Also, resolutions of the Chamber of Commerce of the city of Milwaukee, in favor of the passage of a bill to promote the revenue-marine service—to the Committee on Commerce.

By Mr. ERMENTROUT: Memorial of H. S. Huidekoper, for support of the free-delivery system—to the Committee on the Post-Office and Post-Roads.

Also, the memorial of the Capitol police, for increase of pay—to the Committee on Accounts.

Also, memorial of W. S. Hart, for redemption of trade-dollar—to the Committee on Coinage, Weights, and Measures.

By Mr. FORAN: Petition of vessel-owners, representing 46 vessels in Ohio and Michigan, protesting against the passage of H. R. 5128—to the Committee on Commerce.

By Mr. HARMER: Resolution of the Board of Trade of the city of Philadelphia, and preamble and resolution of the Maritime Exchange of Philadelphia, in favor of the passage of H. R. 4483—severally to the same committee.

By Mr. JEFFORDS: Papers relating to the claim of Ann Dunn Halsey—to the Committee on War Claims.

By Mr. JORDAN: Petition and remonstrances of S. F. Covington, John Kyle, and many others, against the construction of bridges across the Great Kanawha in the manner contemplated by H. R. 1441—to the Committee on Commerce.

By Mr. NELSON: Petition of James Billings, relative to the improvement of Shell and Crow Wing Rivers, Minnesota—to the Committee on Rivers and Harbors.

By Mr. TOWNSHEND: Petition for an appropriation to improve the harbor and complete the levee, &c., at Shawneetown, Ill., on the Ohio River—to the same committee.

SENATE.

THURSDAY, *March* 27, 1884.

Prayer by the Chaplain, Rev. E. D. HUNTLEY, D. D.

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

RECONSTRUCTION OF THE NAVY.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was read, and, on motion of Mr. LOGAN, referred to the Committee on Appropriations, and ordered to be printed:

To the Senate and House of Representatives:

In my annual message I impressed upon Congress the necessity of continued progress in the reconstruction of the Navy. The recommendations in this direction of the Secretary of the Navy and of the naval advisory board were submitted by me, unaccompanied by specific expressions of approval. I now deem it my duty to advise that appropriations be made at the present session toward designing and commencing the construction of at least the three additional steel cruisers and the four gunboats thus recommended; the cost of which, including their armament, will not exceed $4,283,000, of which sum one-half should be appropriated for the next fiscal year.

The Chicago, Boston, Atlanta, and Dolphin have been designed and are being built with care and skill, and there is every reason to believe that they will prove creditable and serviceable modern cruisers. Technical questions concerning the details of these or of additional vessels can not wisely be settled except by experts; and the naval advisory board organized by direction of Congress, under the act of August 5, 1882, and consisting of three line officers, a naval constructor, and a naval engineer, selected "with reference only to character, experience, knowledge, and skill," and a naval architect and a marine engineer from civil life "of established reputation and standing as experts in naval or marine construction," is an appropriate authority to decide finally all such questions. I am unwilling to see the gradual reconstruction of our naval cruisers, now happily begun in conformity with modern requirements, delayed one full year for any unsubstantial reason.

Whatever conditions Congress may see fit to impose in order to secure judicious designs and honest and economical construction will be acceptable to me; but to relinquish or postpone the policy already deliberately declared will be in my judgment an act of national imprudence.

Appropriations should also be made without delay for finishing the four double-turreted monitors, the Puritan, Amphitrite, Terror, and Monadnock, and for procuring their armament and that of the Miantonomoh. Their hulls are built and their machinery is under contract and approaching completion, except that of the Monadnock, on the Pacific coast. This should also be built, and the armor and heavy guns of all should be procured at the earliest practicable moment.

The total amount appropriated up to this time for the four vessels is $3,546,941.41. A sum not exceeding $3,838,769.62, including $866,725 for four powerful rifled cannon and for the remainder of the ordnance outfit, will complete and equip them for service. Of the sum required only two millions need be appropriated for the next fiscal year. It is not expected that one of the monitors will be a match for the heaviest broadside ironclads which certain other governments have constructed at a cost of four or five millions each. But they will be armored vessels of an approved and useful type, presenting limited surfaces for the shot of an enemy, and possessed of such sea-going capacity and offensive power as fully to answer our immediate necessities. Their completion having been determined upon in the recent legislation of Congress, no time should be lost in accomplishing the necessary object.

The gun-foundery board, appointed by direction of Congress, consisting of three Army and three Navy officers, has submitted its report, duly transmitted on the 20th day of February, 1884, recommending that the Government should promote the production at private steel-works of the required material for heavy cannon, and that two Government factories, one for the Army and one for the Navy, should be established for the fabrication of guns from such material. An early consideration of the report is recommended, together with such action as will enable the Government to construct its ordnance upon its own territory and so to provide the armaments demanded by considerations which concern the national safety and honor.

CHESTER A. ARTHUR.

EXECUTIVE MANSION, *March* 26, 1884.

HOUSE BILL REFERRED.

The bill (H. R. 4993) making it a felony for a person to falsely and fraudulently assume or pretend to be an officer or employé acting under authority of the United States or any Department thereof, and prescribing a penalty therefor, was read twice by its title, and referred to the Committee on the Judiciary.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the petition of Lewis C. McLaughlin, commander, and Alexis W. Penson, adjutant, Brooklyn, N. Y., for Devin Post, No. 148, Grand Army of the Republic, Department of New York, praying for the passage of Senate bill No. 1, repealing the limitation to the arrearage-of-pensions act of 1879; which was referred to the Committee on Pensions.

He also presented the telegraphic memorial of J. S. Ferho, president, and Charles M. Travis, secretary, on behalf of the American inventors' convention now in session at Cincinnati, Ohio, protesting against the passage of any measure impairing the rights of inventors or depriving them of the legitimate fruits of their labor; which was referred to the Committee on Patents.

Mr. CAMERON, of Wisconsin. I present a memorial very numerously signed by residents of Milwaukee, Wis., protesting against the repeal of an act passed March 1, 1879, permitting vinegar-makers by a vaporizing process to separate the alcoholic properties of the mash produced by them and to inject the same into water for the purpose of making vinegar.

These memorialists represent that the act has now been in practical operation for four years and has proved itself beneficial both from a commercial and sanitary standpoint; that it has afforded the people of the United States the best, purest, and most healthful vinegar at the lowest possible price; that it has driven from the market all impure and adulterated vinegars; that it has created a new branch of consumption for grain, and enabled American vinegar-makers to compete with foreign manufacturers, thereby opening a new channel of export for vinegar and meats and vegetables put up in the same, and that it has prevented the great loss formerly occasioned by decay of much of all classes of pickled goods put up in impure vinegar. I move that the memorial be referred to the Committee on Finance.

The motion was agreed to.

Mr. LOGAN presented a memorial of inventors and manufacturers of Chicago, Ill., remonstrating against certain legislation now pending in regard to patents and patentees; which was referred to the Committee on Patents.

He also presented a petition of citizens of Brighton, Ill., praying for the repeal of certain laws permitting the use of vapors of alcoholic spirits in the manufacture of vinegar; which was referred to the Committee on Finance.

Mr. HOAR. I present the petition of the owners of the late merchant bark Forest Belle, in reference to the proposed return of the residue of the Chinese indemnity fund, and praying, if such return be made, compensation from that fund for their bark which was destroyed by Chinese in Chinese waters. I move that the petition be referred to the Committee on Foreign Relations.

The motion was agreed to.

Mr. CULLOM presented a petition of the Chicago Trade and Labor Assembly, praying for the passage of certain measures in behalf of labor; which was referred to the Committee on Education and Labor.

Mr. VEST. I have been requested by the Delegate from the Territory of Utah to present a memorial of the Legislative Assembly of that Territory, protesting against the passage of the bills now pending in Congress or any other measures inimical to the people of Utah Territory until after full investigation by a Congressional committee. I have not read the memorial, but it seems to be couched in respectful language, and whatever may be thought about the merits of these bills, these people are citizens of the United States, and certainly have the right of petition. I will ask, unless there be objection, not that the memorial be read but that it be spread upon the RECORD, and referred to the Committee on Territories.

The PRESIDENT *pro tempore*. The Senator from Missouri asks that the memorial be printed in the RECORD and referred to the Committee on Territories. If there be no objection that order will be entered.

The memorial is as follows:

Memorial of the Legislative Assembly of the Territory of Utah.

To the honorable Senate and House of Representatives of the United States in Congress assembled:

GENTLEMEN: We, your memorialists, the Legislative Assembly of the Territory of Utah, respectfully represent, that we have been elected by the people of this Territory, under the provisions of the act of Congress known as the Edmunds law, to represent them in the local Legislature; that we have among other enactments made provisions for the filling of the registration and election offices as authorized by section 9 of that law, but our action has been rendered void by the refusal of the governor to sign the bill; that in consequence of that refusal one object of the Edmunds law has been frustrated, and the interests of our constituents have been jeopardized; that other bills needful to the progress of this Territory have been nullified by the governor; that measures have been introduced in your honorable body looking to extreme, and as we consider harsh and unjust, action toward the people of this Territory; that the measures have been prompted by untruthful statements made to your honorable body, and by misunderstanding of the facts and of the political situation in this Ter-

ritory. We therefore consider it a duty we owe to our constituents to memorialize your honorable body, and plainly, if briefly, explain to you the truth, and appeal to you for a full investigation before any further steps are taken toward the curtailment of the liberties of a people who are famed throughout the world for many qualities that mark them as good citizens.

The pioneer settlers of the Territory of Utah, after traversing a wilderness of more than a thousand miles in extent, making the roads, building the bridges, and establishing ferries as necessity required, and having at the inception of their arduous journey given to the service of the Government five hundred of their most active and able-bodied men, who were called out to assist in fighting the battles of the country with Mexico, arrived in these valleys during the summer and fall of 1847.

They at once unfurled the flag of our country to the breeze and took possession of the land, which was then a part of Mexico, in the name of the United States, and, declaring their allegiance to this Government, made immediate preparations to assume the responsibilities and acquire the privileges of statehood under the auspices of the Federal Union.

This region was then considered by those who had the best opportunities of judging unfit for the habitation of any but savages of the most degraded type, and in its settlement the people had to contend with the destruction of their crops by frosts, by insects, by drought, and by the natural sterility of the soil, and to eke out a scanty subsistence upon thistle-tops and wild roots. But by their persistent industry they redeemed the land from barrenness, introduced a system of irrigation which has been imitated with profit in surrounding places, and made possible the settlement of localities adjacent which were then considered worthless, but are now flourishing States and Territories of the United States. They were the first to call the attention of Congress to the feasibility of constructing a transcontinental railroad, the line for which they trailed as they crossed the plains; they established the first printing-press west of the Missouri River, organized the first express company and mail line connecting the wild West with the borders of civilization, stretched hundreds of miles of the first telegraph line, and afterward aided in the building of the Pacific Railway that first bound the eastern to the western extremity of our common country. Although applying for admission into the Union as a State at the same time as California, a Territorial government was given to Utah, while California, with no greater claims, was granted the privileges and rights of statehood. But Utah did not murmur. The wise and republican policy was adopted of selecting from her resident citizens many of the officers appointed by the President and Senate, and under them, with the officers elected by the people, the Territory prospered and grew so rapidly in numbers, wealth, and importance as to attract the admiring attention of the world. Then the policy of the administration was changed, and strangers who had no interest in common with the people of Utah were sent to occupy the prominent appointive offices. Among the evils entailed upon the Territory by imported officers were these: One Federal official absconded with the funds appropriated by Congress to pay the Territorial Legislature. A Federal judge of notoriously immoral character and acts, finding Utah an uncongenial clime, deserted his post and returned to Washington with the false report that the Territory was in a state of rebellion, and that the records of his court, the Territorial library, and other public property had been destroyed. Without waiting to investigate these and other vile charges, the Government fitted out and dispatched troops to quell the supposed rebellion. Many millions of public money were wasted in this needless expedition, and after the rash step was taken beyond recall a commission was sent to investigate, who discovered that the whole movement was founded on falsehood, and subsequently the troops were withdrawn. The cost to the country and the proofs of its folly may be learned from the public records; but the cost to the people of Utah, and the trouble, vexation, loss of property, and difficulties entailed upon them by this vexatious escapade are known only to those who endured them. An official investigation before instead of after the expedition would have saved them much unjust suffering and the country an immense amount of money, which was all needed in the civil war that followed.

During that struggle for the supremacy of the glorious Union to which the people of Utah have ever been attached, although no draft was made upon her sons for regular military service, because she was but a Territorial dependency, yet when called upon by the parent Government for important aid they responded in such a manner as to elicit the thanks of the President. Within twenty-four hours after a dispatch from President Lincoln was received calling for men to protect the mail and Government trains from the attacks of the wild tribes of the plains a body of Utah militia were on the saddle, armed and equipped for the fray and moving *en route* for the scene of strife, where they performed signal service against the Indians and protected many helpless traveling citizens who were on their way to the Pacific coast. Yet this very militia were forbidden in 1870, by a proclamation of a Federal governor, to drill, muster, or assemble for any purpose. In consequence of this arbitrary order, one that was in direct violation of a constitutional provision, the citizens in the outlying settlements were exposed to the incursions of savage tribes, who were thus encouraged to make raids upon them because any organized assistance from the militia would be in violation of the governor's proclamation. So far was this order carried into effect that the aid of Federal soldiers was invoked to prevent the marching of a company of militia in Salt Lake City in a public celebration of the anniversary of American Independence. During the period of this invasion of the constitutional rights of citizens a chief-justice, newly appointed, joined with other officials in an attack upon the people to deprive them, under color of law, of rights vested in them by the organic act. In Washington city he proclaimed: "The mission which God has called upon me to perform in Utah is as much above the duties of other courts and judges as the heavens are above the earth, and whenever or wherever I may find the local or Federal laws obstructing or interfering therewith, by God's blessings I shall trample them under my feet."

The results of his remarkable maladministration of justice was that attorneys refused to trust the cases of their clients for adjudication, the business routines of the various courts were entirely blocked, and respectable American citizens languished in prison unable to secure trial, while criminals of the most notorious character were permitted to run at large.

In many instances well-known and worthy citizens were incarcerated merely on suspicion, and in others placed in durance vile on the testimony of men whose oath would not be taken in the most trivial civil case. Judicial chaos reigned supreme in a hitherto peaceful, quiet, and well-ordered community.

The Supreme Court of the United States, after a full and complete investigation, reversed nearly all the decisions of the Federal courts in this Territory then rendered, the chief-justice was removed, and order was again restored.

We refrain from enumerating many of the annoyances to which the people of Utah have been exposed through the overbearing and oppressive acts of imported officials, but must draw the attention of your honorable body to the course presented by the present executive. From the first he has allied himself with a clique of adventurers, busy in stirring up michief and circulating false rumors for the purpose of provoking ulterior measures that may result in their possible advantage. With nothing to lose and everything to gain, any turn of the wheel so long as it be in the direction of a revolution may bring up something to their pecuniary advantage. He has taken the stump in their interest, publicly insulted peaceable and respected citizens by untruthful allegations, and arrogated to himself extraordinary prerogatives. At the canvass for the election of 1880 he issued a certificate of election to his friend, the minority candidate, who received but 1,357 votes, while the candidate of the people received 18,568 votes. And the only excuse he could offer for this flagrant violation of his oath to uphold the laws of Congress, requiring the governor to "declare elected the person having the greatest number of votes and to issue a certificate accordingly," was that the minority candidate was "the person who, being a citizen, had the greatest number of votes." He thus assumed both judicial and legislative powers; judicial in passing upon the citizenship of a candidate who had served in Congress for several terms and whose citizenship had been acknowledged by that body which alone held the right to judge of the qualifications of its members; and legislative, in adding in the certificate to the law of Congress governing his duty the words "being a citizen." By this assumption and unlawful exercise of power he rendered void the franchises of more than 18,000 citizens, representing the overwhelming majority of the population. We are here reminded of the striking words of the lamented Garfield: "If in other lands it be high treason to compass the death of the king, it should be counted no less a crime here to strangle the sovereign power and stifle its voice."

He has on several occasions attempted to place in the local offices, for the purpose of controlling and disbursing the Territorial finances, irresponsible individuals who are the open enemies of the people. This he has done under a pretended construction of the organic act, but contrary to positive enactments of the Legislative Assembly, signed by his predecessors, virtually sanctioned by Congress, and deemed valid because of rulings rendered by the Supreme Court of the United States. He has, by an arbitrary exercise of the veto power, refused to sign bills enacted by the Legislature unless provisions were incorporated therein in harmony with his personal designs and in extension of his executive powers. Even the educational interests of the Territory have been hampered and obstructed by his tyranny, and the Legislature have been prevented from appropriating the money of the people whom they represented for university purposes, according to the public desire. He has endeavored to injure the people whose interests he should labor to subserve, by attempting to inflame the public mind in his official utterances and documents, and to influence your honorable body to take extreme measures toward this Territory, by which the extraordinary powers vested in the executive shall be enlarged to the extent of complete despotism. To further this object his report to the Secretary of the Interior and his message to your memorialists were drawn up, containing many absolute falsehoods and misrepresentations and distortions of facts and conditions, against which we earnestly protest and concerning which we desire and ask for impartial investigation.

It was in consequence of some of these inaccurate and specious statements that the act of Congress known as the Edmunds law was hurriedly passed, without full debate, to satisfy the clamor of the multitude raised without reason and provoked by calumny. Under the provisions of that law many constitutional guarantees have been ignored and thousands of citizens have been deprived of vested rights, of that valuable property the elective franchise, which they had exercised for many years, without any process of law. This summary punishment was inflicted upon them without indictment and without trial by operation of a test-oath which virtually made them witnesses against themselves, and which was *ex post facto* in its effects. This oath has been imposed upon the whole body of citizens without authority of law, being formulated by the Utah Commission, on whom no legislative powers were conferred by the Edmunds law, from which their authority is solely derived. It is as follows:

TERRITORY OF UTAH,
County of ——:

I, —— ——, being first duly sworn (or affirmed), depose and say, that I am over 21 years of age, and have resided in the Territory of Utah for six months, and in the precinct of —— one month immediately preceding the date hereof, and (if a male) am a native-born or naturalized (as the case may be) citizen of the United States, and a tax-payer in this Territory; (or if a female) I am a native-born, or naturalized, or the wife, widow, or daughter (as the case may be) of a native-born or naturalized citizen of the United States; and I do further solemnly swear (or affirm) that I am not a bigamist nor a polygamist; that I have not violated the laws of the United States prohibiting bigamy or polygamy; that I do not live or cohabit with more than one woman in the marriage relation, nor does any relation exist between me and any woman which has been entered into or continued in violation of the said laws of the United States prohibiting bigamy or polygamy; (and if a woman) that I am not the wife of a polygamist, nor have I entered into any relation with any man in violation of the laws of the United States concerning polygamy and bigamy.

Subscribed and sworn to before me this —— day of ——, A. D. 188–.

—— ——,
Registration Officer —— Precinct.

Your honorable body will perceive that under this oath, while men who cohabit with more than one woman "*in the marriage relation*" are excluded from voting and holding office, persons who commit the most flagrant sexual crimes are permitted to exercise the elective franchise and are eligible for any official position so long as their filthy acts are outside of the marriage relation. These words, we submit, are an interpolation, and are contrary to the language and intent of the Edmunds law. And they were first used by the present executive of this Territory, who compelled every applicant for the office of notary public to take an oath containing that phrase for the purpose of excluding polygamists and admitting libertines and notorious debauchees.

The commission who, usurping legislative functions, enacted this test-oath, were by the provisions of the Edmunds law authorized to remain in office until the Legislative Assembly should provide for the filling of the registration and election offices made vacant by the law and subject to the appointing power of the commission. Your memorialists respectfully represent that they have provided for the filling of those offices, and have passed an election law as they believed in full conformity to the Edmunds law and other acts of Congress, and incorporating the oath here annexed, to be taken by all applicants for registration, in order to exercise the elective franchise.

TERRITORY OF UTAH,
County of ——, *ss:*

I, —— ——, being first duly sworn, depose and say that I am a citizen of the United States; (or) I have declared on oath, before a competent court of record, my intention to become a citizen of the United States, and have taken an oath to support the Constitution and Government of the United States (as the case may be); I am over twenty-one years of age; I have resided in the Territory of Utah six months, and in the precinct of —— thirty days next preceding the date hereof, and I am not disqualified as a voter by any law of the United States or of the Territory of Utah.

—— ——.

Subscribed and sworn to before me this —— day of ——, 18—.

—— ——,
Assessor,
By —— ——,
Deputy Assessor.

This bill, a copy of which is herewith presented, was vetoed by Governor Murray. Your memorialists claim that it is strictly conformable to the laws of the United States and a measure needful to the present interests of the Territory, and that if the provision extending the elective franchise to persons not fully clothed with the habiliments of citizenship was objectionable, it might have been expunged without impairing the remainder of the bill. And yet it is in accord with section 1860 of the Revised Statutes of the United States, which confers power upon the Territories thus to extend the franchise. The oath presented in the bill is free from the immoral and unlawful features of the test-oath enacted

by the commissioners, but was too comprehensive for the Governor, as it would exclude from the privilege of voting, and consequently of local office-holding, all persons who are disqualified by any law of Congress or of the Territory. By vetoing this bill the Governor has defeated the intention of your honorable body to dispense with the services of the Utah Commission so soon as the conduct of elections was placed in the hands of non-polygamous officers appointed under the local laws. The evident object of this veto is to continue the commissioners in office and to provoke additional Congressional legislation, by which the small political liberty yet left to the citizens of this Territory may be yet further diminished and his gubernatorial domination may be extended.

Another instance of his arbitrary exercise of the veto power is the contemptuous manner in which he treated the bill passed by your memorialists apportioning the representation of the Territory. In the governor's message to the Legislature he recommended a new apportionment, "giving to each locality having the necessary population the right to choose its own members." Your memorialists promptly passed a bill apportioning the representation according to the population of the various districts. This was returned to the Legislature unapproved, with the statement by the governor that "the census of 1880 entitles every 12,000 of population to one representative in the council, and every 6,000 of population to one representative in the house of representatives." The message closed with the following paragraph:

"If the Legislature will pass an act apportioning the Territory into twelve council districts and twenty-four representative districts, as near as may be upon the foregoing basis, where each councilor and representative is to be voted for separately, I will be pleased to approve the same."

Another bill was drawn up in exact conformity to the governor's suggestion and promise, a copy of which is presented herewith. It passed both houses of the Assembly and was duly forwarded to him for signature. But he forfeited his pledged agreement and treated the bill with the contempt of utter silence, neither approving nor rejecting it; and such is the dependent condition of the Territory of Utah that it does not need even the absolute veto of the governor to render void an act passed by the people's elected representatives, but his neglect to sign it is more mighty than the combined labors of thirty-six legislators chosen by ballot to express the popular will. The object of this insulting treatment of the Legislature was, without doubt, to leave the way open for the passage of a measure, now before your honorable body, giving the governor alone the right to make the apportionment of the representation; although a very good law for this purpose, passed in 1880 and signed by his immediate predecessor, is now upon the Territorial statute-book, and there is no real necessity for any radical change.

Your memorialists submit that the political situation in Utah is this:

Four-fifths of the voting population, after excluding all who have been disqualified by the rulings of the Utah Commission and their extreme construction of the Edmunds law, belong to what is called the People's party and represent at least 80 per cent. of the entire population of this Territory. The other portion chiefly belong to what is called the Liberal party. The great fault of the majority seems to be that they select persons from among themselves to represent them and manage their local affairs. No person who has ever lived in the practice of polygamy is now permitted to vote or hold any office; therefore there can be no legal reason offered why the great majority of the voting citizens should not choose their local officers from among their own number. The only portion of the Territorial government under the control of the people is the Legislature, with the addition of a few ministerial officers to handle the funds raised by local taxation under the Territorial laws. The judicial and executive departments are in the entire control of the National Government, and all such offices are filled by national appointment. These, with other officials under Federal authority, including nearly all the postmasters, are numbered with the Liberal party, which, though in so small a minority, aims at the control of the only portion of the local government left to the people. And because the great body of the citizens refuse to accept the nominees of the minority, the proposition is made to abolish the Legislature, whose members are elected by the people, and establish in its stead a commission appointed by the President and Senate of the United States, and thus sweep away from the Territory the last vestige of republican government. It should be remembered that to-day the lawmaking department, elected by the people, is at the mercy of the appointed executive in the enactment of any law. The governor holds the power of absolute veto, and no two-thirds or even unanimous vote of the Legislature avails against his individual ditcum or simple indisposition to append to a bill his signature; at the same time your honorable body exercises the power not only to disapprove of any local enactment which the governor may feel inclined to sign, but also to legislate directly for the Territory. So while the local Legislature can not enact any law without the consent of the governor and the approval of Congress, laws can be and are enacted by Congress without any voice or consent of the people who are to be governed by them.

We respectfully ask if this is not sufficient national control and supervision over the only shred of political power left to the large body of American citizens who compose the voting population of this Territory?

We respectfully submit that the bills now pending in Congress in reference to Utah are manifestly unjust and altogether unnecessary, to say nothing of their utter incompatibility with the spirit and letter of the Constitution of the United States. Not only is no good and sufficient reason advanced for the substitution of a legislative commission for the Legislative Assembly of Utah, but the measure would be without precedent in the history of our country. The territory northwest of the Ohio was not governed in any such arbitrary manner as is proposed in these bills, but guarantees for local self-government were given to take effect when the then sparsely settled districts should contain inhabitants numbering but a small proportion of the present population of the Territory of Utah. There is no parallel between the case of any other section of the country which has been temporarily governed by persons appointed by the President and Senate of the United States and that of Utah, an organized Territory, which has held and exercised the right to enact its own laws for the last thirty-four years. The District of Columbia is not to be compared with a Territory organized for the very purpose of preparing it for the dignity and responsibilities of statehood, to which the District, wherein is the seat of National Government and over which Congress has "exclusive jurisdiction," can never attain. And we respectfully submit that, as it cannot now be alleged that polygamists make the laws or vote into office the members of the Legislature of Utah, the only pretext upon which such measures as the appointment of a legislative commission is founded is that the overwhelming majority of the voting citizens will not select men to represent them from the small minority which now monopolizes the offices in the gift of the National Government; in other words, that because the majority will not vote as desired by the minority, they should not be allowed to vote at all. This is a true statement of the fact, stripped of the specious sophistries which are so generally thrown around it.

That this extraordinary measure would be considered abroad as well as at home to be despotic and subversive of the rights of citizens, your memorialists cite to your honorable body the cases of Jamaica and Canada when similar propositions were made in relation to those colonies before the British Parliament. In 1839 Jamaica resisted certain direct legislation by the home government, and, considering that their legislative rights had been trampled upon by this interference of the British Parliament, the colonial assembly passed a resolution that it would abstain from the exercise of its legislative functions, except for the purpose of maintaining the public credit, until the obnoxious acts should be repealed and the members of the assembly be left "to the free exercise of their inherent rights as British subjects." A protest was forwarded to Great Britain which was considered insulting to the crown and Parliament. A bill was introduced "to suspend the existing constitution of the island for a limited number of years, and to provide during that interval its legislative functions should not be exercised except by the governor and council alone;" but this, although moderate and merciful in comparison with the measures in reference to Utah now before your honorable body, was considered even in monarchical England a grave stretch of governmental authority. The colonists were permitted to be heard by counsel when the bill was discussed, and Sir Robert Peel, who was a very radical supporter of the doctrine of the power of Parliament, and who denounced the course of the colonists as "foolish and unjustifiable," declared that the bill was "neither more nor less than one for the establishment of a complete despotism—one that would establish the most unqualified, unchecked, unmitigated power that was ever yet applied to the government of any community in place of that liberal system which had prevailed for upward of one hundred and fifty years," and he asked whether Parliament had "ever treated with so much severity a conquered colony amid the first heat of animosity after the contest." The measure failed, and the attempt to pass it cost the ministry, under Lord Melbourne, their official positions, for through its failure they were compelled to resign.

Canada not only protested against the interference of the home government, but made demands which Peel declared would, if conceded, establish in the colony "a French republic." These demands not being granted, the lower province proceeded to armed insurrection, and went so far as to measure arms with the regular British troops. The upper province joined in the rebellion, but both were defeated. Lord John Russell introduced a bill in Parliament to suspend the constitution of the colony. But this was deemed too severe and subversive of the rights of British subjects; so a new governor was sent out, the grievances of the people were inquired into, and subsequently Lord John Russell, who had proposed the obnoxious and oppressive measure, seeing and acknowledging his error, like a true statesman introduced a bill establishing home rule by a legislative union of the two provinces on the principles of free representative government, and on the wise policy advocated by the celebrated Fox that "the only method of retaining distant colonies with advantage is to enable them to govern themselves." Your memorialists respectfully ask whether it is too much to suggest that the example of Great Britain in examining into the alleged wrongs complained of by its colonies and refusing to violate the rights of its subjects and the principles of liberty that enter into every constitutional government might be profitably imitated by this great Republic in its policy toward Utah, which has never swerved from loyalty to the National Government nor rebelled against its laws, however severe?

There are other measures before your honorable body, which, if not so sweeping as the bills for governing Utah by legislative commission, are none the less hostile to the rights and privileges of citizens. The proposition to compel a wife to testify against her husband, we submit, would do violence to the rules of jurisprudence that have become reverable with age and sacred by usage for centuries. The highest judicial tribunal in the land has declared that the rule that neither the husband nor the wife shall be compelled to testify against each other is founded upon principles that "constitute the basis of civil society, to impair the sanctities of which would be to destroy the best solace of human existence," while to break it down would be "to shake the very foundations of society." To attach witnesses as is proposed, without previous service of subpœna and a disobedience of the mandate of a court, would be unprecedented and subversive of the rights of citizens; no person, however innocent, would be safe from seizure under such a law, while the individual accused of crime could give bail and be at liberty pending his trial; the alleged witness, not charged with any offense, could be captured and incarcerated for an indefinite period.

The elective franchise, now held by women voters, against whom no accusation is made and who can not be charged with polygamy or any other offense known to the law, is sought to be wrested from them, by which they would be summarily deprived of a right which they have exercised for twelve years or more.

The attempt in another bill to make non-membership in a certain religious organization a qualification for voting and holding office appears to your memorialists so utterly subversive of the plain limitations of the powers of Congress as defined in the Constitution and of the genius of our Government, that no remonstrance on our part will be necessary. The time has surely not arrived when a religious test shall be imposed as a qualification for any position of trust or as a disqualification for exercising the elective franchise.

Your memorialists have to complain of gross misrepresentations, by which your honorable body has been deceived in reference to the true sentiments of the people of Utah and their political and social status. The public mind has been inflamed in consequence of untruthful rumors, facts distorted, and tales invented, until it has become almost impossible to correct the false impressions that have been made, not only upon the country but also upon Congress. For added to the exaggerations of the pulpit and the press are official statements which naturally have great weight, but which in many respects are as incorrect as the common base fabrications designed to mislead and prejudice the public.

We earnestly protest against the passage of any measures that have been prompted by this popular agitation, caused by misconception of the facts, and urge that it can not be right, but it is manifestly unjust, to punish a whole community for the alleged offenses of a portion of its people, and to deprive a large body of citizens, against whom no crime can truthfully be charged, of the commonest political rights and privileges because they do not think as other people desire nor vote themselves under the control of those who persistently malign them.

Many of the people of Utah have descended from those noble patriots who struggled and bled for the liberties now enjoyed in the States of our glorious Union. They venerate the principles for which their ancestors lived and labored, fought and died. Shall they be deprived of the precious heritage bequeathed to them because they, like their forefathers, entertain religious views that are considered heterodox? Are they to be condemned and punished unheard? Shall popular clamor and sectarian animosities overawe the statesmen of the nineteenth century and prevail upon them to wrest from citizens against whom no offense against the law can be charged the commonest and yet most valued political rights and privileges? Because a few are accused of a practice that modern civilization condemns without understanding are their fellow-citizens who have committed no overt acts against the popular sentiment or the laws to be punished and relegated to serfdom? Are the services of the people who have opened up this vast region to civilized habitation and progress to be counted for nothing? Shall the many virtues of a sober, thrifty, industrious, and peaceable community be lost sight of because of one feature of their faith which modern society does not tolerate? Must the libels of official and other persons interested in the subjugation of Utah and its exclusion from statehood be always received as truth, and the denials and appeals for fair investigation by the accused people be ever rejected?

By the blood poured out in defense of the liberties we are prevented from enjoying; by the struggles of the early colonists against measures similar in essence to those against which we now protest; by the principles enunciated in the Declaration of Independence; by the guarantees of the national Constitution; by the right of local self-government, which is vital to American liberty; by the franchise which has become our valued property; by the toils and privations of the brave pioneers who led the way to these mountain fastnesses; by the just ambitions of our budding youth; by the bright hopes and lofty aspirations of a hundred and seventy thousand people who protest against oppression; by the vested rights of our sister Territories, whose freedom is menaced by the prece-

dent afforded by our threatened political destruction; by that justice and equity which should be meted out to all the citizens of this great nation, irrespective of creed or party, we appeal to you not to condemn us unheard; not to take from us the few political privileges that distinguish us from conquered slaves; not to deliver our fair and flourishing Territory into the hands of men irresponsible to the people; not to reverse for us the established rules of civilized jurisprudence; not to disfranchise the innocent for the alleged offenses of the presumably guilty; not to encroach upon our rights of property; not to apply to us a religious test for political purposes, nor to pass any such rash and revolutionary measures as have been proposed, but to postpone any further action toward Utah until a committee of your own number or other disinterested persons appointed specially for the purpose shall have impartially investigated the whole subject of the situation in Utah and have reported to your honorable body, so that you may act with a fair understanding of all sides of these important questions. And your memoralists will ever pray.

Adopted by both houses of the Legislative Assembly of the Territory of Utah this 13th day of March, in the year of our Lord 1884.

JAMES SHARP,
Speaker of the House of Representatives.
W. W. CLUFF,
President of the Council.

Attest:
JUNIUS F. WELLS,
Chief Clerk of the House of Representatives.
CHAS. W. STAYNER,
Chief Clerk of the Council.

Copy of the second apportionment bill, the plan for which was suggested by Governor Murray, who promised to approve such a measure when passed by the Legislative Assembly, but after its passage the governor failed to either sign or veto the bill, and it thereby became worthless.

H. R. 89.—A bill apportioning the legislative representation of the Territory of Utah.

SECTION 1. *Be it enacted by the governor and Legislative Assembly of the Territory of Utah*, That until otherwise provided by law representative and council districts shall be, and the same are hereby, formed and representatives and councilors apportioned as follows:

REPRESENTATIVE DISTRICTS.

District No. 1 shall consist of Rich and Morgan Counties, and the precincts of Echo, Henneferville, Coalville, Upton, Hoytsville, Wanship, Parley's Park, Peoa, and Rockport, in Summit County, and be entitled to one representative.

District No. 2 shall consist of Park City and Kamas precincts, in Summit County, and all of Wasatch and Uintah Counties, and be entitled to one representative.

District No. 3 shall consist of the precincts of Hyde Park, Logan, Richmond, and Smithfield, in Cache County, and be entitled to one representative.

District No. 4 shall consist of the precincts of Benson, Clarkston, Hyrum, Lewiston, Mendon, Millville, Newton, Petersboro, Paradise, Providence, Trenton, and Wellsville, in Cache County, and be entitled to one representative.

District No. 5 shall consist of the precincts of Bear River City, Box Elder, Brigham City, Call's Fort, Deweyville, Malad, Mantua, Plymouth, Portage, Promontory, and Willard, in Box Elder County, and be entitled to one representative.

District No. 6 shall consist of the precincts of Curlew, Grouse Creek, Kelton, Park Valley, and Terrace, in Box Elder County, and all of Tooele County, and be entitled to one representative.

District No. 7 shall consist of the precincts of Ogden City, Lynne, and Riverdale, in Weber County, and be entitled to one representative.

District No. 8 shall consist of the precincts of Eden, Harrisville, Hooper, Huntsville, Marriott, North Ogden, Pleasant View, Plain City, Slatersville, Uintah, West Weber, and Wilson, in Weber County, and be entitled to one representative.

District No. 9 shall consist of Davis County, and be entitled to one representative.

District No. 10 shall consist of precincts No. 3 and No. 4, in Salt Lake County, and be entitled to one representative.

District No. 11 shall consist of the precinct No. 2, in Salt Lake County, and be entitled to one representative.

District No. 12 shall consist of precincts No. 1 and No. 5, in Salt Lake County, and be entitled to one representative.

District No. 13 shall consist of the precincts of Bingham, Brighton, Draper, Fort Harriman, Granger, North Jordan, Pleasant Green, Sandy, South Jordan, Union, and South Cottonwood, and all other precincts on the west side of Jordan River, in Salt Lake County, and be entitled to one representative.

District No. 14 shall consist of the precincts of Big Cottonwood, Butler, East Mill Creek, Farmers', Fort Douglas, Granite, Little Cottonwood, Mountain Dell, Mill Creek, Silver, Sugar House, and West Jordan, in Salt Lake County, and be entitled to one representative.

District No. 15 shall consist of the precincts of Lehi, American Fork, Alpine, Pleasant Grove, Cedar Fort, and Fairfield, in Utah County, and be entitled to one representative.

District No. 16 shall consist of the precincts of Provo, Springville, and Salem, in Utah County, and be entitled to one representative.

District No. 17 shall consist of the precincts of Spanish Fork, Payson, Spring Lake, Santaquin, Goshen, Benjamin, and Thistle Valley, in Utah County, and be entitled to one representative.

District No. 18 shall consist of the counties of Juab and Millard, and be entitled to one representative.

District No. 19 shall consist of the precincts of Thistle, Fairview, Mount Pleasant, Spring City, Moroni, and Fountain Green, in San Pete County, and be entitled to one representative.

District No. 20 shall consist of the precincts of Chester, Wales, Ephraim, Manti, Petty, Mayfield, Gunnison, Fayette, and Freedom, in San Pete County, and be entitled to one representative.

District No. 21 shall consist of the counties of Sevier and Piute, and be entitled to one representative.

District No. 22 shall consist of the counties of Emory, Garfield, San Juan, and Kane, and be entitled to one representative.

District No. 23 shall consist of the counties of Beaver and Iron, and be entitled to one representative.

District No. 24 shall consist of the county of Washington, and be entitled to one representative.

COUNCIL DISTRICTS.

SEC. 2. District No. 1 shall consist of representative districts Nos. 1 and 2, and be entitled to one councilor.

District No. 2 shall consist of representative districts Nos. 3 and 4, and be entitled to one councilor.

District No. 3 shall consist of representative districts Nos. 5 and 6, and be entitled to one councilor.

District No. 4 shall consist of representative districts Nos. 7 and 8, and be entitled to one councilor.

District No. 5 shall consist of representative districts Nos. 9 and 10, and be entitled to one councilor.

District No. 6 shall consist of representative districts Nos. 11 and 12, and be entitled to one councilor.

District No. 7 shall consist of representative districts Nos. 13 and 14, and be entitled to one councilor.

District No. 8 shall consist of representative districts Nos. 15 and 16, and be entitled to one councilor.

District No. 9 shall consist of representative districts Nos. 17 and 18, and be entitled to one councilor.

District No. 10 shall consist of representative districts Nos. 19 and 20, and be entitled to one councilor.

District No. 11 shall consist of representative districts Nos. 21 and 22, and be entitled to one councilor.

District No. 12 shall consist of representative districts Nos. 23 and 24, and be entitled to one councilor.

SEC. 3. The judges of election in their respective precincts shall immediately after the completion of the canvass, as provided in section 17 of chapter 12, laws of Utah, 1878, make out a list in triplicate of the names of the persons voted for and the number of votes each has received for councilor or representative, as the case may be, and certify to the same, one of which shall be filed with the presiding judge, one shall be forwarded to the county clerk of the county in which such precinct is situated, and one to the secretary of the Territory, in an envelope securely sealed and plainly marked "Election returns from ——— precinct, ——— County" (filled in the name of the precinct and county).

SEC. 4. The secretary of the Territory and the respective county clerks of the counties of Weber, Davis, Salt Lake, and Utah are hereby appointed a canvassing board, which board, or majority of them, shall between the thirteenth and sixteenth day after the election unseal the envelopes, canvass the election returns contained therein, and within ten days thereafter make out and transmit a certificate signed by each of the members of said board to each councilor and representative elected.

An act apportioning the legislative representation of the Territory of Utah.

SECTION 1. *Be it enacted by the governor and Legislative Assembly of the Territory of Utah*, That at the general election in the year 1885, and biennially thereafter, Cache and Rich Counties shall elect one councilor to the Legislative Assembly; Box Elder and Tooele Counties, one; Weber County, one; Davis, Morgan, and Summit Counties, one; Salt Lake County, two; Utah, Wasatch, and Uintah Counties, two; San Pete and Emory Counties, one; Juab, Millard, and Sevier Counties, one; Beaver, Piute, Iron, and Garfield Counties, one; Washington, Kane, and San Juan Counties, one.

SEC. 2. At the general election in the year 1885, and biennially thereafter, Cache and Rich Counties shall elect two representatives to the Legislative Assembly; Box Elder County, one; Weber County, two; Davis and Morgan Counties, one; Summit County, one; Salt Lake County, five; Tooele County, one; Utah County, three; Juab and Millard Counties, one; Wasatch and Uintah Counties, one; San Pete and Emory Counties, two; Sevier County, one; Beaver and Piute Counties, one; Iron and Washington Counties, one; Garfield, Kane, and San Juan Counties, one.

SEC. 3. This act is designed and is hereby made to supersede an act entitled "An act apportioning the legislative representation of the Territory of Utah," approved February 20, 1880.

JAMES SHARP,
Speaker of the House of Representatives.
W. W. CLUFF,
President of the Council.

——— ———,
Governor of the Territory of Utah.

REPORTS OF COMMITTEES.

Mr. LAPHAM. The Committee on Patents have had a rehearing on the bill (S. 638) for the relief of George Milsom, Henry Spendelow, and George V. Watson, which they reported favorably on the 25th of January last with an amendment, and which is now upon the Calendar. I desire now by direction of the committee to submit a supplementary report, with a further amendment to the bill, to accompany the former report.

Mr. MITCHELL. In that case I desire to have leave to present a minority report. It is not now prepared, but I ask consent to present it when prepared.

The PRESIDENT *pro tempore*. If there be no objection, the views of the minority will be received when ready.

Mr. MILLER, of California, from the Committee on Naval Affairs, to whom was referred the bill (S. 1871) authorizing the Secretary of the Navy to offer a reward of $25,000 for rescuing or ascertaining the fate of the Greely expedition, reported it with an amendment.

He also, from the Committee on Foreign Relations, to whom was referred the joint resolution (S. R. 61) to authorize Lieut. Henry R. Lemly, United States Army, to accept a position under the Government of the United States of Colombia, reported adversely thereon; and the bill was postponed indefinitely.

Mr. RANSOM subsequently said: While my attention was withdrawn a few minutes ago the joint resolution (S. R. 61) to authorize Lieut. Henry R. Lemly, United States Army, to accept a position under the Government of the United States of Colombia, was reported adversely and indefinitely postponed. I would like to have the joint resolution placed upon the Calendar until I can have an opportunity of looking into the matter further.

The PRESIDENT *pro tempore*. The order of the Senate indefinitely postponing the joint resolution will be reconsidered if there be no objection. The Chair hears none; and the joint resolution will be placed upon the Calendar with the adverse report of the committee.

Mr. CAMERON, of Wisconsin, from the Committee on Claims, to whom was referred the bill (S. 1530) for the relief of the estate of John Cook, asked to be discharged from its further consideration, and that it be referred to the Committee on Indian Affairs; which was agreed to.

Mr. DOLPH, from the Committee on Commerce, to whom was referred the bill (S. 1344) authorizing the Bellingham Bay Railway and Navigation Company to build certain bridges, wharves, and docks in the Territory of Washington, reported it with amendments.

BILLS INTRODUCED.

Mr. MITCHELL introduced a bill (S. 1944) for the special and uniform instruction of State militia; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 1945) for the relief of Lieut. John C. Geyer; which was read twice by its title, and referred to the Committee on Military Affairs.

He also introduced a bill (S. 1946) for the relief of Richard C. Ridgway and others; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. CLARK, its Clerk, announced that the House had passed the bill (S. 1847) to authorize the issuing of a register to John S. McQuin and J. Warren Wonson for the schooner Druid.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House had signed the enrolled joint resolution (H. Res. 215) reappropriating the sum of $125,000, not expended, for the relief of sufferers by the floods of the Mississippi River; and it was thereupon signed by the President *pro tempore*.

THE MONROE PAPERS.

Mr. MITCHELL submitted the following resolution; which was read:

Resolved, That the Committee on the Library be instructed to inquire into the expediency of printing the official letters and papers of the late President James Monroe, with power to report by bill or otherwise.

By unanimous consent the Senate proceeded to consider the resolution.

Mr. MITCHELL. I desire to make a single remark in relation to the matter. I have a memorandum from Professor McMaster, who is professor of American history in the University of Pennsylvania, in relation to this subject. I found it interesting myself, and I think the committee will. I believe it important that provision should be made for the publication of these works of the late President Monroe. I think that nothing of a political character has ever been printed with regard to his official life except what is presented by himself in his views of his executive conduct. As is very well known, he was minister at the court of France at a very important time, when the Louisiana purchase was made, and also at a later time he was President when Florida was purchased and when the "Monroe doctrine" was announced. It is stated by Professor McMaster that the people generally have never had access to these important papers.

I desire to call the special attention of the Committee on the Library to the subject. I ask the reference of this memorandum to that committee, and that the resolution be adopted.

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

The resolution was agreed to.

The PRESIDENT *pro tempore*. The paper referred to by the Senator from Pennsylvania will be referred to the Committee on the Library.

Mr. MITCHELL. To accompany the resolution.

HELEN M. FIEDLER.

The PRESIDENT *pro tempore*. If there be no further "concurrent or other resolutions," that order is closed. The Chair lays before the Senate the Calendar under the eighth rule, commencing at Order of Business 160, being a resolution reported by the Senator from Alabama [Mr. MORGAN] from the Committee on Foreign Relations on the 5th of February, relative to the claim of Helen M. Fiedler, widow and executrix of Ernest Fiedler, deceased. The question is on agreeing to the resolution, which was read yesterday.

Mr. HOAR. I think the resolution was passed over yesterday at my request, so that the report might be found. I should like to have the report read.

The PRESIDENT *pro tempore*. The report will be read, if there be no objection.

The Chief Clerk read the following report, submitted by Mr. MORGAN February 5, 1884:

The Committee on Foreign Relations, to whom was referred Senate bill 223 and Senate joint resolution No. 2, relating to the claim of Helen M. Fiedler, widow and executrix of Ernest Fiedler, deceased, praying on behalf of herself and children that Congress will intervene so as to aid her in collecting a claim alleged to be due to her late husband from the Government of Brazil, have carefully examined the evidence submitted to them touching the validity and justice of said claim, and respectfully report as follows:

In the year 1873 this claim was brought to the attention of the Government of Brazil through our minister resident, and it was considered by a department of that Government. The section of home affairs of the council of state made a report, a copy of which is annexed to this report, upon the validity of the claim. Whether that report was followed by an imperial order or decree disallowing the claim does not appear in the papers submitted to this committee.

The report of the section of home affairs of the council of state does not exclude the idea that something is due the memorialist, but concludes with an argument that the amount claimed is in excess of the loss and injury which Fiedler had sustained by the breach of the agreement entered into between him and a person who acted as the agent of Brazil in making the contract.

Comment is made in that report upon admissions which it alleges were made by our minister, Mr. Blow, in presenting Fiedler's case to the Government of Brazil, to the disadvantage of his claim. These comments are not accepted as being just to Mr. Blow, but the Government of Brazil could not justly deny the rights of Fiedler upon the facts presented, even if Mr. Blow had made admissions that tended to weaken or destroy their proper effect.

The evidence before the committee seems clearly to establish the following facts, and to show that Fiedler's claim is good *in foro conscientiæ*, and would receive the sanction of a court of justice in a controversy between private litigants.

On the 21st day of August, 1867, at the city of New York, Ernest Fiedler (now deceased), the owner of the steamship Circassian, of New York, then on her way to Bremen, of the first part, and D. de Goicouria, esq., who claimed to act as agent for immigration for the Brazilian Government, of the second part, made a contract in writing for the charter of the steamship Circassian for a voyage from the port of New Orleans, La., to Rio de Janeiro, Brazil. The vessel was engaged to carry passengers to be furnished by the second party from New Orleans to Rio de Janeiro. At the time the contract was made it was supposed that many citizens of the United States desired, in consequence of the condition of affairs here, resulting from our civil war, to emigrate to Brazil, and the Brazilian Government desired their presence there.

The parts of the contract material in this connection are that the vessel, which was then *en voyage* to Bremen, was to sail from New Orleans on the 15th day of November, 1867, weather permitting, unless detained at Bremen or elsewhere by causes beyond the control of the first party, in which case she should sail within ten days after her arrival at New Orleans, and that the second party (Brazil) should pay for the voyage the sum of $42,000 in American gold or its equivalent in *millreis* ten days after the completion of the voyage. The Circassian did not reach New York on her return voyage from Bremen until about the 1st of November, 1867. Certain alterations and repairs of the vessel were required to accommodate her to the transportation of the large number of passengers she was intended to carry, so that she did not leave New York until the 23d of November, 1867, and did not reach New Orleans until the 6th day of December of that year. Before her arrival at New Orleans it was ascertained that no passengers were there for embarkation.

On the 17th of December, 1867, Mr. Fiedler addressed a letter to Chevalier Fleury, chargé d'affaires of Brazil to the United States, setting forth the condition of affairs and asking his advice, whether he (Fiedler) should send the vessel to Rio de Janeiro without passengers and subject the Brazilian Government to the payment of the $42,000 agreed on as the price of the voyage, or whether the chargé would release him from his obligations. In this letter Mr. Fiedler stated that his expenses in preparing for the voyage amounted to about $20,000, and suggested that "remuneration of this sum would perhaps be preferable than in default forfeit $42,000 gold, equal to $55,000 currency." On the 18th of December the Brazilian chargé, in reply to Mr. Fiedler's letter of the 17th, advises Mr. Fiedler "not to allow the steamer to sail, but to consider the charter-party completely null and void," and further writes: "I shall immediately call the attention of my government to the subject, and ask it to take into consideration the sum represented by you, and to indemnify you for the losses sustained." On the next day (December 19) Mr. Fiedler acknowledged the receipt of the letter of the Brazilian chargé of the 18th, and added: "Relying upon your assurance and in full confidence of the just acts of your government, I have immediately telegraphed to New Orleans to withdraw the Circassian from her voyage, and ordered her return. As the preparations for this voyage have cost me an outlay of over $20,000, an early and prompt remittance is respectfully requested, and taking into consideration that I acted throughout in the interest of the Brazil Government, and would have gladly avoided the voyage had I not been forced by their agent to proceed, I hope my request will be granted."

The Emperor of Brazil has been advised by the section of home affairs of his council of state that the contract entered into between Mr. Fiedler and Mr. Goicouria, who claimed to be the agent of the Brazilian Government, was not valid, for the alleged reason that Mr. Goicouria was not, in fact or in law, such agent. It is evident that this advice was not well considered by the council of state for these reasons: Mr. Fiedler, before entering into the contract with Mr. Goicouria, very prudently sought to know the extent of Mr. Goicouria's authority, and upon inquiry found that Mr. Russell Sturgis, of New York, acting for the owners of the steamship Marmion, had in March, 1867, addressed a letter to the Brazilian legation to the United States, inquiring as to the authority of Mr. Goicouria to charter vessels for the Brazilian Government to carry emigrants from the United States to Brazil, and had received from the Brazilian legation the following reply:

BRAZILIAN LEGATION, *New York, March* 15, 1867.

SIR: In answer to your letter of yesterday's date, I have the honor to inform you the name of the agent of the Brazilian emigration, Mr. Guintino de Sonza Bocayura.

This gentleman has power to charter steamers or sailing vessels to take emigrants from the south ports of the United States to Brazil.

According to the contract made between the imperial government and the United States and Brazil Mail Steamship Company, he can have a delegate, and Mr. D. de Goicouria is the delegate appointed by him. I believe the government will approve what is done by the said agent.

I have the honor to be, your obedient servant,

H. CAVALCANTI ALBUQUERQUE.

RUSSELL STURGIS, Esq.

Mr. Fiedler's inquiries developed the further facts that the owners of the steamship Marmion, acting upon the letter of the Brazilian delegation, had contracted with Mr. Goicouria, as agent of the Brazilian Government, for a voyage of the Marmion to Brazil; that such voyage had been made and concluded before the date of Mr. Fiedler's contract with Mr. Goicouria, and that the Brazilian Government had recognized Mr. Goicouria's authority to charter the Marmion by paying the money provided by the charter-party to be paid for the voyage.

Mr. Fiedler, who knew, as the world knows, the many proofs the Emperor of Brazil has given of his wisdom and justice, and the mutual friendship and goodwill that have always prevailed between the United States and Brazil, was fully justified in accepting as conclusive the foregoing evidence of Mr. Goicouria's authority to act for the Brazilian Government.

But there is further evidence of Mr. Goicouria's authority. The Brazilian Government in 1866 sent to the United States the citizen Guintino de Sonza Bocayura to encourage the expected emigration from the United States to go to Brazil. In February, 1867, the agent Bocayura advised his government, among other things, of his intention to return to Brazil, and that he had left as his representative in the United States Mr. Goicouria (the agent with whom Mr. Fiedler and the owners of the Marmion subsequently contracted). In May, 1867, the Brazilian Government acknowledged the receipt of the communication of Agent Bocayura of February, 1867, and on the 24th day of August, 1867 (three days after the date of the contract made with Mr. Fiedler), advice is sent from Rio Janeiro to Mr. Goicouria, at New York, withdrawing his authority under Bocayura's appointment. In this "*aviso*" is the following language: "The Imperial Government having taken sundry measures for the purpose of attracting to this country the emigration from the Southern States of the American Union and the necessity ceasing of continuing there Domingo de Goicouria to freight steamers for the transportation of such emigrants," &c., which can only be fairly construed as recognizing Mr. Goicouria as the agent of the Brazilian Government, and as including within the scope of his agency the freighting of steamers for the transportation of emigrants.

Enough appears in the evidence submitted to the committee to justify the belief that the Brazilian Government will review its decision in this matter, if this Government will bring the subject again to its attention, and will present the

evidence now before the committee for its consideration. On this evidence the claim appears to be just, and your committee do not consider that the Government of Brazil has reached the conclusion that it is not just or that it can not be allowed. But Congress can not now properly legislate on this subject. At most it can only recommend that the President will again call the attention of the Brazilian Government to the justice of the claim in favor of a citizen of the United States.

In this view your committee report adversely Senate bill 741, and report the following resolution, and recommend its passage:

"*Resolved by the Senate (the House of Representatives concurring)*, That the President of the United States be requested to bring to the attention of the Emperor of Brazil the claim of Helen M. Fiedler, executrix of Ernest Fiedler, deceased, against the Government of Brazil, growing out of a contract alleged by said claimant to be obligatory on that government for the hire of the ship Circassian to transport emigrants from the United States to Brazil in the year 1867, with a view to ask said government to consider the said claim, and to provide for the allowance and payment of such sum as shall be found just to such claimant."

Translation of the copy of the report of the council of state in relation to the claim of Fiedler's executrix.

SIRE: The section of home affairs of the council of state received order from Y. I. Majesty to consult and give opinion on the following matter: "*Aviso* 5th, section No. 5, Rio de Janeiro, ministry of agriculture and public works, 29th August, 1873. Excellent Sir: H. M. the Emperor has been pleased to order that the section of home affairs of the council of state should consult and give opinion, Y. exc'y being reporter, on the annexed papers, relating to the reclamation presented by the legation of the United States at this court, of the representation of Ernest Fiedler, who he thinks has a right to indemnity for the contract of affreightment unfulfilled of the steamer Circassian. God guard Y. exc'y. José Fernandes da Costa Pereira, jr. To his exc'y counsellor of state Viscount de Longa Frasco."

This claim arose from the fact of the imperial government's undertaking, with the intention of causing the persons who emigrated from the United States to come to Brazil, to facilitate their means of reaching here. To that end it sent to those States the Brazilian citizen Quintino de Souza Bocayura, for whose voyage were given the orders of the 23d and 24th July, 1866, of which minute and account is given in these papers. No written instructions, however, are found addressed to him.

Of the communications (official) between the ministry of agriculture, commerce, and public works and its agent, Bocayura, the section had before it the following papers:

First. The order (*aviso*) of November 25, 1866, in which, after acknowledging receipt of the *officios* of the 22d and 30th September and of the 19th and 22d October of that year, it is answered, as to the difficulties which he says he met with for transporting emigrants desirous of coming to this empire, and as to the doubts entertained by the president of the steamship line (receiving a subsidy from both Brazil and the United States as to the execution of the contract for transporting such emigrants), that he may authorize the transportation of such as can comply with the conditions already sent for his instruction, the imperial government defraying the amount of their necessary expense on their arrival in our country to such as can not at once pay therefor, such being held to reimburse the same in the manner required (by law).

Second. The order of the 25th January, 1867, in which, after acknowledging the receipt of the *officio* of 22d December, 1866 (the ministry), answers as to the instructions, for which he asks to govern him in the forwarding of emigrants, declaring "that, already by the *aviso* of the 25th November preceding, directed to the imperial legation in Washington (of which copy had been sent him), this ministry had taken measures by which it had authorized the embarkation of all such inhabitants of the South, who, complying with the requirements (announced in the *avisos* of said ministry sent to said legation and of which you are advised), shall come to remain in this country, * * * and that there will be paid by the government, upon their arrival, the amount of expenses for such voyage to those emigrants who can not pay that expense immediately, on condition, however, of subsequent reimbursement.

Third. The *officio* of the agent Bocayura, dated Febraary 20, 1867, acknowledging receipt of the (copy) circular addressed to the presidents of provinces asking information as to the settlement and employment of emigrants, and making known that since he intended to return to this *corte* he had left in the United States as his representative (*delegado*) the American citizen Domingo de Goicouria, a respectable merchant of that city (New York), and that he had substituted him (Goicouria), during such absence, in the form of the seventh article of the contract with the United States and Brazil Mail Steamship Company.

Fourth. The *aviso* of the 14th of May, 1867, in answer to the foregoing *officio* as follows: "Superintendency of public lands and colonization, Rio de Janeiro, ministry of agriculture, &c., 14 May, 1867. I am informed of the contents of your *officio* of 20th of February last, reporting that you had left as your substitute in New York the merchant Domingo de Goicouria, and inclosing (copy) of the circular which you directed to the presidents of provinces, with the intention of rendering easier the directing of the American emigration thitherward. God guard you. Man'l Pento de Souza Dantas to Mr. Quintino de Sonza Bocayura."

Fifth. The *aviso* of the 24th of August, 1867, in which Domingo de Goicouria is discharged (*dispensado*) from the employment of freighting steamers, third superintendency of public lands and colonization, Rio de Janeiro, ministry of agriculture, &c., 24th of August, 1867. "The Imperial Government having taken sundry measures for the purpose of attracting to this country the emigration from the Southern States of the American Union, and the necessity ceasing of continuing there Domingo de Goicouria to freight steamers for the transportation of such emigrants, I make known to you this determination for your guidance, and in order that you may advise at once the said Goicouria that he is (released) discharged (*dispensado*) from said employment. God guard you. Manuel Pento de Souza Dantas. F. W. Quintino Bocayura."

From this written communication it does not appear that the authority to take up steamers was conferred, not even on the imperial legation at Washington. The power to authorize passages to emigrants is what the Imperial Government granted, and this only to the imperial legation, as appears from the *aviso* of the 25th January, 1867, which explains the *aviso* of the 25th November, 1866.

And all doubt ceases on view of the following declarations of the *aviso* of the 25th January, 1867: "Having thus provided for this object, and having thus facilitated the coming hither of Southern emigrants, it is proper that you, in order to make the movement more active, in the most convenient and efficacious manner should transfer as soon as possible your residence to New Orleans or to some other Southern or Western city, as may appear most advantageous to your commission, where, according to your instructions, you should give the necessary information as well to the directors (*emprezarios*) (or persons in charge of emigrating companies) as to the emigrants themselves who shall personally ask therefor, and also deliver passports to those who resolve to come to Brazil, should be ready to make the voyage, plainly making known to such the condition of reimbursing the advance (made for payment of passage) which has been granted in order to prevent any difficulties and reclamations like those which are now being presented by certain persons who came here in the two expeditions sent from New York."

The substitute, even if he had been named under authority from the government, or had been approved as such (which can only be claimed as a deduction from the *aviso* of 14th May, 1867), had no power to sign any charter-party of affreightment whether for sailing vessels or steamers. The charter-party of the steamer Circassian, signed on the 21st of August, 1867, by the substitute, Domingo de Goicouria, after the *avisos* of 25th November, 1866, and 25th January, 1867, was therefore unauthorized, and exceeded the authority and instructions of that substitute.

On the 21st August, 1867, the substitute, Domingo de Goicouria, signed the contract of affreightment of the steamer Circassian; on the following day he left the United States for Brazil, and the contract did not fix a term within which the steamer, which had first to make a voyage to Bremen, and then could make others that might suit, had to present herself in New Orleans; so that leaving New York on the 23d November she only arrived in New Orleans on the 6th December, having still on board freight from another port of the Union.

No passengers having offered for the voyage to Brazil, the owner of the steamer sent her elsewhere, after protesting on the 16th December against whom it concerns, and from the papers it appears that having asked advice from the chargé d'affaires *ad interim* (of Brazil) in Washington as to sending his steamer without passengers to Rio de Janeiro, as he stated that Cestro, the substitute appointed by Goicouria, had advised him to do, or as to considering his charter-party at an end, he chose the latter alternative.

The advice given not to dispatch his steamer without passengers, and that this fact should be made known to the government, created no obligation on any one, either on him who should thus do what he ought (*uem ao que deue*), nor on the imperial government.

Ernest Fiedler, owner of the Circassian, who had sent his vessel elsewhere, and whose contract of affreightment he had declared vacated (*roto*) in the hope of receiving $20,000 as indemnity, presented, later, his reclamation to the imperial government, the result of which appears from the letter of Mr. F. Blow (*sic*), copy of which is annexed to the papers presented in support of the claim.

In this letter, dated at Lisbon, November 23, 1870, the ex-minister of the United States in Brazil informs the claimant, E. Fiedler, that having examined, with the minister of foreign affairs of the empire, his claim, he was sorry to have to inform him that the answer was not favorable, because that (the answer) of the Brazilian minister was that neither Goicouria nor the party who had appointed him had authority to proceed in the manner in which they acted in the matter of the charter-party, and Mr. Blow added that it appeared "from his own convictions that under such circumstances no claim could be founded on what had been done by either." From this answer it will be seen that Mr. Blow, having examined the contract of affreightment and other papers, was convinced that no right of claim could be founded on them, or, what is the same thing, that the claim had no legal right to support it, but still might be maintained in equity, as in other cases, and for this reason he closes his letter, saying: "Now, my dear sir, if you are able to prove that contracts made by either were ever allowed, and the money paid by the Brazilian Government for same, or on account for same, I am convinced I can obtain from the imperial government the sum you desire to receive; nevertheless I am not certain that you could obtain these proofs from ship-owners in New York through the person who acted as consul of the Brazilian Government at the time of Goicouria' contract.

This abandonment of the charter-party as a decisive document, which it would be if the contractor, Goicouria, had authority to make the contract; this reference to contracts in general without distinguishing between those authorized and those made without authority; this guarded or strict mode of expression whenever he states a proposition in which he has entire confidence; and, finally, his recourse to analogy, which is not required to prove strict right, as well as the lessened sum demanded, all go to show that the enlightened judgment of Mr. Blow made him recognize at once that this claim had no foundation in right.

This high judgment also shows itself in the memorandum of the present minister of the United States, when, having mentioned that the representative of Fiedler claims now the sum of $42,000 as indemnity for breaking the contract, besides the expenses, closed his demand thus: "This last (the representative) has certainly right to a reasonable compensation for the disappointment and final failure of the voyage, through no fault of his, but at the request of the Brazilian representative, and the claimant is also entitled to reimbursement for all moneys expended for outfit, &c.

Thus, as Mr. Blow had thought that the sum which Ernest Fiedler claimed of $20,000 was as much as could be had, the present minister of the United States does not support, in the conclusion of his memorandum, more than what may be a reasonable compensation.

The charter-party, if it is valid and obligatory upon the imperial government, calls for a fixed sum in conformity with law. The demand sustained in the memorandum looks to recourse to the sense of equity of the Brazilian Government; that it shall do in this case as it has done in others. The reasons which the memorandum presents as supporting the claim are:

First. That the steamer Circassian was taken up on freight by Domingo de Goicouria, emigrant agent of the Brazilian Government, whose authority so to take up steamers is deduced from the letter of Mr. Cavalcanti de Albuquerque, in which he states that the emigration agent was Mr. Quintino de Sonza Bocayura, who was authorized to appoint a substitute, and that Mr. Domingo de Goicouria was the substitute named by him.

Second. That the Circassian thus chartered was placed at the orders of the emigration agent from the 6th day of December, 1867, when she arrived at New Orleans, until the 16th.

Third. That, no passengers being forthcoming, the owner, Ernest Fiedler, addressed himself to the chargé d'affaires of Brazil in Washington, Mr. Padua Fleury, who when informed warned (*prevenù*) him (Fiedler) that the ship ought not to undertake to go to Rio de Janeiro, and that he (Fleury) would make the representations to the imperial government proper to be made in order to come to an agreement.

Fourth. That with this assurance the owner, Ernest Fiedler, gave up the voyage, and withdrew therefrom ("withdrew the vessel from the projected voyage," says the statement of Messrs. Jordan and Whitney), after having spent more than $20,000 in her fitting out.

The section will observe that the first reason admits that the charter-party was insufficient as an obligatory instrument, seeing that further proofs are wanting of the competency of the party signing in the name of the Brazilian Government. Mr. Blow also admitted the insufficiency of this authorization, since he advised the collection of proofs of the acceptance of the contract and its approval afterward.

These difficulties would have been prevented if the owner had exacted the power of attorney or other regular document showing the extent of the agent's authority, as is done by every merchant who treats with an agent professing to act for a third party.

The letter of Mr. Cavalcanti de Albuquerque affirms it is true that Mr. Bocayura was the Brazilian emigration agent, with powers to take up steamers, but it does not affirm that Domingo de Goicouria held the same authority.

In the declaration of the validity of powers Mr. Cavalcanti was inexact; the *avisos* of the 25th November, 1866, and of 25th January, 1867, would have given him a different opinion if he had consulted them. In any event the chargé d'affaires of the empire was not the proper person to appear as the informant in this matter, nor does the information which he gave suffice to supply the powers always demanded in the course of commercial undertakings for contracts of affreightment made in behalf of a third party.

The second reason does not supply the requirement of law violated in the contract, and in order that it may avail as a reason for equity, it would be still necessary that there should not exist in this contract the extraordinary circum-

stance of not naming a time within which the steamer should arrive in New Orleans, in order to afford the opportunity for the execution of the intentions which the new policy of the Federal Government caused rapidly to diminish.

The steamer being chartered on the 21st of August with liberty first to make a long voyage to Bremen, and after that again to carry a cargo from New York to an intermediate port, and thence again to New Orleans, where she arrived in fifteen days after leaving New York, none of the charges for damages caused in voyages made for account of Mr. E. Fiedler, none of the outfit for any time previous to her arrival in New Orleans to receive passengers there, can be brought into the account for a voyage to Rio de Janeiro, and not even if the obligation of affreightment were in due form and legal.

Third. It is true that the steamer did not obtain, in the port of New Orleans, the passengers on which she had reckoned, and in case of a lawful charter-party she would have a right to consider the charter-party concluded or to make the voyage without passengers at the expense of the hirer.

This right, however, can not be sustained by the owner-claimant in this case, resting on a private letter not at all obligatory (*i. e.*, creating no obligations) on the nominal hirer, as has been shown. It was because he was convinced of the untenability of this unsustainable position that the owner, Fiedler, addressed himself to the Brazilian chargé d'affaires, hoping to find in his answer a reason for involving the Brazilian legation in the contract, and which up to that time had not been heard of in the contract, or from, in respect to it.

That answer, however, conferred no new rights upon him, and the Brazilian chargé, in advising the owner not to make the voyage to Rio without passengers, only gave his own opinion, not at all obligatory on the owner, and of which he availed himself and with reason, for he well understood that the voyage to Rio de Janeiro would only cause him loss.

He had already gained by freighting his vessel, up to that time employed on his account, with the exception only of a few days, during which he had been waiting in New Orleans ready to receive passengers for Brazil. The suggestion attributed to Cestro, that he would lose nothing, and he might hope to gain, by the voyage to Rio, the sum agreed on, he ought to have disregarded, as he did in his own interest, what right could accrue to him by that? None at all.

There is the promise of Brazilian chargé to make representations to the imperial government, on which it is said the owner relied. From the answer it will be seen that the advice was that the owner should consider as completely vacated the charter party, and should not dispatch his vessel to Rio de Janeiro without passengers, adding the following words: "Of all that has taken place I will immediately make report to my government, calling its attention to this matter, and asking that it take into consideration the account presented by you as an indemnity for the injury and damages occasioned." This answer is not at all obligatory for the imperial government, and Mr. E. Fiedler had therein only one reason more for counting on the justice and right due to him.

In what, however, did the owner expend the $20,000, and what is the outfit for which he claims? The expense for the voyage to Bremen, and the repairs for damage suffered in that voyage, which he declares was stormy, can be in no way, and by no one, charged or imputed to the hirer for a voyage to Rio de Janeiro, and the expenses also for or at the intermediate port for which the Circassian took cargo for New York, and thence to New Orleans, for which port, it is said, she also carried cargo.

The gains or the losses of those voyages are entirely for account of the owner of the vessel. The memorandum supports this opinion when it states that the Circassian was at the orders of the hirer from the 6th day of December.

Again, as a last resource, the freighting of the steamer Catherine Whiting is brought up as an example, which was taken up in New York on 28th May, 1867, the owner letting her being N. B. Starbuck, and the hirer on the part of Brazil the same Domingo de Goicouria, and the fact that the imperial government having paid the price agreed on in the contract. It is required, however, to observe that steamer taken up on the 28th May obliged herself to proceed immediately on the 1st June to New Orleans, and on the 19th of said month left for Rio de Janeiro, where she arrived on the 6th of August, having disembarked in Pará the emigrants she brought for that province, and having touched in Bahia for provisions and coal.

The payment of the freight in that case was in consequence, not of the recognition of the validity of the charter-party, but of a service actually performed, which the imperial government never omits to pay.

The government had authorized the forwarding of emigrants, obliging itself to pay or advance for the payment of the passage-money on their arrival in this empire, and it fulfilled that obligation; this contract of affreightment, not authorized and not performed as that was in all its parts, has no analogy thereto or parity therewith to justify this reclamation. In fine, the section is of opinion—

First. That the charter-party of the Circassian is not valid, and in no way obligatory on the imperial government.

Second. That in consequence, by strict right, the national treasury is not bound for the payment of any sum whatever.

Third. That as to the damage occasioned to the owner, the claimant here, it must be of small amount, limited, as has been shown, to the delay of some few days, during which she was ready to take on board passengers in the port of New Orleans to carry them to Brazil.

Fourth. That any indemnity due the claimant should demand of the party who without due authority signed the contract, and of the party who being substituted in New York (Cestro) attempted to put life into a void contract.

Let them discuss among themselves the honesty and good faith in which they engaged themselves to the observance of this undertaking.

Fifth. That if the imperial government shall decide in its own judgment (*em-sua-sabidoria*) that the letter of the 5th March, 1867 (original 1857), written by the chargé d'affaires *ad interim*, W. A. Cavalcanti de Albuquerque, can have led in error the owner of the Circassian to make his contract in good faith and to incur those expenses which by mere equity may be properly reimbursed, the compensation in that case should not exceed some hundreds of dollars, because the expenses referred to were occasioned by the voyage to Bremen, or were caused thereby, and the owner was thus reduced to offer an insufficient vessel, charged with all the expenses for repairs in a previous voyage made for his benefit and for his advantage, as was that to Bremen, and in like manner with those incurred during the voyage to an intermediate port, taking fifteen days to reach New Orleans (from New York), where only as late as the 6th December he alleges that he placed his vessel at the orders of the supposed hirer.

The expenses of those days of the ten elapsed between his arrival at New Orleans and the day when, having completed his discharge, he was in a condition to receive passengers for Rio de Janerio, ought to be reckoned to account of the owner.

The expected profits of the voyage, besides being properly lost to the owner from his act of withdrawal of his vessel from said voyage, can not in any way be computed at more than a reasonable percentage upon the $42,000 named in the contract; all these items together would be far below the $20,000 claimed.

Your imperial majesty will decide with your accustomed enlightenment (*sabedoria*).

Hall of the conferences of the committee (section) of home affairs of the council of state, 26th November, 1873.

VOZCONDE DE SOUZ OR FRANCOS.
MARQUIS DE SAPUCAHY.
VISCONDE DO BOM RETIRO.
BARON DO CABO FRIO.

True copy.

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

Mr. HOAR. It seems to me that this is not a very good practice. This seems to be an ordinary case of a claim upon a contract made by the Brazilian Government, or claimed to have been made, which the emperor has referred to a commission or other tribunal appointed by him, who have reported that there is no liability of that government to this claimant. That happened eleven years ago. The claim originated some seventeen or eighteen years ago.

It is the practice of the executive department, of its own accord, without any such action from the Senate or House of Representatives, to call the attention of foreign governments to such claims of American citizens as seem to it to be valid and to require such interposition. It seems to me that for the Senate to undertake in the very vast number of such matters to make these investigations and then pass a resolution, which amounts to a judgment of condemnation on the Department of State, is very bad practice. But as the rejection of the resolution now, it having been reported by the committee and being before the Senate, might perhaps operate adversely to the claimant and might be construed into an expression of opinion by the Senate that the claim is not valid and that the Department ought not to interfere, I will withdraw my objection. However, I trust the Committee on Foreign Relations will see that, whatever precedents there may be, of which I suspect there are very few, this may not be an example for further measures of this kind.

Mr. CONGER. I think the report by the officials of the Brazilian Government who examined this claim is conclusive and satisfactory to the mind of any one that the claim should not be further pressed by the Government of the United States on the consideration of that nation. I have read very carefully the translation of the report of the council of state in relation to the claim of the executrix, and I must say that it does not present to my mind even an equitable claim to be presented by this resolution to the Brazilian Government for a rehearing. It has been carefully considered by the authorities of the United States in presenting it from time to time, and I can not see by what right or by what authority the Government should undertake to make this a national question, and present through the President of the United States this matter again to the consideration of the Brazilian Government.

The report itself fails almost entirely to make out a case which the government should settle. There is nothing even to show that Mr. Fiedler was a citizen of the United States or had any claim upon this Government as a citizen in presenting a claim against another government. There is an inference that he was a citizen or an allusion which might make that seem apparent, but there is nothing asserted and nothing to show that the Government has any such relation to Mr. Fiedler, and therefore to the executrix, as would warrant us in acting upon a claim of this kind. It seems to me it is a very loose claim, and it is hardly worthy of the dignity of the United States to make it a national question.

Mr. MILLER, of California. This resolution was reported by the Senator from Alabama [Mr. MORGAN] who is not in the Senate this morning, and I have been unable to find him. He is perfectly familiar with the whole subject and has gone through the case with great care. I think it is a courtesy due the Senator from Alabama to lay the resolution over. The committee were of opinion that there was foundation for the claim.

Mr. COCKRELL. I see no necessity for delaying action upon the resolution. I think the Senate is ready to act upon it. The report has been read.

Mr. MILLER, of California. Very well.

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

Mr. VEST. I introduced the original bill, and it will be noticed that in the report of the committee they recommend to the Senate the rejection of the bill which I introduced and the adoption of this resolution instead of it. A joint resolution passed the Senate at the last session and went to the House, but was not acted upon, and this is simply a Senate resolution.

The whole of the resolution from beginning to end (which is not at all satisfactory to me) simply amounts to this: that the Government of Brazil is asked for a new hearing upon this case. It does not commit this Government to anything in regard to the matter. It simply asks that a citizen of the United States shall be heard again upon evidence which the committee say in their report was not sufficiently considered, in their judgment, by the Brazilian Government at the time of the rejection of the claim. No injustice can be done to anybody; no foreign complication can arise in regard to it. It does not go as far as I should like to go, but I am very willing to accept the action of the committee in order to dispose of the matter, and I hope the Senate will adopt the resolution.

Mr. MILLER, of California. That is all there is of it, as the Senator from Missouri has stated.

The PRESIDENT *pro tempore* put the question on agreeing to the resolution, and declared that the ayes appeared to prevail.

Mr. CONGER. I ask for a division.

The ayes were 30.

Mr. CONGER. I do not insist on a further count.

The PRESIDENT *pro tempore*. It is "given up," and the resolution is agreed to.

Mr. CONGER. I do not "give up," but I withdraw the call.

The PRESIDENT *pro tempore*. The Chair does not understand the Senator.

Mr. CONGER. I say I do not give up the point, but I withdraw the call.

The PRESIDENT *pro tempore*. The Chair will again put the question.

Mr. CONGER. I say I withdraw the call for a division, but I have my own private opinion still.

The PRESIDENT *pro tempore*. The Chair used the common parlance of the Senate. The division was "given up," in the phrase of the Senate.

Mr. CONGER. All right.

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

The resolution was agreed to.

DEPREDATIONS OF UTE INDIANS.

The bill (S. 851) to provide for the payment of ten claims for depredations committed by the Ute Indians at the time of the massacre at the White River agency in 1879 was considered as in Committee of the Whole.

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

RAILROAD IN INDIAN TERRITORY.

The bill (S. 908) to grant a right of way through the Indian Territory to the Southern Kansas Railway Company, and for other purposes, was announced as next in order.

Mr. VEST. That bill can not be considered under the five-minute rule. It involves the very same principle and brings up the same question with other bills on the Calendar.

The PRESIDENT *pro tempore*. Objection being made, the bill goes over.

FLORIDA INDIAN HOSTILITIES.

The bill (S. 230) to authorize the Secretary of the Treasury to settle the claim of the State of Florida on account of expenditures made in suppressing Indian hostilities was announced as next in order.

Mr. HAMPTON. I beg to ask that that bill be passed over without prejudice, as the Senator from Florida [Mr. JONES] who introduced it is not present.

The PRESIDENT *pro tempore*. The Senator from South Carolina asks that this bill be passed over, retaining its place at the head of the Calendar under Rule VIII. Is there objection? The Chair hears none, and it is so ordered.

WILLIAM M. MAYNADIER.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 300) for the relief of Maj. William M. Maynadier, a paymaster in the United States Army. It provides for the payment to William M. Maynadier of $3,726.50, the amount paid by him into the Treasury in liquidation of a deficiency in his accounts as paymaster at Prescott, Ariz., caused by robbery committed by his clerk, D. D. Chandler, at Prescott, April 3, 1876, as shown by the finding and report of a board of inquiry appointed by General Kautz, commanding that military department, to investigate the circumstances of the loss; and also the further sum of $100 paid by Maynadier for the arrest of Chandler, the restoration of both sums having been recommended by the board of inquiry.

Mr. COCKRELL. Let the report be read.

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

The Secretary read the following report, submitted by Mr. HAMPTON February 5, 1884:

The Committee on Military Affairs, to whom was referred the bill (S. 300) for the relief of Maj. William M. Maynadier, paymaster in the United States Army, having considered the same, make the following report:

The committee find the facts to be as stated in Senate Report No. 78, Forty-seventh Congress, first session, which said report is hereto annexed and made part of this report, and is as follows:

[Senate Report No. 78, Forty-seventh Congress, first session.]

The Committee on Military Affairs, to whom was referred the bill (S. 254) for the relief of Maj. William M. Maynadier, paymaster, United States Army, having considered the same and accompanying papers, submit the following report:

That under date of January 17, 1882, your committee called on the Secretary of War for a copy of the proceedings of a board of officers convened at headquarters Department of Arizona, November 17, 1876, pursuant to Special Order No. 138, dated headquarters department of Arizona, November 6, 1876, to examine and report upon the loss of public funds, for which Maj. William M. Maynadier, paymaster, United States Army, is responsible, reported to have been stolen from his office safe by an absconding clerk; which record is now on file in the committee-room of the Committee on Military Affairs of the United States Senate. Your committee find the facts to be as stated in the finding of the board, which said finding is hereto annexed and made part of this report, and is as follows:

"In conclusion the board find that Major Maynadier was on duty by proper authority as paymaster at Prescott, Ariz.; that he was duly authorized and required to keep public money in a safe provided for the purpose, there being no depository available; that he did so keep public money, though not in excess of what the service at his station required; that the safe provided for him was a large fire and burglar proof one, manufactured by Jonathan Kitridge, of San Francisco, having two combination locks, the outer one being T. E. Burwell's and the inner one 'Young's rotary combination;' that Major Maynadier never made known these combinations; that said safe appears to be a good and secure one; that the clerk, D. D. Chandler, was well recommended and apparently capable and trustworthy; that on March 31, 1876, Major Maynadier had in his safe what under a customarily careful count appeared to be $4,081.11; but there should have been $4,228.46; that on Monday, April 3, 1876, he found in his safe only $211.46, the balance, $4,017, having been stolen by Chandler, who afterwards returned $290.50; leaving the amount actually lost by Major Maynadier $3,726.50.

"The following tabular statement will show more briefly the exact state of the case:

Amount shown as on hand by statement of April 1, 1876	$4,081 11
Amount received in March, 1876, but not reported until May (effects of deceased soldier)	147 35
True amount for which Major Maynadier was responsible	4,228 46
Amount found in safe after burglary	211 46
Total amount stolen	4,017 00
Amount returned by Chandler upon his arrest	290 50
Amount actually lost	3,726 50

"Under instructions of the Paymaster-General, Major Maynadier has refunded the amount lost, but so far as the board can ascertain it believes Major Maynadier exercised due care in the keeping of the public money intrusted to him, and therefore recommends that he be relieved from responsibility for the loss of the $3,726.50, and that this amount, increased by the $100 paid by Major Maynadier for the arrest of Chandler, making a total of $3,826.50, be restored to Maj. W. M. Maynadier, paymaster, United States Army.

"There being no further business before it, the board adjourned *sine die*.

"RODNEY SMITH,
"*Major and Paymaster, U. S. A., President.*
"C. A. REYNOLDS,
"*Major and Quartermaster, U. S. A., Member.*

"JOHN SIMPSON,
Captain and Assistant Quartermaster, U. S. A., Recorder."

The finding of the court of inquiry is approved by the commanding general Department of Arizona and the Paymaster-General of the Army.

Upon these facts your committee believe that Maynadier is entitled to relief. Therefore Senate bill No. 254 is reported back with recommendation that it pass.

The committee, therefore, adopt said Senate report as the report of this committee, and report the accompanying bill for his relief, with recommendation that it pass.

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

THOMAS J. MILLER.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 421) for the relief of Thomas J. Miller, of Washington Territory. It proposes to direct the Secretary of War to examine into and ascertain the loss and damage sustained by Thomas J. Miller, a citizen of Washington Territory, by the seizure and sinking of his ferry-boat on the Columbia River by the armed forces of the United States, for the purpose of preventing the same being used by the hostile Indians during the late Bannock war in that Territory, in or about the month of July, 1878. The sum of $500 is appropriated to enable the Secretary of War to adjust and, the accounting officers of the Treasury to pay the amount of the loss and damage so allowed.

Mr. COCKRELL. Let the report be read.

The PRESIDING OFFICER (Mr. HARRIS in the chair). There is no report accompanying the bill, the Chair is informed by the Secretary.

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

MARTHA VAUGHN AND LOUISA JACKMAN.

The bill (S. 36) for the relief of Mrs. Martha Vaughn and Mrs. Louisa Jackman was considered as in Committee of the Whole. It provides for the payment to Mrs. Martha Vaughn of $2,500, and to the legal representatives of Mrs. Louisa Jackman of $2,500, for patriotic services, hazards, and losses incurred by Martha Vaughn and Louisa Jackman in conveying information of great value to the Union officers in the State of Kentucky in March, 1863.

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

Mr. CONGER. The title should be amended to correspond with the bill by inserting "the legal representatives of" before "Mrs. Louisa Jackman."

The PRESIDING OFFICER. If there be no objection, the title will be so amended.

CHARLES P. CHOUTEAU.

The bill (S. 371) for the relief of Charles P. Chouteau was considered as in Committee of the Whole.

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

That the Court of Claims be authorized to grant a rehearing in the case of Charles P. Chouteau, surviving partner of Chouteau, Harrison & Valle, and William A. Steele, against the United States, with jurisdiction to hear and determine the amount, if any, due under the contract for the construction of the iron-clad vessel Etlah, by reason of the delays occasioned in such construction by the acts of the Government beyond the period specified in the contract or for extras beyond what was provided therein. If upon such rehearing a receipt dated April 24, 1866, shall be given in evidence, the court may give judgment for such sum as shall be justly and equitably due notwithstanding such receipt.

Mr. GARLAND. What is the cause for the rehearing?

Mr. HOAR. Perhaps it will be more convenient to the Senate, instead of having the report read at length, to have me answer the Senator's question in the first place.

This is one of a pretty large number of contracts which were made by the United States early in the war for building iron-clad vessels. The style of vessels was almost wholly unknown in the experience of mankind, and entirely unknown in the experience of the United States until that time; and the process of construction was itself a constant process of invention, constant changes and improvements being made by the United States and the builders as the building went along. The United States reserved in the contract a right to order any changes whatever in the size, shape, or construction of the vessel or its engines or motive power, and further reserved the right, if the contractor did not carry out his contract, to take possession of his manufacturing establishment under the military power and complete the work itself.

In the course of the execution of this contract by the contractors the United States made several very large changes. It was as if a man who had contracted originally to build a one-story cottage for the habitation of a man and his wife without children had had the contract changed as it went along into a New York city hotel, almost. That is a little exaggerated illustration, but not much.

These contractors were compelled not only to perform all this extra work occasioned by the new inventions and ideas that came into the heads of the engineers and draughtsmen in the Navy Department, but they were compelled to delay very largely for a long time the completion of the work by reason of these acts of the United States solely, and that was at a time when labor and material were fluctuating in price and increasing in price with the rapid fluctuations of the value of currency in its proportion to gold at that period of the war.

The contractors had a right, which they exercised, to go into the Court of Claims to get two things: First, the price of the extra work the new work, which the United States was of course bound to pay, the changes and additions to the work; second, for the loss or injury which was caused them in the execution of so much of the work as was embraced and included in the original contract by reason of the enforced delay, without their fault but in pursuance of the exertion of its right by the United States, in the time of completing the contract. These parties went into the Court of Claims, and just at the close of the trial they were met by a receipt acknowledging payment for their contract price and their extra work. They had given authority to a New York banker to receive the payment of the money as it fell due; and when the final payment fell due they gave the receipt which was brought forward in the Court of Claims, and which was held by that court to cut off this particular claim for the increase of material and labor in the original work.

It appeared that the authority given to the New York banker had been merely an authority to receive the money as it was paid, without any thought on the part of the contractors that they were authorizing an agent to cut off the rest of their claim; and it was accepted by the agent of the United States without any expectation on his part that he was cutting off these contractors from an opportunity to have in some proper place this claim which I mention enforced. This bill authorizes these contractors to go into the Court of Claims and to have the case considered notwithstanding that receipt. When the receipt was produced, which was at the close of the trial, the counsel for the contractors was so confident that it did not cut off this portion of the claim that he went on with his case. Instead of asking time either to come to Congress for relief before a decree, or to show that the New York person was not duly authorized to give a receipt in that form, or to have some equitable process for revising it or whatever he might be advised to do, he went on with his case, and the court held, as I said, that the receipt cut off this claim.

There have been a considerable number of like cases in which Congress has granted the relief which these parties ask in this case; that is, that the Court of Claims may rehear it and determine it on its substantial justice notwithstanding this receipt.

Mr. COCKRELL. This claim passed at the last session of Congress.

Mr. HOAR. This claim passed the Senate, I think unanimously, but at any rate after a statement like the one I am making now.

Without questioning the policy of strictly holding parties to the limitation provided by law and of strictly holding parties to abide on their part the judgment of this court which we have provided against them, it seemed to the committee that this was a peculiar class of case where those principles should not be rigidly enforced. It was in substance a contract by these contractors with the United States to do in the business which they were engaged in just what the Government should order, and they were exposing themselves to this risk of the constant change of plan and great delay in the execution of the work. As I said, in all the cases which are of that kind that have been before the Senate for its action the Senate has done what is here proposed. There were four of these vessels—the Senator from Missouri perhaps can correct me if I state the facts wrong—and the constructors of the others have had a similar relief to this which is asked. This is the last of that class.

There is another case which is a good deal like this in some of its essential characteristics, where the committee at the present session have denied the party relief like this. It seemed to be distinguishable—it is not necessary to go into that—but the committee were very doubtful about that, and after one adverse report they gave special direction to have a hearing of the counsel of the contracting party before they should finally report on the case; but with that exception I believe this is the last of that class of cases.

There is a case in England, to which my attention was called, where the English Government made a similar contract and where the party came in and simply said he had lost £40,000 by the contract for one of their government vessels, and the board of admiralty ordered to be paid the actual sum, of their own motion, notwithstanding the contract.

Mr. GARLAND. I would ask the Senator before he takes his seat if the facts show that the claimants made a motion for a new trial? It seems that this receipt they encountered on the trial was a matter of surprise.

Mr. HOAR. They did not; and whether they could upon a new trial have satisfied the court that the New York agent had not authority as between them and the United States to receive the money and sign this receipt, I am not sure.

Mr. GARLAND. I would ask another question. What is the showing of facts here that they can possibly overcome or avoid that receipt in any way on another trial?

Mr. HOAR. This statute leaves to the Court of Claims the power to deal with the question on its merits according to substantial justice.

Mr. GARLAND. I am not opposing the theory of the bill, for I have generally liberal views on such subjects.

Mr. HOAR. I suppose the Court of Claims would say on the facts which were before the committee that here was a receipt on a written contract entered into by both parties to it, given unadvisedly, and it would be the exercise of what in ordinary courts of equity would be the power to reform a written contract which does not express the true intent of the parties.

Mr. GARLAND. Was an appeal taken by the claimants to the Supreme Court?

Mr. HOAR. I think an appeal was taken in this case to the Supreme Court. It was in one of the cases, and I think in this, and the decision of the Court of Claims affirmed.

Mr. GARLAND. I have no particular objection to the bill; but I would suggest, as the general act organizing the Court of Claims does not give the right of appeal in all cases, that a provision should be here inserted that there shall be a right of appeal to both parties as in other cases.

Mr. HOAR. Very well; I have no objection to that.

The PRESIDING OFFICER. Will the Senator from Arkansas suggest where that amendment shall come in?

Mr. GARLAND. At the end of the bill.

Mr. HOAR. I am quite sure, with my knowledge of the opinions of the authorities now representing the United States Government, there would be no appeal against the claimant, so that the insertion of the clause would be in favor of the claimant. Still there is no harm in reserving the power.

Mr. GARLAND. At the end of the bill I move to insert "with the right of appeal as in other cases to the Supreme Court of the United States."

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

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

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

MONEY ADVANCED BY GEORGIA.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 595) to repay the State of Georgia $27,175.50, money advanced by said State for the defense of her frontiers against the Indians from 1795 to 1818, and not heretofore repaid.

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

That the Secretary of the Treasury is hereby authorized and directed to audit the claims of the State of Georgia for moneys advanced by said State to pay troops ordered into service for the defense of her frontiers against the Indians from 1795 to 1818, inclusive, and not heretofore repaid to said State; and to pay to said State such sum, not exceeding $22,567.42, as he shall find due and unpaid, out of any moneys in the Treasury not otherwise appropriated: *Provided*, That if there be any sums of money due or owing to the United States by the State of Georgia, whatever amount, if any, may be found due under the provisions of this act to the State of Georgia shall be credited to that State, and the balance only shall be paid by the State of Georgia or the United States, as shall appear by the striking of a balance to be due from the one party or the other.

Mr. BROWN. Mr. President, I move to strike out the proviso reported by the committee.

This is the case really: A former comptroller of the Treasury, in making up the accounts between the Government of the United States and the different States, charged each Southern State with what is known as the war tax. The State of Georgia never has assumed that war tax as a debt of the State. I do not think the people of the United States intend that it shall be so; but if they determine to collect it, then let Congress pass a bill ordering that it shall be collected, and there is no doubt that the State of Georgia will assume, for her citizens, the debt and pay it; but we do not think it ought to be disposed of in this way. Here are amounts of money that the committee admit are due to the State of Georgia, and the proposition is to pay it back. Now,

we protest that the war tax ought not to be charged against the State of Georgia until the like treatment is in store for all the Southern States. We ought to be treated alike on the question, and it seems to me that in this case, as in cases heretofore, the amount due the State should be paid out of the Treasury. When the Government of the United States desires the war tax paid by all the Southern States, then let it say so, and Georgia will assume it and pay it, and not have it collected by a tax on the lands of her citizens. Our Legislature in 1866, if I recollect correctly, passed a resolution, supposing it would have to be paid, proposing to the United States Government to assume it as a debt and pay it; but the proposition was never agreed to by Congress or any one having authority as an officer of the United States and it was not assumed as a debt of the State, and it certainly is not now a debt of the State. We are ready to assume it if it has to be paid, but we do not want the charge to be made in this way, as all the States should be treated alike.

I believe there are two or three cases where there have been amounts awarded to the State of Georgia since the war on previous claims, one in reference to the Western and Atlantic Railroad that occurred after the war. These have not been credited, nor was this question raised until it was raised on a small appropriation made at the last session to pay a debt due the State of Georgia. I trust there will be no objection to striking out this proviso and permitting the claim to be paid as others have been, and let the question as to the war tax be settled hereafter.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from Georgia [Mr. BROWN] to the amendment of the Committee on Claims. The amendment proposed by the Senator from Georgia will be read.

The CHIEF CLERK. It is proposed to strike out, beginning in line 12, the following proviso:

Provided, That if there be any sums of money due or owing to the United States by the State of Georgia, whatever amount, if any, may be found due under the provisions of this act to the State of Georgia shall be credited to that State, and the balance only shall be paid by the State of Georgia or the United States, as shall appear by the striking of a balance to be due from the one party or the other.

Mr. CAMERON, of Wisconsin. I do not know and the committee did not know whether there is any war debt due from the State of Georgia to the United States or not. I do not think that the war tax, as it is called, unless it has been assumed by the State of Georgia, is a debt due from the State to the United States. It is true that a certain amount of war tax was assigned to the State of Georgia by the General Government, but that did not make it a debt due from the State. It was a tax which might have been levied upon and collected from the citizens or the property of the citizens of the State, but was not a debt due from the State, so that if the State of Georgia has not assumed the war tax, so called, I take it that this amount can not be offset as against that tax or any portion of that tax. But if there be a debt now due by the State of Georgia to the United States, I think the Senator from Georgia will agree that this amount ought to be offset against that debt.

Mr. BROWN. The Senator will permit me a moment. I will state that I do agree with him fully on that, if there is any such debt. If instead of striking out the proviso we should make this amendment in line 14, after the word "Georgia," to add "other than the war tax;" so as to read, "provided that if there be any sums of money due or owing to the United States by the State of Georgia other than the war tax, whatever amount, if any," &c., it would be satisfactory.

Mr. CAMERON, of Wisconsin. If the Senator from Georgia thinks that is necessary I shall not object to it.

Mr. BROWN. I do, for this reason: you admit that the war tax is not a debt against the State of Georgia, but there was a small amount appropriated at the last session of Congress in payment for a claim of the State of Georgia; but the Comptroller of the Treasury has refused to pay it, because he finds that the war tax by a predecessor of his is charged on the books against Georgia, and the amount is now withheld on that very question. That is the reason I suggest the amendment, which will stand as the sense of the Senate. I wish the Comptroller of the Treasury to know that the Senate decides that the direct tax, known as the war tax, is not a debt of any State which has not assumed it I am sure the Senator is right that there is no debt due by the State of Georgia, as a corporate body or a State, to the United States. I admit the United States does have the right to go into Georgia and levy and collect a direct tax; and whenever it is the policy of the United States to do so, the State of Georgia will assume it for her citizens and pay it.

Probably the last amendment would better suit the views of the Senator. If there is anything other than the war tax due by the State let it be included in the settlement.

Mr. MORGAN. The Senator from Wisconsin is clearly right that there is no debt against any Southern State in consequence of the direct tax assessed on the people of the State during the war; but the Treasury Department has not so construed the law. There is a fund, I know, coming to the State of Alabama on two accounts, one on account of arms and munitions of war under the militia act, another on account of proceeds of the sales of public lands, 5 per cent. of the proceeds of sales of public lands, which we thought we were entitled to receive from the Government, but on application made the Comptroller of the Treasury, taking the ground suggested by the Senator from Georgia, insists that the State of Alabama is indebted to the Government upon the war tax, and placed this fund as it accumulates in the Treasury from sales of the public lands to the credit of the war debt.

I should be very glad, indeed, to have some declaration by Congress which would reverse the decision of the Treasury Department. The Comptroller of the Treasury feels himself, I believe, obligated to follow out the decision made by his predecessor upon this question. There seems to be no rule there but *stare decisis*—if you make a wrong decision it is better to stick to it; that is the rule in the Treasury Department.

I should be very glad indeed if we could get some general expression from Senators here in regard to this very plain and palpable proposition that there is no debt against these States until they have assumed it, and I take it for granted that the Government of the United States will not undertake to compel the States of the South to assume that debt. I do not care to go into the argument of it now by any means, but I hope that the amendment that the Senator from Georgia wishes to put in the proviso will prevail.

The PRESIDING OFFICER. Does the Chair understand the Senator from Georgia as modifying his first amendment?

Mr. BROWN. At the suggestion of the Senator from Wisconsin I will propose my amendment after the word "any," at the end of line 14, instead of after "Georgia," in line 14.

The PRESIDING OFFICER. The amendment as modified by the Senator from Georgia will be read.

The CHIEF CLERK. At the end of line 14, after the word "any," it is proposed to insert "other than the war tax;" so as to read:

Provided, That if there be any sums of money due or owing to the United States by the State of Georgia, whatever amount, if any, other than the war tax, may be found due under the provisions of this act to the State of Georgia shall be credited to that State, and the balance only shall be paid by the State of Georgia or the United States as shall appear by the striking of a balance to be due from the one party or the other.

Mr. COCKRELL. I suggest to the Senator from Georgia, would it not be better to say "the direct tax?" That is the way it is known in legislation.

Mr. BROWN. That would be better probably.

Mr. HOAR. I think I would put it in a different way, if the Senator pleases—at the end of the proviso the words "that not being herein intended to include any tax assessed against said State not assumed by the State;" because if you speak of a debt other than war tax it is an implication that you consider the war tax a debt.

Mr. BROWN. The Senator is right. I accept the amendment proposed by the Senator from Massachusetts as better than that I proposed, and I prefer his language.

Mr. CAMERON, of Wisconsin. The Senator from Massachusetts will state his amendment.

The PRESIDING OFFICER. The Senator from Massachusetts will please submit to the Secretary the exact phraseology of his amendment.

Mr. HOAR. I propose to add to the amendment:

The above provision not being intended to include any direct tax which has not been assumed by said State.

Mr. BROWN. That is correct; I accept that.

The PRESIDING OFFICER. The question is on this amendment to the amendment reported by the Committee on Claims.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

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

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

Mr. BROWN. The title ought to be amended. We did not make good the whole claim. We only make good $22,567.42.

The PRESIDING OFFICER. If there be no objection, the title will be modified to conform to the provisions of the bill as to the amount, and as so modified the title will stand.

THOMAS JONES.

The bill (S. 273) for the relief of the estate of Thomas Jones, deceased, was considered as in Committee of the Whole.

The bill was reported from the Committee on Claims with amendments: In line 7, after the words "sum of," to strike out "$18,007.79" and insert "$9,000;" and in line 9, after the word "for," to strike out "1,800,779" and insert "a quantity of;" so as to make the bill read:

That the Secretary of the Treasury be, and he is hereby, authorized and directed, out of any money in the Treasury not otherwise appropriated, to pay to W. W. McDowell, as administrator of the estate of Thomas Jones, deceased, late of Memphis, Tenn., the sum of $9,000, the same being in full for a quantity of brick taken from said Thomas Jones, at or near the city of Memphis, in the year 1862, by order of Maj. Gen. W. T. Sherman, and used in the construction of magazines, quarters, and for general camp purposes.

The amendments were agreed to.

Mr. CULLOM. Is there any written report in this case?

The PRESIDING OFFICER. There is.

Mr. CULLOM. Let it be read. This involves a large sum of money.

The PRESIDING OFFICER. The report will be read.

The Chief Clerk read the following report, submitted by Mr. GEORGE February 6, 1884:

The Committee on Claims, to whom was referred the claim of the administrator of Thomas Jones, deceased, beg leave to submit the following report:

The claim was fully considered by the committee at the last Congress, and a report made recommending that the sum of $9,000 be allowed the claimant. This report we now adopt.

"[Report to accompany bill S. 1448.]

"The Committee on Claims, to whom was referred the bill (S. 1448) for the relief of the estate of Thomas Jones, deceased, have considered the same, and respectfully report:

"Thomas Jones, the intestate of the claimant, was a citizen of Memphis, Tenn., in 1862, when the Federal forces took possession of that city. The proof is conclusive that he was throughout the war loyal to the United States.

"He was the owner of a large number of brick, then in kiln. These brick were needed by the United States for building magazines, cisterns, fortifications, and chimneys of the barracks and hospitals. A large number were taken for this purpose and so used. What the exact number was it is impossible now to ascertain. This claim is for 1,800,779, and there is the proof of three or four witnesses, certified to be reputable, to the amount.

"J. C. Dougherty, special agent of the Quartermaster's Department, was sent to Memphis in 1873 to examine the claim. After a thorough examination, he reported that the number taken was equal to the number claimed. He reported, however, that it was impossible to estimate how many of those bricks were taken by the Quartermaster's Department and how many by the engineers. On this ground the Quartermaster's Department refused to allow any part of the claim, recommending application to Congress.

"The mistake of Jones, in his lifetime, was always to apply to the Quartermaster's Department and not to the engineers. He applied to General Sherman at the time, who it appears indorsed on his application that the claim could not be paid till the end of the war, like all other claims, according to the circumstances of each case.

"There is proof of the sale of these brick by the Quartermaster's Department after the war, and there is also proof tending to show that they were less in number than the amount claimed and reported to be correct by Dougherty. It is impossible now to fix the exact number. It appears, on the whole, that 1,500,000 would not be far from right, and is most probably the nearest approximation that can now be made to justice. This claim is for $10 per thousand. We think this charge too high. It appears that Jones gave $6 per thousand for them. We therefore recommend that he be paid that price for 1,500,000—say $9,000, and we recommend the passage of the bill amended so as to allow that much."

The bill claims $18,007.79.

We recommend that the bill pass, after being amended as follows:

Strike out in lines 7 and 8 the words "eighteen thousand and seven dollars and seventy-nine cents," and insert in lieu thereof "nine thousand dollars," strike out in lines 8, 9, and 10 "one million eight hundred thousand seven hundred and seventy-nine," and insert a "quantity of."

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

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

SALARIES OF ARMY CHAPLAINS.

The bill (S. 469) to increase the salaries and pay of the chaplains in the Army was announced as next in order.

Mr. COCKRELL. There is an adverse report in that case.

Mr. HARRISON. I suggest to the Senator from Missouri whether it would not be just as well to move to indefinitely postpone the bill and get it off the Calendar.

Mr. ALLISON. I hope that will be done. I move that the bill be indefinitely postponed.

The PRESIDING OFFICER. Does the Chair understand the Senator from Missouri to object to the present consideration of the bill?

Mr. COCKRELL. No; I do not object.

The PRESIDING OFFICER. The Senator from Iowa moves that the bill be indefinitely postponed.

The motion was agreed to.

JOHN M. ROBESON.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 372) for the relief of Frances A. Robinson, administratrix of the estate of John M. Robinson.

The bill was reported from the Committee on Claims with amendments, in line 6 before the word "thousand" to strike out "three" and insert "one," and at the end of the bill to add the following proviso:

Provided, That the said sum be paid to the legal representatives of said John M. Robinson.

So as to make the bill read:

That the Secretary of the Treasury be, and hereby is, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Frances A. Robinson, administratrix of John M. Robinson, deceased, the sum of $1,000, which will be in full satisfaction of all claims of said administratrix and of said estate against the United States: *Provided*, That the said sum be paid to the legal representative of the said John M. Robinson.

The amendment was agreed to.

Mr. ALLISON. I should like to hear the report read.

The Secretary read the following report, submitted by Mr. PIKE February 6, 1884:

The Committee on Claims, to whom was referred the petition of Frances A. Robinson, administratrix of John M. Robinson, late of Independence, State of Missouri, deceased, together with Senate bill No. 372, having had the same under consideration, ask to submit the following report:

The petitioner avers in her petition that she is the widow and administratrix of John M. Robinson, deceased; that, for some time previous to the war of the rebellion, and at the commencement thereof, said John M. Robinson resided in the city of Independence, in the State of Missouri; that he was the owner of a foundery situated in that city; that such foundery was at the beginning of the late war completely furnished with all the machinery, fixtures, and appurtenances necessary for its operation, and was operated by said Robinson until he was compelled to close it or cast cannon-shot for the rebels; that he refused to submit to this latter alternative, and being loyal to the Government of the United States, he closed his foundery, and became a soldier in the Fifth Regiment of Missouri State Militia, commanded by Col. William R. Pennick, which regiment was mustered into the service of the United States; that while he was serving as a soldier in this regiment said Col. William R. Pennick took possession of his said foundery, and used it as a cavalry-yard for the horses of his regiment, and used the tools and iron for shoeing the said horses; that all the machinery, fixtures, patterns, &c., in said foundery were removed or destroyed by the soldiers under command of said officer, and were wholly lost to their owner; that he, John M. Robinson, used every possible effort to prevent this destruction of his property, but without avail; and that the property thus destroyed or carried away was worth from $17,000 to $20,000.

These are substantially the statements contained in the petition. Numerous affidavits are on file. It appears from them that the said John M. Robinson was the owner of a foundery located in Independence, in the State of Missouri; that he was operating the same at the commencement of the war; that he and his widow, the petitioner and his administratrix, were loyal to the Government of the United States; that he refused when requested to aid the rebellion, became a soldier, enlisted in the Fifth Regiment of the Missouri State Militia, commanded by Col. William R. Pennick; that the said Colonel Pennick, as commander of said regiment, and serving under the United States Government, late in the fall of 1862, or the first of the winter of 1862-'63, took possession of said foundery, and used it as a cavalry-yard for the horses of his regiment from that time until 1863; that the blacksmith tools found therein and some wrought-iron, belonging to the said Robinson, were used for shoeing the horses of said command; and that a lot of seasoned lumber in said foundery, the property of the said Robinson, was also used by the said regiment in making bunks for the soldiers and in repairing wagons for the command.

It appears from several affidavits in the case that there were in the building at the time it was seized by Colonel Pennick the following items of personal property, with the following estimates of value of each article:

1 engine and boiler	$2,500
1 large iron lathe	1,200
1 medium iron lathe	920
2 small iron lathes, $500 and $350	850
1 iron planer	700
1 screw-cutter	150
1 power-drill	175
1 full set machinist's tools	350
1 full set foundery patterns	4,250
1 lot foundery flasks	950
3 new engines	3,050
5 tons wrought iron, new	500
1 lot machinery belts	350
Machinery for wood shop	750
Lot of unfinished work	650
Lot of seasoned lumber	450
3 full sets smith's tools	425
Making a total of	18,220

Of the articles enumerated in the above list, alleged to have been used or destroyed by Colonel Pennick's military command, there are but a few which could have been legitimately and properly used for the benefit of the soldiers or to supply the necessary wants of the regiment. The five tons of wrought-iron were used in shoeing the horses of the command. The item "sets of smith's tools" were used for the same purpose. The lot of seasoned lumber was used for making bunks for the soldiers and in repairing the wagons of the regiment. The other articles mentioned in the above bill were not in any sense necessary to nor could they have been used by the regiment, and if destroyed by the troops, the destruction must have been wanton; and it is well settled by numerous precedents that the Government is not liable to pay for property wantonly destroyed.

Except as to the wrought-iron, the proof is indefinite and unsatisfactory. The testimony is silent as to the quantity, kind, or quality of the "lot of seasoned lumber."

The committee recommend the allowance of the following sums:

For 5 tons of wrought iron	$500 00
For lot seasoned lumber	200 00
For 3 sets smith's tools	300 00
Making	1,000 00

By the law of the United States, and the construction put upon it by the court, the committee understand that they can not allow anything for the rent of real estate in the absence of a contract therefor; there was no contract in this case. (Act of July 4, 1864, 13 Stats. at Large, 581; Filor *vs.* United States, 9 Wallace, 45.)

The committee recommend that the bill be amended so as to provide for the payment of $1,000 in full satisfaction of all claims, and when so amended that it pass.

No evidence has been furnished the committee that the claimant is administratrix, and the payment of the claim be made to the legal representatives of the said John M. Robinson, as provided by amendment.

Mr. COCKRELL. I desire to amend the name wherever it appears by striking out "in" in "Robinson" and inserting "e," making it "Robeson" instead of "Robinson."

The PRESIDING OFFICER. If there be no objection that amendment will be made wherever the name appears.

Mr. COCKRELL. Both in the title and in the body of the bill.

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

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

On motion of Mr. PIKE, the title was amended so as to read: "A bill for the relief of the legal representative of Francis A. Robeson."

CHINESE IMMIGRATION.

The bill (S. 791) to amend an act entitled "An act to execute certain treaty stipulations relating to Chinese," approved May 6, 1882, was announced as next in order on the Calendar.

Mr. WILSON. That bill is too important, in my judgment, to be considered under this rule and with five minutes' debate. I therefore object to its consideration.

The PRESIDING OFFICER. Being objected to, the bill goes over.

JOHN HATFIELD.

The bill (S. 295) for the relief of Alfred G. Hatfield, was consideredas in Committee of the Whole. It proposes to pay to Alfred G. Hatfield,

the legal representative of John Hatfield, deceased, late veterinary surgeon of the Thirteenth Pennsylvania Cavalry, $675, in full for services, as veterinary surgeon for that regiment for nine months, at $75 per month.

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

FRANCIS GUILBEAU.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 520) for the relief of Francis Guilbeau.

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

The PRESIDING OFFICER. The first amendment reported by the Committee on Claims will be stated.

Mr. CULLOM. I think we ought to have the report read.

Mr. MAXEY. Let us get through with the amendments first.

Mr. SHERMAN. I think the report had better be read before the amendments are acted upon.

Mr. MAXEY. Very well.

The PRESIDING OFFICER. The Secretary will read the report of the committee.

The CHIEF CLERK read the following report, submitted by Mr. CAMERON, of Wisconsin, February 6, 1884:

The Committee on Claims, to whom was referred the bill (S. 520) for the relief of Francis Guilbeau, report thereon as follows:

This claim is for the rent of certain buildings in San Antonio and Galveston, Tex., in the years 1865 and 1866, amounting to $3,701.67.

The loyalty of the claimant is proven conclusively.

The occupation of the buildings by officers of the United States Government for legitimate and necessary Army purposes is clearly proven, and contracts were entered into by which the claimant was to receive a reasonable rental.

The demand for rent for the buildings in San Antonio was declared reasonable by a board of survey, consisting of officers of the Army. The claim was presented to the proper officers of the Treasury, but was rejected on the ground that the location of the buildings was in a State lately in rebellion, and they were prohibited by law from paying it. It was also presented to the Southern Claims Commission, and was rejected for want of jurisdiction.

It appears from the certificate of Capt. Henry S. Clubb, assistant quartermaster and district quartermaster, that the United States Government rented a ten-room building in San Antonio of Mr. Guilbeau, on the 24th day of August, 1865, and returned possession of it to him on the 10th of December, 1865. It also appears that a board of survey, convened June 6, 1866, recommended that a rent be paid for the use of the same by the United States Government.

It appears from the proceedings of a board of survey, composed of Army officers, convened on the 28th of August, 1866, that a rent of $400 per month was not "too much" for the use of the storehouse then rented by Guilbeau to the Government.

An affidavit of A. Fretelliere shows that he, as agent of Guilbeau, agreed with Capt. Henry S. Clubb, assistant quartermaster, that he (Fretelliere) was to receive $400 per month, or $4,000 per annum, for the rent of the above-mentioned store building.

A letter from General S. K. Mizner shows that a dwelling-house of Guilbeau was occupied for military purposes by officers of the United States Army on the 12th of October, 1865, "with a perfect understanding that a proper rent should be paid" by the United States Government.

A certificate from General S. P. Heintzelman shows that the dwelling of Guilbeau was used as headquarters by General Shaw, and afterward by himself in like manner, and that Guilbeau was to receive $150 per month rent for the same; and that the building was thus occupied from the 9th day of May, 1866, to the 31st day of August of the same year.

An affidavit of A. Fretelliere, agent of Guilbeau, shows that the dwelling was occupied on the 12th day of October, 1865, and from that time until the 1st day of September, 1866; that $100 per month was the rent agreed upon from October 12, 1865, to January 1, 1866, and from that day he was to receive $150 per month.

An affidavit of James P. Nash, agent for Guilbeau, shows that the building known as Guilbeau's building, situated on lot No. 10, block No. 680, in Galveston, was occupied for Army purposes by Captain Atwood, assistant quartermaster, on the 19th day of June, 1865, and continued to be occupied until the 28th day of August, 1865, and it was agreed that he was to be paid punctually by the Government. He states further that he never received any rent from the Government for the use of the building, and that the rent charged the Government was but little more than half the sum he received for it immediately after the vacation of the same by the Government.

The affidavits of Messrs. William M. Varmell and James A. McKee show that Guilbeau was loyal to the United States Government during the war, and that he was compelled to leave his home in San Antonio because of his loyalty.

Your committee are of opinion that $2,600 would be a fair compensation to make to claimant.

Claimant died since the former reports were made on the claim, and we recommend that the bill be amended so as to make the amount payable to the legal representatives of Francis Guilbeau, deceased, and when so amended that the bill do pass.

The bill was reported from the Committee on Claims with amendments, in line 5, after the words "paid to," to insert "the legal representatives of;" in line 6, after the word "Gilbeau," to insert "deceased," and to strike out the words "upon his lodging with the proper officer of the Quartermaster's Department his receipt;" in line 7, after the words "in full of," to strike out "his;" and in line 8, after the word "houses," to insert "belonging to the said Gilbeau;" so as to make the bill read:

Be it enacted, &c., That the sum of $2,600 is appropriated, out of any moneys in the Treasury not otherwise appropriated, to be paid to the legal representatives of Francis Gilbeau, deceased, in full of claims against the United States for the rent of houses belonging to said Gilbeau, and all damages to the same, in Galveston and San Antonio, Tex., during the years 1865 and 1866.

The amendments were agreed to.

Mr. MAXEY. There is a clerical error in the spelling of the name "Gilbeau." It should be "Guilbeau." I ask that the letter "u" be put in.

The PRESIDING OFFICER. If there be no objection, the bill will be so amended wherever the name occurs.

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

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

On motion of Mr. MAXEY, the title was amended so as to read: "A bill for the relief of the legal representatives of Francis Guilbeau."

WAR TAX OF 1861.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, being the educational bill.

Mr. PLUMB. I desire unanimous consent to offer a resolution, and ask for its immediate consideration.

Mr. BLAIR. What is the resolution?

The PRESIDING OFFICER. The Secretary will report the resolution, if the Senator from New Hampshire will permit.

Mr. BLAIR. Certainly; for information.

The resolution was read, as follows:

Resolved, That the Secretary of the Treasury be directed to advise the Senate what amount of the war tax of 1861 is due and unpaid, from what States or from the citizens of what States due, whether any portion of said tax, and, if so, what portion, has been paid by withholding money due to any State or States from the General Government, and whether the rule adopted in withholding such money has been applied alike to all the States.

The PRESIDING OFFICER. The Senator from Kansas asks the unanimous consent of the Senate to consider at this time the resolution just read. Is there objection?

Mr. BLAIR. I object.

The PRESIDING OFFICER. There is objection, and the resolution goes over.

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 motion of Mr. PLUMB to recommit the bill to the Committee on Education and Labor.

Mr. HAMPTON, Mr. President, it has been a source of peculiar gratification to me and doubtless to our constituents that my colleague [Mr. BUTLER] and myself have with singular uniformity acted in perfect accord on all the grave questions which have come before this body. It is therefore with sincere regret that I find myself in opposition to him on a measure which I regard as of vital consequence to the best interests of our common State. In all that he has said of the pluck, the energy, the manhood of that State, of her wonderful recuperative powers, of her earnest efforts in the cause of education, and of the extraordinary results she has achieved under the most disheartening conditions, I agree most fully. He could use no expressions in reference to our State too laudatory to find a responsive echo in my heart, for that, like his, clings to the land of our nativity with a loyalty and a devotion that have not known and never can know change. I know as well as any one what my State has accomplished under the most adverse circumstances, and no one can feel a higher pride than myself in the heroic courage, the sublime fortitude, the silent patience, and the unshaken faith she has manifested under trials such as few States have been subjected to. I know, too, the great recuperative energies of my fellow-citizens, and I look back with unalloyed pride to that time when they rallied to the call of their prostrate State, and, rescuing her from the ruthless hands that were throttling her to death, placed her once again where she of right belongs, amid the great sisterhood of free and sovereign States. Knowing all this, I sympathize fully with the ringing words of my colleague as he recited the marvelous story of her redemption, of her great resources, of her wonderful development, of the bright future in store for her, and of her praiseworthy efforts in the cause of public education. Strongly as he dwelt on this latter theme, he omitted some points of great consequence, and I wish to supplement his argument by calling the attention of the Senate to them.

When the government of the State passed in 1877 into Democratic hands there was found to be a debt, known as the school indebtedness, of about $400,000. This was a heavy burden upon the State, but under the wise administration of the superintendent of public education, the present distinguished chief magistrate of the State, the debt was liquidated, though in paying it this large amount has been diverted from its legitimate purpose—that of promoting public education. The assessed value of property in South Carolina is about one hundred and thirty-eight millions at the present time. Prior to the war it was four hundred and ninety millions. The taxation on this latter valuation was about $400,000. The gross amount of the taxes levied in the State from 1851 to 1855 inclusive was $2,057,101. This levy was upon a basis of four hundred and ninety millions of property. In 1870 there was levied the enormous sum of $2,265,047, or $107,945 more than the aggregate taxation of the five years mentioned on double the amount of property assessed during that period. In 1872, if my memory serves me right, the tax assessed upon the people for State purposes exceeded $4,000,000. It is scarcely necessary for me to say that this taxation occurred during the carpet-bag régime in the State, when fraud, corruption, vice, and crime ran riot in the State, and these figures I have cited explain how South Carolina was brought to the verge of bank-

ruptcy before the State was rescued from the robber-band that had for so long a time despoiled her.

When the government changed hands in 1876 the finances and the credit and the resources of the State were in a lamentable condition, but, poor as were our people, they voted then for an amendment of the constitution levying a tax of 2 mills on the dollar for educational purposes, and this amendment was ratified in January, 1877. The poll-tax, which should amount, with our present population of a million, to nearly $200,000, is also set apart strictly for the same object. To these two sources of revenue for public schools must be added that of local taxation.

I have shown how desperate was the condition of the State in 1877, and I wish now to show how earnest have been her efforts for the promotion of education. The whole of the State tax is about $630,000, while the county taxes amount to about $800,000, in all not quite a million and a half. The taxes in aid of the public schools amount to rather more than $500,000, so that the school-tax amounts to more than one-third of all the taxes collected in the State.

Now it seems to me that my State has not been remiss in making provision for public education when she appropriates half a million of dollars for this purpose on property assessed at one hundred and thirty-eight millions. Let me call the attention of the Senate to another significant and striking fact. The expense of the State government, including interest on the public debt, is about $240,000; the expense of keeping up the public schools and charitable institutions amounts to nearly $600,000. In other words, our State appropriates largely more than twice as much for these purposes as she does for the whole expenses of her State government. These public schools, maintained at so heavy a cost, are open to all, and no distinction is made on account of race or color. May we not ask, then, if any State can show a better record on this question than South Carolina has made for herself under difficulties which might well have appalled the most sanguine and courageous heart?

The figures I have given prove what the State has done in the cause of education, and I desire to cite now an example of magnificent municipal aid in the same direction. The city of Charleston has a population of about 50,000; 23,000 white and 27,000 black. She appropriated $72,000 in addition to the funds raised by the State tax, and of this sum the blacks pay 3 per cent., though their children attend the schools in numbers equal to those of the whites. This city, devastated by fire and by the sword, robbed by unscrupulous plunderers in the recent past, pays for public education on a ratio one-third more than does the prosperous and classic city of Boston for its whole system of education, and it does this while pressed down by a debt of $5,000,000.

These facts are in the line of the able argument made by my colleague to prove that in the great race of educational progress our State has not been a laggard, and I cite them with just and honest pride. But these facts, so ably and eloquently presented by my colleague, have brought me to a conclusion directly opposite to that taken by himself. I doubt not that there are 250,000 children between the ages of 10 and 16 in our State requiring education, and this can not be given to them properly at a less cost annually than $5 per capita. This would involve an outlay of $1,250,000, and how is it possible for our State to raise this sum in her present exhausted condition? If the whites were to apply the 95 per cent. of the taxes paid by them to the education of their own race they might soon reduce the ratio of illiteracy, but the whole fund collected is applied to public education without discrimination as to race or color, and I would not have it otherwise. But surely in the face of these facts we are authorized to ask aid of the General Government in behalf of these people who were made citizens and adopted as wards by it.

Important as I deem this aid to be for the preservation of good government in the whole country I would not advocate this or any kindred measure that violated in my opinion the Constitution of the United States. Like my colleague, I have been trained in that school which teaches a strict construction of that instrument, and I have not yet learned to "camp outside of the Constitution" to subserve party ends or for the sake of expediency. I can not see that the bill under consideration is at all more open to objections on constitutional grounds than was the one introduced at a previous session by my distinguished friend and colleague, and a constitutional lawyer so able as himself, so jealous of any infractions of our great charter of liberty, would surely not present to this august body a measure violative of the provisions of the Constitution. I felt myself on safe ground, therefore, in following his lead when he, impelled by the pressing need of educating our people, invoked the aid of the General Government for this purpose. I occupy the same ground now, for the most careful and anxious reflection has brought me to the conclusion that the greatest danger threatening the permanency of our institutions comes from the frightful prevalence of illiteracy in our midst. The hands of those to whom the blessings of education have unfortunately been denied are potent for evil, and in my opinion no government has discharged its highest duty to its citizens that does not open the fountains of knowledge freely to all. There is more truth than poetry in the oft-quoted lines which declare that—

'Tis education forms the common mind;
Just as the twig is bent the tree's inclined.

And if we desire to form the minds of that generation which is so soon to take our places and to direct the destiny of this grand Republic, we must see to it that they are fitted to assume the high duties and the grave responsibilities that will fall upon them. We must legislate for our children if we do not wish to prove recreant to the noble trust committed to our keeping.

Actuated by these motives, I feel bound, as a citizen, as a Senator, as a patriot, to support the bill under consideration. It does not meet my approval in every detail, but I appreciate the difficulties that the committee who presented it had to meet, and I regard it as a step in the right direction. I shall not attempt to discuss its merits, for these have already been urged by abler tongues than my own, and they speak for themselves; but I wish to touch very briefly one or two points which have been brought out in this debate. Several Senators have twitted us of the South with not having put our own shoulders to the wheel while we call on the Federal Government for help, and others have expressed the fear that our State authorities would not apply the funds appropriated honestly. In refutation of the first charge I have given the figures to prove that it is unfounded so far as my own State is concerned, and I am sure that it is equally unfounded in reference to the whole South. The other and graver charge is too unworthy to be noticed, and I shall simply quote some testimony upon both of these points which should have weight before this body. Hon. J. H. Smart, superintendent of public instruction in Indiana, used the following language in an address delivered some time ago:

Now, I want to express the opinion that the Southern people are willing to do all they can to cure this great evil and remove this great wrong, and, so far as I have observed, the work that has been done, under existing circumstances, has been a marvelous work. The Southern people have made a heroic effort, certainly in three or four States that I have visited, to do the best that could be done for these colored people. I want to say that throughout the length and breadth of the Southern States, without one exception, the colored people are given the same advantages that the white people are given. No distinction whatever is made; and, so far as I was able to find out, there is an almost unanimous, certainly an overwhelming, sentiment in favor of educating the colored children equally with the white children. And I believe from what I saw that we are able to trust the existing State organizations represented by these gentlemen; we are able to trust them with whatever means we can appropriate, and I speak after some investigation and after deliberation.

Let me quote a few words from Rev. Dr. Mayo in reference to the same subject, than whom there is no higher authority on this continent. Said he:

Another matter has forced itself very constantly on my attention, which has been alluded to before, which is this: I am pretty well acquainted with the condition of education in our country and in other countries, and I have no hesitation in announcing to you, gentlemen, my conviction that never within ten years in the history of the world has an effort so great, so persistent, and so absolutely heroic been made by any people for the education of the children as by the leading class of the people in our Southern States.

Practically, within ten years every one of these Southern States has put on its statute book a system of public schools; practically, within this time every district of country in the South has received something that can be called a school. This school public, as we may call it, consisting of State officials, of school officers, of superior teachers, of thoughtful people all over the South, is to my mind the most forcible, the most persistent, the most devoted school public now in any part of the world. There is no body of superior teachers doing so much work for so little pay and under such great disadvantages as in the South to-day. There is no minority of people working so hard to overcome this terrible calamity of illiteracy anywhere in the world to-day as in the South. I give this as the deliberate result of two years of observation in twelve States.

* * * * * * *

We may say ideally and abstractly that the Southern people can give more than they do for education; but practically, looking at them as we look at every people in the world, I believe that the limit is reached.

Again he says:

One thing more, gentlemen. I am acquainted with the State superintendent of instruction, I believe, in every Southern State. I am acquainted with the State school board, I think, of every Southern State but two or three. I have studied with great care in the records of all those offices their methods of distribution of money. I believe there is no set of men in this country who are handling a moderate amount of money with greater economy, with greater fidelity than these gentlemen. It seems to me it would be a great mistake in distributing such funds as you give to put into each of these States a dual administration. If that should be done, I believe that at once $100,000 or $200,000 of money would be thrown away, virtually, for supervision. I believe if there is any set of men in his country that can be trusted to administer a fund of $10,000,000 or $15,000,000 in thirteen or fourteen States with fidelity it is the school authorities of those States, and therefore it seems to me that this money should go directly to the children through the accustomed channels, of course being guarded by all proper safeguards in the central power.

Mr. FRYE. Is that Dr. Mayo?

Mr. HAMPTON. It is Dr. Mayo.

Mr. BLAIR. The testimony is all that way from those who are acquainted with the situation.

Mr. HAMPTON. This is the evidence borne by able, devoted, impartial witnesses, who testify to the noble work already done by the South, and whose knowledge of our people, gained by close contact, impels them to express the utmost confidence not only in our sincerity but in our integrity. With such testimony in our favor, coming from such sources, we need repel no charges made here reflecting on the character of our people.

One word more, Mr. President, and I shall close. The Senator from Oregon in his remarks used this expression:

I merely state what I understand to be the fact, that the colored man in some portions of the South is practically denied the rights already conferred upon him by law.

I shall not be drawn into any controversy upon this vexed and irritating subject, and my only purpose in quoting his words is to call the attention of the Senate to the laws in South Carolina in reference to the civil rights of the colored people. These laws, it must be borne in mind, have been kept on the statute-books by a Legislature overwhelmingly Democratic, and I doubt if any State has more stringent provisions for the protection of its citizens.

In the General Statutes of South Carolina, at page 167, section 514, these words occur:

The several solicitors of this State are hereby specially charged with the prompt and rigorous prosecution of offenses against the civil rights of citizens; and every solicitor who shall fail in this respect in the performance of his duty shall be deemed to have committed a misfeasance in office, and, on conviction, shall forfeit his office, and be incapable of holding office for five years, and shall also pay a fine of $500; and in every case in which any solicitor shall fail in his duty the attorney-general shall make the most effective prosecution possible against him on behalf of the State; and neither any solicitor nor the attorney-general shall settle or enter a nol. pros. in any such case except by the consent of the court.

The law to which that section refers is found on page 730, chapter 109, headed "Offenses against civil rights," and is as follows:

SEC. 2601. It shall not be lawful for any common carriers, or any party or parties engaged in any business, calling, or pursuit, for the carrying on of which a license or charter is required by any law, municipal, State, or Federal, or by any public rule or regulations, whether such party or parties have obtained such license or charter, or failed or neglected to obtain the same, or for any party or parties keeping an inn, restaurant, or other place of accommodation or refreshment, whether a license or charter is required for the keeping of the same or otherwise, to discriminate between persons on account of race, color, or previous condition, who shall make lawful application for the benefit of such business, calling, or pursuit.

SEC. 2602. Any party so discriminating shall be considered as having violated this chapter, and, upon conviction, shall be punished by a fine of not more than $200, or imprisonment for not more than six months.

SEC. 2603. Every case arising under section 2601, and not provided for specifically in some succeeding section, shall be prosecuted and decided in accordance with the general provisions of this chapter.

SEC. 2604. Whoever, being a common carrier under any public license, charter, rule, or regulation, shall, by himself or another, willfully assign any special quarters or accommodations whatever to any passenger or person whom such common carrier may have undertaken to carry or who shall under any pretense deny or refuse to any person lawfully applying for the same accommodation equal in every respect to that furnished by him to any other person for like compensation or reward in a like case, having no regard to the person *per se* who may be applicants therefor, shall, on conviction, be punished by a fine of not more than $1,000 or by imprisonment for not more than six months.

SEC. 2605. Whoever conducting or managing any theater or other place of amusement or recreation, by whatever name the same may be recognized, or however called or known, if such theater or place be licensed or chartered, or be under any public rule or regulation whatever, shall willfully make any discrimination against any person lawfully applying for accommodation in, or admission to, any such theater or place, on account of the race, color, or previous condition of the applicant, or shall refuse or deny to any person lawfully applying therefor accommodation equal in every respect to that furnished at such place for a like reward to any other person, on account of race, color, or previous condition of the applicant therefor, shall, on conviction, be punished by a fine of not more than $1,000, or imprisonment for not more than six months.

SEC. 2606. Whoever, not being the principal offender under sections 2603 and 2604 of this chapter, shall aid or abet in or about the commission of any of the offenses therein mentioned, shall, on conviction, be punished at the discretion of the court.

SEC. 2607. Every commander, conductor, manager, or other person superintending or having charge of any vessel or vehicle, or any theater or other place mentioned in this chapter, and, as such, having authority and power to order and manage affairs in or about the same, who shall suffer or permit to occur any violation of this chapter which such commander, conductor or manager, or person so superintending and having such charge as aforesaid can possibly prevent shall be considered an aider and abettor in the commission of any such offense, and, on conviction, shall be subject to the penalties provided in section 2605 of this chapter.

SEC. 2608. Every corporation or party whatever, holding any charter or license under the authority of this State, who shall violate any of the provisions of this chapter, shall thereupon be deemed and held to have committed an abuse of the franchises conferred by or under every such charter or license, and, on conviction, shall forfeit every such charter or license; and any party or parties who, having so forfeited any such charter or license as aforesaid, shall, nevertheless, presume to use or operate under or by virtue of the same, as well as every person who shall be found aiding any such party or parties thereabout, shall, on conviction, be punished by a fine of not more than $500, or imprisonment for not more than six months.

SEC. 2609. In every trial for violating any provisions of this chapter, when it shall be charged that any person has been refused or denied admission to, or due accommodation in, any of the places in this chapter mentioned, on account of the race, color, or previous condition of the applicant, and such applicant is a colored or black person, the burden shall be on the defendant party or parties so having refused or denied such admission or accommodation to show that the same was not done in violation of this chapter.

I place this act on record in order to show that in my State the rights conferred by law on the colored man are not denied to him. I regret, sir, that I have had neither time nor data to enable me to present my views to the Senate in a connected and condensed manner. Nor should I have trespassed upon its patience but for my desire to place upon record my hearty support of the measure under consideration.

Mr. PUGH. Mr. President, my disposition was to take no part in the debate upon the bill before the Senate, but the discussion of it has become so general, and being a member of the committee that reported it, I feel that I ought to say something in support of its passage. I do not believe that any measure approaching this in importance has been before the Senate or is likely to be before the Senate this session, with as much popular approval of its passage. My service on the Committee on Education and Labor for five months during the last summer and fall enabled me to learn something of the public necessity for the aid proposed by the bill and the public demand for such an appropriation. Every witness examined by the committee upon the condition and needs of the public schools in the Southern States urged Federal aid to these States to enable them to extend the benefits of a common-school education to their illiterate children.

The Southern States, as has been shown and often repeated in this debate, have gone to the extent of their ability in providing for the support of public schools. Every State has a well-organized and efficient system, under the management of able and highly qualified superintendents; but it is an undeniable fact that the average time the schools are open will not exceed seventy-five days in the year, and the consequence is that the little learned in the short time the children are in school is mostly forgotten while the schools are closed, and thereby the benefits of the system are lost to the children, and the whole trouble is chargeable to the want of money. But some Senators representing Southern States which would get a large share of the appropriation say their people can get along without this aid, and that while their burdens are great, the evils of illiteracy appalling, yet it is wiser and better in the long run that the people be left alone to carry their own burdens, and that the virtues to be cultivated and developed by self-reliance and self-support and long-suffering and patience in their trials are priceless to them and their children, while the distribution of about twelve millions the first year and an average of over seven and a half millions for ten years will be dangerous in its effects upon these high virtues of self-reliance and self-support in making them indolent and indifferent in the important work of improving and making their public schools, supported alone by themselves, a great public success and benefit.

The people of the South have listened a long time to such teachings and heeded the cry that it was wrong and dangerous for them to accept Federal aid from a common Treasury to which they have contributed more than their just and equal share, and that self-support and self-reliance were invaluable habits that would develop great qualities in the long run. They are waking up and realizing the fact that they have had the long run, but the habits of self-support and self-reliance are not bettering their condition. They see their associates in a common Government accepting and appropriating all the aid they can get from constitutional and unconstitutional legislation and exacting tribute by law from every other industry except their own, and while they laugh at the self-denial of the people of the South they are growing richer and more powerful.

The Southern States do not ask this appropriation as a bounty. They have contributed more than their share of the revenue out of which this money is appropriated. The use to which the money is to be applied will inure largely to the common national benefit in eradicating an alarming public evil. It can not be denied that the dangerous effects of illiteracy are far reaching We all know that the difficulties in the way of home rule by local governments in the South and the disturbance of the friendly and harmonious and confiding relations of our people, so indispensable in our experiment of self-government and so necessary in securing the benefits and blessings of our union of States, is chargeable more largely to the existence of negro illiteracy in our citizenship and suffrage than to any other and all other causes combined. Why are we unable to unite in a common effort—call it experiment if you please—of lending a helping hand to the States engaged in the struggle with this public calamity?

Some Senators representing Southern States, for whose judgment and convictions I have the greatest respect, are unable to support the bill on constitutional grounds. This objection of course is conclusive. But I am surprised at their opposition on grounds of expediency. They question the policy of affording this aid because it will beget a disposition to look alone to the Federal Treasury for the means of keeping up their common schools, when the bill itself provides that each State shall raise by its own taxation or otherwise an amount equal to one-third for five years, and thereafter shall raise each year an amount equal to what they receive of this appropriation. And let me remind my brother Senators of the South that while they justly condemn the offensive distrust of the Senator from Ohio [Mr. SHERMAN] of the capacity and willingness of the Southern States to make a fair and equal distribution of this money to carry out the objects of the appropriation, these Southern Senators themselves have expressed their distrust of the ability of the people of the Southern States to withstand the temptations and dangers of accepting this money from the Federal Treasury. They express the fear that this Federal money will be a dangerous temptation, likely to destroy the self-reliance of the people and make them so indifferent and careless of their duties to contribute out of their own means to the support of their common schools that before long the whole business of educating the children will have to be given up to the Federal Government.

Mr. President, I have no such fears of the effects of the aid afforded by this bill. This is a Government of the people, by the people, and for the people. Our great experiment of self-government by the people is an established success. The people are abundantly able to take care of their own rights and liberties. The hand of usurpation may show itself in the measures and policies of political parties, but whenever it is seen by the people it will be paralyzed by the first blow at the ballot-box.

I have no idea that the people of a single State in our Union would seriously consider the proposition of surrendering to the Federal Government their exclusive jurisdiction and control of the education of their own people. The bill before the Senate expressly excludes any possibility of such construction, by declaring that the bill does nothing more than furnish aid to the States in exercising their exclusive jurisdiction over their common schools. There is no pretense of claim of power in the Federal Government of any jurisdiction in the establishment and control of public schools in the States. There is not a single provision in the bill before the Senate requiring reports from State officials of the use that has been made of the appropriation that is not contained in the Morrill bill that passed the Senate in the Forty-sixth Congress by a vote of 41 to 6. It must be admitted that the Federal revenue derived from taxation is as much the property of the United States as the public lands, and that when the public lands are donated or the public revenue appropriated it is the right and the duty of Congress as the trustee and custodian of the public lands and the public revenue to require of the States a report to Congress, so that the people of the United States may be informed that their money has been honestly applied to the objects of the appropriation.

No, Mr. President; there is no usurpation in this bill. There is no danger in it as a precedent. If any justification could ever be claimed by any adventurer in the work of usurpation of Federal jurisdiction and control of common schools in the States it is mostly to be found in the failure of the bill before the Senate. Defeat this bill and leave the Southern States to grapple with the evils of negro illiteracy in their citizenship and suffrage and carry their other burdens, and there may be so much delay and complaint as to attract public attention to the demand for relief of this class of illiterates. The offer made in this bill is to give temporary aid without attempting interference with the exclusive jurisdiction of the States. There is a wide difference between aid and jurisdiction. If the aid is rejected in doing the work of the States jurisdiction may be demanded on the ground of national necessity to eradicate a national evil and discharge a national obligation.

A few words on the constitutional power of Congress to make this appropriation. The exercise of the war power produced results and conditions that invoked the power of amending the Constitution. As conditions of reconstruction and the restoration of the Union of the States these results and conditions were incorporated in the Constitution. As an inseparable and necessary result of these organic changes the evils and dangers of negro illiteracy were incorporated in the citizenship of the States and of the United States and in the voting population of the States. To tell me that the United States can impose these evils and dangers upon the States by the exercise of undoubted powers, and that there is no authority to aid the States in relieving themselves and the Union of the standing menace to both of negro illiteracy, is to go a little deeper into strict construction than I am willing to follow.

What effect education of the negro will have upon his qualifications for the duties and responsibilities of citizenship and suffrage is a question time alone can solve. I have my speculations, which it would be profitless to discuss. I know that there is an overwhelming public demand that the negro shall have and enjoy the opportunities and advantages of a common-school education. As a Senator representing Alabama and the other United States, I feel constrained to give the bill before the Senate my hearty support.

Mr. VEST. Mr. President, so far as this debate has proceeded it has been based on the statistics presented by the Senator from New Hampshire [Mr. BLAIR], who has exhibited very commendable zeal and industry in advocating this bill. When the Morrill bill was before the Senate, to which the Senator from Alabama [Mr. PUGH] has just alluded, the Senator from New Hampshire made an exhibit of illiteracy in the respective cities of the Union, and that exhibit was perfectly appalling to me, as I suppose it was to other gentlemen whose attention was called to it at that time or subsequently. I have had occasion lately to review that statement, and also to examine a review and analysis of the grounds on which it was based by the superintendent of education for the State of New Jersey. My surprise could not possibly be exceeded by any statement when I saw in the speech of the Senator from New Hampshire, in regard to the statistics of Saint Louis:

> Saint Louis has a school population of 106,000; 55,000 are enrolled; 36,000 is the average attendance; 50,000 are growing up in the savage state, aggravated by those capacities for proficiency in evil which come from the contact with civilized depravity.

If there are 50,000 children in a state of utter barbarism, aggravated by contact with civilized depravity, in the principal city of Missouri, in the interest of human life and human progress I want to know it. If that be the case, there ought to be safeguards and sign-boards put up warning the innocent stranger from venturing within the walls of that most abandoned of American cities, that great modern Gomorrah. If there could be any amelioration of the horrible picture it might perhaps be found in the frightful position of the city of Chicago, and I call the attention of the recent governor and the present Senator from Illinois [Mr. CULLOM] to the fact that the principal city in Illinois is represented to be even worse than that, to be actually worse than the ancient cities where corruption reigned supreme; and therefore a statement which I have recently seen of one of the commissioners of the District of Columbia must be eminently true, that he moved away from that city to the city of Washington because he could not venture into a depot in Chicago after 9 o'clock at night without a pistol in his pocket. I do not say this is true, but if the statistics of the Senator from New Hampshire are correct, then I am prepared to believe anything of that kind:

> Chicago enrolls less than half—43 per cent.—of her children in the public schools; less than one-third are habitually in school; 77,473, or 57 per cent., never attend at all. Very few of these receive instruction in private schools.

But when we come to Cincinnati, then, sir, the darkness, the appalling darkness that overwhelm Chicago and Saint Louis becomes even as light as the noonday sun. I call the attention of the Senator from Ohio to the fact that he represents a city in which human life and human property, according to these statistics, are not worth even the taxation that is paid on the property or worth the paper on which the laws are written or printed that purport to give protection to personal security and life:

> The average attendance in Cincinnati is 27,000, less than one-third of the whole number, while 51,000 are not enrolled at all. It does not relieve this dark picture to say that these must be in private schools, for out of the school population of the entire State, numbering 1,043,320, only 28,650 are in private schools. Of these, probably not more than 10,000 can be found in Cincinnati. There are more than 40,000 children, then, in that great city to-day who are growing up in ignorance as dense as that of the jungles of Africa, while they are subjected to the influence of the sharpened culture of civilized vice. Yet Cincinnati is one of the best of our great cities and Ohio is a model State.

Mr. President, this condition of affairs is appalling if it exists. As the superintendent of education of the State of New Jersey says, it demonstrates the appalling fact that with our enormous expenditure and with all the agencies we have for the education of children in these United States this state of things exists in thirty-four of the principal cities of the United States.

Sir, in the State of Missouri if there is one thing of which we are proud, and justly proud, it is our common-school system, and I undertake to say to-day that not in the city of Boston, the boasted city of literary culture and advanced civilization, is there a common-school system superior—I was about to say equal to that in the city of Saint Louis, at this very hour. Hundreds of citizens come there from other portions of the Union in order to enjoy the advantages of that splendid system of common-school education; and from the very basis of education, from learning the letters up to the classics and German and French and painting and all the accomplishments of education, the high schools in Saint Louis are equal to such schools in any portion of the whole United States. And yet, with these magnificent advantages, according to the Senator from New Hampshire there are 50,000 howling dervishes, worse than the Cheyennes and Arapahoes with their scalping-knives and tomahawks, loose in Saint Louis.

Now let us see the basis of these statistics. I trust to the State superintendent of New Jersey for an analysis of these figures. This gentleman, after alluding to the statistics for the State of New Jersey presented by the Senator from New Hampshire, which show that there are 90,074 children not attending school in the State of New Jersey, makes the following criticism, which I shall detain the Senate by reading in a spirit of the utmost kindness, because these facts ought to be known to the country. If the statistics are true they are reliable, and if not we certainly ought to know it, because great injustice has been done.

> Let us examine how these figures, showing such a lamentable state of illiteracy, are secured by these gentlemen. The process is exceeding simple. They, in every case, deduct the school enrollment from the school census, and the difference is taken by them as expressing the number of children who are growing up without a knowledge of reading and writing. The 7,500,090 children in the United States of school age who are growing up, as Mr. Cook asserts, in absolute ignorance of the English alphabet, is the difference, as will be observed, between 10,500,000, the aggregate enrollment of school children in the United States, and the 18,000,000, the aggregate school census. In ascertaining the number of growing illiterates in the cities, Senator BLAIR, in each case, subtracts the number of children enrolled in the public schools from the school census. As, for instance, in the case of Chicago, the census is 137,035, and the number enrolled in the public schools is 59,562; subtracting the latter from the former, we have 77,473 children between the ages of 6 and 21 whose names were not upon the school enrollment during the year for which this report was made, and this is the number of children in Chicago who, according to Senator BLAIR's figures, will never know how to read or write. The absurdity of this statement must be apparent to every one without argument.
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> Let us now see where New Jersey stands in this dark catalogue. Her non-enrollment list amounts to 90,074. This is the fearful number of growing illiterates that must be placed to our discredit. This number includes children, as we all know, with varying ages ranging from 5 to 18. Let us imagine that we have this vast array of heathen before us, and let us endeavor to ascertain why their names are not included in the school-enrollment list.
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> From the reports made by the county and city superintendents we are able to ascertain the percentage of children of each age not attending school. And having the entire number for each age, we are able to determine about how many children there are of each age that go to make up this aggregate of 90,074 so-called illiterates in New Jersey.
>
> The figures approximately are as follows:
>
> Number 5 years of age out of school 8,764
>
> These are infants under 5—
>
> Mewling and puking in the nurse's arms.

They are illiterates "who will never know how to read or write!" They are shut out from this temple of education which the Senator from

New Hampshire seeks to erect in every State of the Union. Then this superintendent goes on:

Number 5 years of age out of school	8,764
Number 6 years of age out of school	568
Number 7 years of age out of school	268
Number 8 years of age out of school	268
Number 9 years of age out of school	268
Number 10 years of age out of school	536
Number 11 years of age out of school	1,569
Number 12 years of age out of school	2,975
Number 13 years of age out of school	5,641
Number 14 years of age out of school	11,132
Number 15 years of age out of school	15,423
Number 16 years of age out of school	20,109
Number 17 years of age out of school	22,553
Total	90,074

Now, excluding the infants—for we should not surely be cruel enough to say that because they have not learned to read and write before 5 years of age they will never learn—when we come to those who are 14, 15, 16, or 17 years old, in this age of ours and with the American people constituted as they are, with this progressive blood which leaps like torrents in the face of every one of these children, we know that they are fitted for the duties of manhood and we know that there are hundreds and thousands of boys who at 14 and 15 become self-supporting, who go into the world with an education not perfect in the classics, not full of accomplishments, but with enough learning in regard to reading and writing to enable them to take part in the battle of life. And yet according to the Senator, if I am correct and if the superintendent of New Jersey is correct, he presents in his exhibit 11,132 who are out of school at 14 years of age, 15,423 at 15 years of age, 20,109 at 16 years of age, and 22,553 at 17 years in his aggregate of the illiterates of New Jersey.

I call attention to the fact that as you increase the school age you increase the number of children who are non-attendants. The children of the poor, who are only able to attend when they can not work, up to 11, 12, 13, 14, 15, and 17, are then called to assist the family in supporting the younger children and a dependent mother or father perhaps. Is it fair, is it right to put them in this table as illiterates with those who can not read and write, who are shut out from education entirely? Is it fair to stamp illiteracy upon such a vast proportion of the citizens of the United States in the face of an exhibit like this?

Of this vast army of 90,074 poor unfortunates who Senator BLAIR, in his tender compassion, says "might as well have been born in a heathen country," 8,764 are 5 years of age. Many of them are well dressed; some, indeed, are even handsomely attired, and show evidence of coming from homes where they are surrounded not only with the comforts of life but with its luxuries. They appear bright and intelligent, and it would seem quite within the range of possibilities, during the thirteen school-going years that are still before them, for some of them at least to acquire the ability to call by name the letters of the English alphabet. We are assured, however, that such can never be the case.

Behold, therefore, the awful spectacle! Eight thousand seven hundred and sixty-four children in this State 5 years of age and out of school, who are "growing up," as Rev. Joseph Cook asserts, "without a knowledge of the English alphabet!" A great army of little boys and girls just out of babyhood, "and not one of them," says Senator BLAIR, "will ever know how to read or write!"

Let us next consider the condition of those 6 years of age. We have 568 of those that are out of school. Many of them also appear well dressed and even intelligent. In ascertaining why they are not attending school we find that many of them are being taught at home by their mothers, and are already able to read fluently in the readers of the lower grades; but their names are not in the school registers, and hence they, too, are classed with this vast array of unfortunate illiterates.

I call the attention of the Senate to this, because it comes from a man whose life is devoted to education; it comes from an expert; it comes from the superintendent of education of one of the States of this Union.

Of those 7, 8, and 9 years of age but few in this State are found out of school, only 268, or 1 per cent. of each age. Their absence may be temporary, for which various reasons may be assigned. Many of them were in school last year and will be again next year, but this year they are included in that fearful list represented by the difference between the enrolled attendance and the total census, and hence are growing up in "ignorance as dense as that in the jungles of Africa."

Of those 10 years of age we have 536; of those 11, 1,569; of those 12, 2,975. The reasons for these being out of school are various. Many of them belong to wealthy families, and are receiving a superior education under special instructors at their own homes. They too, Senator BLAIR thinks, "might as well have been born in a heathen country."

Of those 13 years of age we have 5,641; of those 14, 11,132; of those 15, 15,423. We observe how rapidly the number of those out of school is increasing, and any one having had charge of a school knows how large a proportion of our children leave at these ages. The great bulk of them have finished their educational course. They not only have learned to read and write, but have acquired a good knowledge of geography, grammar, and arithmetic, and some of them have even pursued branches still more advanced, as history and kindred studies. They belong to that large but respectable class of children who at these ages, ranging from 13 to 15, must begin to earn something for their own support. They are in our factories, our shops, and our stores and offices. They have secured their positions because of the educational training they have already received in our schools. They also, however, are classed, without question, as among those who "will never know how to read or write."

We have remaining those 16 and 17 years of age. Ninety-eight per cent. of all the children in the schools of the cities complete their school course by the time they reach the age of 16. Between 40,000 and 50,000 of this aggregate of 90,074 illiterates have reached these ages, 16 and 17. Their education closed with the grammar-school course. These are classed as young men and young women. The majority of the former are in business, while the latter are engaged in home duties. Some of the young men at this age are pursuing their studies under private tutors preparatory to entering college; and some of the young ladies 17 years of age, we venture to believe, have already changed their names and are established in homes of their own. Still we are called upon to "behold the awful record!" These, too, are "growing up in ignorance as dense as that in the jungles of Africa."

I am obliged to Mr. Apgar for this statement. I do not conceive how it is possible for the Senator from New Hampshire to arrive at the statistics which he has given here except from the basis which Mr. Apgar puts down in the pamphlet from which I have read. The Senator from New Hampshire must have taken the enrollment under the census and then the school enrollment, and subtracting one from the other he arrived at the terrible and appalling conclusion that there were all these children not enrolled upon the school books, and that the difference between that and the census enrollment consists of those who are perpetually and forever involved in a hopeless and remediless situation or condition of illiteracy and darkness.

Suppose the Senator from New Hampshire is correct; suppose it is true that there are fifty thousand howling savages to-day in the city of Saint Louis, with our educational system as good as can be invented by mortal man, I undertake to say, with the present lights before us in regard to educating children, then the conclusion is irresistible that no matter how much the National Government may give, there is a radical defect in the system of voluntary education, and money even can not remedy it. You are then compelled to come to that other proposition which involves the very existence of free government in my opinion, which is the greatest problem to be determined yet upon this continent, the right of the State to resort to compulsory education. My own mind upon that subject is thoroughly and emphatically made up. It is not necessary now to discuss it; but if the statistics of the Senator from New Hampshire are correct, then the only resort that can be had in this Government to prevent illiteracy and its effect upon the suffrage in making it vicious is to compulsory education.

One word more, for I do not propose to say anything further on this bill except to record my vote against it. The Senator from Ohio [Mr. SHERMAN] said in his speech to the Senate day before yesterday that it was as clear as a proposition from Euclid that if you concede the power of the National Government to make a donation to the States for the purpose of removing illiteracy, the larger power embraced the smaller, and the National Government could put such conditions upon that grant as it pleased. The Senator from Ohio made a mistake that never would have been made by a lawyer who had trained himself to analysis as to a proposition of this kind. The Senator from Ohio treats this subject as if it were a matter of compact between man and man or between one corporation and another. I grant you that the larger power embraces the smaller in a personal contract between two individuals, but that rule does not hold where there is a written constitution and where the National Government is limited in its functions to the written powers that are delegated to it by the States in that Constitution. The General Government might have the power to give to the States, and yet would not have the power to impose conditions which would absolutely amount to the National Government going into the States for the purpose of choosing and marking out the educational system of the State to which it made the donation.

The Senator from Alabama [Mr. PUGH], who takes a very different view of this question from myself, admits the proposition. He says there is a very great difference between jurisdiction and the mere power of donation. The Supreme Court recognized that in the greatest decision ever delivered upon this question by any tribunal upon this continent. The Senator from Arkansas [Mr. GARLAND], who has discussed most ably and learnedly this question in opposition to my views, said when we had the Morrill bill before us in 1879, that as all religions went back to the Bible, so all constitutional questions in regard to education went back to the great case of Gibbons *vs.* Ogden, in 9 Wheaton. I undertake to say that the Supreme Court of the United States decided in that case that while the National Government could aid the States in carrying out the jurisdictional powers reserved by the States in the formation of the Federal compact, it could not go into the States and interfere with the machinery by which those powers were carried out. That decision was made in regard to statutes found in 1 Statutes at Large, pages 474 and 619, and in regard to the State power of quarantine. In the first place, let us look—and I will not weary the Senate—at the general proposition laid down by the court in regard to such powers as are claimed to-day to exist in the National Government. Says the court:

The object of inspection laws is to improve the quality of articles produced by the labor of a country, to fit them for exportation; or, it may be, for domestic use. They act upon the subject before it becomes an article of foreign commerce or of commerce among the States, and prepare it for that purpose. They form a portion of that immense mass of legislation which embraces everything within the territory of a State not surrendered to a general government, all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State, and those which respect turnpike roads, ferries, &c., are component parts of this mass.

Here the court declares emphatically and distinctly that the General Government has no control over inspection or quarantine laws, but those are reserved to the States respectively. Now says the court:

The acts of Congress passed in 1796 and 1799, empowering and directing the officers of the General Government to conform to and assist in the execution of the quarantine and health laws of a State proceed, it is said, upon the idea that these laws are constitutional. It is undoubtedly true that they do proceed upon

that idea; and the constitutionality of such laws has never, so far as we are informed, been denied. But they do not imply an acknowledgment that a State may rightfully regulate commerce with foreign nations or among the States; for they do not imply that such laws are an exercise of that power or enacted with a view to it. On the contrary, they are treated as quarantine and health laws, are so denominated in the acts of Congress, and are considered as flowing from the acknowledged power of a State to provide for the health of its citizens. (Gibbons *vs.* Ogden, 9 Wheaton, 203, 205.)

In the former portion of this decision the court had already laid down most emphatically that the health laws of a State could not be interfered with by the National Government; that that was a portion of the great mass of reserved powers remaining in the States after they had delegated others to the General Government. But the court says further in regard to these statutes, in which the United States Government directed its officers to assist a State in the execution of its health and quarantine regulations, that the General Government could assist a State in carrying out its own laws, but could not possibly bring laws of its own to enforce them upon the States in regard to that subject. But, says the Senator from Ohio, the State need not take the money; the State can refuse it. If the General Government has no right to impose its will upon the State in regard to the system of education or in regard to the system of health laws or quarantine laws, no matter what the State agrees to, the power does not exist and can not exist in the General Government.

Sir, it is not fair to state that the power to make regulations is not an absolute control of this whole subject by the General Government. Look at it in absolute practice. Suppose that the General Government should say to a State, "Here are $5,000,000 for the education of your children; but you must appoint a superintendent 30 years old, who has resided in the State for five years, who shall inspect personally every school district, who shall have reports made to him every six months; you shall expend so much money; you shall have teachers who are of a certain age, who have such qualifications, who shall teach school for eight months in the year." Is not that absolute control? If you grant for an instant that the National Government has the right to make one single condition you grant the power in the National Government to control the school system absolutely in all the States.

It is a mere quibble—I say it respectfully—to tell me that the States can take this donation or not at their own will. I say the General Government has no right to put conditions upon its grant. It can assist the States, as it may in regard to quarantine laws under the decision in Gibbons *vs.* Ogden. It can say to the State, "Here is so much money or so much land; take it;" but when it comes to say upon what condition you shall take it, that you must apply it so and so, in such a fashion, at such a time, under such limitations, then I say the Constitution of the United States is violated, which in its whole spirit, scope, intent, and meaning says that the States shall control the system of education in their own way and according to their own pleasure.

We have heard frequently here that this is a temporary system; that this is to last but for a time; that this is only for a few short years, in order to relieve this enormous burden of ignorance pressing upon the people of the United States. When was it ever known that $105,000,000 was given to any system and then let stop? You might as well tell me that the man whose system has become inured and accustomed to a terrible stimulant, who is poisoned with alcohol, who is drenched with chloral, whose brain and nerve and heart and blood are all subjected to the demon, will step up voluntarily and say, "Give me no more; give me water, but no more of the agency that is sapping my life and destroying all my hopes here and hereafter."

I tell you that this system, if it is established, is here forever. It never was known that a system like this terminated after it was once begun. How often have we seen it around this Capitol, when these advances were made, these steps honored through a breach in the Constitution, almost imperceptible at first. We started here a little agricultural department. Look to what enormous proportions it has grown. Year after year it has demanded more (I say nothing about the policy; I speak of the fact), until to-day from one end of the Union to the other almost the clamor comes up, "Make this a department of the Government, and the head of it a Cabinet officer." Will you pour $105,000,000 of artificial stimulus into the educational system of the respective States and then tell me that it will stop? It will never stop until this Government ceases to exist. At the end of the time these same States will be found here without self-dependence, looking to the National Government, looking away from their own energies and their own self-respect, and will cry out like the daughters of the horse-leech, "More, more, more!"

Sir, I can not say more emphatically than I do now with my whole heart and soul that when the time comes that the people of the respective States shall look away from themselves to the great National Government for assistance under a clause of the Constitution which our fathers made so plain that the wayfaring man, though a fool, need not err in regard to it—when that time comes there will be nothing left to quarrel over in regard to this Government.

Mr. BLAIR. Mr. President, I do not rise to reply to the argument or the oration of the Senator from Missouri at this time. I suggest to him that there is something of a false analogy in that which he has just stated to the Senate. The difficulty is that those sections of our country where illiteracy now so largely abounds are already accustomed to the deadly habit of partaking of the poisonous decoction of ignorance to too great an extent. They do have the fatal habit to which he alludes, and the proposition of the bill is to substitute a more healthful form of drink. We propose to give cold water, and to substitute it immediately according to the necessity, and gradually we suppose that as the patient is cured the patient will himself, accumulating as is the inevitable result of temperance and sobriety and industrious habits, gain the means wherewith he will supply his own necessities of intellectual food and drink. The analogy is a false one.

So far as the Senator's concluding remarks are concerned, he is entirely at fault in regard to the question of the constitutionality of this bill. That appears to be conceded almost universally upon both sides of the Chamber, and it seems to me to be a waste of time to argue on that subject more. No one has yet been able to show that the premises laid down in the opening of this debate and repeated by almost every Senator who has spoken upon the constitutional aspect of this question were wrong, that intelligence is an indispensable condition to the existence of a republican government, whether it be the National Government or the State governments; and that being an indispensable, primary, fundamental condition, upon which the structure of the State governments and the National Government alike must rest if either exists republican in form, that assumption being correct, it is constitutional to do that without which the Constitution itself can not exist. The right of self-defense seems to be inherent, and if intelligence is indispensable to the existence of National and State Government alike, it is an absurdity to reason that it is unconstitutional to do that which is indispensable to the existence of the nation or the State.

Now, coming to a speech which I made on a former occasion when the returns of the census were fresh, when I had collated them as the result of my own personal effort and had been alarmed and shocked like the Senator, like everybody who had examined them at all, and when I made a mistake in some of my deductions and incorporated that mistake in my speech, I am willing to admit all the Senator says. It was a mistake, and by some lurid rhetoric involved an incorrect deduction in the matter of degree. Truthful it was so far as the evil itself is concerned, but untruthful as a statement of the degree to which it existed. I do not suppose that the Senator would think of holding either himself or any one else quite to the standard of mathematical strictness in the use of the English language if his feelings were somewhat excited. I think the Senator may find perhaps in his own experience as a speaker and orator, on reviewing what he may have said, that occasionally he has somewhat overstated, from the impulses of an active imagination overexcited at the time, the absolute, strict, and impartial proportions of the subject with which he was dealing. I am free to say that I have no doubt I did so; but I did not err to the extent to which the Senator seems to think; at least I believe not; and if I erred I gave the figures, I gave the census, I gave the same data to the public that I had acted upon myself; and if there is only one man in the United States, the superintendent of public instruction in the State of New Jersey, who has discovered my error, it is not I think fair to reason that I was to a very great extent at that time negligent in my examination, for the public have had those figures from then until now.

The figures which the census contains, and which I used on that occasion, are the sworn returns of the census itself. Those returns give the actual school population. They do not include the infants of 5 years of age and less, but the school population, those included within the ages in the several States who are expected to attend school, whose attendance upon school is contemplated by virtue of the legislation of the States themselves. The school population of course varies in different States, and the extremes are greatest between 5 and 21 years of age. I think there is one State where they are between 4 and 21. They vary from that, which is the largest extent of lifetime included in the school age, down to 6 and 14, I believe, or 8 and 16, or 8 and 15. The entire number enrolled, as the returns show, that is, the entire school population included in those ages, is, by the census, 15,803,535. That is the entire number that in contemplation of law should be attending the schools of the various States. The actually enrolled in the year 1880 (that is to say, those who actually attended the schools that year) numbered 9,780,773. As the Senator will perceive, less than two-thirds actually attended of those who were within the school ages of the States. The average daily attendance for the year was only 5,804,993; that is to say, of the pupils included within the school age throughout the United States there was an average attendance of less than one-third. If there is reason in the laws of the various States which contemplate a common-school education as being obtained during the period covered by their laws, it is certainly a most unfortunate and startling commentary to say that the children of the United States, judged by their actual daily attendance, are deriving only one-third in mass of that degree of education which in contemplation of law it is supposed they should acquire.

It is very true that when you come to examine the distribution of such education as is considered by the laws of the various States as a necessity, in order to fit the children of the country for a suitable discharge of the duties of life, the education acquired is in the aggregate about one-third of that which should be acquired, and it is so distributed that there are not probably in the city of Saint Louis 50,000 children growing up in absolute ignorance, and of course I was wrong in re-

gard to that, but the evil is disseminated throughout the entire mass; and to the nation, to the mass at large, the evil is as startling as I stated it to be. I say that the children of the American people to-day are receiving just about one-third of the education which in the contemplation of the laws of the several States they should receive to qualify them for the duties of life. I am sorry that I drew an erroneous deduction, but I did do so, and I take the first opportunity during the debate to call attention to it and to correct it.

Mr. VEST. Will the Senator permit me to call his attention to another statement? I did not refer to those statistics in order to make any personal attack on the Senator.

Mr. BLAIR. I did not understand that to be the case. The criticism was very just.

Mr. VEST. For I knew the Senator would do what he has done; that if he had made any mistake he would rectify it. I am glad to state that.

I understood the Senator to say yesterday (I neglected to mention it in the remarks I made), when the Senator from South Carolina [Mr. BUTLER] was on the floor, that there were only 500,000 children in the United States in private schools. Is that the Senator's statement?

Mr. BLAIR. The census returns show the number of pupils in private schools to be 567,160. The table from which I made my former statement was one that was prepared and furnished to me before the final footing-up of the returns, and was understood to be substantially correct, and, if I remember, that table stated the number at a very little over 500,000; but the figure I now give is the final footing-up. It is less than 600,000 according to the census.

Mr. VEST. I wish to call the attention of the Senator, irrespective of the census, to a simple fact which is known, I presume, to every Senator present, that the Roman Catholics in the United States do not send their children to the public schools; that as a matter of religious duty at least they think they should not attend those schools; and I am utterly amazed to hear the statement even from the census or anywhere else that there are only 500,000 children in the United States in private schools. I undertake to say that if the fact is ascertained it will be found that there are that many children of Roman Catholic parents who on a question of religion do not attend the public schools.

Mr. BLAIR. It is not worth while, and I will not quarrel with the Senator over a million or two. There are 20,000,000 children in the United States of school age, I think, at the present time. If you could get at the exact number, I believe there are over that at the present time. We must have an aggregate population of at least 56,000,000 to-day, and making all allowance for any mistake or omission of that kind on account of the Catholic children being instructed in Catholic schools (the more of them the better), it would be utterly impossible from these mathematical statements for us to form anything like a really adequate conception of the evil of illiteracy as it exists in this country.

In regard to the matter of Catholic schools I wish to state that I had a conversation during the last summer with a Catholic priest, a very intelligent gentleman, on the sidewalk of I think Mulberry street, in New York, or one of the streets in the lower part of New York. He was much interested in schools, and he told me that there were in that very assembly district over 2,500 children who so far as he knew had no opportunity of attending school anywhere, either in the schools furnished by the Catholic Church or the common schools of the city or anywhere, who so far as he knew were growing up in this absolute ignorance that would be discreditable in the jungles of Africa, certainly so in the city of New York.

The table to which the Senator has alluded and the statement which I then made in reference to the condition of things in our large cities was I think in substance just. I to-day believe that there is as much danger to the institutions of this country growing out of the illiterate condition of the great cities in the North as there is from the illiteracy of the Southern States; and what I then said was in illustration and enforcement of that fact, if it be a fact. There is no great city in the North that does not control practically the State in which it is situated and perhaps some of the adjoining States. Take the great city of New York, with Connecticut and New Jersey lying close, and in the influence of that city practically, and in the political influence of that city, it is almost a controlling power, as the center of the population surrounding it. Suppose the other States are left entirely out of the calculation, there is no question that the illiteracy of the city of New York will control the State of New York to-day, and the result in the State of New York in any national election is understod to be decisive. What is true of the State of New York would be equally true of the State of Ohio, or of the State of Missouri, or of Illinois as to the influence of Cincinnati, Saint Louis, and Chicago. There is no one of the national elections, so closely contested as they are, which is not at the disposal of the ignorant vote in any one of the great cities of the North. I venture to make that assertion, and if it shall turn out in the end that I am mistaken in regard to it I shall be exceedingly glad; but I think there is some history that illustrates and enforces that proposition outside of the figures of the census.

I have here a communication from Johns Hopkins University, which I received this morning, and have kept my eye out for a Senator from Maryland to present it. I will present it with the leave of the Senators from Maryland and have it incorporated as a part of my remarks and read to the Senate. It is signed by the president and every officer, I think, of the institution. It was forwarded to me by the superintendent of education, Hon. Mr. Newell, of the State of Maryland. I ask the Secretary to read it.

The PRESIDING OFFICER (Mr. FRYE). The paper will be read.

The Chief Clerk read as follows:

To the honorable the Senate and
House of Representatives in Congress assembled:

The undersigned respectfully pray for the passage of Senate bill No. 398 to aid in the establishment and temporary support of common schools as amended by the Committee on Education and Labor; and they beg to submit the following reasons:

First. Because the right of the National Legislature to aid and encourage education has been established by a long series of precedents, beginning almost with the foundation of the Government.

Second. Because many States are in sore need of such aid, and that through no fault of their own.

Third. Because Congress is able to give the needed aid without imposing additional burdens on the people.

Fourth. Because the provisions of the bill under consideration will insure the greatest help where it is most needed.

Fifth. Because the bill does not propose to establish national schools under the supervision of the National Government, but simply to aid the several States in supporting their State school systems under State officers.

Sixth. Because the aid thus extended is to be temporary and will cease at a time when it may be presumed that it will be no longer needed.

Seventh. Because the bill provides a reasonable and sufficient guarantee that the money distributed under it will be expended in good faith for the purpose intended.

For these reasons, and because the various details in the amended bill now before the Senate have been long and carefully considered, your memorialists respectfully ask that the bill be passed substantially as reported from the Committee on Education and Labor.

GEO. W. DOBBIN,
President of the Johns Hopkins University Trustees.
DANIEL C. GILMAN,
President Johns Hopkins University.
IRA REMSEN,
Professor of Chemistry, Johns Hopkins University.
B. L. GILDERSLEEVE,
Professor of Greek, Johns Hopkins University.
EDWARD M. HARTWELL.
HERBERT B. ADAMS,
Assoc. Prof. History, J. H. U.
RICHARD T. ELY.
HENRY WOOD,
Assoc. in English, J. H. U.
E. STANLEY HALL,
Lecturer.
EDW. INGLE.
L. W. WILHELM.
B. JAMES RAMAGE.
N. MURRAY.
T. R. BALL.
A. H. TOLMAN.
G. THEO. DIPPOLD.
W. H. WILLIAMS.
GEO. DOBBIN PENNIMAN.
C. L. WOODWORTH, JR.,
Instructor of Elocution, J. H. U.

The PRESIDING OFFICER. The Senator from New Hampshire desired to have the paper read only as a part of his speech, the Chair understood.

Mr. BLAIR. Only as part of my remarks. It is signed by the entire faculty, as I understand, of one of the leading institutions of the country, and is the result of action taken since this debate commenced.

Mr. CALL Mr. President, the measure is far above all ideas having their origin in partisan bitterness or sectional prejudice.

I have no argument to make with those whose conceptions of right in great questions of public policy or of proposed beneficent results measure new policies by vindictive reference to the past or to the origin and history of African slavery, nor with those who believe that the white people of the Southern States, whether poor or rich, are degraded and ignorant.

To those who see in themselves and their own surroundings nothing but excellence, and perceive nothing of glory, honor, high character, and devoted patriotism in the political, social, and religious history of the people of the Southern States, it is useless to address either argument or remonstrance.

But their judgment is not the judgment of the intelligent and thoughtful people of this country, North or South. They love both South and North, and find nothing ignorant, repulsive, or degraded in the men and women either of the South or North.

What matters it to us here and now what was the cause of slavery or who was to blame? It does not concern the consideration of this measure what was the relative proportion of white persons in the Southern and Northern States who could not read or write in 1850, or what was the cause of such proportion.

It matters not whether it was slavery or the peculiar features and pursuits of the country which led to its sparse settlement and prevented public schools. I shall not enter into the subject. Let those who have a fancy for it indulge in this declamation. I am content with the knowledge that a brave, virtuous, and religious people, with less of crime and more of generous virtues than communities who could show a larger proportion of those who could read and write, have lived in these Southern States from the beginning of their settlement until the present time, and that there are but few who have been connected with

them or have known them who do not cherish with pride and pleasure the memory of this connection. I pass from this subject without further remarks to answer the objections to this bill.

It proposes an appropriation for ten years from the national Treasury in aid of education to the several States. Beyond this Congress this act must rely on the exercise of the legislative power of succeeding Congresses to give it effect, and we can in no way bind any succeeding Congress in the exercise of their power of appropriation. It is, except as it now appropriates money, nothing more than a legislative declaration of the opinion of this Congress as to an important object of public policy which must rely on public opinion and future Congresses for its continuance. As such I accept it.

I shall therefore consider it as a bill making an appropriation of $15,000,000 to the States in aid of education.

OBJECTIONS TO THE BILL.

It is objected that there is no power in the General Government to make such an appropriation; that the policy is a vicious one in that it will make the States dependent on the National Government; that it will make the people of the States indifferent in their exertions to raise money by State taxation for purposes of education; that the conditions of the gift are an invasion of the power of States in that they prescribe what books shall be used and what branches of learning shall be taught.

These are the important objections. The proportions of aid which different Senators favor are not so important, as they admit and support the principle of the bill.

NO PLACE FOR RESENTMENTS.

Mr. President, I heard with a great deal of pleasure the defense of the bill made by the Senator from Massachusetts [Mr. HOAR], who spoke day before yesterday. In his speech he said that if we were to take counsel of our resentments we might perhaps draw some conclusions which were distrustful of the efficacy of the bill. It might be said with a great deal of truth that upon both sides this sentiment should have force with respect to all our acts of legislation I concur with him that it is not a subject upon which we should allow our remembrances of the past or any resentful feelings which may originate out of them to have any place here, it has been with great gratification that I have observed that upon the other side of the Chamber there has been in many instances an entire forgetfulness that there was anything in the past history of this country which had created a feeling of prejudice or distrust in the consideration of the questions pertinent to this measure, which proposes the appropriation of $15,000,000, and annually thereafter of a diminishing sum for ten years, to be given to the States in proportion to their illiterate people over ten years of age, for their education in the elementary branches of learning.

This subject is far above and beyond the reach of resentments or of prejudices. It is entirely removed from the region of party feeling or sectional prejudice. The time has passed when with the people of this country either North or South there can be a feeling of distrust or prejudice created because of their sectional residence or because of the war or the facts which grew out of it. They marry and intermarry, and form business and social and political relations, and are the same in all respects as if they were the people of the same section or State, and it is not within the power of any man or party to create distrust in the people of one section of those of the other.

DISTRUST OF STATES IS DISLOYALTY.

Mr. President, we are dealing with a great public question, a question on which we can not impeach the character of the people of any State. If it be true that any State within this Union can not be trusted to perform the constitutional duties and functions which are imposed upon it under our form of government, then the impeachment is not of the people of that State but of the Government of the United States, of the Constitution and form of government under which we live, and it is quite as much an act of secession fatal to the Union and disloyal to the Constitution for us to impeach and by legislative action to control and direct the exercise of its powers by a State within the scope and limit of its constitutional functions as was the armed secession of the Southern States.

We are bound by our fealty to the Government to accept and act on the entire capacity and good faith of that organism of States upon which our fabric of government rests for the continuance of this Union of indestructible States, and therefore although we may constitutionally exercise the power of appropriation in aid of this or other subjects of legislation, which are within the powers not granted to the United States and not prohibited to the States but reserved to them, we can only do it by aiding the State with its consent, leaving it free in the performance of its constitutional functions, and trusting to the honor and good faith of its people for the proper application and use of the means given to her. This is the sole and all-sufficient guarantee which our form of government has provided for the exercise by the States of all the great powers and trusts which are left to them, and upon which both personal rights and property depend.

CONGRESS DECLARES THE OBJECT OF APPROPRIATIONS.

In the course of the discussion on the constitutionality of the bill I have been surprised at my distinguished friend from Missouri, whose mind is so acute and whose expression of his ideas is so admirable, that he should express the opinion that there is any reason why the Government of the United States, when making a donation of money or of any other property under its power of appropriation, may not declare the object to which that donation shall be applied. Why, sir, there is not a land-grant that has ever been made to a State to aid the construction of a railroad which has not affirmed that it was for the specific purpose of building that road, and failing in that, that it should return to the Government. There can be no act of giving without designating the purpose, unless it be a general gift without any special purpose, and it is no surrender of the independence of the donee in accepting that gift to agree to use it for its declared purpose. Why? Because the act of donation is not an exercise of power, but is an acknowledgment of the right of the acceptor to refuse or reject. It is an acknowledgment, a recognition, that it is not within the scope of power exercised as power, but that it is a free gift, requiring the assent of the party accepting. Even Mr. Calhoun, the great advocate of State rights and the most limited construction of the powers of the National Government, made a report in favor of the passage of a bill for dividing all the public lands between the States—with several conditions imposed by Congress on the States—and providing for the *assent* of the States to these conditions.

It is therefore true that in the history of this country, as was stated the other day in relation to the appropriation in aid of the interstate commerce of the country upon the resolution of the Senator from Kansas [Mr. PLUMB], that Mr. Monroe, in his construction of the Constitution, expressly affirmed that the power of appropriation was not restricted or limited to the specific grants of the Constitution. And I heard with surprise the distinguished Senator from Texas affirm as an undeniable proposition that there could be no power in the Government to make this donation, this gift to the States, in aid of education or any other purpose, without assuming to themselves the authority and power of carrying it into effect, of invading the territorial jurisdiction and sovereignty of the States in enforcing that power.

How will assent to a condition attached to a gift that it shall be used by the donee in his discretion for a certain lawful object, which is in the interest both of the giver and the accepter, destroy or affect the independence of the latter? I fail entirely to perceive it or to understand the processes of argument which reach such a conclusion. The Senator from Texas [Mr. COKE] finds power in the Constitution to give the public lands to the States for education or otherwise in the clause which authorizes Congress to *dispose* of the public lands. But, unfortunately for the argument, the power to dispose of the "other property" of the United States is given by the same clause, and the money of the United States is certainly *property* of the United States; and by his own argument the Senator finds an express warrant to dispose of or give this money property to the States. The Senator from Missouri finds a violation of the reserved rights and powers of the States in the condition imposed on the gift—that the States shall agree to use it for the teaching of certain branches of learning.

This would certainly be true if the act was an exercise of power to this end, and the State would have no power to consent to such an exercise of power within her territory. It would be quite as much in principle a surrender of her essential power, quite as much a withdrawal from the Union of "indestructible States," as was the act of secession. But the exercise of the power to teach reading and writing in a State, and the recognition of the right of a State to agree to teach them or not teach them, is as different as anything in reason or nature, and this is all that will be done under this bill if it becomes a law.

NO POWER IN THE GENERAL GOVERNMENT.

The Senator from Texas finds it an undeniable proposition that if Congress has power to give money to the States in aid of education, therefore it would have power to impose and prescribe the conditions of education and establish or prohibit it without the consent of the States; that is, the power to give carries with it the power to force—consent carries with it the consequence of surrendering the right of consent and the obligation of submission to force. If it has power to give money to the States for education, they have the power to force the States to use the money as they may prescribe, and by law to command that children of all ages, sexes, and conditions shall sit together, associate together, and be taught together.

Therefore as the power to do these things interferes with the reserved power of the States, and not being granted to the United States nor prohibited to the States nor implied, it can not exist.

This conclusion is certainly undeniable if the premises are true; but they are not true. The power to give does not carry with it the power to force; on the contrary, it concedes the right to accept or to refuse to accept. It acknowledges the complete independence and the reserved right of the States to be in this respect exempt from the power of the Government. The undeniable proposition of the Senator from Texas, if true, assumes and demands that every power vested in the National Government shall be absolute, and without qualification or limitation. But this is not true either in reason or fact. Why may not any power of Government, whether in the States or the United States, be limited or qualified?

What ground is there for such a conclusion? Where in reason does

it find its lodgment or resting-place? Power is not only in its nature susceptible of limitation, but in all parts of the Constitution power is limited. Congress has power to pass laws for the punishment of persons accused of crimes, but its power is limited by the inhibitions of the Constitution, and everywhere it is qualified by one great standing provision; and Senators who refer to the authority of Gibbons *vs.* Ogden will find that the principle of protection of the right of the States and of limitation of the power and authority of the General Government will have but little protection if it rests alone upon a denial of the power of appropriation outside of the express and implied grants of the Constitution. The Constitution contains as the great safeguard and principle of the separate power of the States and the General Government the declaration that all powers not granted to the United States and not prohibited to the States are reserved to the States, and therefore in the express and positive grants of the Constitution, and those which are implied properly, and in the power of appropriation, there is ground broad and large enough to confer every power necessary to provide for the general welfare and the common defense, saving only that none of them can ever be exercised in interference with but must always stop at the threshold of the reserved powers of the States.

No power of the United States can, then, be so exercised as to interfere with this reservation of powers not granted to the States.

TAXES AND APPROPRIATIONS.

Congress shall have power to lay and collect duties, imposts, and excises to pay the debts and provide for the common defense and general welfare.

It has been said that this language has no meaning except to declare that this power and right of appropriation is limited and restrained to the specific grants of power. The application of this idea to the text will demonstrate its truth or error. The reading which this idea makes is the following:

Congress shall have power to lay and collect taxes, &c., to pay the debts and provide for the common defense and general welfare by borrowing money; by regulating commerce with foreign nations and among the States; by establishing a uniform rule of naturalization; by bankruptcy laws; by coining money and regulating its value; to provide for punishment of counterfeiting; to establish post-offices, &c.

But it will be observed that the act of levying taxes and collecting money to pay the debts and provide for the common defense and general welfare is not in any way necessary to the act of regulating commerce, or establishing a rule of naturalization, or of coining money or regulating its value, or punishing counterfeiters, or defining and punishing piracies, or declaring war, or making rules for the government of forces, or organizing the militia. Any one of these acts of power may be performed without an exercise of the act or power of laying and collecting taxes. The payment of the debts, providing for the common defense and general welfare of the United States, although permitted by and dependent on the exercise of these enumerated powers in the performance of these several acts, is not limited to them, for it is expressly declared—

Congress shall have power to make all laws which shall be necessary and proper to carry into execution these and all other powers vested by this Constitution in the Government of the United States, &c.

TWO GREAT PRINCIPLES OF GOVERNMENT.

The argument is that there is no power vested by the Constitution in the United States except that given by these foregoing powers, but the Constitution says, "all other powers" vested by the Constitution in the United States. Neither in reason nor by the text of the Constitution can this construction be sustained. This great instrument of government can not be interpreted and never has been interpreted on so narrow a basis. The Constitution contains two great ideas—certainly the wisest in themselves that human wisdom has ever devised. They were the outgrowth of time and circumstance, as well as the wisdom of man. Observing these, all persons who believe in our form of government, whether of the strictest or of a broad school of construction, will arrive at the same results; and while no rule of beneficent legislation or beneficial execution of power by either will be limited or interfered with, there can never be an intrusion of either on the sovereign powers of the other. These are the ideas of States and of united States in a national government, which is guarded by the provision that the powers not delegated to the United States by the Constitution nor prohibited by it to the States are reserved respectively to the States or to the people. That is, all powers express or implied in the United States, or any department or officer thereof, are limited and restrained so as not to impair or affect the vital autonomy and rights and powers of the several States. The central idea of national power for national objects, and State power for State objects, which concern the internal polity of the States, demands that all powers and all execution of powers shall stop on this threshold.

Whatever, then, can be done in levying and collecting taxes to pay the debts and providing for the common defense and general welfare without controlling or interfering with the absolute right and power of the State to regulate and control her own internal polity and relations may lawfully and wisely be done. For what object would the limitation which the Senator from Texas insists on be made but for the protection of the rights of the States? It remains to inquire what part of the authority of the States, what right or reserved power, is violated or interfered with by a donation of money to aid in any work of improvement and by her acceptance or rejection of it. Why will she not, after such acceptance or rejection, have the same powers, and all the powers, and reserved rights she had before?

The rights of the States can never be affected by a consent or agreement on their part to exercise their sovereign power over education within their limits in establishing institutions of learning, or teaching their children to read and write, or agreeing to use money given to them for the industrial education of their people.

BENEFICENT USE OF POWER.

If this were true, then the acceptance of the conditions of the gift of the swamp-lands to the States, of drainage, &c., was a surrender of the territorial sovereignty of the State over these lands by the State to the National Government, for all of them stated this to be the object of the grant, and its acceptance and use was an implied acceptance of the agreement to the condition of the grant. If this be true, the acceptance of any land grant for education was a surrender of the power over education. If the powers of the United States are confined to making war, if the common defense and the general welfare can be provided for only by defense against violence, if no power of beneficence exists, they will prove inadequate to the needs of that incoming age whose great success is already heralded in the preservation of human life, and not in its destruction; in the increase of the sum of human happiness and comfort, and not in its diminution; in the institution of the beneficent causes which banish extreme poverty and want, which prevent and relieve pestilence and disease and famine.

In the development through applied science of all the economies on which abundant production and just exchange and distribution depend the higher and wiser civilization of the present and the coming age demands that all public powers shall be subordinated to and promote the great law, "Thou shalt love thy neighbor as thyself." The end and object shall be to cure, and not to destroy; to bring comfort, ease, and abundance to all. To this end applied science unfolds the hidden powers of force in the elements and applies them to the needs of man; discerns the hidden causes of disease, pestilence, and want, and points with almost unerring certainty to the means and economies by which they may be prevented or staid in their advance. To accomplish these great ends wisely and well demands all the energies of the human race in that direction in which alone a divine economy has decreed they may be successfully exerted.

RIGHT TO GIVE AND ACCEPT.

But the right of appropriation, the right of giving, the right of accepting, the right of the State and the General Government to make a grant of property where there is no concession of power of one to the other subject to the condition of the performance of a particular act within the function and power of the State, I affirm has never been in practice denied. Such a consent on the part of the State to exercise her powers of legislation on a particular subject within her own limits and in her own internal affairs by applying money in aid of a special purpose is one of her reserved powers. Every grant to a State for a railroad, every grant in aid of education of this long column of 67,983,000 acres of the public lands of the United States, every one of them, has been accompanied with a designation of the purpose for which it was granted and with an either express or implied acceptance of that purpose and the obligation to carry it into effect.

Now, Mr. President, I dismiss without further consideration the idea that there is any support either in reason or in the history of this country in the proposition that there is no constitutional power for the exercise of this act of appropriation and of its acceptance and use by the States. We have been constantly met, as has been stated by the Senator from Arkansas, with objections on the subject of an interference with the rights of the States. Well, sir, if the rights of these States were imperiled by this or any other action, humanity might well stand aghast at the prospect of returning barbarism and war. The States are the foundation upon which the powers of the General Government rest, and I should be the last one to interfere with them. But there can be no reading of the Constitution made in which its express grants of power limit and confine its appropriation of money for any object within the range of the common defense and general welfare which does not invade the sovereignty and the reserved powers of the States.

The power to lay and collect taxes to pay the debts and provide for the common defense and general welfare of the United States is one power and will not read in connection with the other powers; as for instance "to define piracies and punish them" has nothing to do with laying and collecting taxes to pay the debts and provide for the common defense and general welfare. The evident intention of these specific grants of power and those implied was not to restrict the power of laying and collecting taxes to pay the debts and provide for the common defense and general welfare, but to limit and restrain Congress from exercising power within the limits of the reserved rights of the States. The limitation on the power of appropriations was the common defense and the general welfare. The limitation of the other powers is the express grant of them and their confinement to the expressed subjects of the grant, which are all so defined that they can not be extended to embrace subjects relating to the internal polity

and the domestic affairs of the States. The distinction is broad and palpable, and behind it is the safeguard of the express reservation of all powers not granted and not prohibited to the States and the people thereof. What need was there in the interest of the protection of the States for restraining the discretion of Congress as to what is necessary for the common defense or the general welfare in the appropriation of the public money or in laying and collecting taxes?

I think it has been abundantly shown that this has been the construction placed upon this clause of the Constitution by all schools of construction in all the history of the country.

ILLITERACY IN THE STATES.

The Senator from Missouri has contended that this evil of illiteracy is greatly exaggerated. I have no doubt that is so. I have no doubt that the statistical information to be gathered through a bureau of statistics such as has been suggested by the great labor interest of this country would furnish the only reliable statistics. It needs no argument to discover to us that obtaining reliable statistics is a science, and requires elaborate, permanent, patient, continuous trained effort to gather the facts that will accurately exhibit the condition of a people. But so far as we have information on that subject the best and most reliable we have are the tables of the census, which in their enumeration expressly specify that a certain number of people over 10 years of age can not read or write; and those tables are approximately true at least.

I read from a paper prepared with admirable clearness and ability by a gentleman in the public service (Hon. Mr. WILLIS, of Kentucky, of the House of Representatives):

Of the 50,155,783 people of the United States there are 6,239,958 over 10 years of age, 12.44 per cent., or nearly one-eighth of our entire population, who can not write. These illiterates are thus distributed:

Illiterate whites in twenty-two Northern States	1,272,208
Illiterate whites in the eight Territories	69,933
Illiterate blacks in the twenty-two Northern States and eight Territories	156,644
Illiterate whites in the sixteen Southern States and District of Columbia	1,676,939
Illiterate blacks in the sixteen Southern States and District of Columbia	3,064,234
Total	6,239,958

An analysis of these statistics shows that in eighteen States, including two Territories, more than 13 per cent. and in eleven more than 25 per cent. can not write. In fifteen States and Territories more than 11 per cent. of the white population over ten years of age can not write, varying in these from 11 to 45 per cent.

While no portion of the country is free from this scourge of ignorance, the condition of the Southern or former slaveholding States is especially lamentable and full of danger. More than one-fourth of the entire population of these States is illiterate.

Eight of these States—Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia—have over 40 per cent. of illiterates of all classes, white and black. The whole number of persons, white and colored, in the sixteen Southern States was 18,500,000. Of these the number of illiterates was 4,715,395, or 27.1 per cent. This illiteracy is largely confined to the colored people, 47.7 per cent. of whom (3,220,878) can not write, while only 6.96 per cent. of the whites (3,019,080) are in that condition.

The total school population of the South was 5,659,660, of whom the number enrolled was only 2,973,944. In other words, there were 2,685,716 children who received no schooling whatever, or who attended only half the school period. It is safe to say that not more than one-half the school population in the South received an education covering the school age. But, in addition to the children, there are 1,354,974 males 21 years of age and upward who are illiterate.

Adding these to the children who attended no school, we have a grand total of 4,040,690 in the South who at present have no adequate educational advantages.

To lift this mass of ignorance to the plane of intelligence and usefulness is the problem which your committee has most faithfully, if not successfully, sought to solve.

In considering this question there are several propositions, some of which are self-evident, and all of which, it is believed, can be sustained by statistics and historic facts.

Thus it appears that Illinois expended per capita five times as much as Alabama; New York six times as much as Georgia; Massachusetts seven times as much as Mississippi, and California twelve times as much as North Carolina; or, if we compare the States as nearly alike in population, it appears that Alabama, with a population of 1,262,505, expended in 1880 for school purposes $375,465, while New Jersey, with 130,000 less population, expended $1,928,370, or five times as much; but the property of New Jersey was assessed at $606,415,561, while that of Alabama was only $120,000,000, or one-fifth as much. Thus, relatively, the two States were upon an equality, and Alabama taxed herself for education as heavily as New Jersey. So, also, Wisconsin, with about the same population as North Carolina, expends five times as much, but the property of Wisconsin was five times greater. A comparison of the other States discloses the same result. These statistics, while showing how great the educational needs of the Southern States are, also show that in proportion to their ability they have not been far behind other States of the Union.

Without external aid, therefore, the South, even with the utmost self-denial, can not educate her illiterates; nor will this excite surprise if the tremendous losses incurred there during the last two decades are taken into consideration. As the result of the war the South lost over $4,000,000,000. The enormous shrinkage of values in the individual States of the South is well known.

Since 1860 the population of Alabama has increased 31 per cent., while her assessed valuation has diminished 72 per cent. In Arkansas the population during the same period nearly doubled, while the sources of taxation have fallen more than one-half—twice the number to educate and only half the means for the purpose.

In seven of the Southern States—Alabama, Arkansas, Florida, Georgia, Mississippi, Louisiana, and South Carolina—the shrinkage of values has been over one-half, and in several of them nearly three-fourths. As further emphasizing this loss of values in those States, their condition may be contrasted with other portions of the country. The census shows that Indiana gained 77 per cent. in wealth, New York 91 per cent., New Jersey 93 per cent., Rhode Island and Illinois 102, Massachusetts 104, Pennsylvania 134, while some of the newer States gained from 217, as in Michigan, to 406 in Minnesota, and 1,120 per cent. in Nebraska. The examination of such statistics must substantiate the fact that no one State of the South, nor all of them combined, can satisfactorily solve the educational problem and save themselves and the country from the impending peril.

We have, then, these figures. The illiterate whites in the sixteen Northern States 1,272,208; the illiterate whites in the sixteen Southern States and the District of Columbia 1,676,939; illiterate blacks in the Southern States and the District of Columbia and Northern States about 3,220,000 over 10 years of age.

ILLITERACY, CRIME, AND PAUPERISM.

Mr. President, I have here a history of the progress of the world by Mulhall, which exhibits the connection of crime and pauperism with illiteracy with the absence of education, whether bad or good education, whether it is perfect or imperfect. This valuable book contains carefully tabulated statements of the statistics of different countries. I read from page 105 as follows, under the head of crime:

That public morality has risen in every country in the same degree as instruction is fully proved by the statistics of crime.

In Great Britain, for example, the annual convictions compared to population have fallen 60 per cent. in the last forty years. Similar results are true in a greater or less degree of other countries—

There is, moreover, a difference in the nature of offenses in various countries. In the North fraud, theft, and in infanticide; in the South, stabbing and highway robbery are most frequent. Mr Black gives the following comparative table of murder and stabbing in the various countries:

United Kingdom, per million of inhabitants	7.5
Sweden and Norway, per million of inhabitants	8
France, per million of inhabitants	8.5
Germany, per million of inhabitants	8
Belgium, per million of inhabitants	11
Austria, per million of inhabitants	16
Russia, per million of inhabitants	32
Italy, per million of inhabitants	57
Spain, per million of inhabitants	88

There is professedly a close relationship between poverty and crime, as shown by inspectors of prisons in Great Britain in their report:

Crime and pauperism fell from 1851 to 1853; rose from 1854 to 1857; fell from 1858 to 1860; rose from 1861 to 1863; fell from 1864 to 1866; rose from 1867 to 1870; fell from 1870 to 1872.

Doctor Meyr shows that in Germany, when the price of flour rises, there is an increase of emigration and robberies, but no connection with the rates of murders and assaults.

The administration of justice compared with population is twice as costly in some countries as in others. For example, in Italy 20 pence, and in France only 9 pence per inhabitant. The total expenditure for law courts and prisons in the United Kingdom is 40 pence per inhabitant, or a little more than we spend on schools.

On page 309, relating to Belgium, the thickest populated country in the world and one of the most prosperous, it is stated, the decrease of crime would seem to be the result of education. * * * How closely ignorance and crime are related is shown by the fact that 64 per cent. of the criminals could not read.

On page 121 I read the following instructive statements:

Local taxation has * * * increased remarkably in the last ten years, the expenditure growing in England as follows:

	1867-'68.	1874-'76.
Public works	£6,218,000	£9,595,000
Poor relief	7,419,000	7,681,000
Interest on debt	4,575,000	8,539,000
Roads, markets, docks	5,934,000	6,672,000
Police	3,219,000	3,749,000
Schools	42,000	2,200,000
Charities, asylums	2,830,000	441,000
Total	30,237,000	42,877,000

The local taxation has risen 133 per cent. since 1860, when it was £17,000,000, and seems destined to rise to a level with the imperial budget. The principal cities are more heavily taxed for local than for national purposes, and this is chiefly owing to the cost of these sanitary improvements and schools that have so notably "reduced mortality and crime."

We have the fact exhibited that in England and throughout Germany the decrease of crime has been nearly 50 per cent. since the establishment of a system of general instruction. We have the statistical evidence, approximately true, that in the United States there has been a large decrease of crime in proportion to the increase of general education in the States where it prevails most largely; so much so, that in the last twenty years the increase of education in this country has given to the United States the front rank; 19 per cent. being the number of the highest ratio in Europe, which I think is in Prussia, and the United States standing at the same figure.

EMPLOYMENT FOR LABOR DIMINISHES.

I shall not consider the advantages of education at length, but I will go a little further. We are confronted with a very remarkable fact, when we come to consider it, brought largely to the notice of the Committee on Education and Labor during the past summer. It is the effect upon the population of the country, upon its industrial classes, of the wonderful advance in labor-saving machinery that has been made in the past few years. I find that the total power now in use in the

nations of France and Germany, the Low Countries, Austria, the United Kingdom, the United States, and other countries is equivalent to 13,071,000 horses; that the labor saved by the simple invention of the sewing-machine equals the work of 12,000,000 women working by hand. In the work from which I read, Mulhall's Progress of the World, it is stated:

In effect, the adoption of machinery and steam has given mankind an accession of power beyond calculation. The United States, for example, make a million sewing-machines yearly, which can do as much work as formerly required 12,000,000 women working by hand. A single shoe factory in Massachusetts turns out as many pairs of boots as 30,000 boot-makers in Paris.

That wonderful progress is everywhere throwing out of employment hundreds and thousands of people, and the remarkable fact is exhibited behind these great aggregate results that the statistics of other countries exhibit increasing pauperism and want of employment of the industrial classes, and they show a necessity for some means by which that great evil can be remedied, so as to make this saving of labor a beneficent blessing to mankind and productive of beneficent results alone, instead of evils corresponding in magnitude to its power for good.

INDUSTRIAL EDUCATION THE REMEDY.

It has been urged upon the Committee of Education and Labor by intelligent laboring people, by federations of labor, by representative men, that there has been found but one means by which this may be done, and that is by education; not only common-school education but industrial education; that education which turns the child from the school equipped and prepared to earn a living, to engage in diversified employments, not in some particular trade or part of a trade, not having learned merely to make the sole of a shoe or some part of a garment, some particular classification of a trade or some particular employment in a factory, but trained for industrial employment generally, educated for that. That is the only means we can discover by which there can be a just distribution of labor, upon which in a dense community the entire subsistence of the laboring people must depend, upon which a just remuneration of labor can be assured, and upon which the independence of the laborer can be safely predicated.

Education, I venture to say, is the only protection, not only in a political but in an economic sense of government. It is upon it that government must depend for its perpetuation, and I venture the assertion, which may be defended by the most logical and severe argument, that no government within the coming age can exist except upon the basis not only of a common-school education, but of an industrial education of its people.

We have now about 56,000,000 people. We may contemplate near at hand the time when 100,000,000 people will exist in this country, when the soil will be fully occupied, and we can not too soon prepare such an economic condition of things based upon intelligence and industrial education as will furnish comfortable subsistence adequate to the remuneration and the needs and comforts of our civilization to 100,000,000 people. You can not find it in your tariff nor in your system of exchanges. You must find it, important as these great subjects are, in other measures which will mold them and mold the face of the earth and control all economic forces with the same ease with which the gigantic machines the invention of the present age perform their appointed work. You must find the remedy for this difficulty in a proper distribution of labor, in the just remuneration of labor; you must find it in making the laborer independent by an adequate industrial education. We are far behind the most advanced nations of Europe, behind some portions of Germany, behind France, behind England, in that one essential thing of an industrial education for the millions of laboring people who by these new economies in this new industrial world are being driven from the occupation of the soil into the towns.

It has become a demonstrated fact that with the invention of labor-saving machinery there has commenced to be a concentration and accumulation into fewer hands of the territory, the soil of the country; that the economies of production under the system of labor-saving invention tend to give the advantage in production to the large farmer who employs his labor-saving machinery, and that now the tide of population, the tide of employment, is being driven from the country to the town by these economic causes

THE MERITS OF THE BILL.

Mr. President, in the light of these propositions, which are supported by statistics, which are well founded in the opinions and judgment of many calm and learned men, which the labor representatives themselves perceive, how important is it, not alone in a political sense but in an economic point of view, that this great lever of education beginning with the common school and continuing through the industrial school shall be aided and sustained in the only way in which it may be done, namely, in conformity with the principles of our government of States and of a national government, as this bill most effectually does. Upon it all men can unite, those who believe the Government has power as a consolidated and centralized power to reach out its hand upon any subject on which it may act into the reserved domain of State power, and those who believe, as the great majority do, in the rights and reserved powers of the States as a limitation in all its powers.

The bill is carefully prepared for the purpose of enabling men of different opinions as to the powers of the Government to stand upon it. It is prepared upon the theory that if you restored the Southern States to the Union under your reconstruction and gave them power to participate in your legislation on the great political and industrial interests of your Northern States, if you made them an integral part of the Union and with sovereign and equal powers like the other States, it would be a strange contradiction now to impeach your own action, and to deny the efficacy of your own institutions and the sufficiency of your own National Government under the Constitution.

In the interest of the laboring people and of the people who employ labor, for there is and ought to be no distinction of interest between them, I support this bill; but I had rather we had no means of educating them, that we were all left to struggle on by feeble efforts, than to have this Government marred or impaired. It is founded on principles, and its institutions are the outgrowth of time and circumstance, and you can not substitute for this Union of States a centralized, an absolute power, because that would be to destroy the power of the people.

Therefore I think this is a bill, whether we agree in the proportions upon which the aid shall be given or not, which can not be improved in these essential points. When that is said, it is no particular credit to the committee. The chairman has bestowed great care and labor upon it; but it has come from the careful consideratiou of a large number of intelligent persons who have voluntarily given without compensation their efforts and their time to the consideration of the question.

For one I believe that no more important act of legislation has ever been considered. I believe that if it becomes a law its beneficent results will be greater and extend further than any and all other measures in promoting the welfare of the people.

The people ought not and will not suffer, starve, and die—neither they nor their children. They will not and ought not willingly to be the victims of disease and pestilence, when enlightened policies of state and the discoveries of applied science will prevent it. The tenure by which wealth and property and power will exist must be its beneficent use for the advantage of mankind.

ECONOMIES OF A NEW WORLD.

These are the lessons which we are now learning from the rapidly unfolding economies of a new world. So far is our form of government and our distribution of powers between the States and the Federal Government from being unfriendly to them, that it is under our shelter and protection that they will find their highest development, avoiding carefully the exercise of *power* within the domain each of the other. Its powers of aid and encouragement are capable of indefinite application with entire safety to both, and to its most important factor, the States and their separate and reserved powers. Were these imperiled, humanity and science might well pause in their divinely ordained and splendid progress toward the relief of mankind from the direst calamities of the race—from want and pestilence and crime at the prospect of returning barbarism, and war and suffering under the despotism of consolidated and concentrated power.

I have not spoken of this measure in its special relation to the people of the African race in the Southern States. They have and will always have my earnest sympathies and efforts in behalf of every measure which has in view their real benefit and which does not look to making them the victims of partisan policies. They are an integral part of the body-politic, and must be cared for as others are; but this question is higher and deeper and broader than any question of race or color—it embraces humanity. It demands new industrial economies and requires an exercise of political power in conformity with these new interests.

Already invention has substituted in place of human employment machinery equal to the force of 13,000,000 horses. The sewing-machine does the work of 12,000,000 women, and every day new inventions dispense with human labor. Where are these to find employment and how obtain subsistence? We perceive how beneficent these great agencies are under wise public policies, but we also must observe that their power is equally great in increasing the sum of human misery without such policies.

No longer does a vast expanse of unoccupied land present itself to the citizen to attract him with a home and case and abundance for himself and wife and children to turn his back on the town and the old settlements and the life of penury and hardship and want, even with the advantages of the school-house and the church, and flee into the wilderness. This has been the easy solution of many families' hardships and troubles, and, with European immigration and the advent of the railroads, has been the efficient cause of the rapid growth of the great States of the West and Northwest.

We have now a population of about 56,000,000 of people and must soon have 100,000,000; our soil will be occupied, and we are confronted with the problem of its occupation and use under economies which dispense with labor to a great extent, accumulate properties in the hands of a few, and drive the people with their families into the towns.

How will you meet these economic conditions of a beneficent and splendid progress, capable of conferring unlimited blessings if properly used, but unrelenting in its destructive power if not properly directed? Manifestly the child must be trained and educated for diversified labor. Education of the head and the hand must go together, so that both boys and girls, men and women, shall leave the school mentally and industrially equipped to take part in the new economies, and share

in the abundance and ease and comfort which a Divine Providence has ordained to be their beneficent result. Tariffs and exchanges and equal and just taxation must ever be an important factor in these economies and deserve the attention of wise and thoughtful men, but compared with the importance of these questions they sink into an inferior place.

Invention, the applications of power, labor-saving machinery, applied science, and the distribution of labor are the new-born giants which will create demand and supply and mold and adjust all other forces with the ease and unobstructed progress with which one of their great engines performs its appointed labor. To be ready for this great problem no time is to be lost; before we are ready for them 100,000,000 people will require to be fed and clothed and comfortably housed, and the wants and the imperative needs and comforts of a new life supplied. The statistics show how, alongside of the wonderful progress and advance of the working people of England and other industrial countries in comfort, the ratio of pauperism grows.

Carefully prepared statistics will show everywhere beneath grand aggregate results the same consequences from the same causes. The energies of both the General Government and the States, each in its place, will find ample employment in the adjustment of these economies.

This great question can not be considered on the basis of party distinctions or resentments. It will not be confined to the colored race, nor to the white race, nor to teaching the people how to read or write, nor to the trammels of a political economy based on a condition of labor before electricity and the powers of the elements were made the servitors of man.

Six hundred thousand persons in the United States alone are now organized in labor associations for the purpose of mutual protection, and for the intelligent consideration of the causes, economic, industrial, and political, which concern the subsistence, comfort, and well-being of themselves and their families. These are associated with others in different countries, constituting a federation of labor throughout the world. They are giving intelligent thought to the consideration of all the great questions which concern labor, production, distribution, and exchange. They are subject to the imperfections, errors, prejudices, and extreme opinions which belong to men as individuals and in associations. They contain among their number many men who have accomplished a large success in the trades and in manufacture. They earnestly desire such a solution of these great economic questions as will benefit mankind.

Much of good result may be hoped for from these efforts if properly met by prudent and well-considered legislation on the part of the States and the General Government, each within the limits of its own powers, and much of evil from an attempt to force impracticable theories into the forms of law, and from the discontents which arise from conditions of discomfort and want and poverty unless these shall be remedied by wise legislation.

NECESSITY AND SUCCESS OF INDUSTRIAL EDUCATION.

The following statements of eminent men in regard to the necessity for industrial education are of great importance and deserve careful consideration.

Dr. Lyon Playfair, of England, in 1863, says:

I find some of our chief mechanical and civil engineers lamenting the want of progress in their industries and pointing to the wonderful advance which other nations are making. I found our chemical and even textile manufacturers uttering similar complaints.

The one cause on which there was most unanimity of conviction is that France, Prussia, Austria, Belgium, and Switzerland possess good systems of industrial education for the masters and managers of factories and workshops, and that England possesses none.

Dumas, a savant and senator of France and president of municipal council, assured me that technical education had given a great impulse to the industries of France.

In going through the exhibitions whenever anything excellent in French manufacture strikes the eye, his invariable question is, "Was the manager of this establishment a pupil of the Ecole Centrale des Arts et Manufactureurs?" and in the great majority of cases the reply is that he was. The best system of technical education of workmen is to be found in Austria, though the higher instruction of masters and managers is better illustrated in France, Prussia, and Switzerland.

Mr. J. P. Worth, June 3, 1867, says:

In the matter of primary education, England is well abreast of Austria, France, and Prussia. In the matter of all that tends to connect the workman with the artisan, Austria, France, and Prussia were clearly passing us.

In 1867 Edward Hatch says:

The want of industrial education in this country prevents our manufactures from making that progress which other nations are making. I found both masters and foremen of other countries more scientifically educated than our own.

Edmund Franklin, F. R. S., in 1867, says:

In the polytechnic schools of Germany and Switzerland the future manufacturer or manager is made familiar with those laws and applications of the great natural forces which must always form the basis of every intelligent and progressive industry. It seems that this superiority more than counterbalances the undoubted advantage which this country has in raw material.

James E. McConnell says in 1867:

It requires no skill to predict that unless we adopt a system of technical education for our workmen, we shall not even hold our own cheapness of cost as well as in excellence of quality of our mechanical productions. It appears to me government should take the matter in hand; the public funds should be forthcoming to establish these technical schools.

Capt. Frederick Beaumont, of the royal engineers, says:

There can be no doubt as to the immense strides foreign mechanical engineering has lately made, notably in France and Belgium, and by which they are rapidly overtaking Great Britain's industrial power. It is only when taken up by government that such an institution would assume proportions sufficient to be effective as a means of national education.

Mr. Scott Russell, of England, says:

Dissatisfied with our national progress, we have turned our minds to search for the cause of our deficiency. We find that during these years some nations have been occupied in diligently promoting the national education of various classes of skilled mechanical workmen for the purpose of giving skill to the unskilled and rendering the skilled more skillful. We find that some nations have gone so far as to have established in every considerable town technical schools for the purpose of teaching all the youths intended to be craftsmen those branches of science which relate most nearly to the principles of their future craft.

Workers in metal are taught the nature of the mechanical powers with which they will have to work and the chemical properties of the materials they will have to operate upon. Engine-builders are taught the principles of heat and steam and the nature of the engines they have to make and work; ship-builders are taught the laws of construction, hydraulics, and hydrostatics; and dyers and painters are taught the laws of chemistry and color.

All skilled youth are taught geometry, drawing, and calculation; and in many countries every youth who shows great talent in any department is promoted to a higher training school and there educated at the public cost. Besides these local schools other countries have technical colleges of a very high class for the education of masters and foremen in engineering, mechanics, merchandise, and other practical and technical professions.

In 1867 A. J. Mundella says:

I am of opinion that art and industrial education, without a thoroughly organized system of primary instruction, will not remove the danger which threatens our manufacturing and commercial supremacy. I trust it will not be deemed presumptuous if I lay briefly before you the result of my observation on a subject in which I have long been deeply interested.

The branch of industry with which I have been connected for thirty years past is the manufacture of hosiery. I am the managing partner of a firm employing 5,000 work-people, with establishments in Nottingham, Derby, and Loughborough, employing more than four-fifths of the number, and with branches at Chemnitz and Pausa, in Saxony, employing about seven hundred persons. In addition to the opportunities and experience which the superintendence of these establishments has afforded me, I have for many years past formed friendships with manufacturers in France and Germany. I have had free access to their warehouses and workshops, and I am as well acquainted with the progress of my own branch of industry in those countries as in England.

As the result of my observation I have for four or five years past been increasingly alarmed for our industrial supremacy, and my experience of the Paris exhibition has only confirmed and strengthened my fears. In my own branch we still maintain the lead in the majority of articles, but the progress made by France and Germany since 1862 is truly astonishing, and it has been much greater than our own.

I am of opinion that Englishmen possess more energy, enterprise, and inventiveness than any other European nation. The best machines in my trade now at work in France and Germany are the inventions of Englishmen, and in most cases of uneducated workmen; but these machines of English invention are constructed and improved by men who have had the advantage of a superior industrial education. The largest hosiery machine-shop in France is that of Monsieur Tailbours, at St. Just; models of all the best English machines have been purchased and imported, and they are there improved and constructed on thoroughly scientific principles under the superintendence of a young man who, I was informed, took high honors at the school of the government in Paris.

Precisely the same thing is taking place in Saxony, but the Saxons are, in respect of education, both primary and industrial, much in advance of the French, and in my branch they are our most formidable rivals.

In Nottingham, where the best machinery in the world is required and used in the production of hosiery and lace, there is no such thing as industrial education, and, greatly as it is to be desired, I am acquainted with many good mechanics and superior workmen to whom it would be of no service, inasmuch as they can neither read nor write.

The contrast between the work-people of England and Saxony, engaged in the same industry, is most humiliating. I have had statistics taken of various workshops and rooms in factories in this district, and the frightful ignorance they reveal is disheartening and appalling. I was born and educated among the working classes, and all my life have been in close association with them, but I never realized the condition of the lower masses of our work-people till I took the pains to examine them personally in the manner I have indicated.

In Saxony our manager, an Englishman of superior intelligence and greatly interested in education, during a residence of seven years has never yet met with a workman who can not read or write. And not in the limited and imperfect manner in which the majority of English artisans are said to read and write, but with a freedom and familiarity that enables them to enjoy reading and to conduct their correspondence in a creditable and often superior style. Some of the sons of our poorest workmen in Saxony are receiving a technical education at the polytechnic schools, such as the sons of our manufacturers can not hope to obtain.

While, therefore, I believe that the English workman is possessed of greater natural capacity than any of his foreign competitors, I am of opinion that he is gradually losing the race through the superior intelligence which foreign governments are carefully developing in their artisans.

The influence of strikes and lock-outs has been undoubtedly against industrial progress. But the worst practices of trades-unions are the result of the gross ignorance of the majority of workmen who are connected with them. I succeeded nearly seven years ago in forming a board of arbitration and conciliation for the hosiery trade of this district, and no strike has taken place since its formation.

Leicester has recently followed our example, and during the past week the lace trade has done the same. This is the only solution in my opinion of that difficulty.

The education of Germany is the result of an organization which compels every parent to send his children to school, and, after having laid the foundation of a sound education, affords to all those who have the capacity and inclination the opportunity of acquiring such technical knowledge as may be useful in the department of industry for which they are destined.

If we are to maintain our position in the industrial competition, we must oppose to this organization one equally effective and complete. If we continue the fight with our present voluntary system, we shall be defeated. Generations hence we shall be struggling with ignorance, squalor, pauperism, and crime; but with a system of education made compulsory, and supplemented with art and industrial education, I believe within twenty years England would possess the most intelligent and inventive artisans in the world.

James Young, in 1867, says:

I was a juror in the English exhibition of 1862, but in the French exhibition I am only an exhibitor; as such I have spent about a month in Paris studying the

exhibition, and there had the opportunity of meeting many jurors of different nations. I am bound to say that my experience accords with that of Dr. Lyon Playfair. So formidable did the rate of progress of other nations appear to many of us, that several meetings of jurors, exhibitors, and others took place at the Louvre Hotel on the subject. The universal impression at these meetings was that the rate of progress of foreign nations in the larger number of our staple industries was much greater than our own.

But it must be stated that a large number of our first-class machine and other manufacturers are not exhibitors in Paris, whereas other nations, I believe, have taken care to bring forward their very best; still the great progress of other countries is evident. The reason for this increased rate of progress is the excellent system of technical education given to the masters of workshops, submanagers, foremen, and even workmen. England for a long time excelled all other countries in the finish of her machines; but now we find that foreign machine-makers are rapidly approaching us in finish, and having skilled and intelligent labor cheaper than ourselves, are progressing in all the elements of manufacturing.

Permit me to use my own case as an illustration. Originally I was a workingman, but have succeeded in increasing the range of manufacturing industry. The foundation of my success consisted in my having been fortunately attached to the laboratory of the Andersonian University in Glasgow, where I learned chemistry under Graham, and natural philosophy and other subjects under the respective professors. This knowledge gave me the power of improving the chemical manufactures into which I afterward passed as a servant, and ultimately led to my being the founder of a new branch of industry and owner of the largest chemical manufacturing works of the kingdom.

It would be most ungrateful of me if I did not recognize the importance of scientific and technical education in improving and advancing manufactures. Many men without such education have made inventions and improvements, but they have struggled against enormous difficulties which only a powerful genius could overcome, and they have been sensible of the obstacles to their progress.

Stephenson, who so greatly improved locomotives, had to be his own instructor, but he sent his son Robert to Edinburgh University, and the son did works at least as great as the father and with far less difficulty to himself. The improvement in locomotion has necessarily created great competition in the industries of the world, and unless we add skilled instruction to manual labor England can not expect to maintain her position in the industrial race.

I have made these extracts from a series of letters written by the managers and employers of labor in the great establishments in England, some of them men who have risen to positions of great prominence in the vast manufacturing interests of that kingdom. These letters were written in answer to inquiries addressed to them by authority of the Government of Great Britain.

They exhibit the fact that the progress of nations and the comfort of the laboring people, the just remuneration and the proper distribution of labor, depend on the best primary and technical education and its establishment as a system and its general use. I shall not pursue the subject further. If all our efforts were given to the great work what grand results might we not hope to see in a short time in all the States, and in the Southern States especially.

How many children, both boys and girls, furnished with the means of earning a comfortable livelihood; how the arts would flourish; how factories and industrial employments would increase and flourish; how agriculture and horticulture would assume lovelier and more productive forms; how happy, cultivated, contented, prosperous, and virtuous would be our people. These are the fruits, Mr. President, which we may reasonably hope for from the commencement and continuance of the policies which this bill proposes to inaugurate and aid.

Mr. LAMAR. Mr. President——

Mr. GARLAND. Would the Senator from Mississippi prefer to go on this evening or to-morrow? If he will give way I will move an executive session.

Mr. LAMAR. I propose only to submit a few remarks; but I am willing to give way if such is the desire of the Senator.

Mr. HARRISON. I wish the Senator from Arkansas would withhold his motion for a few moments.

Mr. GARLAND. Very well.

Mr. HARRISON. I do not desire to discuss this bill, but I propose to offer an amendment to it in the nature of a substitute, which I ask may be printed; and for the purpose of calling the attention of Senators to the amendment I desire to say just a word or two. It seems to be conceded upon both sides of this Chamber that the obligation, if there is an obligation, for an appropriation out of the national Treasury for purposes of education grows out of matters connected with the emancipation of the black race in the South. I say that seems to be conceded on both sides of the Chamber. I do not suppose there is a Senator here who would propose this bill or advocate it but for facts connected with the condition of the black race in the South.

Mr. President, by the bill which is under discussion we are proposing therefore to treat the evil of illiteracy as connected with the emancipated slaves, and in order to get at the particular difficulty which incites this legislation, which justifies it, we are proposing a system which distributes public money all over the United States without reference to the fact whether there are any emancipated slaves, and without reference to the fact whether the State in which it is to be distributed is in any way incapable of dealing itself with the question of education. In other words, we propose to give Massachusetts her share of this fund, though her Senators tell us that Massachusetts is amply able to deal with the question of illiteracy within her own borders, and that she has now a school system which sets before every boy and girl in that Commonwealth an open door to the acquisition of the elements of an education. That same thing is true in the State of the Senator who manages this bill upon the floor. It is true in the State I represent. There is not a boy or girl of school age in the State of Indiana that has not today an opportunity to acquire the elements of a common-school education. Why, then, shall we be under this bill distributing $5,000,000 to the States which are able to deal with this question of illiteracy, to the States which claim that they have already dealt with it and have now an ample school fund and plenty of schools and teachers to take care of their own children?

It seems to me that we should apply the plaster to the wound, and instead of wrapping the whole body in bandages we should bandage the diseased part alone. I shall therefore propose by this amendment that the appropriation made shall go to those States only which have at least 10 per cent. of illiteracy. I do not believe that it will be a benefit to the States of the North—take the State of the Senator who sits next to me, Ohio—to throw into that State for current use a part of this appropriation. If it could be added to the permanent educational fund in Ohio I agree that it might be valuable, because then it might go on; but if it is to be added only for a few years to a State where educational interest is already well-developed and where appropriations for education are already ample, it can not have the effect to stimulate, and is likely to have the effect rather to enervate.

Then, Mr. President, this amendment proposes that the amount to go to any State, as in the amendment to the bill which I proposed the other day, shall not be more than the State itself has expended in the preceding year for the purposes of education. I propose that the sum appropriated shall be less, that it shall begin with $5,000,000 annually, and that it shall not run more than five years. I do this because I believe the project is an experiment. The amendment I propose does not assume to make the appropriation, but simply provides that these appropriations shall be made from year to year.

Mr. BLAIR. That is the bill, the Senator will understand, now. It appropriates annually.

Mr. HARRISON. Very good; then in that respect it does not differ from the bill which the committee have reported. Certain conditions are prescribed on the part of the States in order to entitle them to the use of this fund. One is that the State shall not, after the payment of the first installment under this act, reduce the State assessment for common schools. Another is that it shall be distributed to the school districts or other territorial subdivisions, not according to the number of children attending school therein, but according to the number of children of school age within the district.

These are the general outlines of the amendment which I propose. I propose it as in the line of the remarks I made the other day, as being a sufficient provision for the experiment which we are about to try, and as bringing the money which is to be appropriated directly in contact with the evil which is to be remedied.

I do not know that the amendment is in the best shape. I shall not be tenacious, when the Senate considers it, if any changes in it may improve it. I have hastily prepared it, and I submit it to the consideration of the Senate.

The PRESIDING OFFICER. The amendment will be received and printed, and lie on the table until it is in order to present it.

Mr. PLUMB. I wish to withdraw the amendment which I moved, if I can do so, in order that the amendment of the Senator from Indiana may take the place of it. I do not mean this amendment, but the one offered a day or two since. The amendment of the Senator from Indiana accomplishes the purpose which I had in view besides accomplishing other purposes.

The PRESIDING OFFICER. The Chair will state to the Senator from Kansas and the Senator from Indiana that the question now is on the motion of the Senator from Kansas [Mr. PLUMB] to recommit the bill.

Mr. PLUMB. Then I should not be entitled now to accept the amendment of the Senator from Indiana?

The PRESIDING OFFICER. No amendment is now in order in the opinion of the Chair.

Mr. HOAR. I suppose that the motion to commit takes precedence; but if that is voted down, I asked the Senator from Kansas the other day to allow me to make an amendment which the Senator from New Hampshire was willing to accept, making the text of his bill more clear, but the Senator declined. I found afterward, on examining the rules, that my amendment took precedence of his by right, because his is to strike out the very words of the text which I propose to amend and insert something else. So I suppose whenever the motion to recommit is voted down my amendment will come first.

The PRESIDING OFFICER. The Chair only holds that at this time no amendment is in order, the question pending being on the motion to recommit.

Mr. GARLAND. With the understanding that the Senator from Mississippi [Mr. LAMAR] has the floor on the bill, I move that the Senate proceed to the consideration of executive business.

Mr. BLAIR. Before the question is taken I wish to say that it will be necessary for the——

The PRESIDING OFFICER. Does the Senator from Arkansas withdraw the motion?

Mr. GARLAND. Yes, sir.

Mr. BLAIR. I wish merely to say—and it is an important thing to be understood—that it will be necessary for the friends of this measure

to ask of the Senate somewhat longer sessions than we have been accustomed to during the week, to-day perhaps, certainly to-morrow, and I think it would be well that we should ask the Senate to complete action upon this bill during the day to-morrow; otherwise we may be obliged to have a session on Saturday, for early next week, perhaps on Monday, I am notified by the chairman of the Committee on Appropriations that he will report a bill from his committee which will occupy the attention of the Senate. This bill has been under discussion now nearly two weeks, and I judge from the amendments offered that we go constantly further and further from an agreement on its provisions. I think that before long it would be well to take votes and see where we are. While I do not want to urge that proceedings be prolonged to-night, still I think we shall have to ask the Senate to sit to a later hour than usual to-morrow evening at all events.

Mr. GARLAND. I renew my motion for an executive session.

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

HOUSE OF REPRESENTATIVES.

THURSDAY, *March* 27, 1884.

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

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

SCHOONER DRUID.

Mr. STONE. I ask unanimous consent to take from the Speaker's table for present consideration the bill (S. 1847) to authorize the issuing of a register to John S. McQuin and J. Warren Wonson for the schooner Druid.

The SPEAKER. The bill will be read, after which the Chair will ask for objections.

The bill was read, as follows:

Be it enacted, &c., That there be issued, under the direction of the Secretary of the Treasury, a register for the schooner Druid, built in Lunenburg, Nova Scotia, but now owned by John S. McQuin and J. Warren Wonson, citizens of the United States, and lying in the port of Gloucester, Mass., whenever the said McQuin and Wonson shall furnish the Secretary of the Treasury with satisfactory proof that the said schooner has been repaired in the United States, and that the cost of repairing her by her present owners is equal to double the cost of the said vessel to them when purchased.

Mr. HOLMAN. The reading of the bill was not heard distinctly on account of the confusion in the Hall.

The SPEAKER. The Clerk will again report the bill.

The bill was again read.

The SPEAKER. Is there objection to the present consideration of the bill?

There being no objection, the bill was taken from the Speaker's table, read three times, and passed.

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

The latter motion was agreed to.

ENSIGN L. K. REYNOLDS.

Mr. COX, of New York. By direction of the Committee on Naval Affairs I ask unanimous consent to report from that committee for present consideration the joint resolution (S. R. 26) granting permission to Ensign L. K. Reynolds, United States Navy, to accept the decoration of the Royal and Imperial Order of Francis Joseph from the Government of Austria. The joint resolution is for the purpose of permitting a gentleman who is going off on the Greely expedition to accept a decoration from the Austrian Government in recognition of his heroic conduct in saving several lives.

The joint resolution was read.

Mr. HOLMAN. Has the resolution been considered by a committee of this House?

Mr. TALBOTT. It has been considered favorably by the Committee on Naval Affairs.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

Mr. COX, of North Carolina. I object.

Mr. TALBOTT. I think the gentleman will not object to the gentleman from New York [Mr. COX] being permitted to give an explanation.

The SPEAKER. Does the gentleman from North Carolina withdraw his objection?

Mr. BRUMM. I object.

ORDER OF BUSINESS.

Several members called for the regular order.

Mr. BLACKBURN. I move to dispense with the morning hour for the call of committees.

The question being taken, there were—ayes 76, noes 6.

So (further count not being called for, and more than two-thirds having voted in the affirmative) the morning hour was dispensed with.

SWINE PRODUCTS OF THE UNITED STATES.

Mr. HATCH, of Missouri, by unanimous consent, presented a report from the Committee on Agriculture, to whom was referred the message from the President of the United States, transmitting a report from the Secretary of State relative to the traffic in the swine products of the United States, with a resolution recommending an appropriation to remunerate the commissioners; which was referred to the Committee on Appropriations.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced that the Senate had passed bills of the following titles; in which the concurrence of the House was requested:

A bill (S. 10) for the relief of Henry I. Todd, late keeper of the Kentucky penitentiary;

A bill (S. 48) to provide for the allotment of lands in severalty to Indians on the various reservations and to extend the protection of the laws of the States and Territories over the Indians, and for other purposes; and

A bill (S. 940) to authorize the Secretary of the Treasury to cause to be examined certain vouchers filed, or to be filed, by the State of Missouri, or her agent or agents, for sums claimed to be due from the Government of the United States on account of payments made by said State since April 22, 1882, to the officers and enlisted men of her militia forces for military services rendered to the United States in the suppression of the rebellion, as evidenced by the proper pay-rolls heretofore filed with, examined and accepted by, the Government of the United States, and to report to Congress.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. YAPLE, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled a joint resolution of the following title; when the Speaker signed the same:

Joint resolution (H. Res. 215) reappropriating the sum of $125,000, not expended, for the relief of sufferers by the floods of the Mississippi River.

ORDER OF BUSINESS.

Mr. BLACKBURN. I now move that the House resolve itself into Committee of the Whole for the purpose of proceeding with the consideration of bills raising revenue.

The motion was agreed to.

The House accordingly resolved itself into Committee of the Whole, Mr. DORSHEIMER in the chair.

WHISKY EXTENSION BILL.

The CHAIRMAN. The House is now in Committee of the Whole, and resumes the consideration of the bill (H. R. 5265) to extend the time for the payment of the tax on distilled spirits now in warehouse. By order of the House all general debate upon the bill has been limited to one hour and a half. The gentleman from Pennsylvania [Mr. RANDALL] is recognized to control one-half of that time.

Mr. RANDALL. Mr. Chairman, this is a bill of graver consequence than any that has been considered by the House at this session, and if any gentlemen suppose that only the parties directly interested in the measure are watching its progress they will discover, when perhaps too late, their ignorance of the sentiments and wishes of the people.

I shall discuss this matter briefly, because it is well understood and has been thoroughly canvassed, in its phases and consequences, by each member. What I have to say will be on a higher level, I think, than any arising from a prejudiced view of the matter.

The legislation in reference to whisky, from its inception and throughout its existence, has been steadily in one direction, and that has been to make the manufacture of whisky in this country a monopoly. I say this with no disrespect to the gentlemen engaged in its production, many of whom I know and entertain a high respect for. But we must recognize as true the fact that the legislation of this country has established a monopoly, and has driven from this field of profit almost all the minor producers and business men of limited capital. This monopoly I consider a dangerous factor in our public affairs. As business men those engaged in the manufacture of whisky have my fullest consideration, and I am prompted by no unkind feeling toward them in my opposition to this bill, for if I could to-day relieve them by a repeal of the tax *in toto*, or by a partial repeal, they would have my warm advocacy and I would rejoice. What I fear from this measure is that it tends to make permanent the internal-revenue system that brings into our Treasury so large a proportion of our annual revenue. I abhor the system, and I stand against its continuance for a day longer than we can help; and therefore any act of legislation likely to perpetuate it I feel a solemn duty requires me to resist.

The excise law—

Said Thomas Jefferson—

is an infernal one. The first error was to admit it by the Constitution; the second, to act on that admission.

In corroboration of my view as to the danger of a continuation of the