The Secretary resumed the reading of the bill. The next amendment of the Committee on Appropriations was, in line 131, after the word "Office," to insert "from January 1st;" and in line 132, after the word "first," to insert "1884;" so as to make the clause read:

INDIAN OFFICE.

To enable the Secretary of the Interior to pay the employes temporarily employed and rendering service in the Indian Office from January 1 up to and including July 1, 1884, \$2,100.

Mr. ALLISON. In line 131, after the word "to," I move to strike out the words "and including;" so as to read "from January 1 up to July 1."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The next amendment of the Committee on Appropriations was, after the word "dollars," in line 133, to strike out the following clause:

And hereafter no Department or officer of the United States shall accept voluntary service for the Government or employ personal service in excess of that authorized by law.

Mr. BECK. I desire simply to call attention to the character of legislation which sometimes creeps into bills of this sort. In an urgent deficiency bill that has been sent over to us here is a general provision that—

Hereafter no Department or officer of the United States shall accept voluntary service for the Government or employ personal service in excess of that authorized by law.

In other words, at the life-saving stations of the United States, for instance, the officers in charge, no matter what the urgency and what the emergency might be, would be prevented from using the absolutely necessary aid which is extended to them in such cases because it had not been provided for by law in a statute. So in very many other cases; and this provision is in an urgent deficiency bill in regard to which we are called upon to act promptly. So far as I was concerned, for the moment I believed it was an innocent matter, pertaining to the Indian service and limited to that, and but for the vigilance of the chairman of the committee it is likely it would have become a law without anybody observing it.

I only rose to show that we have been extremely careful in striking

out matters of that general character that come to us in an apparently harmless way.

Mr. HARRIS. It is a matter of general legislation.

Mr. BECK. It is a matter of broad, general legislation, and I call attention to it to show how careful we should be not to overlook such things.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The reading of the bill was resumed. The next amendment of the Committee on Appropriations was, under the head of "Navy Department," in the appropriations for the Bureau of Equipment and Recruiting, after line 141, to insert:

For contingent expenses of the bureau, \$5,000.

The amendment was agreed to.

The Secretary resumed and concluded the reading of the bill.

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

Mr. BECK. Before the bill passes I desire the chairman of the committee either to read or place upon record in some form that will reach the other House the communication made in regard to the Freedmen's Hospital and Asylum, where the House made a sweeping change authorizing any appropriations to be used for any purpose and thereby depriving us of the right to know what they shall account for. To show why we limited it by the amendment we made, I should like to have that communication placed on the record in some way before the bill goes to the House.

Mr. ALLISON. It will be observed that we made a radical change in the phraseology of that provision as it came from the House. The House phraseology would authorize the substitution of any one of the items of appropriation for the Freedmen's Hospital for any other item, so that it would have made the appropriation simply a lump appropriation for any and every purpose, and they could use the appropriations for the Freedmen's Hospital for all the purposes comprised under six or seven items. As the bill came to us from the House the appropriation for any one of those items could be used for any other item. The object, however, of the paragraph was to enable the Secretary of the Interior to utilize a thousand dollars of the appropriation for bedding, &c., for the purpose of making some repairs, and also for the purpose of fuel and lights. I will put on record the letter of the Secretary of the Interior explaining this matter, and I will also put on record the letter of the Comptroller of the Treasury relating to a decision made by that officer respecting the appropriation for fuel, &c.

The PRESIDING OFFICER. Does the Senator desire to have the letters read?

Mr. ALLISON. I do not. I simply ask that they may be printed in the RECORD.

The letters referred to are as follows:

DEPARTMENT OF THE INTERIOR, Washington, March 19, 1884.

SIR: In reply to your telegram of this date I have to inform you that there will be a deficiency of \$600 in the appropriation for repairs and furniture and \$400 in the appropriation for fuel and lights for the Freedmen's Hospital for the present fiscal year, and an excess of \$1,000 in the appropriation for clothing, bedding, forage, &c.

I also beg leave to call your attention to the inclosed copy of a decision by the First Comptroller concerning the payments of salaries to clerks, watchmen, laborers, teamsters, and laundresses, heretofore paid from the appropriation for "clothing, bedding, forage, transportation, and miscellaneous expenses." In it he decides that they are not provided for by law and can not be paid from any appropriation.

They were regularly estimated for in this and other fiscal years in the subdivision of the appropriation for "clothing, bedding, forage, transportation, and miscellaneous expenses," and the sum so estimated was allowed by Congress.

Owing to the decision of the Comptroller, no further payments can be made to the above class of employes, and all that has been paid to them during the present and past two fiscal years will be disallowed in the accounts of the disbursing clerk of this Department.

I have, therefore, to request that the item in the deficiency bill for the Freedmen's Hospital now before your committee may be so amended that suitable provision be made to pay the clerks, watchmen, laborers, teamsters, and laundresses out of the appropriation for clothing, bedding, forage, transportation, and miscellaneous expenses.

This amendment will not call for any additional appropriation.

Very respectfully,

M. L. JOSLYN, Acting Secretary.

The CHAIRMAN COMMITTEE ON APPROPRIATIONS,
United States Senate.

TREASURY DEPARTMENT, FIRST COMPTROLLER'S OFFICE,
Washington, D. C., March 6, 1884.

SIR: Yours of the 4th instant, inclosing a letter from the Secretary of the Interior with regard to payment of salaries and compensation of officers and employes of the hospital for the remainder of the fiscal year, is at hand.

In it you refer to a verbal decision given by me several months ago with regard to the payment of watchmen, teamsters, laborers, clerks, and laundresses not provided for in the act of appropriation, but by your statement necessary for the support of the hospital.

At the time referred to, in conference with the Assistant Secretary of the Interior and yourself, it was understood that in order not to embarrass the operations of the hospital the laborers above mentioned should continue to be paid as formerly, but that the disallowances would stand until the sanction of Congress for the payments should be had.

In view of section 4 of the act of August 5, 1882, the payment of laborers for the fiscal year 1883 was considered as a charge against the item for salaries and compensation rather than clothing and miscellaneous expenses.

You state, however, that in accordance with the understanding above referred to the payments were made from the latter item, as has been the practice

heretofore, and have also been so made during the present fiscal year. The disallowance will be changed from the item of salaries and compensation and made against the item for clothing, &c., both for the fiscal year just past and present.

I hope the hospital will be able to continue its operations until the relief desired has been given by Congress.

Very respectfully,

WM. LAWRENCE, Comptroller,
J. TARBELL, Deputy Comptroller.

C. B. PURVIS, M. D.,
Surgeon-in-Chief Freedmen's Hospital, Washington, D. C.

Mr. BECK. I did not care so much about this particular item, although it is very bad legislation in my view; but the trouble we always have in the Appropriations Committee is to confine the persons who have the power to expend the appropriations that we make to the objects for which they are given, and if this should be allowed, other things broader and more troublesome and leading to worse confusion would follow. The object I had in calling attention to it was simply to emphasize the fact that we desire the House to know and the Senate to know that as far as we can we will limit the expenditure of the money we give to the purposes for which it is given; in other words, that we will prevent the Departments and the bureaus from taking control of our legislation, and keep it in our own hands by not allowing it to become a lump sum to be used for any purpose, and this is just as good a place as any to start in making that class of legislation.

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

The bill was read the third time, and passed.

LADY FRANKLIN BAY EXPEDITION.

Mr. BLAIR. Prior to proceeding to the discussion of the educational bill before the Senate, I ask unanimous consent to offer an observation in a matter that I designed to present during the morning hour. It is of public interest. I received a letter from a prominent citizen of my own State, which is the native State of Lieutenant Greely, I believe, where his family reside, in which he says that the family of Lieutenant Greely feel a strong personal interest and great anxiety for the passage of the bill introduced by the Senator from Connecticut [Mr. HAWLEY] with reference to the offering of a reward of \$25,000 for the discovery of Lieutenant Greely and his party, or in case valuable information is contributed leading to the discovery and the relief of that expedition. I will read what he says, because it is of an authentic character, and I think it ought to be considered in connection with other matters. He says:

I notice that one House or the other have instituted proceedings looking to offering a bounty to whalers who may find the Greely expedition or what remains of it.

After discussing other matters, he adds:

I can not help, however, thinking that no harm can come to the Government

from offering bounties. If such discoveries are made the Government will be well paid in saving expenses of pursuing further investigation with its own fleet. If nothing is discovered then nothing is paid. I learn that the whalers start immediately, while the Government relief expedition can not start for many weeks. If indeed the Arctic voyagers are living, every month or week may diminish their chance of safety, and while I think everything should be done to relieve them, I am quite as decided that no more such expeditions should be encouraged by Congress, &c.

There is no doubt of the fact that the whalers will spread themselves all over the Arctic regions six weeks or two months earlier than the Government expedition can find that locality. I deem the suggestion of importance, and I will pass the letter to the Senator who introduced the bill or to the chairman of the Committee on Naval Affairs at a later time.

F. PROSH AND T. F. McELROY.

Mr. DOLPH. I am informed that this morning the Senator from South Carolina [Mr. BUTLER] reported adversely from the Committee on Territories the bill (S. 954) for the relief of F. Prosh and T. F. McElroy, and it was postponed indefinitely. I desire to have the bill placed upon the Calendar under the rules. I was not in when the report was made.

The PRESIDING OFFICER. The Senator from Oregon requests that the vote by which the bill indicated by him was postponed indefinitely may be reconsidered, and that the bill be placed on the Calendar. If there is no objection that order will be made.

PETITIONS AND MEMORIALS.

Mr. HAWLEY. I present the petition of Rev. Samuel G. Willard and 34 other citizens of Connecticut, praying national aid for the common schools of the States and Territories on the basis of illiteracy. As the petition relates to a pending question, I move that it lie on the table.

The motion was agreed to.

Mr. HAWLEY presented a petition of the Sons of Temperance of Connecticut, officially signed, representing 2,200 members, praying for a commission of inquiry concerning the alcoholic liquor traffic; which was referred to the Committee on Education and Labor.

Mr. BECK. I present a petition, which I have received since that order was called this morning, signed by the Rev. W. F. V. Bartlett and a number of leading lawyers and men interested in education in the city of Lexington, Ky., praying for the passage of the bill now be-

fore the Senate, or some bill of that character, for reasons set forth in the petition. The petition may be laid on the table, as the bill is now before the Senate, or it may be referred to the Committee on Education and Labor, if the Senator from New Hampshire prefers.

Mr. BLAIR. I suppose, as the bill is pending, the petition should lie on the table. I think that is the usual disposition in such cases.

The PRESIDING OFFICER. The petition will lie on the table.

Mr. GARLAND presented the petition of S. S. Shedd, president, and T. Fritz, secretary, and a committee representing the Master Plumbers' Association of the District of Columbia, praying for such legislation as will carry into effect the act of Congress giving the commissioners of the District of Columbia authority to make certain rules and regulations governing plumbing and house drainage; which was referred to the Committee on the District of Columbia.

Mr. PLUMB presented a petition of citizens of Kansas, praying that the tract known as the Oklahoma lands, in the Indian Territory, may be thrown open to settlement; which was referred to the Committee on Indian Affairs.

Mr. MILLER, of New York, presented the petition of John C. Welch, praying for the purchase by Congress of copies of his condensed statement of the Compendium of the Tenth Census; which was referred to the Committee on Printing.

REPORT OF A COMMITTEE.

Mr. JONES, of Florida, from the Committee on Naval Affairs, to whom was referred the bill (S. 1335) to authorize the settlement of the accounts of the late John V. B. Bleeker, a paymaster in the Navy, reported it with amendments.

BILLS INTRODUCED.

Mr. LOGAN introduced a bill (S. 1899) granting an increase of pension to James M. Blades; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 1900) granting a pension to Mrs. Mary M. Ord; which was read twice by its title.

Mr. LOGAN. I desire to say for the benefit of the committee which will have charge of the bill that the lady for whom I introduce the bill is the widow of General Ord, and is in very indigent circumstances. He was a very brave man and did great service for the country, and I hope the committee will report the bill as soon as they can possibly do so. I move that it be referred to the Committee on Pensions.

The motion was agreed to.

Mr. McMILLAN. On behalf of my colleague [Mr. SABIN], who is necessarily absent from the Senate this morning, I ask leave at this time to introduce a bill.

The bill (S. 1901) for the relief of William H. Whiting was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. MAHONE introduced a bill (S. 1902) for the erection of a public building at Staunton, Va.; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

Mr. VEST introduced a bill (S. 1903) to amend "An act to authorize the construction of a bridge across the Missouri River at the most accessible point within five miles above the city of Saint Charles, Mo.," approved April 14, 1883; which was read twice by its title, and referred to the Committee on Commerce.

Mr. BECK introduced a bill (S. 1904) for the benefit of Saint Augustine church, of Saint Augustine, Fla.; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. VANCE introduced a bill (S. 1905) to authorize the Secretary of the Interior to reimburse certain funds and to sell certain lands belonging to the North Carolina Cherokees, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. CALL introduced a bill (S. 1906) to investigate the issue of fraudulent land-warrants and to protect soldiers and sailors of the United States from loss therefrom; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. MILLER, of New York, introduced a bill (S. 1907) for the relief of John N. Troom, administrator of William Hughes, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. VAN WYCK introduced a bill (S. 1908) for the relief of Henry Martin; which was read twice by its title, and referred to the Committee on Public Lands.

WITHDRAWAL OF PAPERS.

On motion of Mr. HARRIS, it was

Ordered, That Priscilla A. Burwell have leave to withdraw from the files of the Senate the petition and papers in respect to her claim upon the condition imposed by the rules.

AMENDMENTS TO BILLS.

Mr. HOAR submitted an amendment intended to be proposed by him to the bill (H. R. 5459) making appropriations for the service of the Post-Office Department for the fiscal year ending June 30, 1885, and for other purposes; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. COCKRELL submitted an amendment intended to be proposed by him to the bill (H. R. 4716) making appropriations for the naval service for the fiscal year ending June 30, 1885, and for other purposes;

which was referred to the Committee on Appropriations, and ordered to be printed.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the Speaker of the House had signed the following enrolled bills:

A bill (H. R. 4971) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1885, and for other purposes; and

A bill (S. 1692) to limit the cost of indexing the CONGRESSIONAL RECORD.

AID TO COMMON SCHOOLS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 398) to aid in the establishment and temporary support of common schools, the pending question being on the amendment proposed by Mr. HARRISON to the amendment of Mr. PLUMB.

Mr. BLAIR. I send to the desk a proposed amendment to section 8, which I ask may be read for information.

The PRESIDING OFFICER [Mr. HARRIS in the chair]. The Chief Clerk will report the amendment.

The CHIEF CLERK. It is proposed to amend section 8 by adding at the close of the section the following:

And unless the annual report of the State and Territorial authorities to the Secretary of the Interior herein required to be made shall show the expenditure during the year of such amount from the revenues of the State derived from State and local taxation and from income of permanent school funds, if any there be, or other source of revenue within the State, then no part of its allotment for the year ensuing shall be paid to such State or Territory, unless on appeal to Congress it shall be otherwise provided.

The PRESIDING OFFICER. The amendment not being in order at this time, it will lie on the table.

Mr. BLAIR. I offer it at this time as an amendment to section 8, leaving the section to remain as it now is.

The PRESIDING OFFICER. There is an amendment already pending.

Mr. BLAIR. I say I offer it for information at this time that the Senate may understand that if the pending amendment does not prevail I shall move this amendment, which I think will remove all difficulties in the mind of any one whatever as to the meaning of the section. I ask that the pending amendment may be reported.

The PRESIDING OFFICER. The Chief Clerk will report the amendment of the Senator from Indiana [Mr. HARRISON] now pending to the amendment of the Senator from Kansas [Mr. PLUMB].

The CHIEF CLERK. In section 8, line 6, after the word "provided," it is proposed to strike out the remainder of the section and to insert:

That no greater part of the money appropriated under this act shall be paid out in any State or Territory in any one year than the sum expended out of its own revenues in the preceding year for the maintenance of common schools, not including the sums expended in the erection of school buildings.

Mr. BLAIR. It has been suggested in the course of the debate that there are many States which already know enough, and that there is no occasion for the expenditure of increased revenues within those States for the cause of education; at all events, that certain of the States will not feel inclined to receive from the General Government whatever share might fall to them in a division of \$15,000,000 or any other sum, upon the basis of illiteracy or upon any other basis. Should that be the case, there is nothing in the laws or the Constitution of the land or of any State to compel them to receive it, and they can by an act of their Legislatures or other proper authorities decline so to do, and they will have the right to designate the manner in which the sum which would fall to them should be appropriated. They can turn it over to the general fund; they can decline to receive it; or they can indicate the way in which they would be glad to have it applied under the provisions of the bill. So this difficulty, which we could not well avoid raising, if there are such States, could be obviated by the action of the States themselves. Any system of distribution which we might adopt would, it seems to me, in order to avoid just objection, if anybody chose to raise the objection and should not waive that objection, necessarily be uniform and carry some money to all portions of the country. If, then, some localities in the country which would receive a portion of it decline to receive it, waive their right to it, it can not be urged as an objection to the bill that the tender was made. Without such tender in the general law it seems to me there might be just objection to the bill.

The amendment to the amendment offered by the Senator from Indiana proposes that in each State there shall be an expenditure derived from the revenues of the State itself equal to the amount that is received by it under the provisions of the bill each year, not including in the expenditure by the State the amount paid out by the State for school-uses. Now, I would ask the attention of the Senator from Indiana—

Mr. HARRISON. The Senator will allow me to interrupt him.

Mr. BLAIR. Certainly.

Mr. HARRISON. The Senator has not properly understood the effect of my amendment. The amendment offered by the Senator from Kansas [Mr. PLUMB] would have prevented any State from receiving any portion of the sum appropriated by this bill unless the annual ex-

penditure by the State out of its own revenues was equal to the amount to which the State would be entitled under this bill. My amendment allows the State to receive an equal amount under this bill—an amount equal to the amount that it shall spend from its own revenue. In other words, if the allotment to Louisiana under this bill for this year was three-quarters of a million, \$750,000, the amendment of the Senator from Kansas would prevent that State receiving anything unless the State should spend \$750,000 from its own revenue; but under my amendment if the State should spend \$200,000 from its own revenue it would get \$200,000 under this bill.

Mr. BLAIR. Two hundred thousand dollars, does the Senator mean, without reference to the expenditure for school-houses?

Mr. HARRISON. Without reference to the expenditure for school-houses. That is provided for. If the State should spend in education the current expenses of the year, in paying teachers, &c., \$200,000, it would get \$200,000 under this bill according to the amendment.

Mr. BLAIR. So far as that goes, then, the effect of the amendment of the Senator from Indiana would be less hurtful and less objectionable than the original amendment proposed by the Senator from Kansas. But as bearing on this effort to modify seriously the nature of the bill itself, I call the attention of the Senate to the matter to be found in tables 20 and 21 in the RECORD of March 19, which relate to the number of unenrolled pupils or students in the country. The unenrolled are necessarily those who attend school nowhere. Everywhere it is admitted as a matter of discussion among educators that there are in this country sittings or school-house accommodations of any kind hardly equal to the number of those who are actually enrolled; so that when the Senate come to consider the statistics of the unenrolled children of the country they are considering the numbers for whom there is no provision whatever made now in the way of school-houses, teachers, books, or school accommodations. The figures to be found in these tables do not include those who receive instruction in private or parochial schools; in other words, they represent the numbers that attend no form of instruction whatever.

In the whole country there are children of the school ages not enrolled; and the school ages vary, as has already been explained, in the various States; in some from 5 to 15; in others from 4 to 21; in many States not including large numbers who actually attend school, and in other States where the ages are from 4 to 21, undoubtedly including many who would not under any circumstances attend school—within the school ages there is in the whole country an aggregate of 6,030,936 who are without any school accommodations, not enrolled, attending nowhere.

Now, assume that a school-house will accommodate fifty scholars, that the common-school houses of the country should be so constructed as to accommodate fifty scholars, and there will be required for this number of unenrolled scholars 120,567 school-houses now not existing at all, and for which no provision is as yet made by taxation or otherwise. Of course the same number of teachers at least will be required. It is generally, I believe, conceded that one teacher can not properly instruct more than about thirty scholars. Common-school teachers as a rule perhaps are obliged to take care of a larger number. Assume that each teacher is sufficient for each school of the number that I mention, fifty; then there must be as many teachers as houses, that is 120,567. Doubtless there should be a larger number.

The average cost of a school-house, any sort of a school-house throughout the country for the accommodation of fifty scholars, would not be less than \$300. It would really be a much larger sum; but assume it to be \$300. Then it will require to supply the unenrolled children of the whole country \$36,170,100 simply for school-houses alone, taking the entire country north and south. Suppose now that this new number of teachers necessary for the additional school-houses which are to be provided and to be qualified in some way expend, or that the public expend for them upon their education one year's time and \$250 in money, which is certainly a very moderate expenditure, and you have then in fitting this number of teachers for their work an expense of \$10,854,930.

A very low estimate of the cost of text-books has been prepared also by request, and the cost of text-books to supply those scholars for those schools that do not now exist would be \$180,782. Adding the cost of school-houses, the expenses of preparation of teachers, the pay of teachers, and the cost of school-books, so as to cover a three-months' school for the first year, there would be for the entire country an expenditure for its unenrolled and unprovided-for children of \$77,347,662. These calculations have reference to the entire country. They do not include the deficient means for the education of those actually enrolled. Other data have already been cited in reference to that on a previous occasion.

Take now table 21, which relates to the Southern States and embraces the same particulars in the Southern States that I have stated in reference to the country at large. Senators will observe that table 21 enumerates the same States, but in the figures the Northern States are all omitted, so that the aggregate at the close of the table embraces nothing but the data from the Southern States. The number of unenrolled scholars in the Southern States, comprising about one-third of the actual population of the country, is 2,873,399, nearly 3,000,000

as the Senate will observe, while the total number for the whole country is 6,030,936. Practically in round numbers one-half the unenrolled children of the country are in the Southern States, where only one-third of the population is to be found. To provide for these children in the Southern States there would be necessary 57,465 school-houses; and speaking of this item of school-houses, it is of course well known that in the Southern States the provision in this regard is far less substantial than it is in the Northern States; there are comparatively very few school-houses and such as there are are of the cheaper and more temporary sort. To a great extent at least that is true.

Mr. FRYE. What is the average value of the school-houses in North Carolina?

Mr. BLAIR. I have seen it stated that it was not over \$25; I have seen it stated that it was not over \$50 at the outside. I can not say in regard to that. They have some good school-houses. The climate is comparatively mild, as we know. They have some very good school-houses. In some cases they have appropriated public buildings, that were occupied for other purposes before the war; but the great mass of the people are necessarily unprovided with school-houses, because it is only recently that the school system has been known there. Under what were called the carpet-bag State governments was established for the first time in the constitutions of the Southern States a common-school system. It has lived among great difficulties, as we all know, ever since, and the heavy investment necessary to begin with in the construction of school-houses has very seldom been made. Accommodations in various kinds of buildings, in private dwellings, in vestries of churches, and in various ways of a temporary character such as would answer temporarily the purpose desired, have been adopted all over North Carolina as well as in the South generally. But of course it is necessary, if the system is to stand, that there shall be school-houses in the South as well as in the North, and they can only be constructed by the means derived from taxation—taxation for school purposes. And that taxation, this bill provides, must come from the States themselves. This bill explicitly requires that no portion of the funds which are to come from the National Government shall be expended in school structures. It has been thought by the committee, and it is the request of the educators who have been heard by the committee from the South as well as throughout the country generally, that there should be no national expenditure for places wherein to hold the schools. Where they needed the schools themselves they would hold them out of doors under trees, in barns, sheds, vestries, &c.; they would have the schools, and get the school-houses as rapidly as they possibly could. We have thought it would be well that there should be some freedom of action on the part of the State authorities with regard to this matter of school structures.

As I was saying, it is necessary that there should be school accommodations or sittings, school-buildings of some kind to the number of 57,465 to accommodate the unenrolled children of the Southern States. The cost of these buildings, assuming it to be \$300 apiece, would be \$17,239,500. The cost of qualifying teachers would be \$14,366,250, or a larger sum than all the seventeen Southern States, including the District of Columbia, are now able to expend for educational purposes of every kind—the construction of houses, providing the teachers, paying the teachers, and the qualification of teachers. The cost of teachers' wages for a three-months' school in each year would be \$5,172,750. The cost of books for pupils in those States would be \$86,148. These items give a total of \$36,864,648, which it would be necessary to expend immediately in the Southern States in order to give this class the accommodations for those children whose names are not found upon any school register at the present time, that is to say, for those never yet inside of a school-house, a private school or a public school.

I state these matters in order to emphasize, or at all events to bring sharply before the Senate, an idea of the amount of actual expenditure not ordinarily taken into account which must be made in the Southern States particularly, and in fact in all the States of the country, in order that our unenrolled children may be properly provided for. In view of these figures showing that more than three times the amount which would go into the Southern States is to-day necessary to be expended in order to provide schools for the first three months for those children in the Southern States who now have no educational privileges whatever, it seems to me that the ten or eleven million dollars which this bill appropriates to be expended in that portion of our country is very trifling indeed, and that any effort to modify the bill in such a way as to lessen the amount they shall receive ought certainly to be resisted by the Senate.

Now I wish to say a few words bearing upon the amendment of the Senator from Kansas, and I should be glad to have his attention for a moment, because what I have to say now relates to the removal of the difficulty which he finds with the bill. He has proposed an amendment to section 8; that is the section which, after the recitation of what I suppose the Senator looks upon more as a stump speech than anything else, but which I thought necessary to be put there as indicating the purpose of the bill not to be to fasten permanently the idea of Federal aid upon the school system of the country, goes on to say:

That no part of the money appropriated under this act shall be paid out in any State or Territory which shall not, during the first five years of the operation of

this act, annually expend for the maintenance of common schools at least one-third of the sum which shall be allotted to it under the provisions hereof, and during the second five years of its operation a sum at least equal to the whole amount it shall be entitled to receive under this act.

I have added, or propose, if the Senate see fit to adopt it, to add, to that section the amendment which was read just now for information, which provides that the annual report required by previous sections of the bill, which must be made before the close of each fiscal year, from each State and Territory of the manner in which the allotment of that year has been expended, must show that during the year of the expenditure of that allotment the State from its own revenues has already expended one-third of the amount at least that it has received from the General Government; and unless the report shows that fact, then it becomes the duty of the General Government under other sections of the bill to withhold from such State any allotment whatever for the year ensuing.

Senators will see that a bill which we pass to-day can have in no wise operated upon the States in their action previous to the passage of the bill. Whether they were to receive or were not to receive conditionally anything from the Government of the United States would not have influenced their action in the year preceding the passage of the bill, because there would have been no such action, and it is fair to assume that without power there is no effort. At the commencement of the year, unless this bill becomes operative during the present session, there is a year's time lost to the country, to the children of the country, and certainly this nation can not afford to lose the benefits of this increase in the school funds for her children for a whole year. Therefore the bill should be so framed that this allotment to the various States shall be available forthwith.

The system of supervision, if you please to so call it, is one which depends upon the reports which the States may make of what they have done. We, on the theory of this bill as of former educational bills passed in this body, give this money year by year to the State, and hold the State to a rigid accountability for good faith and for good sense in the distribution and use of the funds, and require within the same year a report to the General Government of what they have done with it. Of course they can do nothing with it unless they already have it; and it is absurd that the bill should require a report of that which has not previously passed into the possession of the State. All subsequent action after the second year or third or fourth or fifth and so on up to the tenth year, year by year depends on the action of the State as to what it has already received. Therefore the bill in other sections having provided for the distribution to the States and the report to the Secretary of the Interior before the close of the fiscal year, requires also compliance with certain other conditions specified in the bill as to the manner of the actual use of the money and one of the principal conditions, the principal condition if you choose so to consider it, but at all events one of the principal conditions required by the bill is that the State shall have expended of its own revenues during that year a sum not less than one-third of what the State has received from the General Government, and so on for five years; and if that condition is not complied with and is not shown to have been complied with by this report, what remedy have we? That money in some States may have been partially or wholly misapplied; we can not help that; we have got to run the risk of that. What is the guarantee? What is our remedy? We refuse any expenditure under the allotment to the State for the future until the deficiency is made up, as other sections of the bill show.

The meaning must be apparent to any one who examines all the provisions of this bill carefully and who will remember, as it is only fair to remember, with reference to this bill as we are obliged to do with reference to every other bill that ever came before Congress, that there is no bill entirely to be found in a single section or a single line. If that were so, the bill might be made correspondingly short. It is not possible in each section to enumerate substantially all else that there is in the bill. If that were so we must construct our bills on the principle of the old poem of *The House that Jack Built*. This is a bill; this is a bill for the establishment of common schools; this is a bill for the establishment and temporary support of common schools; this is a bill by which it is enacted by the Senate and House of Representatives, going on and reciting the first section, and so make it up section after section by a sort of conglomeration of poems of the description of *The House that Jack Built*. It is only good sense and fair treatment to construe one provision of this bill by other provisions of the bill; and if Senators will take the pains to do it, and will assume that it is possible that a bill which has been examined by others aside from the members of the Committee on Education and Labor, if they are supposed to be entirely incompetent to draft legislation, is so drawn that what is lacking in one section is to be found in another, and that there is some thought at the basis of the entire system which is to be found in this bill, I think they will come to the conclusion that on the whole it is a tolerably well-digested and a tolerably well-expressed bill to attain the purpose that is designed. Whether that purpose is one to be desired is another thing, of course. I only ask Senators to construe the bill as they would bills from the Judiciary Committee or bills from the Committee on Finance or from the Committee on Territories, or from any other of those committees that are confessedly competent to draft legislation and report it to the Senate.

I come now to the objections raised by the Senator from Iowa [Mr. ALLISON]. The Senator from Iowa says that he objects to the whole theory of the bill in this, that you should begin with a small sum and gradually increase. That is the inevitable tendency, he says. It is undoubtedly so as far as the expenditures of the General Government are concerned in the bureaus that are to be permanently in charge of the General Government. He cites the establishment of the Bureau of Education. Three thousand dollars was the first year's appropriation and a single man was employed. He made a preliminary examination and he made a most valuable report. Then the institution went into practical operation, and it commenced its great work, and now I believe the annual expenditure is about \$60,000, and the Senator observed that the bureau is constantly asking for more. That is undoubtedly so, and it is constantly pinched in its legitimate and its proper and most useful operations, more so I believe than any other bureau of corresponding importance under the charge of the Government.

But, Mr. President, the theory of this bill has not been that common-school education was to become and to remain permanently the business of the General Government. I am very strongly opposed to any such result. I would not like the bill to pass at all if I supposed that the result would be to ingraft upon the General Government the maintenance and permanent support of the common-school system of the country at large. And therefore the bill provides that the largest sum be applied now when the greatest emergency exists, and it goes upon the theory that as time goes on and the States are stimulated to greater action and the expenditure of the money furnished by the General Government has its due effect, the necessity of our aid will decrease, for in ten years, bear in mind, we shall practically educate two generations so far as common-school education is concerned, because most scholars get their common-school education in five years, that which is most essential to them. The result will be, I assume, a gradually increasing degree of intelligence among the States themselves and a corresponding disposition to support their own schools, and the assistance of the Federal Government will be gradually eliminated; little by little it will disappear, and as it disappears gradually, so gradually on the other hand will the local communities rise to a full apprehension of the dignity and importance of the work committed to them of educating their own children and maintaining their own corresponding elevated status and condition.

That is the theory of the bill; and now the Senator will see that if this bill were constructed upon the opposite theory, almost as a matter of necessity the result would be the fastening of the common-school system upon the country at large. I do not think that he designs to do that. See how it would operate. Suppose you commence in this case with a small contribution to a State; instead of giving a million to a State which needs it, we give her \$100,000. Suppose we do that and we require of her a contribution of \$100,000; it runs year after year to half a million and she gets up to that point. The thing goes on *pari passu* between the State and the Federal Government. As she pays we increase as he suggests, and by and by we find a State that is like New York, requiring an expenditure of \$10,000,000 a year. The Federal Government gives \$5,000,000; the State taxes herself to the extent of \$5,000,000 more; and the common schools are just as much dependent upon one as the other. We will assume—we are assuming now—that there is no tendency to shelve the entire expense upon the Federal Government, which would be the case unquestionably; we assume that the State keeps up her end of the yoke, to use a common expression. It goes on in this way. Is there ever any stopping place? Is not the necessity of national support increasing year by year? So by and by you find the nation contributing \$100,000,000 to the support of the school system of the country and the States expending a corresponding sum. Evidently we must go on forever or we must stop, for this is one of the difficulties which grow worse as they go on. It is never cured by acting upon a theory of the kind which the Senator advances.

Now, suppose that, having reached this point where the schools are practically or very largely dependent on the National Government, we withdraw our aid at once, where is the school system? Utterly prostrated, of course, because one-half of what is necessary for its maintenance is withdrawn at once, and the system is utterly ruined. That I think the Senator will admit to be only the logical outcome of the position which he has suggested. I do not understand that he did more than suggest it. I did not understand that it was a position which he proposed to insist upon, but it was one that occurred to him and one that has occurred to myself before and been considered; and therefore this scale sliding down, it seems to me, is a very important feature in this bill.

Suppose that it operates according to the provisions of the bill as it now stands, at the end of ten years the last appropriation would be \$6,000,000. That would be distributed, of course, throughout the country. Meanwhile the country would have very largely increased in wealth, in population, and in general intelligence, and local contributions to the support of the schools in local communities would have correspondingly increased, and the withdrawal of this \$6,000,000 would not occasion any shock at all. But if it should, here is another bill which the Senate has sanctioned several times, which proposes to set apart a certain source of income from the Government, the receipts from

public lands and one-half the income derived annually from the land-grant railroads, so called, the interest on which accumulating year by year shall be distributed throughout the country. That, of course, gives at the present time nothing whatever. The interest for the first year on so small an amount would not be perceptible. It might lengthen the schools a day or two, not more than that; but it would be a constantly increasing fund and the interest would be constantly increasing the fund, and at the end of ten years there would be probably four or five million dollars derivable from that source which distributed in accordance with the provisions of that bill, which I hope will hereafter be adopted by the Senate, would come in to save any shock, if any shock there were, likely to be occasioned by the withdrawal of this contribution for temporary aid. The accumulations from that fund could never be looked upon as in any sense whatever dangerous in the great future to the common-school system of the States, because it would be of so trifling an amount that it could never be relied upon to any serious extent; and yet it would I say, at the end of the ten years, if there were any complaint of the withdrawal of the aid of the General Government under this bill, suffice to prevent any shock whatever.

Mr. President, it has been repeatedly urged as an objection to this bill that the States can not expend this money profitably. Well, I admit that at first sight there would be great force in that objection, but when we come to consider the real condition, the real facts in the case, I think Senators will concede that it is without force. I have already shown the extent of school accommodations and school privileges as they exist in the country at large. I confine what I now say to the Southern States, because the objection is made principally that the Southern States, not being well accustomed to the practical operation of school systems, are the most likely to waste these funds if they receive them in large amounts. In the Southern States they now expend some thirteen and a half or fourteen million dollars, the great mass of it being expended for wages of teachers, and in so doing they are able to secure schools for only about the average of three months per year. In many portions of the Southern States, I am sorry to say—yet it is a fact and the truth will bear its own weight and is necessary in order that we may apply the proper remedy—these schools are open not more than four or five weeks in the year. Yet what have we? I am not now dealing with the unenrolled, the unprovided-for that I mentioned in the first part of my remarks this afternoon. I am dealing with the schools as they exist, with the enrolled scholars, with the school houses and teachers, with the school plant that now actually exists in the Southern States where they spend this thirteen or fourteen million dollars, and yet have schools not averaging over three months in the year. What is necessary to give them six or eight or nine months' schooling in the year the same as we have in the cities and in the rural districts generally at the North? Nothing except an addition to the wages of the teachers; and every cent of this ten million dollars which goes to the Southern States could be expended simply in prolonging the existence of the existing agencies and giving to the agencies now alive in the Southern States anything like a corresponding season of activity with like agencies that we have the benefit of in the North at the present time. So there is no chance to waste this money unless there is a disposition to do so, unless there is a determination to do so, to take it by fraud or wrong. Nothing need be done but simply prolong these schools, paying the same teachers they now have, and giving them the same rate of wages they now receive, and instructing the same scholars they now have.

But, Mr. President, I do not suppose that this fund going to the Southern States would be made use of wholly to prolong existing schools. I do not anticipate that this sum of money going to the Southern States would prolong existing schools more than four and a half or possibly five months in the year, and it ought not to, because here are children unprovided for.

We require the States to provide the school-houses. We allow not exceeding one-tenth of the fund to be applied to the qualification of teachers, who are the indispensable, primal necessity to the existence of a school. If you have the teacher and the scholar you will have the school, because if the teacher understands his business he can give instruction without a text-book, and they will find somewhere that they can hold their convocations. Therefore, not exceeding one-tenth of this amount, or not exceeding \$1,000,000, may be made available for the establishment of normal schools, for the holding of teachers' institutes, for the training and qualification of teachers either by temporary or by permanent means. That will take one million out for the qualification of teachers. Then for the establishment and instruction of schools for the unenrolled, it will be readily seen that a very large proportion, in fact two or three times the whole amount of this appropriation, would be absorbed in the proper supply of the want.

Mr. President, I do not know that I need to say anything else on the pending amendment. I look upon the vote that may be taken on these amendments as vital to the bill. I think that the adoption of these amendments—while any amount of money will do good—would interfere very seriously with the true theory upon which we ought to give if we give at all, that practically the bill would be extremely injured, and I should regret exceedingly that the Senate should adopt either the amendment to the amendment or the amendment itself. If

it be rejected, I shall ask the Senate then to adopt the amendment which I have sent to the desk and which has been read for information, and which I think will remove the trouble.

Mr. HARRISON. Mr. President, I do not think the Senator from New Hampshire has furnished in the amendment which he has had read for information any substitute for the uncertainty of the eighth section as it stands. In my judgment the amendment which the Senator now proposes only adds confusion to a section that was confused before. It seems to be an attempt to remove the objections which were pointed out to section 8 yesterday by several Senators, and which I understand were confessed by the Senator from New Hampshire by putting in another provision that expressly declares another basis of distribution.

Mr. BLAIR. The Senator entirely misapprehends. The section is clear and explicit, conveys precisely the meaning that the committee designed it should, and taken in connection with other sections of the bill is easily understood. I propose to add the amendment simply for the purpose of making entirely clear in that same section precisely what is meant.

Mr. HARRISON. I am not content where we see a difficulty in the phraseology of a particular section to accept this general reference which the Senator is constantly making to other provisions of the bill. That is too general. If there is any specific provision elsewhere in the bill that makes certain that which is clearly uncertain in section 8 we ought to have our attention called to it; for while I will yield to no one in my general deference to the Committee on Education, and especially to the chairman of the Committee, yet when we come here as Senators to pass upon a bill so important as this, appropriating so much money as is given by this bill, we must act upon our own judgment as to the meaning of the language used.

Mr. BLAIR. Well, will the Senator allow me to refer him—I do not wish to interrupt his speech—

Mr. HARRISON. I scarcely claim to be making a speech at all, and it will not be an interruption for the Senator to call my attention to any other part of the bill.

Mr. BLAIR. I will then call the Senator's attention to the thirteenth section of the bill, which provides:

That the Secretary of the Interior shall receive from the governor of each State and Territory a report, to be made by or through such governor, on or before the 30th day of June of each year, giving a detailed account of the payments or disbursements made of the school fund apportioned to his State or Territory, &c.

And one of these conditions in section 8 is that they shall have expended at least one-third of the amount they receive from the General Government. If that report fails to show that fact, then the bill expressly provides, and in this same section, that no more money shall be paid over to the State. I tried to explain to the Senate how impossible it was to provide any test as to the paying over of the money based upon the action of the preceding year. I will ask him while I am on my feet where the language of section 8 is which provides that this money shall not be paid out in the State unless the conditions have been complied with?

Mr. HARRISON. Now, Mr. President, what has the Senator from New Hampshire done? He has only called my attention to a provision in this bill that has been mentioned a score of times by him and that has been noticed by every Senator on this floor. What is it? Simply that a report is called for by the bill from the State authorities as to what they have done with this money and how much of their own money they have expended. I would like the Senator to tell me what light that throws upon the phraseology used in section 8, what connection it has with it? Now, as the section stands—and I understood the Senator from New Hampshire yesterday to agree that the criticism first made by the Senator from Kansas who sits next him [Mr. INGALLS] and afterward by the Senator from Arkansas [Mr. GARLAND] was well taken, and I am clear that it is myself—the provision is:

That no part of the money appropriated under this act shall be paid out in any State or Territory which shall not, during the first five years of the operation of this act, annually expend—

Mr. HOAR. Read the rest of it.

Mr. HARRISON. I am going to read all of it if the Senator from Massachusetts will give me time—

annually expend for the maintenance of common schools at least one-third of the sum which shall be allotted to it under the provisions hereof—

Mr. BLAIR. Now read the formal amendment in connection with it.

Mr. HARRISON. I will come to that presently. I will not have it read now. I am going to discuss it presently—

and during the second five years of its operation a sum at least equal to the whole amount it shall be entitled to receive under this act.

Of course the Senator understands the terms "annually" and "annually during the second five years of its operation."

Mr. BLAIR. Certainly.

Mr. HARRISON. I do not know whether we should be authorized to put in the word "annually" there or not; but if that be so, how can you tell what the State has expended for five years until the end of the five years?

Mr. BLAIR. Can not you tell what it expends annually when it makes an annual report?

Mr. HARRISON. I can tell what it has spent annually, but until the end of five years it can not be told what it has spent annually for five years.

Mr. BLAIR. Oh, well; that is the merest carping criticism in the world, it seems to me. Here is a provision requiring that during a certain series of years an annual report shall be made showing what is expended each year for five years, and during that period of time one-third of the amount received from the Government must be expended by the State; during the second five of the ten years an annual report is required also, and it is required then that during that time the State shall have used as much each year as it shall have received from the General Government. It is impossible to mystify that matter.

Mr. HARRISON. The Senator is right in saying that an annual report is required, but until you have had five annual reports how can the Government know that you have spent annually for five years a given sum?

Mr. BLAIR. Oh, well; I do not understand the Senator. I would like to have him take two or three days to explain that.

Mr. HARRISON. Mr. President, the Senator yesterday, if I am not mistaken, when the Senator from Arkansas gave his authority for this criticism, which I was just repeating this morning, and that is all, certainly said that he himself saw the difficulty, and consented to an amendment, and now he proposes to leave it in the bill. I do not care to discuss with him the question as to which of us it is that is obtuse in this discussion; but this section requires that unless these States shall have expended one-third annually of the sum appropriated for a period of five years they shall not get anything. Language can not be plainer than that. You must have the five reports before they have laid the basis of a claim for this appropriation. Well, now, what does the Senator propose? Instead of making that clear, instead of changing that phraseology so as to make it clear that he means that they shall have their allotment each year if they have spent in that year one-third of the amount which they are entitled to under this bill, he proposes an amendment to which I ask the attention of the Senate, to see whether I am not right in saying that it simply adds to the confusion. The proposition is, if I am right, that there are to be five annual reports, because prior to that nobody can know that for five years they have paid out this sum that is required. Now he proposes to add:

And unless the report of the State and Territorial authorities to the Secretary of the Treasury herein required to be made shall show the expenditure during the year of such amount from the revenues of the State derived from State and local taxation and from the income of permanent school funds, if any there be, or other sources of revenue within the State, then no part of its allotment shall for the ensuing year be paid to such State or Territory, unless on appeal to Congress it shall be otherwise provided.

Here is another proposition totally in conflict with the one I have already been discussing; that is, that they shall receive their allotment provided that for the current year they appropriate an amount equal to one-third of it out of their own revenue, and if they fail to do that they shall forfeit the allotment for the next year. It does not need any argument to show that that scheme is entirely at variance with the scheme which is disclosed in the previous part of this section. If this is the basis on which the Senator wants to put it, instead of adding it here it ought to be incorporated in place of the phrase upon which I have been commenting. It simply confuses the section by putting in as a proviso that which is inconsistent with the body of the section and substitutes a new scheme for it altogether.

I am not disposed to be hypercritical, but it does seem to me that this section should be put in such a shape that we shall not need to place a proviso at the end of it in order to understand what it means. If this is the scheme which the Senator proposes let it go into the body of the section, and let us strike out all this about the five years. What are you to do? What place does all this provision about five years discharge here?

Mr. BLAIR. The Senator will excuse me. He can not be in earnest in asking a question like that. What does the section say? It prescribes the amount which each State is conditioned to pay in order to receive anything whatever from the nation at large during the first five years—that is the object of the section—and the amount it is to receive during the second five years requiring it to raise as much as it receives from the National Government. That is the purpose of the section, and this that I propose to add was utterly unnecessary. It is all in the provision that the first division shall be upon the basis of illiteracy to the States; and, second, in the requirement of a report at the end of each year of what they have done with it, and a provision that they shall forfeit what they would receive in case the conditions are not complied with, of which conditions this condition in section 8 is one, and one of the most important. Yielding to the ideas of some Senators that it might be made more explicit, I prepared this amendment proposing practically to put other sections of the bill right in here, so that this fault might be removed, if it is a fault. I showed it to my friend the Senator from Arkansas [Mr. GARLAND], and he read it and he found no difficulty in arriving at the conclusion that it met every difficulty completely.

Mr. HARRISON. Mr. President, I can allow the Senator from New Hampshire to differ with me as to the weight of the suggestions which I may make, but I can not allow him to question my sincerity and earnestness in making them.

Mr. BLAIR. If I dropped an expression that seemed to do that, I withdraw it. I meant nothing of the kind. I believe in the integrity, the honor, and the Senatorial capacity and genius of the Senator from Indiana as strongly as I do in any one's.

Mr. HARRISON. I feel fully indorsed and re-established in the confidence of the Senator, and I will proceed with the word or two more I have to say.

Let me call attention now to an expression in this proposed amendment. I am sorry that the Senator yielded so far as to propose something which he says himself in his last speech is utterly unnecessary, because I am sure that every unnecessary word that he introduces here will only add confusion. When you have enough words to express the thought every additional word is in the way.

Now, the Senator says, "shall show the expenditure during the year of such amount"—that is the way it reads—"such amount." What does he mean?

Mr. BLAIR. If the Senator puts a question like that to me, I invite him to answer his own question by reading the section that that is a portion of. The amount is prescribed in an earlier sentence.

Mr. HARRISON. There are two modes prescribed. For five years there is one-third and for the other years there is a sum equal to the amount appropriated.

Mr. BLAIR. The Senator will not find any difficulty in the grammatical construction, even if that is precisely as he says.

Mr. HARRISON. I only rose to say that it seems to me this proposed amendment furnishes no reason for voting down mine, and, according to the confession of the Senator who proposes it, it introduces nothing new; it is unnecessary.

The object of my amendment was to take, as we must do, the preceding year as the basis for distribution. We can not take this year in which we are to make the appropriation, because we can not know what the States have done until the year is ended. Therefore I take the preceding year as the basis, and I give them such an amount, not exceeding of course their entire quota, as they have themselves spent, and then taking each preceding year during the whole period, not dividing it into periods of five years as this does, but taking for the whole period the basis of their expenditure the preceding year, we give them so much as they have spent, provided it does not exceed the entire allotment to the State. That is the idea of my amendment.

Mr. HOAR. Mr. President, it seems to me that as the bill is now drawn the Senator from New Hampshire has very clearly provided in the eighth section that no money shall be paid out under the bill until the expiration of ten years.

Mr. HARRISON. Five years.

Mr. HOAR. No; ten years.

Mr. HARRISON. I guess the Senator is right about that.

Mr. HOAR. Let me repeat. I am stating my views and those of no other person as far as I know. The Senator from New Hampshire seems to me to have clearly provided by the eighth section of his bill—it may be that there is something in some other section of it in conflict with it that the court or the Department might construe the two together and make sense of the two—that no money shall be paid out under this bill until the end of ten years. See how it is. No part of the money appropriated shall be paid in any State which during the first five years shall not annually expend a certain sum. How can you tell whether that annual expenditure has taken place until the end of the five years, and not a dollar is to go out of the Treasury until that has been ascertained?

And during the second five years of its operation a sum at least equal to the whole amount it shall be entitled to receive under this act.

And no man is to know whether the State has annually paid out during those second five years this sum equal to what it gets from the Treasury until those five years are all over. It does not say that no money is to be paid out until for the next preceding year such proportion of annual payment shall have been shown. My friend from Indiana will see that I am right. It does not come until the end of ten years under the bill.

There is nothing which I think my friend from New Hampshire need be concerned about in this criticism. I profess to have some little experience as a lawyer, and twenty times in my life and more I have drawn bills which on putting different parts of them together I found contained such inconsistencies. It happens every day in the Judiciary Committee when it meets to consider bills before that committee, with so many learned and experienced lawyers and legislators; there is hardly a meeting when something of this kind does not come up. I should be very much surprised if the most experienced and capable Senator in this body were to report a bill of twenty sections to the Senate containing a new and complicated system that he should not get into it by a failure to put two parts of the bill together in his own mind as it changes and grows and is molded under his hand some little inconsistency of this kind; and I beg my friend from New Hampshire not to suppose that there is any disrespect to him intended by the criticism.

It does not seem to me that it is fair to meet that difficulty in the bill by the amendment which is proposed by my honorable friend from Indiana, because he not only makes the necessary verbal amendment to make the section convey the meaning which was intended by the author of the bill, but he couples with that an amendment to the principle of

the bill. The Senator from New Hampshire wants only to compel the State to pay a sum equal to a certain proportion of what it is to receive from the General Government, while the amendment compels it to pay a sum equal to all that is received from the General Government in the preceding year. Now, it seems to me that it is just to the committee and the author of this bill to permit an amendment to be made which shall express his meaning, which everybody, I trust, will agree to, and then take the sense of the Senate separately on the other proposition where the parties differ.

Now, Mr. President, I make this suggestion, which I hope will meet everybody's assent, so as to make the bill mean just what the Senator from New Hampshire thinks it means, and prevent its containing an error which will prevent me, one of its most ardent friends, from voting for it if it stands as it is now. I suggest that the Senator from Indiana consent to let the Senate make this amendment before taking the vote on his; that is, after the words "which shall not," following the word "Territory," in line 8, these words shall be inserted:

Each preceding year have complied so far with the conditions hereof as is required for that year.

Then a period; and then begin a sentence—

Each State shall during the first five years, &c.

Then the Senator from Indiana can propose to affix his condition if he pleases. That will make the section read in this way:

It is hereby provided that no part of the money appropriated under this act shall be paid out in any State or Territory which shall not each preceding year have complied so far with the conditions hereof as is required for that year. Each State shall during the first five years annually expend, &c.

I ask that the sense of the Senate be taken on that amendment if the Senator from Indiana will permit.

Mr. BLAIR. Mr. President—

The PRESIDING OFFICER (Mr. PLATT in the chair). The Senator from New Hampshire will allow the Chair to state the proposition now made. The Senator from Massachusetts, as the Chair understands, asks unanimous consent to propose an amendment at this time.

Mr. HARRISON. As the Senator from Massachusetts appealed to me, I do not think I shall consent to taking that question first. The amendment which I have proposed was not addressed to the phraseology of the bill, which I was criticising in a friendly spirit, simply because if it was to stand I want it to be in a proper shape; but it proposes a new system of distribution. The amendment is adapted to the language of the section as it stands now. If it should be modified, as suggested by the Senator from Massachusetts, I should have to attempt to reconstruct the amendment as applied to the amended section, whereas if a majority of the Senate voting now on the amendment which I have proposed favor this change in the basis of distribution we shall have reached an end which passes clear by this proposition of amending the phraseology of the bill. I therefore think it is the shorter way that we shall vote upon my proposition to change the basis of distribution; and if that is voted down, then the amendment proposed by the Senator from Massachusetts to correct the phraseology can be considered.

Mr. HOAR. I give notice, then, that I will move mine on the disposition by the Senate of the amendment of the Senator from Indiana.

Mr. BLAIR. Then I desire it to be distinctly understood that if the amendment of the Senator from Indiana is voted down, I shall be very glad, as I believe the committee will be, that the verbal amendment suggested by the Senator from Massachusetts be adopted, so that the question may be taken with reference to the substantial modification of the bill which the Senator from Indiana proposes; and if it is rejected, then that the bill may be modified as desired by the Senator from Massachusetts.

But, Mr. President, I wish to say to the Senator from Massachusetts that while I have the very highest respect for him, as he knows, and as a matter of legal criticism there is no higher authority anywhere upon such a matter than that Senator, I still insist that his amendment is unnecessary, that it is the section as it now stands, and I ask his attention to this point I make. This bill provides in its earlier sections that a certain proportion of money shall be paid by the nation to the several States. That is the first step taken. I say to the Senator that this section has no reference whatever to that act on the part of the General Government at all. It has nothing to do with the paying over of the money from the General Government to the State. The process of the use of this money begins and applies after the proportion of each State has reached the treasurer of the State and is in his hands. If the Senate will follow me closely I think they will see that I am right in this whole matter.

Assume that the money is now in the hands of the State, what is to be done with it? The bill imposes certain conditions as to its expenditure. What are those conditions? They are not all in one section, but in various sections. In one section it is provided that it shall be applied to the support and maintenance of common schools. That is one condition, when they have the money in their possession. Another condition is that it shall be paid out as to any educational privileges to all classes, irrespective of color or race or previous condition. That is another condition that they must comply with. Another condition is that it shall be so used, in so far as they can, as to equalize the privileges of education to all the children—not to give the amount per capita, but

to equalize the school privileges of all the children in the State so far as they can. That is the third condition. There are other conditions provided.

Then there is in this eighth section another condition, which is that annually during the first five years the State shall pay, not that the country shall not pay over to the State, but that the State shall pay out no portion of this money unless it shall from its own revenues expend during the same year while it has the funds of the United States for the year in its hands one-third as much of its own money. That is another condition.

Mr. HOAR. The trouble is that it is paid to the State.

Mr. BLAIR. The Senator will excuse me. If he will hear with an unprejudiced mind, without any sense of committal to what he has already said, he will find that I am right, and I expect him to admit it yet. It may take some time to convince the court, but I propose to do it, because I am right in regard to this matter.

The State having possession of this annual installment already in its treasury, it shall pay out no portion of it for the actual support of schools unless during that same year it makes provision for and has actually expended one-third as much itself. At the end of the year it must report to the General Government what it has done with that money. That is a condition as to what the State shall do during the same year in order to obtain the right to pay out any portion of the money it already has in its treasury, the money being there as a trust fund. It is obliged to expend it upon certain conditions, and one of the conditions every year is that it shall pay out one-third as much of its own money, and if it does not comply with that condition thus prescribed in section 8 it violates the conditions upon which it has received the money, and as a result of its failure to pay out one-third as much at the end of the year, the General Government, being informed of that fact under the provisions of this bill, has a right and it becomes the duty of the General Government not to pay over to that State any sum whatever the next year, unless Congress shall relieve it of its disability.

The error of the Senator comes from this circumstance: that he imagines that this section applies to the power and duty of the National Government to pay to the State. It has no such reference whatever, and all this misunderstanding from beginning to end results from the fact that Senators have not studied the bill.

These are conditions imposed upon the action of the State. This has nothing whatever to do with the action of the General Government. If this condition is found not to be complied with, in exactly the same way as if the State were obliged to report that she had used this money for white children and not for black children or had used it for high-school or academic or collegiate education instead of common-school education; in just the same way as if the State had failed to comply with those conditions, as if the State has failed to comply with this condition and failed to pay one-third as much as the General Government furnished it during that year, that fact or any of those facts occurring in the report at the end of the year to the General Government, what is the General Government to do? To withhold the appropriation or apportionment or allotment for the next year. The Senator thinks this paying out has reference to the paying from the General Government to the States. It has no such reference whatever. It is a condition imposed upon the State in the expenditure of the money after it has received it.

Mr. HOAR. I should like to ask where the General Government is to be protected?

Mr. BLAIR. The bill, as I said before, is specific about that. It is to pay it over to that officer designated, if the State chooses to designate an officer to receive it; otherwise to the treasurer.

Mr. HOAR. He is an officer in the State.

Mr. BLAIR. A State officer who is to receive this money.

Mr. HOAR. Section 8 provides that no part of the money shall be paid out to any State until it has done something which you can not ascertain for ten years. Whether the payment by the National Government to the State be a payment in the State or not, if it is a payment in the State, as the Senator does say—

Mr. BLAIR. I say not that at all.

Mr. HOAR. Then it covers the payment of the National Government to the State; but at any rate it covers the payment of the State the instant the money is paid by the State.

Mr. BLAIR. Not at all. I take it the payment of the money is from the Treasury of the United States, and that is a provision as to the local expenditure within the limits of the State itself.

As I said before, I desire the adoption of the verbal amendment of the Senator from Massachusetts, and that the question may be taken upon the substantial thing.

Mr. DAWES. I ask that the amendment we are first to vote upon shall be read.

Mr. HARRISON. I should like to have that done, because of the suggestion just made by the Senator from New Hampshire that it has no relation to the subject of disbursement from the Treasury of the United States of this money, but only to the distribution of it in the State. If the amendment I proposed is capable of that construction, I want to modify it so that it shall relate to the distribution by the Government.

Mr. DAWES. If the money is to be locked up in the State for five years in order to ascertain whether the State has during that five years complied with the provisions of the law, we had better know it.

The PRESIDING OFFICER. The Chair will endeavor to state the question.

Mr. DAWES. I think it will be better to provide that it shall be deposited at some United States depository, so that it may be safe, if it is to be locked up that length of time. I should like to have the amendment read.

Mr. HARRISON, Mr. President—

The PRESIDING OFFICER. The Senator from Indiana will suspend. The Chair will state the question.

Mr. HARRISON. I was going to ask to modify the amendment. I think the amendment reads as does the text in line 7, "shall be paid out in any State." If it still reads so, I should like to change "in" to "to;" so as to read "shall be paid out to any State."

The PRESIDING OFFICER. The Senator from Indiana modifies his amendment by substituting the word "to" for "in."

Mr. DAWES. Now I should like to hear it read.

The PRESIDING OFFICER. The Chair will state the question. The Senator from Kansas [Mr. PLUMB] moved to amend section 8 by striking out, in line 10, the words "at least one-third of" and inserting in lieu thereof "an amount equal thereto," whereupon the Senator from Indiana [Mr. HARRISON] proposed as an amendment to the amendment of the Senator from Kansas to strike out all of section 8, after the word "provided," in line 6, and to insert:

Provided, That no greater part of the money appropriated under this act shall be paid out to any State or Territory in any one year than the sum expended out of its own revenues in the preceding year for the maintenance of common schools, not including the sums expended in the erection of school buildings.

The question is upon agreeing to the amendment proposed by the Senator from Indiana to the amendment of the Senator from Kansas.

Mr. JONES, of Florida. Mr. President, I desire to say a few words in regard to the question that was debated here yesterday touching the power of Congress to grant this relief, if it may be so called. I am not of the opinion of my distinguished friend from Missouri [Mr. VEST], who thinks we must find authority for a measure of this kind in the general-welfare clause of the Constitution. We have had, I think, enough of discussion about that; but I think there is ample authority in the Constitution for the passage of this bill. I am not speaking now of its details, nor do I intend to speak of its details; but I speak of the power of the Government under the Constitution as now existing to aid in the work of public education.

It must be recognized that a great fundamental change was effected, whether for good or evil, by the amendments to the Constitution; that there has been somewhat of a revolution, constitutionally speaking, by the ingrafting of those amendments on the Constitution must be admitted by everybody who has reflected upon the subject at all. When I say this I say nothing but what the Supreme Court has said; and while I am not one of those who are overanxious to cite its opinions here to guide us in our deliberations, still I think they afford sufficient evidence to persuade us at times to reach right conclusions.

I have often said that the Supreme Court has no more right to bind us than we have to bind the Supreme Court in the administration of the Constitution. Still they have told us what was meant by the recent amendments to the Constitution. They have told this country that by those amendments the persons formerly known as slaves in the country became by its operation citizens of the United States. Before those amendments it is well known that a citizen of the United States was so because he was a citizen of a State, but the fourteenth amendment reversed all that. It declared to the country that every person born in the United States, every naturalized person from that time onward should be a citizen of the United States and of the State wherein he resided. The Supreme Court in the Slaughter-house cases, (16 Wallace) decided that a person could be a citizen of the United States without being a citizen of a State. This is new law to me, but I am not responsible for it; it is the result of the amendments to the Constitution.

This change in the organic law reversed the old order of things, and we have accepted it. I do not intend to argue from that any great expansion of power, but I say a great government like this, which has changed its organic law to meet a condition of things exceptional in its character and which has produced such important results, must have power to pass this bill.

Mr. VAN WYCK. May I ask the Senator a question in the line of his argument?

Mr. JONES, of Florida. Certainly.

Mr. VAN WYCK. Does he concede the power of Congress to impose the discharge of certain duties upon State officers? Has the revolution of which he speaks gone to that extent?

Mr. JONES, of Florida. I think it is a very familiar principle in our jurisprudence under existing laws for duties of a Federal character to be imposed upon State officers, and they have been from the foundation of the Government. If the Senator will examine the Revised Statutes of the United States, although I have not had time to look into them and am not prepared for such interrogatories as that, he will find that

in many instances State officers are required to perform Federal duties. A State magistrate may examine a person who violates a Federal law and commit him in some instances. There is nothing in that. The State officer may decline. The courts have held that the Government of the United States can not absolutely impose upon him a public duty, but he is at liberty to discharge it if he desires to do so.

Mr. DAWES. I ask the Senator if he apprehends as a practical question any difficulty in inducing the State officers in that part of the country from which he comes to exercise the duty imposed by the bill.

Mr. JONES, of Florida. None in the world.

Mr. VAN WYCK. That is rather begging the question, I suggest. I asked the question whether the Senator concedes the power of Congress to direct the execution of a duty by a State officer, to compel him in the discharge of his duty? I want that constitutional question settled.

Mr. JONES, of Florida. I do not think that question is involved at all in this matter. I was saying when I was interrupted by the Senator from Nebraska that I did not find it necessary to go to the general-welfare clause for authority to pass this bill. Five million persons who before this great change in the Constitution were nothing but chattels were transferred from property into free people, lifted up to the full standard of citizenship, without any preparation, without any training, and, in many instances, without any qualification. The foreigner who lands upon our shores is required to remain five years before he can exercise that privilege. Why? At one time it was twenty-one years, but under the inspiration of a wise and liberal democratic policy, thanks to the early fathers of the party for it, the liberal spirit in the early part of the century brought it down to five years.

Why was that five years required? As a state of probation, of culture, of training, of education before the foreign-born man could exercise the privilege of citizenship in this great country. Still this great change in the Constitution and the laws passed in pursuance of it took this 5,000,000 of people out of a state of slavery where they and their ancestors had been for two centuries, and lifted them up to a level with other citizens in the Union so far as political rights are concerned. Without the least disposition at the time to do these people injustice I felt that it was an unwise thing. I felt that in the course of time the right of suffrage would follow the right of freedom, but I was not prepared for so sudden and so radical a change. But now that it is accomplished I mean to do all in my power to maintain that right and to make the people who have it qualified to exercise it.

Gentlemen on the other side speak about the South asking this and asking that. I know of nobody on this side of the Chamber who is asking for this bill. I know of some opposition to it here. But the very Government that did this thing now comes forward and proposes to help to educate those people, and I say it is just as little as they could do. There is no question of State rights involved in this, there is no question of local authority here. These people owe their present status to this change in the organic law which made them citizens of the United States, and if there is anything in the reason of the law or in our system of jurisprudence it is that the legislative arm of the Government is always competent to carry out its organic provisions. The Constitution of the United States having made citizens and voters out of 5,000,000 of slaves and cast upon the people of the States the duty of educating them for the exercise of political power, surely there can be nothing very unreasonable in the Government of the United States aiding the States in educating these people.

Where do the States get authority to legislate for their citizens? Would it not be an anomaly to contend that a State could create a citizen, invest him with all the vigor and force and power of suffrage, bring him into life, raise him to the full standard of a full-fledged political character, and after it placed him there could not move another step? The States did not create these people citizens, but this change in the organic law of the Union did, ratified by the States.

Mr. COKE. Will the Senator from Florida permit me to ask him a question?

Mr. JONES, of Florida. Certainly.

Mr. COKE. I ask him if the States did not change the organic law?

Mr. JONES, of Florida. Yes; the States did it, and gave this power to the General Government and every power that the General Government possesses to-day was derived from the same source. Here is what the Supreme Court of the United States said in the Slaughter-house cases, speaking of the great change in the fundamental law, to which I call the attention of the Senate:

All persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States and of the State wherein they reside.

The first observation—

Say the court—

we have to make on this clause is that it puts at rest both the questions which we stated to have been the subject of differences of opinion. It declares that persons may be citizens of the United States without regard to their citizenship of a particular State, and it overturns the Dred Scott decision by making all persons born within the United States and subject to its jurisdiction citizens of the United States. That its main purpose was to establish the citizenship of the negro can admit of no doubt. The phrase "subject to its jurisdiction" was intended to exclude from its operation children of ministers, consuls, and citizens or subjects of foreign states born within the United States.

The next observation is more important in view of the arguments of counsel in the present case. It is that the distinction between citizenship of the United States and citizenship of a State is clearly recognized and established. (16 Wallace, 73.)

That is the doctrine of the Supreme Court interpreting the fourteenth amendment. I say, having invested these people with this right, admit as has been charged that this measure is a measure of relief for these people, here you have the authority of the Supreme Court, which says that these great organic changes were brought about to give this class of people the rights they now have. Under this provision of the Constitution many very harsh laws have been enacted and enforced, laws that I have never assented to and would not assent to; but when I find a beneficent provision like this one, brought forth to aid in the culture and the educational advancement of the people thus enfranchised by this great organic change, I shall not oppose it. I do not go to the general-welfare clause, but I go to those clauses in the Constitution which worked this remarkable revolution in our constitutional system as stated by the Supreme Court and which transformed 3,000,000 of men from chattels into free men and invested them with all the rights of American citizens.

This is not the first time that Congress has been called upon to do something in the interest of education. The lawyer who can draw a distinction between the granting of one sixteenth section or a thirty-sixth section of land to aid in the cause of common-school education and the granting of the money equivalent to that land can refine more than I am able to do and more than I ever want to do in the Senate of the United States. It is always interesting to go back to the early stages of our own history for example, when there were great lights worthy of being followed.

It is well known that by the treaty of 1763 between Great Britain and France it was agreed that the Mississippi River should be regarded as the western boundary of the British American colonies, and at the close of the Revolutionary war all the territory lying between the Atlantic on the east and the Mississippi on the west and the lakes on the north and the thirty-first parallel of latitude on the south was included in the lines of the thirteen original colonies. Those limits embraced a vast area of the most valuable land on this continent. Out of that territory numbers of prosperous States were formed, including the one represented by the distinguished Senator from Ohio [Mr. SHERMAN], not now in his seat, who said that he was not willing to trust Virginia or any of the States of the South in the disbursement of this fund.

Mr. PLUMB. Mr. President—

The PRESIDING OFFICER. Does the Senator from Florida yield to the Senator from Kansas?

Mr. JONES, of Florida. I would rather the Senator would not interrupt me.

The PRESIDING OFFICER. The Senator from Florida declines to yield.

Mr. JONES, of Florida. I will say to the Senator from Ohio that the better portion of the most valuable territory at that time lay within the acknowledged limits of Virginia under her colonial charter. We know the trouble that arose at that early day for fear that Virginia would have more than her proportion of the public domain in consequence of her rights as a colony. With a generosity unparalleled in public history or among the States she ceded that vast domain for the benefit of all the other colonies and dedicated it to the use of the States that might be created out of it. In her deed of cession she incorporated this provision:

That the lands within the territory so ceded to the United States, and not reserved for or appropriated to any of the beforementioned purposes or disposed of in bounties to the officers and soldiers of the American Army, shall be considered as a common fund for the use and benefit of such of the United States as have become or shall become members of the confederation or Federal alliance of the said States (Virginia inclusive), according to their usual respective proportions of the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose and for no other use or purpose whatsoever. (Act December 20, 1783.)

The grant was carried out in that way. It went to enrich the States that were carved out of it, and was used for school purposes and other purposes of a general character to build up the population of the various States that settled that territory and are now located upon that very soil.

Why was the first act passed by the Continental Congress, on 20th of May, 1785, for the disposition of the lands ceded by Virginia and the other States, and which has constituted the basis of the policy in regard to all the public lands, enacted? Mark you, this was under the authority of the Confederation, before we had any Constitution, when we were living under a league. In 1785, before our present Constitution was framed or ratified, an act was passed through the Continental Congress at Philadelphia to carry out the great trust of Virginia in respect to these lands. What did they do? They passed a law that provided that the land should be laid off into townships, that section No. 16 in each township should be reserved for the maintenance of public schools, and that two townships in every State should be set apart for the support of a university.

That was the spirit in which the early fathers met the educational question in the States, before we had any Constitution, before we had any quibbling as to what was meant by the general-welfare clause or

any other clause, and at a time when every power not expressly delegated in the Articles of Confederation to Congress was reserved to the States, and when there was not a word in those articles in reference to this subject.

Under that same policy what was done? In 1848 and 1849 a still more liberal policy in regard to the provision for educational purposes in new States was adopted. In the acts passed in those years, respectively, creating the Territories of Oregon and Minnesota, section No. 36, in addition to section No. 16, in each township was set apart for school purposes; and to each new Territory organized and State admitted since 1848 (except West Virginia) the sixteenth and thirty-sixth sections of every township, one-eighteenth of the entire area, have been granted for common schools. Other States have received grants.

Mr. RIDDLEBERGER. Will the Senator from Florida permit me to state to him, if he is making his argument from a Virginia standpoint, that there is no amendment yet offered to the bill that could in any wise affect Virginia? That State gives \$1,400,000 for public schools, and no amendment offered could in any wise affect that which would be apportioned under the original bill to that State.

Mr. JONES, of Florida. I was only speaking of the historical fact.

Mr. RIDDLEBERGER. I thought the Senator was arguing peculiarly from the Virginia standpoint.

Mr. JONES, of Florida. Not at all; I am not arguing anything about Virginia except to show what was done with the land which she gave up to the United States.

Other States have received grants for common schools than those I have named. Ohio received 69,120 acres, (and I have no doubt she disposed of it well at good prices), Florida and Wisconsin 92,160 acres, and Minnesota 82,640 acres.

From a report of the Commissioner of Education it appears further that under the acts of Congress passed in 1785 and 1786 there had been distributed among twenty-six new States and Territories 67,983,914 acres for the support of schools, besides what was given for universities and deaf-mute asylums. Of the pecuniary value of these grants some estimate may be formed by reference to the report of Dr. Barnard in regard to the lands granted to Minnesota. It appears from that report, that from 1862 to 1866, embracing a period of five years, Minnesota had sold 210,769 acres, which yielded \$1,324,779, that she had got from the General Government. It is to be remembered that the distribution of lands to aid institutions of this kind is a very unequal method, because the lands of the great West went up in value far beyond what they did in other sections of the country, and they were wealthier and richer for agricultural purposes. Where a grant of the sixteenth section of land in Minnesota would be worth it may be \$5,000, in Florida it would not be worth \$500.

The idea that the General Government has never done anything in this way can not be sustained when we come to remember the millions and millions of dollars that have gone into the public treasury of the States of the West under this land-aiding system to build up and sustain their common schools; and now after 5,000,000 unfortunate people who, as a race, had been in bondage for two hundred years, were elevated to citizenship by a single act of this Government and the whole charge of their training and culture put upon that impoverished section and this Government comes forth with a generous hand under the lead of my friend from New Hampshire and proposes to take a little off the burden of taxation there by helping to educate these people, I say it is commendable. After all, in a great country like this the people are the state, and there was as much philosophy as poetry in the utterance of that great namesake of mine on the other side of the water when he said:

What constitutes a state?
Not high-raised battlement or labor'd mound,
Thick wall or moated gate;
Not cities proud, with spires and turrets crown'd;
Not bays and broad-arm'd ports,
Where, laughing at the storm, rich navies ride;
Not starr'd and spangled courts,
Where low-brow'd baseness wafts perfume to pride.
No!—men, high-minded men,
With pow'rs as far above dull brutes endued
In forest, brake, or den,
As beasts excel cold rocks and brambles rude;
Men, who their duties know,
But know their rights, and, knowing, dare maintain,
Prevent the long-aim'd blow,
And crush the tyrant while they rend the chain:
These constitute a State.

Mr. GARLAND. I wish to move that the Senate proceed to the consideration of executive business, but before doing that I desire to ask that the bill as amended and the proposed amendments be printed.

Mr. INGALLS. I offer an amendment as an additional section, that I ask may be printed under the proposed order of the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas asks that the bill with the amendments which have already been made and the amendments proposed to the bill shall be printed for the use of the Senate.

Mr. VAN WYCK. I desire to offer two amendments to the bill.

Mr. DOLPH. I offer an amendment, to be printed, to the pending bill.

The PRESIDING OFFICER. The Senator from Oregon offers an amendment to the pending bill; which will be received and printed.

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

Mr. BLAIR. Before the motion is put I wish to give notice that I shall offer at the proper time an amendment to the pending bill, in the eighth section, seventh line, by striking out the word "in" and inserting the word "by;" so that it shall read—

that no part of the money appropriated under this act shall be paid out by any State or Territory, &c.

The PRESIDING OFFICER. Does the Senator desire that amendment to be printed?

Mr. BLAIR. No.

Mr. SHERMAN. I send up an amendment to the school bill to be printed.

The PRESIDING OFFICER. The Senator from Ohio offers an amendment to the pending bill, which will be received and printed with the other amendments.

Mr. SHERMAN. If the Secretary can read my handwriting I should like to have my amendment read.

The PRESIDING OFFICER. The Senator from Ohio asks that the amendment proposed by him as an amendment to be offered to the pending bill be read. It will be read if there be no objection.

The CHIEF CLERK. At the end of section 4 it is proposed to add:

And the sums so paid shall be expended for the education of children of the school age as prescribed by this act of such State or Territory, without distinction of race or color, and shall be apportioned among the several counties, cities, towns, parishes, townships, and when practicable among school districts, as defined by this act, in the proportion that the number of illiterate children in such corporation bears to the number of illiterate children in such State or Territory according to the census of the United States last taken before such distribution. And the assent of such State or Territory shall be first given to this condition before any distribution is made.

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

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After forty-one minutes spent in executive session the doors were reopened, and (at 5 o'clock and 16 minutes p. m.) the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, March 21, 1884.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. JOHN S. LINDSAY, D. D.

The Journal of the proceedings of yesterday was read and approved.

NAVIGATION OF SOUTH PASS, ETC.

The SPEAKER laid before the House a letter from the Secretary of War, in reply to the resolution of the House adopted March 8, 1884, requesting him to inform the House what, if any, regulations he has made in relation to the navigation of South Pass or other public waters in Louisiana and affecting the authority of said State, and transmitting a report thereon from the Chief of Engineers; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

LEAVE OF ABSENCE.

By unanimous consent, leave of absence was granted as follows:

To Mr. COBB, for ten days, on account of important business.

To Mr. DORSHEIMER, until Monday next, on account of important business.

ORDER OF BUSINESS.

Mr. EZRA B. TAYLOR. I demand the regular order.

Mr. DOCKERY. I ask the gentleman to withdraw for a few minutes his call for the regular order until I can submit a report from the Committee on Accounts in reference to the extra month's pay for House employes.

Mr. BELFORD. I ask my friend from Ohio to withdraw the demand for the regular order so that we may consider some Senate bills on the Speaker's table.

Mr. EZRA B. TAYLOR. I would willingly withdraw the call for the regular order, so far as the report from the Committee on Accounts is concerned if I can then insist upon it.

The SPEAKER. The gentleman can withdraw the demand for the regular order and renew it whenever he sees proper.

Mr. EZRA B. TAYLOR. Then I will withdraw the demand for the regular order.

Mr. DUNN. I renew it. I do not object to the entertaining of propositions for unanimous consent in the usual way, but I do object to a gentleman calling the regular order and then waiving it temporarily for one purpose, giving notice that he will insist upon the call against all others. I therefore renew the demand for the regular order.

The SPEAKER. The regular order being insisted upon, this being Friday, the first business in order is the call of committees for reports of a private nature.

Mr. MATSON. I move to dispense with the morning hour for reports from committees.

The SPEAKER. That requires a two-thirds vote.

The question was taken; and upon a division there were—ayes 34, noes 32.

So (no further count being called for) the motion was not agreed to (two-thirds not voting in favor thereof).

The SPEAKER. The regular order is the call of committees for reports of a private nature, and the morning hour begins at ten minutes past 12 o'clock.

JOHN N. QUACKENBUSH.

Mr. GEORGE D. WISE, from the Committee on Naval Affairs, reported back with a favorable recommendation the bill (H. R. 5758) to confirm the status of John N. Quackenbush as a commander in the United States Navy; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JOHN HEBERER.

Mr. ROWELL, from the Committee on War Claims, reported back with a favorable recommendation the bill (H. R. 249) for the relief of John Heberer; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

MARY STILGEBOWER AND OTHERS.

Mr. ROWELL, from the Committee on War Claims, also reported back with a favorable recommendation the bill (H. R. 3050) for the relief of Mary Stilgebower and others; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

LIEUT. JOHN C. GEYER.

Mr. FERRELL, from the Committee on War Claims, reported back with a favorable recommendation the bill (H. R. 2636) for the relief of Lieut. John C. Geyer; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

SIXTH STREET AND BLADENSBURG RAILROAD.

Mr. ROCKWELL, from the Committee on the District of Columbia, reported back adversely the bill (H. R. 2183) to incorporate the Sixth-Street and Bladensburg Railroad Company of the District of Columbia; which was laid on the table, and the accompanying report ordered to be printed.

The SPEAKER. The call of committees has been completed; but if there be no objection the Chair will now receive reports of a private nature from gentlemen who were not in their seats during the regular call.

There was no objection.

JAMES BRADFORD.

Mr. RAY, of New Hampshire, from the Committee on Invalid Pensions, reported back with amendments the bill (H. R. 3701) granting a pension to James Bradford; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

JOSEPH H. ADAMS.

Mr. RAY, of New Hampshire, from the Committee on Invalid Pensions, also reported back with a favorable recommendation the bill (H. R. 965) granting a pension to Joseph H. Adams; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

M. P. JONES.

Mr. BRENTS, from the Committee on the Public Lands, reported back with a favorable recommendation the bill (H. R. 1301) for the relief of M. P. Jones; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

ORDER OF BUSINESS.

Mr. ROGERS, of New York. I desire to present three reports from the Committee on Printing for reference to the Committee of the Whole House on the state of the Union.

The SPEAKER. This being Friday, the call of committees is for reports of a private nature only; but if there be no objection these reports of a public nature sent up by the gentleman from New York will be received.

There was no objection.

REPORTS OF GEOLOGICAL SURVEY.

Mr. ROGERS, of New York, by unanimous consent, reported back from the Committee on Printing, with a favorable recommendation, the joint resolution (H. Res. 135) for printing the annual reports of the United States Geological Survey; which was referred to the Committee of the Whole House on the state of the Union, and the accompanying report ordered to be printed.

ANNUAL REPORTS OF BUREAU OF ETHNOLOGY.

Mr. ROGERS, of New York, by unanimous consent, also reported back from the Committee on Printing, with a favorable recommendation, the joint resolution (H. Res. 137) for printing the annual reports