Association of San Francisco, Cal.—to the Committee on the Post-Office and Post-Roads.

By Mr. O'NEIL, of Massachusetts: Remonstrance of John Cavanagh & Son and 13 others, against increasing the duty on lime—to the Committee on Ways and Means.

Also, remonstrance of William H. Saywood and 21 others, for same purpose—to the Committee on Ways and Means.

By Mr. O'NEILL, of Pennsylvania: Petition of Michael McGarry, formerly of Company G, Ninety-fifth Regiment Pennsylvania Infantry, asking for the removal of the record of desertion—to the Committee on Military Affairs.

By Mr. OSBORNE: Memorial of importers of tea—to the Committee on Ways and Means.

Also, petitions of 94 citizens of Edwardsville, Luzerne County, Pennsylvania, favoring passage of Taylor Government telegraph bill—to the Committee on the Post-Office and Post-Roads.

By Mr. PARRETT: Protest of J. T. Bridwell and 18 others, citizens of Evansville, Ind., against the passage of sections 24 and 25 of H. R. 8278, being an act to regulate commerce—to the Committee on Commerce.

By Mr. PAYNTER: Petition of Alzira Smithers, widow of William Smithers, Companies H and D, Eleventh and Twelfth Kentucky Cavalry, for arrears of pay, bounty, and pension—to the Committee on Invalid Pensions.

By Mr. PEEL: Petition of James Ervin, of Marion County, Arkansas, asking relief—to the Committee on War Claims.

Also, petition of Elizabeth S. Shirley, praying for the reference of her claim to the Court of Claims—to the Committee on War Claims.

By Mr. PENINGTON: Memorial of sundry citizens of New York, Philadelphia, Boston, and Chicago on the subject of a tax or duty on the importation of tea—to the Committee on Ways and Means.

By Mr. PERKINS: Petition of Samuel Ballentine and 66 others, of Uniontown, Kans., and vicinity, asking for legislation restoring silver to its rightful place as a money metal—to the Committee on Coinage, Weights, and Measures.

By Mr. RICHARDSON: Petition of C. J. Ballentine, executor, asking that the papers relating to the claim of Mary T. Ballentine, deceased, for commissary stores, claim No. 87070, in the office of the Third Auditor of the Treasury, be called for and referred to the Court of Claims under the provisions of the act of Congress approved March 3, 1883—to the Committee on War Claims.

By Mr. ROCKWELL: Petition for amendment to House bill 3863—to the Committee on the Post-Office and Post-Roads.

By Mr. RUSK: Petition of citizens of Baltimore, against the employment of alien labor upon Government works—to the Committee on Labor

By Mr. SMITH, of West Virginia: Petition of Col. F. R. Hapsler, for pension—to the Committee on Invalid Pensions.

By Mr. TAYLOR, of Illinois: Petition asking that the Public Printer be directed to make certain proposed changes in spelling—to the Committee on Education.

By Mr. TOWNSEND, of Colorado: Petition in favor of House bill 3863—to the Committee on the Post-Office and Post-Roads.

By Mr. WALKER, of Missouri: Petition of presiding justice of the county court of Stoddard County, Missouri, asking Congress to refer rent claims to Court of Claims under so-called Bowman act—to the Committee on War Claims.

Also, protest of A. Frankenthal and others, citizens of St. Louis, against House bill 8279—to the Committee on Commerce.

By Mr. WIKE: Memorial of Volksverein of Adams County, Illinois, against change in naturalization laws making naturalization more difficult—to the Select Committee on Immigration and Naturalization.

By Mr. WISE: Petition of citizens of Richmond, Va., relative to the bill to amend the interstate-commerce law—to the Committee on Commerce.

SENATE.

WEDNESDAY, *April* 2, 1890.

The Senate met at 11 o'clock a. m.

Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

The VICE-PRESIDENT. The Journal of yesterday's proceedings will be read.

Mr. BUTLER. Before we begin the reading of the Journal, as there is evidently not a quorum present, I move a call of the Senate.

The VICE-PRESIDENT. The roll will be called.

The Secretary called the roll and the following Senators answered to their names:

Barbour,	Dolph,	Ingalls,	Reagan,
Bate,	Edmunds,	Jones of Arkansas,	Sawyer,
Berry,	Evarts,	McMillan,	Sherman,
Blackburn,	Faulkner,	Mitchell,	Spooner,
Blair,	Frye,	Moody,	Stockbridge,
Butler,	George,	Morrill,	Teller,
Cameron,	Gibson,	Paddock,	Turpie,
Chandler,	Hampton,	Pasco,	Vance,
Coke,	Harris,	Pierce,	Walthall,
Cullom,	Higgins,	Platt,	Washburn,
Davis,	Hoar,	Pugh,	Wilson of Iowa.

Mr. BLACKBURN. I desire to state that my colleague [Mr. BECK] is detained from the Chamber by sickness.

The VICE-PRESIDENT. On the roll-call forty-four Senators have answered to their names. A quorum is present. The Journal of yesterday's proceedings will be read by the Secretary.

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

HOUSE BILLS REFERRED.

The following bills received yesterday from the House of Representatives were severally read twice by their titles, and referred to the Committee on the Judiciary.

A bill (H. R. 64) to limit the time to six years within which suits may be brought against accounting officers and the sureties on their official bonds;

A bill (H. R. 843) to provide an additional mode of taking depositions of witnesses in causes pending in the courts of the United States; and

A bill (H. R. 6956) to amend section 790 of the Revised Statutes.

The following bills were severally read twice by their titles, and referred to the Committee on Commerce:

A bill (H. R. 278) to amend paragraph 3 of section 4414 of the Revised Statutes;

A bill (H. R. 7993) to amend section 4 of "An act to authorize the county of Laurens, in the State of Georgia, to construct a bridge across the Oconee River at or near Dublin, in said county," approved June 18, 1888;

A bill (H. R. 8239) to amend section 4488, Title LII, of the Revised Statutes as amended by chapter 418 of the acts passed at the second session of the Fiftieth Congress; and

A bill (H. R. 8296) to allow the erection of bridges across the Iowa River, at and below Wapello, Iowa.

The bill (H. R. 578) in relation to oaths in pension and other cases was read twice by its title, and referred to the Committee on Pensions.

The bill (H. R. 5874) to admit free of duty articles intended for the St. Louis Exposition in 1890 which may be imported from the Republic of Mexico was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. 8104) to amend section 2166, Revised Statutes of the United States was read twice by its title, and referred to the Committee on Naval Affairs.

The bill (H. R. 7619) making appropriations for the support of the Army for the fiscal year ending June 30, 1891, and for other purposes, was read twice by its title, and referred to the Committee on Appropriations.

DEATH OF REPRESENTATIVE WILBER.

A message from the House of Representatives, by Mr. CHARLES S. MARTIN, its Chief Clerk, communicated to the Senate the intelligence of the death of Hon. David Wilber, a Representative from the State of New York, and transmitted the resolutions of the House of Representatives thereon.

PETITIONS AND MEMORIALS.

Mr. CAMERON presented a petition of 11 citizens of Crawford County, Pennsylvania, and a petition of 17 citizens of Crawford County, Pennsylvania, praying for the free coinage of silver; which were referred to the Committee on Finance.

He also, presented the petition of Charles Cunningham, of Philadelphia, Pa., praying to be allowed a pension for services in the United States Navy during the late war; which was referred to the Committee on Pensions.

Mr. SHERMAN presented a memorial of the Monthly Meeting of Friends of Harrison County, Ohio, numbering 130 persons, remonstrating against large appropriations for the Navy and coast defenses; which was referred to the Committee on Naval Affairs.

Mr. ALLEN presented a petition of Subordinate Union No. 3 of the Bricklayers and Masons' International Union of America, of Spokane Falls, Wash., praying Congress to amend the laws so that in skilled or unskilled labor in the construction of all Government works, whether let by contract or otherwise, none but citizens of the United States shall be employed; which was referred to the Committee on Education and Labor.

Mr. PASCO presented a communication from S. A. Murden, transmitting a memorial and resolution of the orange-growers of the lake region assembled at Leesburgh, Fla., favoring an increase of the duty on imported oranges to 25 cents a cubic foot as boxed; which, with the accompanying paper, was referred to the Committee on Finance.

Mr. COLQUITT presented sundry petitions of lawyers of the State of Georgia, praying for legislation for the relief of the Supreme Court of the United States; which were referred to the Committee on the Judiciary.

He also presented a petition of Subordinate Union No. 2 of the Bricklayers and Masons' International Union of America, of Augusta, Ga., praying for an amendment of the laws of the United States prohibiting the employment of aliens on public works; which was referred to the Committee on Education and Labor.

Mr. BLAIR presented the petition of J. W. Powell and 13 others, of the Geological Survey of the United States, praying for a statistical

investigation of industrial and technical schools; which was referred to the Committee on Education and Labor.

Mr. CHANDLER presented the petition of Clarissa Weare and 5 other citizens of New Hampshire, praying for the passage of a Sunday-rest law; which was referred to the Committee on Education and Labor.

Mr. PIERCE presented the petition of J. J. Richards, vice-president and manager of the Chicago Bullion, Metals, Securities, Storage, Transfer, and Exchange Company, praying for the passage of a joint resolution by Congress authorizing and instructing the Secretary of the Treasury to commission under seal such persons as registrars of its issued bullion-storage receipts and such persons as assayers of bullion for which its receipts are issued that said corporation under its seal may ask the appointment of; which was referred to the Committee on Finance.

He also presented the petition of William H. Oglesby, of North Dakota, praying for the appointment of a commission to investigate the causes of agricultural depression; which was referred to the Committee on Agriculture and Forestry.

He also presented the petition of Sumter Post, No. 118, Department of Dakota, Grand Army of the Republic, praying for the passage of certain pension legislation for the relief of the ex-Union soldiers; which was referred to the Committee on Pensions.

Mr. VEST presented a memorial of 111 employés of the freight department of the Missouri Pacific Railroad, residing at St. Louis, Mo., remonstrating against the Conger bill and against placing compound lard under the supervision of the Internal Revenue Department, and declaring that not enough hog lard can be produced in this country to supply the demand, and that the bill if passed will create a monopoly; which was referred to the Committee on Agriculture and Forestry.

He also presented a memorial of 32 employés of the Quick Meal Stove Company, of St. Louis, declaring that compound lard is a cheap, wholesome, and popular substitute for hog lard, and remonstrating against the passage of the Conger bill, which they denounce as class legislation and which if passed will throw thousands of employés out of employment; which was referred to the Committee on Agriculture and Forestry.

He also presented a petition of 58 citizens of Westboro', Atchison County, Missouri, praying for the free coinage of silver; which was referred to the Committee on Finance.

Mr. REAGAN presented the petition of Hon. W. G. W. Jowers and 27 other citizens of Anderson County, Texas, praying for the free coinage of silver; which was referred to the Committee on Finance.

Mr. MITCHELL presented resolutions adopted by the Chamber of Commerce of San Francisco, Cal., remonstrating against a reduction exceeding 25 per cent. of the present duty on sugar; which were referred to the Committee on Finance.

Mr. PAYNE presented a petition of Subordinate Union No. 9 of the Bricklayers and Masons' International Union of America, of Bellaire, Ohio, praying for the enactment of laws which will secure to citizens of the United States the right to labor on Government works in preference to aliens; which was referred to the Committee on Education and Labor.

He also presented a resolution adopted by the Produce Exchange of Toledo, Ohio, favoring the passage of the bill transferring the revenue marine to the Navy Department; which was referred to the Committee on Naval Affairs.

Mr. MANDERSON. I present a petition signed by 109 farmers of Antelope County, Nebraska, calling attention to the present low prices of agricultural products and the necessity of diversified farming as a remedy for that evil, including the raising of beets for the production of sugar, and praying that the tariff on sugar may not be largely reduced pending the present efforts made to develop the beet-sugar and sorghum industries, and that a bounty may be offered to encourage those industries. I move that the petition be referred to the Committee on Finance.

The motion was agreed to.

Mr. MANDERSON presented a petition of 53 ex-soldiers of the late war residing in Furnas County, Nebraska, praying for the repeal of the limitation on the arrears act, for service pensions, and equalization of bounties; which was referred to the Committee on Pensions.

He also presented a memorial of the Omaha (Nebr.) Board of Trade, remonstrating against the partial celebration of the world's fair at some place other than Chicago; which was referred to the Select Committee on the Quadro-Centennial.

Mr. PLUMB presented a petition of citizens of Alta Vista and other places in the State of Kansas, praying for the passage of an equitable bankrupt law and other legislation for the relief of mortgage debtors; which was referred to the Committee on Finance.

Mr. DANIEL presented a petition of 20 citizens of Loudoun County, Virginia, praying for the free coinage of silver; which was referred to the Committee on Finance.

He also presented the memorial of J. E. Calvert and R. L. Alley, on behalf of the Bricklayers and Masons' International Union of America, of Petersburgh, Va., remonstrating against the employment of aliens on public works; which was referred to the Committee on Education and Labor.

Mr. PADDOCK presented memorials adopted by the Board of Trade and the Real Estate Exchange of Omaha, Nebr., remonstrating against obstructive legislation affecting the holding of the world's fair at Chicago, Ill., in 1892; which were referred to the Select Committee on the Quadro-Centennial.

Mr. BLAIR. I present a petition of the Gammon Theological Seminary of Atlanta, Ga., addressed to the Senate, in which the petitioners say:

> Believing that the condition of the country and especially of this southland demands such a measure, and that all the interests of the present and of the future will be subserved by it, we most earnestly petition your honorable body to immediately reconsider and pass the Blair bill for Federal aid to education.
>
> On motion of the faculty of Gammon Theological Seminary.
>
> Respectfully submitted.
>
> W. P. THIRKIELD, *President.*
> E. L. PARKS, *Secretary.*

I move that the petition lie on the table.

The motion was agreed to.

Mr. VOORHEES. I present the petition of Charles Förster, late consul at Elberfeld, Germany, in regard to the consulate at that place. I move that the petition, together with the accompanying papers, be printed as a document, and referred to the Committee on Commerce.

The motion was agreed to.

Mr. JONES, of Arkansas. I present petitions of members of the bar of Little Rock, Pine Pluff, and Hot Springs, in the State of Arkansas, numerously signed by attorneys, praying for the passage of legislation for the relief of the Supreme Court of the United States from the pressure of business. I move that the petitions be referred to the Committee on the Judiciary.

The motion was agreed to.

Mr. JONES, of Arkansas, presented a petition of citizens of Hot Springs, Ark., praying for the cession to the city of Hot Springs of a certain lot located therein, for public purposes; which was referred to the Committee on Public Lands.

Mr. HOAR presented a memorial of ministers of the Congregational Church of Boston, Mass., remonstrating against the proposed enumeration of the Chinese; which was ordered to lie on the table.

REPORTS OF COMMITTEES.

Mr. BLACKBURN, from the Committee on Naval Affairs, to whom was referred the bill (S. 3261) for the relief of Maj. G. C. Goodloe, paymaster United States Marine Corps, reported it without amendment.

Mr. FRYE, from the Committee on Commerce, to whom was referred a resolution of the Boston Chamber of Commerce favoring the transfer of the revenue marine service to the Navy, asked that the committee be discharged from the further consideration of the resolution and that it be referred to the Committee on Naval Affairs; which was agreed to.

Mr. FAULKNER, from the Committee on Claims, to whom was referred the bill (S. 293) referring the claim of William F. Wilson to the Court of Claims, reported it with an amendment, and submitted a report thereon.

Mr. DAVIS, from the Committee on Pensions, to whom was referred the bill (S. 1184) to pension Mrs. Theodora M. Piatt, reported it without amendment, and submitted a report thereon.

He also, from the same committee, to whom was referred the bill (S. 683) granting a pension to Theodora M. Piatt, submitted an adverse report thereon, which was agreed to; and the bill was indefinitely postponed.

Mr. BUTLER, from the Committee on Naval Affairs, to whom was referred the bill (S. 192) providing for the appointment of a board of trustees for the United States Naval Academy, reported it with amendments.

Mr. HARRIS, from the Committee on the District of Columbia, to whom was referred the bill (S. 1486) to create a board of audit to adjust all claims for special damages to real estate by reason of public improvements in the District of Columbia, reported adversely thereon; and the bill was postponed indefinitely.

Mr. WILSON, of Maryland, from the Committee on Claims, to whom was referred the bill (S. 170) to refund illegal internal-revenue tax collected of the late Alexander W. Baldwin as United States district judge for the district of Nevada, reported it without amendment, and submitted a report thereon.

Mr. PLUMB, from the Select Committee on Irrigation and Reclamation of Arid Lands, to whom was referred the bill (S. 2104) to provide for the conservation and use of natural water supplies upon certain portions of the public lands of the United States, and for other purposes, reported it with an amendment.

Mr. REAGAN. In reference to the bill just reported, I ask leave to present what I send to the desk as representing the views of the minority of the committee, which I shall offer at the proper time as a substitute for the majority bill.

The VICE-PRESIDENT. The proposed amendment will be printed to accompany the bill.

Mr. HALE, from the Committee on Naval Affairs, to whom was referred the bill (S. 1861) for the relief of the National New Haven Bank of the State of Connecticut, asked to be discharged from its further consideration and that it be referred to the Committee on Claims; which was agreed to.

Mr. GRAY, from the Committee on Naval Affairs, to whom was referred the bill (H. R. 6944) to transfer the revenue-cutter service from the Treasury Department to the Navy Department, reported it with amendments.

Mr. GRAY. I move that Senate bill 305 to transfer the revenue-marine to the naval establishment, now on the Calendar, be indefinitely postponed.

The motion was agreed to.

Mr. MITCHELL, from the Committee on Claims, to whom was referred the bill (S. 1160) for the relief of George W. Quintard and George E. Weed, assignees of John Roach, deceased, reported it without amendment, and submitted a report thereon.

Mr. INGALLS, from the Committee on the District of Columbia, reported an amendment intended to be proposed to the District of Columbia appropriation bill; which was referred to the Committee on Appropriations, and ordered to be printed.

Mr. SPOONER, from the Committee on Claims, to whom was referred the bill (S. 182) for the relief of the First National Bank of Newton, Mass., reported it with an amendment, and submitted a report thereon.

TRUSTS AND COMBINATIONS.

Mr. EDMUNDS. I am instructed by the Committee on the Judiciary, in obedience to the order of the Senate sending to that committee the bill (S. 1) to declare unlawful trusts and combinations in restraint of trade and production, to report back the bill within the time mentioned by the Senate in its order with an amendment—one amendment—striking out all after the enacting clause and inserting the measure that the committee reports.

I will state that there is one section in the amendment which I think goes further than it ought to do, but for the sake of unity all around I shall be entirely willing to support the measure as it is reported. I ought to say, as I stated to the committee, that owing to a little necessity of health I shall probably not be in town at the time the matter may be properly and fairly taken up, and so some other gentleman of the committee will move it whenever it is convenient to the Senate to consider it.

Mr. MORGAN. I should like to hear the bill, as reported, read.

Mr. VEST. I want to state in connection with the report made by the chairman of the Committee on the Judiciary that I agreed to that report, but with the understanding that there was one section of the bill as now reported which I desired amended. In my judgment, it does not go far enough. I wish to state that in justice to myself.

Mr. CULLOM. I will inquire if it is the same section the Senator from Vermont says goes too far in some provisions of it, which the Senator from Missouri thinks does not go far enough?

Mr. EDMUNDS. It is the same provision.

Mr. CULLOM. It is the same section?

Mr. VEST. It is the same section. I think it is numbered 7 in the substitute reported by the committee.

Mr. GEORGE. Some Senators on the committee have deemed it necessary to state their exact position with reference to the bill and I will state mine.

I regard the bill, so far as it goes, as a very good one, the best I think that can be framed under that particular power of Congress, the power over commerce, which the committee have attempted to frame a bill under. There are one or two powers of Congress which may be exercised, in my judgment, very effectually in the direction of the suppression of these trusts and combinations, which the committee did not see proper to exercise.

I shall support the bill as it has been reported, and if, on consultation with friends who agree with me, it should be deemed the best course, I may then ask the Senate to look to other and additional powers in the way of suppressing these trusts; and I may offer amendments which will look to additions to the bill, not to striking out or amending anything that is in the substitute reported by the committee.

The VICE-PRESIDENT. The Senator from Alabama [Mr. MORGAN] asks that the substitute be read.

Mr. MORGAN. Yes; I ask for the reading of the proposed substitute.

The VICE-PRESIDENT. The substitute reported by the committee will be read.

Mr. COKE. I desire to state that I concur with the bill as reported, with the exception that I would prefer one of the sections, the one referred to by the Senator from Missouri, to be in a little different form, and if an amendment placing it in a different shape shall be offered I shall support it.

The VICE-PRESIDENT. The substitute reported by the Committee on the Judiciary will be read.

The CHIEF CLERK. The committee report to strike out all after the enacting clause of the bill and to insert:

SECTION 1. Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among the several States or with foreign nations is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding $5,000 or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 2. Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons to monopolize any part of the trade or commerce among the several States or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding $5,000 or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 3. Every contract, combination in form of trust or otherwise, or conspiracy in restraint of trade or commerce in any Territory of the United States or of the District of Columbia, or in restraint of trade or commerce between any such Territory and another, or between any such Territory or Territories and any State or States or the District of Columbia, or with foreign nations, or between the District of Columbia and any State or States or foreign nations is hereby declared illegal. Every person who shall make any such contract or engage in any such combination or conspiracy shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding $5,000 or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

SEC. 4. The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States in their respective districts, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and, pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

SEC. 5. Whenever it shall appear to the court before which any proceeding under section 4 of this act may be pending that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpœnas to that end may be served in any district by the marshal thereof.

SEC. 6. Any property owned under any contract or by any combination or pursuant to any conspiracy (and being the subject thereof) mentioned in section 1 of this act, and being in the course of transportation from one State to another, or to a foreign country, shall be forfeited to the United States, and may be seized and condemned by like proceedings as those provided by law for the forfeiture, seizure, and condemnation of property imported into the United States contrary to law.

SEC. 7. Any person who shall be injured in his business or property by any other person or corporation by reason of anything forbidden or declared to be unlawful by this act may sue therefor in any circuit court of the United States in the district in which the defendant resides or is found, without respect to the amount in controversy, and shall recover threefold the damages by him sustained and the costs of suit, including a reasonable attorney's fee.

SEC. 8. That the word "person" or "persons" wherever used in this act shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

Amend the title so as to read: "A bill to protect trade and commerce against unlawful restraints and monopolies."

Mr. EDMUNDS. I ought to say that as this bill was under discussion and had the lead on the Calendar when it was referred to the Committee on the Judiciary I shall hope it will be the pleasure of the Senate to take it up very soon, indeed perhaps as soon as the pending matter of privilege is out of the way.

JOSEPH H. MADDOX.

Mr. SPOONER. I am directed by the Committee on Claims to report a resolution for which I ask present consideration.

The VICE-PRESIDENT. The resolution will be read.

The Chief Clerk read as follows:

Resolved, That the Secretary of War be, and he is hereby, directed to transmit to the Senate at the earliest practicable date copies of all letters, papers, and reports on file in the War Department bearing upon the loyalty and fidelity of Joseph H. Maddox to the Government of the United States during the war of the rebellion, and bearing in any wise upon his relations to the Southern Confederacy, so called, and also bearing upon the title to and ownership of the tobacco for which said Maddox during his lifetime laid claim, and to which his representatives now lay claim by bill pending in the Senate Committee on Claims.

Mr. COCKRELL. I should like to know some reason why that information is called for. That bill has been reported favorably heretofore several times and the committee found that the man was loyal and that the claim ought to be paid, and I should like to know why that information is desired now at this date.

Mr. SPOONER. Mr. President, the Senator from Missouri is accurate in his statement that the bill for the relief of Joseph H. Maddox has been several times reported favorably by the Committee on Claims. The bill has been pending for many years. It has been several times favorably reported by the Committee on Claims of the Senate; it has been many times reported favorably by the Committee on Claims of the House of Representatives; it has several times passed the Senate and I think it has several times passed the House of Representatives. Last session it passed both Houses and was vetoed by President Cleveland upon some technical ground. It was reintroduced at this session of Congress, and referred, as usual, to the Committee on Claims. A couple of weeks ago I received an anonymous letter, evidently written by a person of intelligence, in which I was advised that this claimant was a spy for the Confederate Government as well as in the secret service at one time of the United States Government, and informing me that an investigation of the Confederate archives in the War Department would develop the fact.

I explored the archives upon the subject and I found a bundle of papers which had not been examined for ten years, among which were letters signed by Mr. Maddox and in the handwriting of Mr. Maddox, and his handwriting was exceedingly beautiful, dated in Richmond in 1861 and in 1862 and 1863, addressed some of them to Mr. Davis, President of the Southern Confederacy, in which he protested his loyalty to the Confederacy and referred to the fact that he had offered to raise at

his own expense in Maryland a battalion of mounted men to serve the Confederacy.

There are papers there also which tend to show that at one time he furnished to the Confederate authorities the status of the Union forces at Fortress Monroe. I find also statements, I think one of them over his signature, that he sustained intimate and friendly relations with prominent gentlemen on both sides and was engaged in running the blockade, one communication from the medical department of the Confederacy stating the great need of opium and quinine and brandy and other articles of the kind, and asking him to obtain them within the Federal lines, and his reply, in his own handwriting and over his own signature, that he was in bad odor in the United States by virtue of his services to the Confederacy and he would not dare to be found within our lines, but that in a manner pointed out he could, he thought, secure the accomplishment of the desired end; also a letter from him submitting a plan for the capture of Leonardtown, Md., by the Confederate forces, which he offered to head and to lead.

I also find among the papers, not in the archives, but on the files of the War Department, some very interesting information bearing upon the general question as to his fidelity, and among other things a statement which I do not say shows, but which tends to show, that by a signal dispatch communicated to a signal officer of the Confederate authorities, and referred to as "M," they were advised of the entire plan of the Union forces to mine Petersburgh and of the attack which was to follow the explosion.

Mr. COCKRELL. I am perfectly satisfied with the explanation as far as it has gone.

Mr. SPOONER. The papers are in great number. There is also, if I may conclude the statement which has been called for by the Senator from Missouri, the statement of a Confederate commissary that the tobacco for which this claim was made was in fact Confederate tobacco, and papers from the railway company which transported it from Richmond to the point where the Federal forces captured and destroyed part of it, showing that it was shipped and receipted for as Confederate tobacco.

I have thought that it was due to the situation generally that this information be called for and brought to the Senate in such shape that it might be printed for easy and ready reference hereafter, if it should be thought at any time that the public interests required that it be consulted.

Mr. COCKRELL. I am very glad the Senator has presented the resolution. It only confirms what I have suspected, and why I have been opposing this bill for the last eight or ten years, and I want to say now to the Senator that there are one or two other bills pending in this committee. I will name one of them, the bill for the relief of the heirs of Joseph H. Shannon, or somebody else as assignee. He was in the Confederate service, but, notwithstanding, the bill has been reported here time and again favorably. I have told the Senator about it and if the bill is ever reported back to the Senate I will prove it in the man's own handwriting. It is due to the committee and the distinguished chairman to say that the bill has not been reported since I presented to him the information I had.

Mr. SPOONER. A number of times I have received suggestions of the same kind from the Senator from Missouri, and I take great pleasure in saying to him that the bill to which he refers, and several others which I need not name, are being very carefully investigated by the committee.

I ought to say, Mr. President, that some of these papers are consistent with the loyalty of this man Maddox to the Federal Government, and might have been so written to protect him if he were within the Confederate lines, but altogether I thought the information ought to be brought to the attention of the Senate.

Mr. HOAR. Mr. President, I should like to make one statement in regard to this matter, and I think I can do it with entire impartiality, for I have myself when upon the Committee on Claims reported this bill both ways. In the first place, it appears that this gentleman was authorized to make certain purchases of tobacco under an act of Congress in the Confederate lines, but it appeared, however, that he had not complied with all the Treasury regulations, and I reported against the claim on that ground. Then it was made to appear by evidence brought to my attention by the Senator from Maryland [Mr. GORMAN], who knew the party, that this man was in the employ of President Lincoln, and that he had manifestly the implied assent of President Lincoln and of the Secretaries of the Treasury under his Administration to the departure from the law. Whether they were authorized to allow any such departure from the law might be doubted; but it was evident, according to the testimony before the committee then, that this man was acting in the employ of the National Government, and was acting in very important and delicate service directed by President Lincoln himself personally. Therefore I thought it was proper to waive those irregularities of the proceeding and to consider the substance of his claim.

Now, it seems to appear that there is some evidence that he also was acting in the employment of the Confederate government. I suppose it is true in fact, where spies, secret officials, are employed by Governments in time of war, that they establish the semblance of such employment with both Governments, and it is often a difficult thing to find out afterwards to which Government they were true. Sometimes they are true to neither; sometimes they are true and loyal to one.

I suppose every Senator remembers Cooper's famous novel of The Spy, where Harvey Birch, who is the chief character of that novel, who was one of the most valuable servants of General Washington during the war, one of the most loyal of men, parted with all his neighbors and everybody except General Washington, and was regarded as the spy of the other side, and that character is taken from an actual personage who dwelt in the neighborhood of Cooper's own county in New York, Westchester County, I think.

Mr. MITCHELL. Will the Senator allow me?

Mr. HOAR. Let me finish this statement. A similar condition of things had been alleged and charged against one of the most famous, able, and, as I believe, most thoroughly loyal generals of our Revolutionary war, General Solomon H. Parsons.

Mr. MITCHELL. I should like to suggest to the Senator, before he sits down, that it is undoubtedly true, as stated by the Senator from Massachusetts, that a person acting in the capacity of a spy for any government will seek to establish such relations with the opposing government as will effectually deceive that other government; but I suggest that proof which would be absolutely conclusive against the person acting in that capacity, as far as any claim is concerned, would be this: If it could be shown to the satisfaction of the committee or of the Senate that the person, while acting in the capacity of spy, had actually given the Confederate government information as to our forces——

Mr. EDMUNDS. That made him a spy on both sides.

Mr. MITCHELL. That would be conclusive evidence against him, as far as his claim goes.

Mr. SPOONER. I only want to say in addition to what has been said—and I did not intend to discuss this case at all, for this is information to be considered by the committee—that Mr. Stanton (if he ever had faith in the fidelity of this gentleman, Maddox), a very cultivated, and able, and fearless man, must have lost it, for he ordered Maddox's incarceration ultimately in the Old Capitol prison upon the ground that he was not true to the cause of the Union.

The VICE-PRESIDENT. The question is on the resolution reported by the Senator from Wisconsin.

The resolution was agreed to.

COMMITTEE SERVICE.

Mr. BLAIR. I ask to be excused from further service on the Committee on Public Lands.

Mr. PLATT. Mr. President——

Mr. EDMUNDS. The Senator from New Hampshire has made a request.

Mr. PLATT. I suppose the Senator will be excused without objection. If so, I ask unanimous consent that the President of the Senate be authorized to fill the vacancy thus created.

The VICE-PRESIDENT. Is there objection to the request made by the Senator from New Hampshire [Mr. BLAIR] and to that made by the Senator from Connecticut [Mr. PLATT]? The Chair hears none.

BILLS INTRODUCED.

Mr. SHERMAN introduced a bill (S. 3358) for a public building for a marine hospital at Gallipolis, Ohio; which was read twice by its title, and referred to the Committee on Public Buildings and Grounds.

He also introduced a bill (S. 3359) to compensate the heirs of Joseph Henry; which was read twice by its title.

Mr. SHERMAN. This bill is accompanied by a very interesting statement by the daughter of Mr. Henry, formerly chairman of the Light-House Board, setting out the savings he had made and the claim for this compensation. I ask that the papers be printed as a document. The bill will be printed of course in the ordinary way, and I ask that the papers accompanying it be printed as a document and referred, with the bill, to the Committee on Finance. As the services performed relate to the Treasury Department, I suppose that will be the proper reference.

The bill was referred to the Committee on Finance, and the accompanying papers were ordered to be printed.

Mr. SPOONER introduced a bill (S. 3360) granting an increase of pension to James Shaaban; which was read twice by its title, and referred to the Committee on Pensions.

Mr. DAVIS introduced a bill (S. 3361) granting a pension to Edith S. Read; which was read twice by its title, and referred to the Committee on Pensions.

Mr. KENNA (by request) introduced a bill (S. 3362) to regulate, define, establish, and secure the civil, political, and property rights of such American citizens as have intermarried with the Chickasaw Indians, and for other purposes; which was read twice by its title, and referred to the Committee on Indian Affairs.

Mr. MOODY introduced a bill (S. 3363) to provide for the survey of public lands in the State of South Dakota; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. DANIEL introduced a bill (S. 3364) for the relief of Robert N. Blake; which was read twice by its title, and referred to the Committee on Claims.

Mr. FAULKNER introduced a bill (S. 3365) for the relief of the trustees of Trinity Episcopal Church; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

Mr. BLODGETT introduced a bill (S. 3366) granting a pension to Sarah J. Alexander; which was read twice by its title, and referred to the Committee on Pensions.

Mr. CAMERON introduced a bill (S. 3367) to incorporate the Columbia Electric Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also introduced a bill (S. 3368) for the relief of James Jones; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. PLATT introduced a bill (S. 3369) granting a pension to Frank Alcott; which was read twice by its title, and referred to the Committee on Pensions.

He also introduced a bill (S. 3370) granting a pension to Betsey A. Matthews; which was read twice by its title, and referred to the Committee on Pensions.

Mr. PLATT. I have also been requested to introduce a bill, and do so with the statement that having read it I do not commit myself to the provisions of the bill nor do I believe in them.

The bill (S. 3371) to invalidate wills made in the District of Columbia under certain conditions was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. PLUMB introduced a bill (S. 3372) to amend and to further extend the benefits of an act entitled "An act to provide for allotment of lands in severalty to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," approved February 8, 1887; which was read twice by its title, and referred to the Committee on Indian Affairs.

He also introduced a bill (S. 3373) for the relief of Patrick Montgomery; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Claims.

He also introduced a bill (S. 3374) for the purpose of improving, completing, and beautifying a soldiers' cemetery at Parsons, Kans.; which was read twice by its title, and, with the accompanying petition, referred to the Committee on Military Affairs.

Mr. CULLOM introduced a bill (S. 3375) to increase the pension of Samuel A. Tate; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Pensions.

He also introduced a bill (S. 3376) for the relief of John A. Barton; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. MANDERSON (by request) introduced a bill (S. 3377) restoring R. L. May to the Navy retired-list, with the rank of lieutenant-commander; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Naval Affairs.

AMENDMENT TO A BILL.

Mr. CALL submitted an amendment intended to be proposed by him to the bill (S. 2781) to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes; which was referred to the Committee on Public Lands, and ordered to be printed.

HOUR OF MEETING.

The VICE-PRESIDENT. The Chair lays before the Senate a resolution coming over from a previous day.

The Chief Clerk read the resolution submitted yesterday by Mr. HALE, as follows:

Ordered, That on and after Monday, April 7, 1890, the daily sessions of the Senate shall commence at 12 o'clock, meridian, until otherwise ordered.

Mr. EDMUNDS. I move to amend by striking out "7" and inserting "14," and after the amendment is read I wish to say a word.

The CHIEF CLERK. It is proposed to amend the resolution in line 1, after the word April, by striking out "7" and inserting "14;" so as to read:

Ordered, That on and after Monday, April 14, 1890, the daily sessions of the Senate shall commence at 12 o'clock, meridian, until otherwise ordered.

Mr. EDMUNDS. In support of that amendment, Mr. President, I have to say very briefly (because I do not wish to waste the time of the Senate on such matters) that there have been already reported from committees at this session more than eight hundred separate subjects. The highest number on the Calendar to-day is 801 in the regular order, being bills that came from committees, besides a considerable number of affairs that are laid on the table to be taken up, as they can be, on anybody's motion. Some of these numbers are out, of course, because the original numbers, I think, stand, but it is safe to say, I think, that now there are more than seven hundred subjects reported from committees on our Calendar requiring action, and I thought, and I supposed a large majority of the Senate thought, that more useful service in the public interest could be done by endeavoring to get on with very important public measures and devoting one day in the week to the Calendar and by meeting an hour earlier here rather than giving that hour to our committee work to pile up this Calendar. That is the whole reason of my amendment, to try to get along.

Mr. HALE. I introduced the resolution because I thought I perceived that the operation of the 11 o'clock meeting was very embarrassing and inconvenient, and resulting in little good. I for one am not very strenuous whether the time be fixed at next Monday or next Monday a week, but the operation of the 11 o'clock hour of meeting is practically to dissolve the committees. Whether there be upon the Calendar seven or eight hundred or seventeen or eighteen hundred bills already reported by the different committees of the Senate, it is undoubtedly true that the committees of the body were never more busy than to-day, than this week, or next week. I know that I have been obliged to attend five different committee meetings this week since last Sunday. To meet here at 11 takes away not only the opportunity for Senators to attend committee meetings, but also renders it impossible to attend to any departmental business, which Senators know is as much needed as anything else in the course of our duties here.

I introduced the resolution with no desire or disposition to shirk work or responsibility, because I believed (and in conference with many other Senators I found that they agreed with me) that the business of the Senate would, for the present, be better disposed of by returning after this week, having tried the 11 o'clock meeting for one week, to the old hour of 12 o'clock. With these considerations I am entirely willing to leave the matter to a vote of the Senate.

Mr. PLUMB. Mr. President, I think a week of this meeting at 11 o'clock will be enough. I do not know how it is with other Senators, but I find myself so burdened with business relating to affairs in the Departments and before committees that I am under constraint to do one of two things, either abandon that or abandon the purpose of coming here at 11 o'clock as a rule. I do not believe that in any event it is helpful. I believe the experience of all members of this body is that after we stay here, say, for six hours or five hours, for some reason which is perhaps personal to the members of the Senate, if not to human beings generally, we find that more or less friction arises, and the question whether to move an adjournment or not is uppermost, and we make several vain attempts to stay, and it finally results in adjourning anyhow after about so much has been done. I do not believe we are going to help that by meeting at 11 o'clock.

I admit that it is better to repent at the eleventh hour than not to repent at all, but I confess I should have been a little more considerate on this point if we had attempted some of this haste in legislation as applicable to the ordinary business of the session three or four months ago. If we had done that, and had taken up the Calendar and other things which have been before us all this time, and which have been measurably neglected and put aside, we should not have been under the necessity of exhibiting now to the country what must appear an eleventh-hour repentance and lacking somewhat in sincerity.

I believe in transacting the public business as rapidly as any one, but that public business is composed of what is to be done here, and what is to be done in committee-rooms, and what is to be done in the Departments, including, of course, the correspondence with which every Senator is confronted, and which must be disposed of in order to meet situation which is just as material to his comfort and to the public service as it is that he should be here.

I am satisfied that the purpose of the Senator from Vermont, and which he does not have altogether alone, will be better accomplished by returning to the old order next Monday. In fact, I should be glad to return to it to-morrow. The proposition never had my consent except under constraint; and, while I should be willing in the last days of the session to conform to the practice which then prevails of putting the Senate under whip and spur, I do not believe it is wise to do it now.

Mr. JONES, of Arkansas. Mr. President, I believe the practice is whenever reports are made from committees to enter them in regular order on the Calendar. There have been 801 such reports made and entered on this Calendar. Noting on page 6 of the Calendar the point reached the last time when the Calendar was under consideration, I find that the Senate has either considered or passed over informally 455 cases, according to number. Of those all have been disposed of except 59. Out of the 455 cases which have been reached by the Senate, all but 59 have been disposed of, leaving the difference between 455 and 801 as the number on the Calendar that have not yet been reached.

It seems to me that this of itself would be a sufficient argument to prove that the Senate ought to meet at 12 o'clock and allow the committees some time to work. It is a fact notorious to Senators who have paid any attention to the matter that it has been practically impossible to get committee meetings this week. A vast quantity of important business is now pending before the committees, and with the lapse of a short time the Senate will go to the Calendar as it at present exists. It seems to me to be absolutely necessary that some time should be allowed to committees, or else, if we do nothing else, the order ought to be made general that all committees may sit during the sessions of the Senate, as the Judiciary Committee does now, and that all committees may have their sessions without regard to the sessions of the Senate.

Mr. DAWES. A feature of this case was illustrated yesterday. While some of the committees have such pressure of business upon them that they are obliged to ask leave to sit during the sessions of the Senate, the members of one of the committees came in yesterday and

very properly excused themselves for their absence. I do not say it with any disposition to criticise them, because they were obliged under the pressure of business to sit during the Senate's session. Other committees have a great pressure of business upon them, and I have no doubt if they should ask leave of the Senate to sit during its session it would be granted them. But as soon as that is done it would be impossible to do business here. If any two or three committees should be granted the privilege that one or more of the committees now have, to sit during the Senate's sessions, we could not work here between 11 and 12 o'clock.

It seems to me, therefore, that, for the present at least, until the work of the committees is cleared off more than it is, we had better return to the old method. I will come here, I have no doubt all the members of the Senate will come here, at 11 o'clock just as soon as the business of the committees will justify it.

I do not allude to what transpired here yesterday with any other disposition than to illustrate the necessity of Senators doing either one of two things: either coming here at 11 o'clock and neglecting their committee work or getting leave of the Senate to sit during its sessions and then break up a quorum by doing it. Those two things can not go together.

Mr. HAWLEY. I was one of nine Senators this morning who held a meeting as a special committee on matters of importance where speedy action is important. We deliberately sat, notwithstanding the roll-call, for ten or fifteen minutes after 11. Otherwise our meeting would have been almost lost. Yet we are under reproach for not attending to business and not being here to answer to the roll-call!

Mr. REAGAN. My impression is that we shall facilitate and expedite business by meeting at 12 o'clock rather than at 11. Senators have to look over their mail in the morning; they have to attend to their committee business, dispose of their correspondence, and investigate questions, and to do that and meet at 11 o'clock is calculated to bring members here with their brains fevered and wearied and unfitted for the duties of the day.

It seems to me if we attend to the duties that necessarily devolve upon us, give the proper time for thought and preparation for the disposition of questions which come before us, and sit here from 12 to 5, we shall do more business and do it more satisfactorily than by driving ourselves in such a way that we can not attend to our correspondence properly, and can not visit the Departments and do our duties there, and investigate the subjects which come before us here.

I trust the amendment will not be adopted. I concur with the Senator from Kansas [Mr. PLUMB]. I have been opposed to meeting at 11 o'clock, and I wish we could make the resolution offered by the Senator from Maine [Mr. HALE] operative from to-morrow.

Mr. EDMUNDS. As I moved the amendment, I may be allowed to say a word in reply.

I affirm with emphasis my belief that the practice of the Senate under the 11 o'clock order since it was made, nearly a week ago, has already saved to the Senate the passage of a great many bills that would otherwise have still been on the Calendar; that it has saved to the Senate more than two days of time on important measures which came up right after the routine business, and that instead of being a loss to the general service of the business we have to do here it has already demonstrated itself to be a great gain.

Now, what is the trouble about meeting at 11 o'clock? The Departments are all open at 9. I notice when I come to the Capitol, passing the houses of two heads of Departments in the shortest way to come here, at 9 o'clock or a little before that they are coming out of their doors and going to their business, to see Senators and Members at 9 o'clock or ten minutes after 9, to carry on their work and attend to their correspondence, and I do not know that they think it a very great hardship to get up in the morning and breakfast at half past 7 or 8 o'clock and go to work.

I have found in the committee that is supposed to be the slowest and laziest of any committee of this body or any other that when under this 11-o'clock rule a meeting is called at half past 9 o'clock, as it was at half past 10 o'clock before, we have no more delay in getting a quorum at half past 9 than we had at half past 10 when the hour of meeting was 12. I have observed in the Senate notwithstanding, whatever the motive may have been, a demand by ambitious and always attentive and industrious Senators for a call of the Senate because 42 Senators were not here, although day after day and week after week, when the hour was 12, as will be the case when it is 12 again, it is just as long after 12 o'clock before a quorum is really in the Chamber as it is now after 11 o'clock, and longer.

I have moved the amendment in accordance with what I thought was a general impression that we might go on for a week longer with this effort to clear up the Calendar and dispose of half a dozen very important public measures that are already reported, and I hope that we may do so without doing ourselves or the public interest any very serious injury.

Mr. HAWLEY. I shall vote for the Senator's amendment. I am willing to come here at 11 o'clock another week, but I must respectfully protest against the intimation on the part of the Senator that we should get here earlier and work harder. I insist the record will show that there is not such a hard-working legislative body in the world, and that the average business men in the United States do not work as hard as the Senators in this body.

Mr. EVARTS. Mr. President, the system by which legislation is carried on in the two Houses, as we all know, is by preparation in committee, in that way securing attention to the details and responsibilities which belong to legislation that do not attract from important interests in the Senate or in the public. Now, that is a very laborious business. It is proper that there should be some portion of the day adequate for that business. We have some forty-five committees in this body. It is not too much to say that some twenty of that number may be considered as effective and constant committees in the examination of subjects of legislation. The method now proposed is to take out of the time which our custom has assigned for committee service one hour away from every committee of the twenty I have spoken of, and thus check the methods of preparation for the confident and assured action of the united Senate when they come together.

I can not look with complacency upon such an arrangement. For myself I shall be quite satisfied to devote more hours of the day-time to the business of the Senate in session if we could adopt a system, which would be quite convenient to me, to take from 8 to 10 every evening about committees. But that is not our custom, and we are not likely to come to that. Then these preparatory hours of the morning that ought to be, and might usefully be, extended to two hours of session for committees will do much more to facilitate business and establish confidence here after the matter comes from the committees than can be done under the other system. But situated as my colleague and myself are in reference to a great State like that of New York, and so near to the seat of Government, the morning hour before coming here is an occasion when we need to see constituents and need to do proper errands, not connected with office-seeking. Therefore, until you are willing to adopt a system by which committees shall meet in the evening, it is very wrong to take away from these twenty committees a preparatory preparation of legislation from each committee in order to add one hour to the Senate in session.

Mr. INGALLS. Mr. President, the enumeration on the Calendar of the Order of Business is somewhat misleading. While it stands now, as the Senator from Vermont says, at 801, as a matter of fact there are but 380 bills on the Calendar. So somewhere between four hundred and five hundred have already been disposed of at this session.

With regard to the particular question under consideration, I shall endeavor to accommodate myself to the order of the Senate, whether it be to meet at 11 or at 12, or, as the British Parliament does, at 4 o'clock in the afternoon. But the great majority of our work is done in committees. Senators will observe that in the majority of cases bills that have been matured in committee and reached the Calendar very seldom excite much debate unless they are subjects in which the public is specially interested.

I believe that it would be wise to fix the hour of meeting at 12 o'clock, but at the same time, like others who have spoken, I am entirely willing to have the order as now standing continued for a week, because there are two or three measures of very great importance that ought to be disposed of and which I shall hope within that time may be reached and considered. Among them are the bill this morning reported from the Committee on the Judiciary, known as the anti-trust bill, the railroad forfeiture bill, the question of privilege concerning the admission of the Senators from Montana, and perhaps the silver question. It seems to me that while the weather is agreeable, the temperature mild and moderate, and before the summer solstice appears, we ought to improve the shining hours and get rid of these important measures now on the Calendar. I therefore cordially concur with the amendment of the Senator from Vermont, that until these matured measures of great consequence now upon the Calendar are considered we ought to meet at 11 o'clock and dispense with further committee meetings.

Mr. PLUMB. I want to state, in response to my colleague and for the benefit of the Senate, that there are to-day about 3,000 bills in committees. The number of Senate bills is about 3,500, and 400 or 500 have come over from the other House, making about 4,000, of which 800 or 1,000 have been disposed of so far as the committees are concerned. Now, as I happen to know, there are many bills of very great importance pending in committee. I do not believe that meeting at 11 o'clock is going to dispense with the consideration of all those measures and others, but I think we shall make more progress, not only for the time being, but for all the work of this session, by meeting at the accustomed hour of 12 o'clock.

The VICE-PRESIDENT. The question is on the amendment offered by the Senator from Vermont [Mr. EDMUNDS] to the resolution submitted by the Senator from Maine [Mr. HALE].

Mr. EVARTS. Let the amendment be stated.

The VICE-PRESIDENT. The amendment will be read.

The CHIEF CLERK. In the first line of the resolution it is proposed to strike out the figure "7" and insert the figure "14;" so as to read:

Resolved, That on and after Monday, April 14, 1890, the daily sessions of the Senate shall commence at 12 o'clock meridian, until otherwise ordered.

Mr. EDMUNDS. I ask for the yeas and nays on agreeing to the amendment.

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

Mr. HAMPTON (when his name was called). I am paired with the junior Senator from Rhode Island [Mr. DIXON]. I should vote "nay" if he were present.

Mr. RANSOM (when his name was called). I am paired with the senior Senator from Rhode Island [Mr. ALDRICH]. I should vote "nay" if I were not paired.

The roll-call was concluded.

Mr. FAULKNER. I am paired with the Senator from Pennsylvania [Mr. QUAY] and therefore withhold my vote.

Mr. PLATT. I am paired with the Senator from Virginia [Mr. BARBOUR]. If he were present I should vote "yea;" but, especially as this seems to be in some sense a political question, I withhold my vote.

Mr. PADDOCK. I am paired with the Senator from Louisiana [Mr. EUSTIS]. If he were here I should vote "yea."

The result was announced—yeas 27, nays 29; as follows:

YEAS—27.

Allen,	Dawes,	Hoar,	Sherman,
Allison,	Dolph,	Ingalls,	Spooner,
Blair,	Edmunds,	McMillan,	Stockbridge,
Cameron,	Evarts,	Mitchell,	Teller,
Casey,	Farwell,	Moody,	Washburn,
Chandler,	Frye,	Morrill,	Wilson of Iowa.
Cullom,	Hawley,	Sawyer,	

NAYS—29.

Bate,	George,	Morgan,	Vest,
Berry,	Gibson,	Pasco,	Voorhees,
Blodgett,	Gray,	Payne,	Walthall,
Butler,	Hale,	Plumb,	Wilson of Md.
Call,	Harris,	Pugh,	Wolcott.
Cockrell,	Hearst,	Reagan,	
Coke,	Jones of Arkansas,	Turpie,	
Daniel,	Kenna,	Vance,	

ABSENT—26.

Aldrich,	Dixon,	Jones of Nevada,	Quay,
Barbour,	Eustis,	McPherson,	Ransom,
Beck,	Faulkner,	Manderson,	Squire,
Blackburn,	Gorman,	Paddock,	Stanford,
Brown,	Hampton,	Pettigrew,	Stewart.
Colquitt,	Higgins,	Pierce,	
Davis,	Hiscock,	Platt,	

So the amendment was rejected.

The VICE-PRESIDENT. The question recurs on agreeing to the resolution submitted by the Senator from Maine.

Mr. EDMUNDS. On that I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SPOONER. Let the resolution be again read.

The VICE-PRESIDENT. The resolution will be read.

The Chief Clerk read the resolution submitted yesterday by Mr. HALE, as follows:

Resolved, That on and after Monday, April 7, 1890, the daily sessions of the Senate shall commence at 12 o'clock meridian, until otherwise ordered.

The VICE-PRESIDENT. The Secretary will call the roll on the question of agreeing to the resolution.

The Secretary proceeded to call the roll.

Mr. FAULKNER (when his name was called). I am paired with the Senator from Pennsylvania [Mr. QUAY].

Mr. PADDOCK (when his name was called). I am paired with the Senator from Louisiana [Mr. EUSTIS].

Mr. PLATT (when his name was called). I announced my pair with the Senator from Virginia [Mr. BARBOUR]. If he were present I should vote "nay."

Mr. RANSOM (when his name was called). I am paired with the senior Senator from Rhode Island [Mr. ALDRICH]. If he were here I should vote "yea."

The roll-call having been concluded, the result was announced—yeas 32, nays 25; as follows:

YEAS—32.

Bate,	Dawes,	Jones of Arkansas,	Turpie,
Berry,	Evarts,	Kenna,	Vance,
Blodgett,	George,	Morgan,	Vest,
Butler,	Gibson,	Pasco,	Voorhees,
Call,	Gray,	Payne,	Walthall,
Cockrell,	Hale,	Plumb,	Wilson of Iowa,
Coke,	Harris,	Pugh,	Wilson of Md.
Daniel,	Hearst,	Reagan,	Wolcott.

NAYS—25.

Allen,	Dolph,	McMillan,	Stewart,
Allison,	Edmunds,	Mitchell,	Stockbridge,
Blair,	Frye,	Moody,	Teller,
Cameron,	Hawley,	Morrill,	Washburn.
Casey,	Hiscock,	Sawyer,	
Chandler,	Hoar,	Sherman,	
Cullom,	Ingalls,	Spooner,	

ABSENT—25.

Aldrich,	Dixon,	Jones of Nevada,	Quay,
Barbour,	Eustis,	McPherson,	Ransom,
Beck,	Farwell,	Manderson,	Squire,
Blackburn,	Faulkner,	Paddock,	Stanford.
Brown,	Gorman,	Pettigrew,	
Colquitt,	Hampton,	Pierce,	
Davis,	Higgins,	Platt,	

So the resolution was agreed to.

ECKINGTON AND SOLDIERS' HOME RAILWAY.

Mr. HOAR. I call the attention of the Senator from Vermont [Mr. EDMUNDS] to the motion I am about to make. I move to take up the motion to reconsider the vote by which the Senate agreed to the amendment of the House of Representatives to the bill (S. 157) to amend the charter of the Eckington and Soldiers' Home Railway Company.

Mr. EDMUNDS. I hope the Senator will not press that motion this morning, but let it wait until to-morrow morning. I shall make no objection to his renewing it to-morrow.

Mr. HOAR. Then I give notice that I shall call up to-morrow morning at this time the motion to reconsider.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. MARTIN, its Chief Clerk, announced that the House had agreed to the amendments of the Senate to the bill (S. 1332) granting to the city of Colorado Springs, in the State of Colorado, certain lands therein described for water reservoirs.

The message also announced that the House had passed the following bills:

A bill (S. 1738) to authorize the construction of a railroad bridge across the Missouri River, in the county of Monona, in the State of Iowa, and in the county of Burt, in the State of Nebraska;

A bill (S. 2026) authorizing the construction of a bridge across the Arkansas River, connecting Little Rock and Argenta, Ark.;

A bill (S. 2323) to authorize the construction of a bridge across the Arkansas River at or near Pendleton, Desha County, Arkansas; and

A bill (S. 2324) to authorize the building of a bridge across White River, Arkansas, by the Mississippi and Little Rock Railway Company.

The message further announced that the House had passed the following bills, with amendments in which it requested the concurrence of the Senate:

A bill (S. 1873) authorizing the Brazos Terminal Railway Company to construct a bridge across the Brazos River, in the State of Texas; and

A bill (S. 2284) for the organization, improvement, and maintenance of the National Zoological Park.

The message also announced that the House had passed the following bills; in which it requested the concurrence of the Senate:

A bill (H. R. 380) to amend an act entitled "An act to authorize the Cairo and Tennessee River Railroad Company to construct bridges across the Tennessee and Cumberland Rivers," approved January 8, 1889;

A bill (H. R. 5729) to authorize the construction of a bridge across the Oconee River, in the State of Georgia;

A bill (H. R. 7164) to amend and continue in force "An act to authorize the construction of a bridge across the Missouri River at Forest City, Dak., by the Forest City and Watertown Railway Company," approved August 6, 1888;

A bill (H. R. 7985) to amend an act entitled "An act to aid vessels wrecked or disabled in the waters conterminous to the United States and the Dominion of Canada," approved June 19, 1878;

A bill (H. R. 8391) making appropriations for fortifications and other works of defense, for the armament thereof, for the procurement of heavy ordnance for trial and service, for the fiscal year ending June 30, 1891, and for other purposes; and

A bill (H. R. 344) to grant the right of way to the Pittsburgh, Columbus, and Fort Smith Railway Company through the Indian Territory, and for other purposes.

URGENT DEFICIENCY APPROPRIATION BILL.

Mr. HALE submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate numbered 41 to the bill (H. R. 7496) to provide for certain of the most urgent deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1890, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment as follows:

Add at the end of said amendment the following:

"*Provided*, That no part of said amount shall be expended in sinking wells or the construction of irrigation works; and the work done under this appropriation shall be completed and a report of the same made within the appropriation, and nothing herein shall commit the Government to any plan of irrigation or the construction of works therefor."

And the Senate agree to the same.

EUGENE HALE,
W. B. ALLISON,
F. M. COCKRELL,
Managers on the part of the Senate.
D. B. HENDERSON,
J. G. CANNON,
W. C. P. BRECKINRIDGE,
Managers on the part of the House.

The report was concurred in.

REGISTRY OF BARGES.

Mr. HAMPTON. I ask unanimous consent to call up the bill (S. 3131) for the registry or enrollment of the barges Herdis and Agostinoc. It is a matter of great consequence to a gentleman engaged in transporting fertilizers or phosphate rock. It will not take a minute to dispose of the bill.

Mr. HOAR. I should like to call up the Montana case at this time, according to notice, but I will yield to the Senator from South Carolina if his bill involves no debate.

The VICE-PRESIDENT. The title of the bill will be stated.

The CHIEF CLERK. A bill (S. 3131) for the registry or enrollment of the barges Herdis and Agostinoc.

The VICE-PRESIDENT. Is there objection to the present consideration of the bill?

Mr. EDMUNDS. Let it be read for information.

The VICE-PRESIDENT. The bill will be read.

The Clerk read the bill.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill which had been reported from the Committee on Commerce with an amendment, in line 8, to strike out the word "Agostinoc" and insert "Agostino C."

The amendment was agreed to.

Mr. EDMUNDS. Will the chairman of the Committee on Commerce inform us why these vessels do not fall within the general law, and, if they do not, why they ought to be brought into an American registry? I dare say he can do it in a moment.

Mr. FRYE. Because in the general law which provides for issuing a register to wrecked vessels barges are not included. There is another law which includes canal-boats, barges, etc., entirely within the inland waters and lakes. These two barges do not happen to come under that provision of law, simply because they sail between Charleston and Savannah.

Mr. EDMUNDS. So it is entirely within the spirit of the general law?

Mr. FRYE. It is entirely within the spirit of the law.

Mr. EDMUNDS. All right.

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.

The title was amended, so as to read: "A bill for the registry or enrollment of the barges Herdis and Agostino C."

SENATORS FROM MONTANA.

Mr. HOAR. I desire to call up the resolution reported by the Committee on Privileges and Elections in regard to the Montana Senatorial contest.

The VICE-PRESIDENT. The report will be stated.

The CHIEF CLERK. Report No. 538, by Mr. HOAR.

Mr. HOAR. I suppose it will be more agreeable to the Senate not to have these two long reports read in full from the desk. I can state the substance of the majority report. I think I can make a clear and compact statement of it in fifteen minutes, if the Senate will kindly give me their attention for that time, which will put them in possession of the points in the case as I understand them and will save a good deal of time and labor. If the Chief Clerk will read the first resolution reported from the committee I will proceed to make that statement, if no Senator calls for the reading of the report.

The Chief Clerk read as follows:

Resolved, That William A. Clark is not entitled to be admitted to a seat in the Senate from the State of Montana.

Mr. HOAR. Mr. President, this case involves the title to two seats in this body of persons claiming to be elected from the new State of Montana.

There is no difference whatever that I have heard between the case of the two claimants, Mr. Sanders and Mr. Power on one side and the two claimants, Mr. Clark and Mr. Maginnis, on the other. The question between those two sets of persons depends wholly upon the point whether five Republicans or five Democrats were authorized to sit in the house of representatives of Montana, to take part in the organization of that body, and vote for Senators. There was a valid organization of the senate. Two bodies met, each claiming to be the true house. There was no choice of the United States Senators by any concurrent vote and at the time and in the manner fixed by the Constitution and laws of the United States. One-half exactly of the senate of Montana met in a joint convention with one of these bodies and everything necessary to elect a Senator, if they had the right to do it, took place, and the other half met in a joint convention with the other body.

The question is, therefore, which of those two joint conventions contained the members of a lawful house? That question is settled by determining which of the two groups or sets of five had the right to act as representatives for the State of Montana from the county of Silver Bow, and that question in its turn depends ultimately in one of its aspects on transactions at precinct No. 34 in that county. I can state, I think, the propositions on which the majority report rests very briefly for the satisfaction of the Senate.

In the first place, each of these two bodies of five persons claimed to have lawful credentials. One had credentials from a Territorial board consisting of the chief-justice and two other Territorial officers, and the other set had credentials from a county clerk. The question is, which of those two were the lawful credentials?

There was necessary for a quorum in Montana the presence of twenty-nine persons. In one of these houses there were twenty-five persons unquestionably elected and unquestionably having lawful credentials. In the other house there were twenty-four persons unquestionably elected. Adding to those twenty-five the five disputed persons, one of the bodies would have thirty. Adding in the other body to the twenty-four the five persons, that body would have twenty-nine—enough in each instance to make a quorum.

The first question therefore is who had lawful credentials which entitled them to sit and vote in the house of representatives of the State of Montana until the house itself by its constitutional judgment had determined favorably or adversely to their title to the seat.

Then the second question in the case is this: Whether, supposing one of these bodies was made up of twenty-five persons lawfully and unquestionably entitled to sit in it and of five persons who had lawful credentials, and the other was made up of twenty-four or twenty-five persons who unquestionably had a title to sit in it and five persons who had not lawful credentials, but are now found by the Senate to have been really elected by the people—which of those two bodies is entitled to be treated by it in determining this question as the lawful and constitutional house.

The third question in the case is the final question, which of these two sets of five persons were lawfully and actually elected by the people, without regard to the technicalities or to the credentials, but upon the substance of the election as we have the evidence before us.

The majority of the committee are of opinion that the five men that sat in what is known as the Iron Hall, or Republican house, who claimed to be elected as Republican members from the county of Silver Bow, had the lawful credentials and that they were entitled to sit in the representative chamber of the State of Montana when the house of representatives organized and to retain those seats, as they did retain them, acting in all respects as lawful representatives until there had been a judgment of the house itself to the contrary, which it is not claimed ever happened.

In the next place, the majority of the committee are of opinion that, if this body of persons had the lawful and constitutional certificates of their election, that title is a good title against all the world, governing their associates in that body, governing the senate, governing everybody who has a lawful duty to determine who are lawfully elected representatives until there be an adjudication of the house itself to the contrary, and that nobody can be heard to say and that no authority can be permitted to inquire into or determine the actual facts of the election as against that title. That is the second proposition.

The third proposition is that, upon the merits of the election itself, the five claimants in the Iron Hall, or Republican legislature, from the county of Silver Bow were truly and lawfully elected. I wish to say, speaking for myself and speaking for my associates who have joined in this report, that, as I believe, not desiring to be immodest and with entire deference to the opinion of the gentlemen who differ from me, this case seems to me to be absolutely impregnable on all three of these propositions, and there has not been presented for my determination, either in the Senate or in the other House, since I have been in public life, what, when properly understood, seems to me to be a clearer case for the decision of the Senate or the House.

Now, the question about the lawful credentials is just this: The statute, the enabling act, authorized the constitutional convention of Montana to provide for taking the sense of the people upon the adoption or rejection of the constitution and for the election of the State officers at the same time, for which the convention which proposed the constitution should provide. The convention exercised that authority by an ordinance known as the election ordinance, ordinance No. 2, which accompanied the constitution itself; and that ordinance provided that—

The votes cast at said election for the adoption or rejection of said constitution shall be canvassed by the canvassing boards of the respective counties not later than fifteen days after said election, or sooner if the returns from all of the precincts shall have been received, and in the manner prescribed by the laws of the Territory of Montana for canvassing the votes at general elections in said Territory, and the returns of said election shall be made to the secretary of the Territory, who, with the governor and the chief-justice of the Territory, or any two of them, shall constitute a board of canvassers, who shall meet at the office of the secretary of the Territory on or before the thirtieth day after the election and canvass the votes so cast and declare the result.

That is the method providing for ascertaining the result as to the constitution itself. Then the seventh section of the ordinance provides:

That on the first Tuesday in October, 1889, there shall be elected by the qualified electors of Montana a governor, a lieutenant-governor, a secretary of state, an attorney-general, a State treasurer, a State auditor, a State superintendent of public instruction, one chief-justice and two associate justices of the supreme court, a judge for each of the judicial districts established by this constitution, a clerk of the supreme court, and a clerk of the district court in and for each county of the State, and the members of the Legislative Assembly provided for in this constitution.

* * * * * * *

Seventh. There shall be elected at the same time one Representative in the Fifty-first Congress of the United States.

Eighth. The votes for the above officers shall be returned and canvassed as is provided by law, and returns shall be made to the secretary of the Territory and canvassed in the same manner and by the same board as is the vote upon the constitution, except as to clerk of the district court.

The clerk of the district court was a district officer, confined either to one county or to two or more counties, and he was a local officer. With that exception, the law expressly provided that the votes for all these officers and for the Legislative Assembly shall be returned to and canvassed in the same manner and by the same board as is the vote upon the constitution, which is this State board. Then it goes on to say that "there shall also be elected at the same time the following county and township officers, and the votes for these officers shall be returned and canvassed as now provided by law." That old Territorial law provided that the votes for these county officers should be canvassed by a county board and the result certified by the county clerk. There were no other officers in the Territory elected by the people. All the officers were appointed either by the governor or by the President of the United States. Many of the offices enumerated in this first section did not exist at all in the Territory. The only general Territorial election was for a Delegate in Congress, in regard to which there was a special mode of canvass by Territorial officials provided by a special law for that purpose.

Now, then, our friends on the other side think that because this statute says that the votes shall be returned and canvassed as provided by law there is to be a canvass and a declaration of the result by the county board, and a certificate given, although the ordinance contains the express provision that after that canvass the votes shall be further returned to the secretary of state and canvassed like the votes for the constitution.

That proposition seems to us entirely inadmissible.

But it is said the statute does not say that when this State or Territorial board have canvassed the votes for the entire Territory they shall declare the result and give a certificate of it. But we understand that that duty and obligation are involved in the obligation to make the canvass.

Now, let us see what is the alternative and to what result the proposition made by our learned friends on the other side must bring them. In the first place, if they say that the method of declaring and certifying the result provided by the old Territorial law is the one still in force, you have not any provision for either certifying the result or declaring the result or giving certificates in regard to all of these officers, who were only created by the constitution for the first time, because the Territorial law never applied to them. In the next place, in creating the Legislature for the State of Montana there was the old body of the house of representatives corresponding to this like body in the Territorial legislation, and there was an entirely new and legal and constitutional creation of the senate, the only thing at all resembling which was a legislative council, which had certain functions like that of the executive council in States where they have them, and certain other functions of a legislative character. But it does not now exist.

When you have a statute which declares that the vote shall be cast for a legislative assembly and canvassed as required by law, if the votes are to be canvassed and the result declared for members of the house by the old district officers alone, not by the State officers, you have got the extraordinary result that, while precisely the same phrase is used, Legislative Assembly, including both houses, you have one method of declaring the result and giving the certificate provided as to the house of representatives and no method at all provided as to the senate. The old law never applied to it and the phraseology of the new law, according to our friends on the other side, does not reach it.

Then you have got this further result, which seems to me practically an absurdity. If these votes are to be canvassed by this State board and the result of that canvass declared and certificates given by the county board, it follows that an inferior officer, who has no connection with the State board whatever, who has no access even to what they do except such access as may be the right of all citizens in general, is to certify the result of this State body of canvassers. These clerks reside and perform their duties at a distance from the seat of government. I am told by good authority that one of them has his office at a distance of 460 miles from the seat of government in that Territory. There is no provision made for his compensation, for his travel; th re is no express enactment that he shall perform this duty; and yet our learned friends on the other side are inevitably driven to this position: that in the face of that express provision that this canvass shall take place—that is, that votes for the constitution are to be canvassed, which is the case with representatives to the General Assembly—these clerks are expected to travel 460 miles to inspect the documentary evidence of a canvass which is kept in a State office at the capital, and which, of course, can not be sent away from it, ascertain the result, and give the certificate to the members elected. To my humble apprehension that proposition is clearly and manifestly preposterous.

Then we come to the next step. Suppose, now, we have a Legislative Assembly of whom enough to make a constitutional quorum have lawful certificates from the lawful canvassing board, as these men from the State canvassers. Are they entitled, under the uniform parliamentary and constitutional practice of this country, to take their seats in that body, organize it, and hold those seats until, acting on each case one by one, the body itself has adjudged against their title there to remain? Nobody is hardy enough to question that proposition as a general rule. I suppose nobody on the other side will doubt it for a moment.

It is too well established in parliamentary processes in this country to be doubted now. But it is said that that doctrine does not apply to the case where there happen to be two bodies, each claiming to be the lawful body, and that in that case if it takes thirty to make a quorum and you have got twenty-five, lawfully elected, with lawful credentials, acting with five men who have gotten credentials, but whose election is disputed, and another body of twenty-five men, lawfully elected and with lawful credentials, acting with five men who have not got any credentials, but who claim that they were really elected, any other party who is to deal with these rival claims (including the Senate of the United States, who are to determine the question of the validity of the election) may in that case go behind the credentials and go behind every technicality or paper title or certificate to the fact and truth of the election itself; and for that proposition the authority of a report made by Mr. Carpenter, of Wisconsin, chairman of the Committee on Privileges and Elections, I think, at the time, at any rate a member of it, is cited.

That proposition I wish respectfully to deny; but I desire to say in denying it that a political advantage would ensue to the party to which I belong from its adoption, an immediate political advantage which would go very far beyond, in its attractiveness, if those were the things which attracted us here, anything which could happen by seating two Republican Senators from the State of Montana. If you gentlemen on the other side of this Chamber tell us and will establish as the constitutional law of this country that whenever, for the past fourteen years, a Republican minority has met in the House of Representatives, that minority had in the original organization of that House the lawful right to send for the men who we believe were honestly elected, but had not got the credentials of their States, to make up the body, and then it was the duty of the President and the Senate to recognize them, it is something that had not dawned on our understanding hitherto and may possibly be a useful hint or rule for our guidance in what may happen in the future.

If it be true that ever, in any State, South or North, East or West, the party in the minority who have credentials may get the men who they think were lawfully elected, and have not got them, to make a quorum and then organize and legislate and elect Senators, and it is the duty of this Senate to seat them, I think you will agree that somebody here has exercised a most remarkable abstinence from exercising a constitutional power for the last twenty years. There has not been a Congress for fourteen years, with one or two exceptions, where there was a House of Representatives, in regard to which a large portion of this country and a large majority of this body have not conscientiously believed, whether right or wrong, that there ought to have been added enough to make a majority and to organize a House of men elected, but without credentials. There has not been a time for the last twenty years when there has not been a large number of the people of this country—I am not saying whether right or wrong in that belief—who have not honestly and conscientiously believed that there were Senators sitting in this body whose title to their seats would not have stood against this proposition which is now suggested, if I understand it correctly, on the part of the minority.

This is a much larger question than the question of the seats of the two gentlemen entitled to sit from the State of Montana. I have always believed and have always acted upon that belief, and shall continue to act upon it until the authority of the Senate or the authority at least of some great constitutional lawyers who have seats here—and there are such on the other side of this Chamber and on the other side of this committee—shall declare the contrary, that it is impossible to conduct a free constitutional and legislative government on any other theory than that there must be somebody, from the necessity of the case, who ascertains the result of an election and certifies to that result, and that when that is done, right or wrong, honest or dishonest, as that may be, that certificate clothes the person who receives it with the lawful and rightful authority to exercise the function of a legislator subject only to one judgment, and that is the judgment of the house itself where he undertakes to claim a seat.

How can it be that a Republican minority two years ago or four years ago in the House of Representatives in Washington might have gathered to itself contestants from Democratic districts where they had credentials or that a Democratic minority this winter might have done the same thing in regard to its Republican opponents and undertaken to organize a House, and in that case have put upon the Senate the duty of inquiring into every contested-election case in this country?

If that duty were to be put upon the Senate in determining what body it would recognize and act with, a like duty of course would be imposed upon the President of the United States in the exercise of his constitutional functions, and possibly a third duty upon the courts, and unless it happened that all three of those bodies came to the same conclusion in regard to the debated and disputed and doubted facts of a contested election in a State for Representative in Congress, the whole constitutional legislative function of this country is to be thrown into disorder.

Mr. Carpenter made a report in the Alabama case, where a condition of things like that took place, in which he affirmed that doctrine, it is said, and the majority of the Committee on Elections of course must have assented to his report, though he signs it alone. But in the first

place that doctrine is not heard of or suggested in the debate in the Senate on that Alabama case, which was conducted by Mr. Oliver P. Morton, of Indiana, on the part of the then majority in this body, but Mr. Carpenter in his report puts the doctrine expressly on the assertion that the true and valid election of the Republicans in the State of Alabama was conceded.

Mr. MORGAN. That was not true.

Mr. HOAR. That is what he says.

Mr. MORGAN. That was not true. I deny that it was true.

Mr. HOAR. That is what he said. You do not deny that is true, for there it is in the book, and that is enough for my purpose.

Mr. VANCE. The minority report denies it also. I should like to know who made that concession.

Mr. HOAR. I should, too.

Mr. MORGAN. It was not made.

Mr. HOAR. I should like to know who made it, but the only man who is found affirming this doctrine anywhere puts the doctrine expressly on the fact that it is conceded, and makes his distinction between that and the contrary doctrine, which he admits is true everywhere else, upon the fact that that is conceded.

Now, whether Mr. Carpenter or whether the Senate of the United States, in that angry and heated time immediately after the war, committed a political act upon which they could not stand in logic or in law, I am not obliged now to discuss. Mr. Halbert E. Paine, the author of the book on contested elections, long ago, some years ago, before the question had come up again, declared in reference to that report of Mr. Carpenter that, if he were seeking to say something in defense of a totally untenable position, that might possibly be as well as anything else he could say, and that was all there was of it.

Mr. GRAY. Will it interrupt the Senator if I ask him a question?

Mr. HOAR. I do not want to make this statement under much interruption, because I am trying to bring it to a close as soon as I can.

The PRESIDING OFFICER (Mr. FRYE in the chair). Does the Senator from Massachusetts yield to the Senator from Delaware?

Mr. HOAR. I yield.

Mr. GRAY. Only a moment, and I trust it will not interfere with the Senator. I am interested in the statement just made by the Senator from Massachusetts that Senator Morton, an exceedingly able man, in the debate that occurred in the Senate upon the report of this committee in the Spencer and Sykes case, did not put any stress upon the position taken by Mr. Carpenter, and argued the case not upon that ground, but avoided that position. I did not so understand, and I would ask the Senator what interpretation he puts upon this language used by Mr. Morton when he says:

> Here are two rival bodies, each claiming to be the Legislature, and the question for us to determine is now, not which appeared at first to have the legal right, but which in point of fact was the true Legislature of Alabama, which body had the quorum of men who were actually elected? Upon that question there is no sort of difficulty at all.

Mr. HOAR. If that sentence conveys to anybody the fact that Mr. Morton is affirming Mr. Carpenter's view I do not so understand it. If it is, it is the only thing that I think will be found. Mr. Morton put it upon the ground that they were to throw everything to the winds and in this revolutionary condition of things undertaking to overthrow by the forms of law the will of the people, that the Senate should interpose with its authority and find out what the people of Alabama wanted in regard to the Senator, without any regard to lawful or constitutional methods. That is the substance of that speech of Mr. Morton.

Now let me go back or I shall forget what I was saying when I rose.

Mr. GRAY. I beg the Senator's pardon. I would not have interrupted him but that I was interested in the statement.

Mr. HOAR. Mr. President, I understand that Mr. Carpenter, whether he could rightfully or wrongfully maintain the distinction, stood as well as he could on that distinction alone. Whether it was true in fact or whether it was well founded in law I have nothing to say. We have our own duty at this time; and that was when he was dealing with a case where this fact was conceded, and that if it had not been conceded the law would have been otherwise. If that report of Mr. Carpenter were put upon any other ground, I wish to say for myself, and I think my associates on the committee agree with me, that I dissent from it utterly and absolutely, and I understand the constitution and law to be as I have stated.

Then comes the third proposition. But I do not think that it can be maintained upon the evidence before the committee that the five Democrats from the county of Silver Bow were duly and lawfully elected on the facts or on the merits, but I think on the other hand it is perfectly clear and indisputable to any reasonable apprehension, to any impartial man, that their five competitors were elected. That all depends upon the question whether in truth and in fact the votes which were cast at precinct No. 34, with one exception, which I will state presently, were as reported by the election officers there. That precinct was a precinct in the neighborhood of and including a railroad camp; that precinct was composed very largely of persons employed in the construction of a new railroad. There has not a single mark been brought to our attention in the conduct of that election which indicates to my mind an honest and free election.

The election was held under the Australian ballot system, which had been established there some time before, but the law before the establishment of that ballot system was one which very carefully provided for the security and honesty of elections. It provided for five judges in precincts where there were over 100 votes cast—I think those were the limits—five judges of election and two clerks. They were to have two poll-books and on those poll-books they were required by law to set down in their order the numbers of the voters as they cast their votes. Then at the end of the balloting the two poll-books were to be compared, and if they did not agree the error in one or the other was to be corrected until they did agree. Then the number of voters was to be compared with the number of ballots, and if the number of ballots exceeded the number of voters, enough were to be thrown out of the ballot-box by a very familiar process to reduce and remove the excess.

Now, what happened at that election? In the first place there were not five judges; there were only three. That I concede, taken alone, would be an indication perhaps of a mistake in the officials which ought not to defeat the true will of the people. In the second place, the duty is imposed upon the clerks of the election of carefully scrutinizing the poll-books, making the register, and identifying the voters as they come, and no single duty of either of those clerks was performed by the clerks. They were two illiterate men, and one judge of the election testifies that he did most of the duty which the law imposed upon the clerks. There was no sworn officer therefore who did the clerical duty at that election at all, and, instead of having seven sworn officers to inspect that election, there were but three.

But let that all go. That is not of the essence of the people's will, and perhaps the people were not to blame for that. These persons who were to be voted in regular order and put upon the poll-book in that order turned out to have voted in alphabetical order, the five election officers noting them first, and then they go on in regular alphabetical order from A to Y, and Robert Youngberg was the last voter; and that great safeguard and security by which if a man personates another he can be identified by the man who voted next before and the man who voted next after, so that the election officers would have known about what time he cast his vote, was washed away.

It is said that this also was an honest mistake, that they took the registry list which had been furnished them alphabetically and checked the men as they voted, and that undoubtedly if they disregarded this important provision of the law it was a mistake of the election officers, which ought not to deprive the voters of their due and rightful share in the election. But that does not seem to me to hold water, for they had a copy of the register; and all these facts were furnished by the Democratic contestants. We have not assumed a single fact except what appears from the papers put in by Messrs. Maginnis and Clark and the Democratic judge who tried the title of one or the other of the district officers to his office.

We had, as I said, the register before us, and it is very manifest that this is not a copy of the poll-list; for, in the first place, in the register the christian name follows the surname, and in the poll-list the christian name comes first. In some names in the registry the initials only of the christian names are given, while in the same names in the poll-list the christian names are given in full and in some cases the names are spelled differently or the spelling would require a different pronunciation. This pretended poll-list is a list of somebody who got up that fraudulent election and furnished these men for the purpose of some railroad official who was voting the whole of them. It seems to me that it is an absolute fraud, showing that this is a manufactured, concocted, and pretended election, and not a real one, which it is impossible to mistake by any impartial mind.

But let us go a little further. There are 171 Democratic votes and 3 Republican votes, varying once or twice so that there are 4 for one and 170 for another, and 172 for one and 2 for another, and here was a hotly contested election in the State of Montana, and the election in that county of Silver Bow was so close that a change of 60 votes the one way or the other would have defeated the candidate declared elected or elected the candidate declared defeated—generally an average of 60 or 70 votes—and yet it is found in this one precinct, newly settled, a place where men of all nationalities and gathering from all parts of the Union had come together, that the remarkable and miraculous result is that the votes were divided between the two parties there, when it is so even over all the rest of the Territory and over all the rest of that county, in the proportion of 171 to 3.

Beyond that and another badge of fraud, there was no political division in regard to the constitution of Montana. The Republicans and the Democrats alike were supporting and favoring the adoption of that constitution, and yet substantially the same division in regard to the constitution that existed between the two parties is found in that report.

I remember once going up to the Secretary of the Treasury, Mr. Bristow, and meeting a Massachusetts official who had been charged with various delinquencies, and he explained them one after another by some accidents that happened to him; he had been misled and had meant all right. After that interview was over Mr. Bristow came down to the Capitol and said I to him: "What do you think of that fel-

low?" "Well," said he, "he reminded me of a justice of the peace in Kentucky. A man had been brought before him for stealing cow-bells. He had stolen five or six cow-bells, and he said he never stole them from the cows, but he was out in the pasture and the cows had scratched them off and he had picked them up. 'Well,' said the justice, 'you might possibly have picked up one of those cow-bells in that way; but when it comes to six, I rather think you have stolen them all.'"

Now, when you take up these badges of fraudulent elections, any one of which may possibly be reconciled with honesty, and put them all together, I think the gentlemen who had charge of running that side of that election there stole it all.

But there is another suggestion which is not reconcilable with anything else, and that is apparent upon this fact, that enough of those men who voted the Democratic ticket in the county of Silver Bow were not legal voters, and that appears on the findings of this Democratic judge himself, as to change the majority. The Revised Statutes of the United States, section 1860——

Mr. VANCE. The Senator does not mean to say that the judge acknowledged that those votes were illegal?

Mr. HOAR. No; I say that the judge finds the fact.

Mr. VANCE. From which you infer?

Mr. HOAR. I am going to read to see how it strikes the Senators. The statute of the United States in regard to suffrage in the Territories is this. This is section 1860 of the Revised Statutes:

> At all subsequent elections, however, in any Territory hereafter organized by Congress, as well as at all elections in Territories already organized, the qualification of voters and of holding office shall be such as may be prescribed by the Legislative Assembly of each Territory; subject, nevertheless, to the following restrictions on the power of the Legislative Assembly, namely:
>
> First, the right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years and by those above that age who have declared on oath before a competent court of record their intentions to become such and have taken an oath to support the Constitution and Government of the United States.

In other words, there is an emphatic and express enactment that it shall not be within the legislative power of any Territory to confer the right of suffrage upon any person who has not taken two oaths: first, the oath that he intends to become a citizen of the United States and, second, the oath to support its Constitution and Government, thereby renouncing all other allegiance.

That latter oath it is not pretended was taken by the aliens who voted at precinct 34 and at precinct 26 in the county of Silver Bow, and that is so found by the judge expressly to whose decision I have already referred. He says that as the law of Montana expressly declares.

> All male citizens of the United States * * * who shall have declared their intention of becoming citizens, and who, under existing laws of the United States, may ultimately become citizens thereof, shall be deemed electors of this Territory.

And the Territorial law did not put in this qualification of the act of Congress, although the act of Congress says that it shall be a limitation on the power of the Territory itself, that it shall not admit anybody who has not taken this other oath. The judge says it was not necessary for these men to take that other oath, because the enabling act says that persons who are qualified electors may vote for State officers, and he thinks they meant qualified electors according to the Territorial statute, and not qualified electors according to the existing law.

Mr. BUTLER. Of the United States law?

Mr. HOAR. Of the United States law. Now, let me repeat it. The honorable Senator from South Carolina [Mr. BUTLER] asks a question about that. The United States law says that the Territorial Legislature may prescribe who shall be qualified electors, subject to the restriction that they shall not let anybody in who has not taken an oath to support the Constitution and Government of the United States. The Territorial law of Montana did not put in that restriction. Undoubtedly it was an accident, but it is not there. It did say that all persons who have declared their intention to become citizens may vote in this Territory.

Then the enabling act says the constitutional convention may provide for the choice of State officers. The constitutional convention says the qualified electors of the Territory shall vote at this election. Now, this judge says that he thinks when they said that they meant the men who were described in the Territorial statute, without regard to the restriction of the act of Congress.

Mr. EDMUNDS. That is, that they had forsworn their allegiance?

Mr. HOAR. They meant that the man who had forsworn his foreign allegiance and taken this oath could vote, although Congress in express words had provided that no Territorial Legislature whatever should do it.

Mr. BUTLER. Was that confined to Silver Bow County?

Mr. HOAR. I will state the facts about that; I do not know; there is no evidence on that point. It appears from this judge's own finding, which I have given, that at precinct 34 and at precinct 26 a certain number of men voted who, he said, it was not necessary should take this oath, and in the statement which he makes there is no claim that they had taken it. I do not suppose it is pretended by anybody that they had taken the oath I speak of.

Now, giving all these numbers in these precincts to the Republicans to make up the entire Republican vote in both precincts, you have got enough of them left who must have voted the Democratic ticket to change the result. If we subtract those from the Democratic ticket you let in every one of the Republicans.

Although I make the statement as full as I can in the majority report, I think the minority report must have been written before that was read. Our friends on the other side seem to think that our notion is that these aliens did not properly take the oath of their declaration of intention. The oath they did take was before the clerk, or the clerk's deputy, away from the court-house. The provision of the law on that is this—it is in the statute I have read—that these people who took the oath to support the Constitution—I mean their preliminary declaration—must take it before some court. Afterward a practice grew up, which, I think, is authorized by statute, that for purposes of naturalization it might be taken before the clerk or a deputy away from the court.

Now, it is a very grave question, although that oath might have been taken away from the court for the purpose of naturalization, whether where the statute speaking of the qualification of voters says it must have been taken before the court that would do; but it being a question, we did not care to raise it and debate it here as a doubtful question, because this other thing seems to my humble understanding—I do not think it is very lawyer-like, or very statesmanlike, or very Senatorial to be too confident in your own judgment—but it does seem to my mind that this other proposition is absolutely clear and indisputable.

I do not see any method of getting rid of it, and therefore it is not necessary to talk about the question whether these declarations of intention to become citizens of the United States might have been taken before the clerk or his deputy away from the court. The substantial and decisive point is that no Territorial Legislature could clothe an alien with the right to vote unless he had taken the oath to support the Constitution and laws of the United States, and therefore when the constitutional convention of Montana declared that the qualified electors should elect State officers it did not mean, although the judge of that district said he thinks it did, persons who had been enumerated in an old statute of Montana that omitted this recitation, but it meant the persons who were qualified according to the sovereign dominant authority of the prevailing law, a law necessary on all principles of decent, orderly government in this country.

In order that the gentlemen on the other side may see that I am not overstating what the position of this judge is, let me read it the way the judge states it:

> Counsel for contestant seems to think that the court was perhaps misled in making its ruling; that the oath provided by the laws of the United States relating to suffrage in the Territories to be taken by an alien, in addition to his declaration, to make him a qualified elector did not apply at the election held the 1st day of October, 1889. The court reiterates the opinion that Congress having delegated to the constitutional convention of Montana the right to provide for said election, and had prescribed the qualifications of voters thereat, that when such convention provided by ordinance for said election and "that the persons who are then qualified electors, under the laws of this Territory, shall be qualified to vote at said election"—

That is not the phrase. The phrase is "qualified electors." I will read it from the ordinance declaring it in a moment—

> it referred to the qualifications prescribed by the Territorial Legislature, and not to those prescribed by any laws of the United States relating to the Territory.

The little phrase on which the judge hangs under the law of the Territory is not really in the ordinance, but if it were I suppose that no law of that Territory could be made by a Territorial Legislature contrary to an act of Congress which expressly declared that the Territorial Legislature could not make that law. Now let me read the phrase in the ordinance:

> Sixth. That on the first Tuesday in October, 1889, there shall be elected by the qualified electors of Montana a governor, a lieutenant-governor, and a secretary of state—

And the other officers I have mentioned—

> and the members of the Legislative Assembly provided for in this constitution.

In the preceding provision about the election the second section is:

> Second. At said election the constitution framed and adopted by this convention shall be submitted to the people of the Territory for their ratification or rejection, and all persons who are then qualified electors under the laws of this Territory shall be qualified to vote for the ratification or rejection thereof.

That is what the judge quotes. I do not think it makes any earthly difference in the meaning, but the provision as to the election of a Territorial Legislature simply says, "The qualified electors of the Territory."

Mr. BUTLER. What does the enabling act say?

Mr. HOAR. The enabling act says:

> That the constitutional convention may, by ordinance, provide for the election of officers for full State governments, including members of the Legislature and Representatives in the Fifty-first Congress.

Now, Mr. President, I believe I have stated the salient points in this case. There has been another suggestion made by a gentleman of the committee, a very interesting one, but one which, whether accepted or not, indicates a careful and thoughtful and a philosophic view of the question, which, perhaps, I ought to say a word about, although it

does not appear, I think, in the minority report with any great emphasis at any rate, if at all, and I do not know how far it is relied upon, but I should like to say a word upon it.

Mr. GRAY. If the Senator will allow me, as I understand the suggestion made in committee, that suggestion was not first made by a member of the minority, but by a member of the majority.

Mr. HOAR. I do not so understand it. I have seen that stated publicly in the newspapers, but I do not understand that any member of the majority of the committee ever made that suggestion, certainly not in my hearing. I suppose the member of the committee to whom the Senator refers will answer that question for himself if the Senator sees proper to put it to him. But the proposition is this: It is said that this matter ought to be sent back to the people of Montana and the election treated as a nullity because the Constitution of the United States requires this function of appointing Senators to be performed by the Legislature of the State, and that the term "Legislature" implies a law-making power, a body assembled, an organization that does not simply mean a number of men who might put themselves into the position where they would exercise the authority and be invested and clothed with this function, but it means a body actually capable at the time of the election or appointment of the Senator of making a law, and that when either house, or the governor who assents to the making of laws, or at any rate who must receive laws or have them submitted to him before they can be enacted, refuses to recognize either body claiming to be a legislative assembly, however lawful that body may be, that at once puts out of joint the legislative machinery, and you have not got any longer a body or authority with the present capacity of law-making. They have had it once before and they resume it hereafter, but so long as that condition of things exists there is not a Legislature in the constitutional sense, and that so far as the senate of Montana refused to recognize either of these bodies as the true house of representatives, the senate being evenly divided politically, and so long as the governor of Montana refused to recognize this particular body which took part in this election at that time, it follows that there was not any Legislature.

I do not think that suggestion, however astute or interesting it may be, will bear very full examination. It is an absolute overthrow of the law-making power of this country, national or State, at the will of either of the three persons or bodies which ordinarily take part in it. The Constitution of the United States says that if we pass a law and present it to the President he must either sign it or return it with his objections for our reconsideration, or it will become a law at a certain time. This theory says that by simply refusing to recognize us as a legislative body—what a marvelous suggestion to President Johnson that would have been—he may at once put an end to the entire legislative function and authority here, and so that either body may put an end to the other.

It would overthrow very easily and simply the arrangement which the act of Congress for the election of Senators has provided, because it was the very purpose of the act of Congress, whose constitutionality has been accepted without any considerable dissent, that no legislative body a majority of whom may happen to prefer that their State should go unrepresented here rather than have it represented by a person whom they do not approve shall have the power of putting an end to the appointing or elective function of the State Legislature by its refusal to go on with it.

We found that this function of electing a Senator, just like the function of counting the votes for President according to the opinion of many of us, was to be performed by an assembly or tribunal consisting of two persons, of an even number, and who might, if they acted in the ordinary way, be found to have no majority either way, so that the function could not be performed. The act of Congress declared that in that case should be done what has been done in nearly every State of the Union in regard to the matter of the election of certain of its officers, and which the Legislature elected, that they should be elected on joint ballot, and for the purpose of that election or appointment the two bodies should be merged in one. Accordingly it is declared, not that the senate shall meet the house in the case of a failure to elect by a concurrent vote, but that the members of the two bodies shall meet in joint assembly. The question what constitutes a quorum of that joint assembly is another question that it is not necessary to deal with here.

But the act of Congress is express that the functions of appointment shall be discharged by an assembly, not consisting of the two houses of the State Legislature, but of the members of the two houses of the State Legislature. I do not think it is necessary to pursue this suggestion into its practical consequences any further.

So, Mr. President, I maintain that the State of Montana had a lawfully organized senate and a lawfully organized house, and that the members of those two bodies met and duly elected Mr. Sanders and Mr. Power as provided by law and in the exercise, the due and proper and orderly exercise, of their constitutional and lawful functions. I maintain that the house of representatives of Montana which took part in that appointment contained within it men enough to make a quorum and more who had the lawful credentials and certificates of their election, and thereby were clothed with the authority and the title to take part in that election and to exercise the functions of members of that house in all respects until a lawful and constitutional judgment of the house itself deprived them of that title; that in truth and in fact the persons so elected and having those credentials and certificates constituted as against all the world the lawful members of that house.

Neither the Senate nor any other body, nor the House itself, can go behind that into the facts of the election; but going behind it and taking the facts of the election as they are furnished us by the contestants here the result is the same; so that in electing these gentlemen this house of representatives exercised an authority with which they had been not only technically and lawfully clothed, but with which they had been clothed by the true and honest choice of the people who were their constituents.

Mr. GRAY. Mr. President, the Constitution enjoins that the Senate "shall be the judge of the elections, returns, and qualifications of its own members," and by that clause it confers upon this body a judicial power which I think all will admit should be exercised judicially. In approaching the discussion of the case that is now before the Senate to be thus judicially determimed I should be very glad if even party nomenclature could be banished. So far as that shall be resorted to by me, it will only be because it is part of the history of the case and arises out of the facts which are necessary to be considered in arriving at a correct determination of this matter. I should be glad, too, if I could see these seats filled by their lawful occupants when this discussion is going on, not of course as a personal compliment to myself, because I should have been equally glad to see them filled when the distinguished Senator from Massachusetts [Mr. HOAR] presented his side of the case on behalf of the Committee on Privileges and Elections, but because this question is as important as any that can come before this body, and it is impossible that it should be determined satisfactorily or in the mode that the Constitution contemplates it should be determined unless we have the benefit of every individual judgment upon it. It is just as important that we should have this individual judgment of each Senator as that a case presented to the Supreme Court of the United States should be determined after due consideration by each member of that court.

Approaching the question in this temper, I trust that I shall say nothing in the remarks which I shall submit, and which I shall endeavor to make as brief as is consistent with the somewhat complicated nature of the facts, that will be inconsistent with the attitude which it seems to me ought to be assumed by each Senator in considering a case of this kind.

The Senator from Massachusetts, in behalf of the Committee on Privileges and Elections—strangely enough, because we all know how careful he is in the study of all questions committed to him by this body—seems to have not read, or if he has read has not comprehended, the position taken by the minority of that committee and which they have presented in a minority report to this body. There is not from beginning to end of that report a syllable, so far as I know, to justify the statement that the minority in considering this case placed itself or sought to place this case upon the principles enunciated in the report made by Senator Carpenter in the Sykes and Spencer case.

So far as this argument goes, I may say for the minority of the committee that we accept as a postulate the proposition laid down by the Senator from Massachusetts, and do not differ at all, in considering this case, from him in the position that we should seek here in the first place to discover the lawful body clothed with legislative power who have chosen a Senator, and that to determine whether it be such lawful body we shall be bound in the first instance by the fact that such body is composed of members who hold credentials from an officer or board clothed with authority in the premises to make such credentials. So, then, the attention of the Senate, so far as I am at present concerned with the question, will be called away from what occurred at this little precinct 34 far up in the Rocky Mountains, and I shall endeavor to present to the Senate for its consideration questions that concern the technical composition of this Legislature which has presented here as its choice as United States Senators those estimable gentlemen, Messrs. Power and Sanders, and I shall endeavor to show, to the satisfaction of every reasonable mind, while I occupy the floor, that there is not a shadow of legal authority or authority founded in any just or safe precedent of this body for the resolution reported by the committee, that these gentlemen are entitled to seats in this body.

I need not detain the Senate by reciting what the Senator from Massachusetts has already stated in regard to the composition of this so-called Legislature and the facts and circumstances that surround that so-called election. It will suffice if I call the attention of the Senate again to the single fact that in considering this question we are met at the outset with this condition of things: that in the capital city of Helena, in the State of Montana, there were two bodies sitting, each claiming to be the lawful Legislature of that State, one composed of a senate legally organized, and whose lawfulness and right to sit are questioned nowhere, and a so-called house of representatives consisting of thirty members, twenty-five of whom are admitted to have been entitled to sit as such and five of whom are disputed as to their title, and sitting in what is called the Iron Hall house of representatives, and another body composed of this same senate, and twenty-nine persons claiming to be elected as a house of representatives, and, if elected, constituting a quorum of the house of representatives, but composed of twenty-four gentlemen whose

seats are questioned by nobody and not in dispute, and five others whose seats are in dispute. That is the situation that we find when we are invited to leave this Chamber and make our inquisition in the capital city of Helena in order to ascertain whether any body that can properly be called a Legislature in the sense of the Constitution of the United States is there sitting, and has armed these gentlemen, Messrs. Sanders and Power, with credentials that we can or should regard.

The first matter which we must determine is this: Inasmuch as neither of these competing houses of assembly had a quorum of members whose seats were uncontested and admitted on all hands, inasmuch as neither had a quorum of those elected to the Legislature without counting in one or the other of these two sets of five members from Silver Bow County whose lawful election is disputed, there could not be, in the nature of the case, a determination of this question by that highest judicial authority in the premises, to wit, the house of representatives itself, which by the constitution of Montana, in conformity to most other State constitutions, is made the judge of the elections and returns of its own members. That, then, would have been the first and highest authority in the premises and would have been conclusive upon this body. But for the reason I have stated it was impossible to find such a judicial determination of that question. I think all will admit—and it requires no special authority to enforce the proposition—that no man ought to sit as a judge in his own cause, and no legislative body in the world would determine the right to seat the members whose seats are contested where it was necessary, to make a quorum, that those contested members should be counted.

If authority were required for a proposition so elementary as that and one so consonant with the genius of American institutions, I would ask leave to read a single sentence from McCrary, who has given us a very valuable work on elections and collected a great deal of interesting matter in a very philosophical and impartial manner. At section 340 Judge McCrary says:

> On the trial of a contested election before a board or legislative body, the members returned as elected are not competent to vote upon the question of the validity of their own election. The rule grows out of the doctrine that no man should have a voice in deciding his own case.

I therefore may pass that point as one that will be conceded on all hands, that neither of these competing houses made any judicial decision as to the right of the five members from Silver Bow County to sit, and, further, that neither of them was competent to make such a decision. That being so, what occurs?

Mr. HOAR. Does the Senator understand that when there are five or any number of members whose seats are contested on the same question none of them can vote in the others' case?

Mr. GRAY. I do.

Mr. HOAR. That is not my understanding of the law.

Mr. GRAY. We can not make even a commencement. The first man must be voted upon, and if all are elected to represent the same constituency, it seems to me that there is a unity as to those five, or whatever the number may be, which would equally prevent any one of them from participating in such a judicial determination. I am quite clear in my own mind, and I submit it with all respect to other gentlemen, that this proposition is true to the extent that I have stated it. Nevertheless, in this case no such judicial determination ever has been made as to the right of these five men, or attempted to be made, so far as there is any evidence before the Senate or before the Committee on Privileges and Elections.

What must happen if we are to pursue further our judicial inquisition, as certainly we must in order to satisfy ourselves in some way as to which of these two competing houses was in fact and lawfully to be considered the house of representatives of the State of Montana? We must manifestly go outside the doors of either house; we should have stopped there if we could have had such judicial determination as I have referred to; but we must leave the doors of both of those competing houses and must pursue this judicial inquiry, which we are now compelled by the Constitution of the United States to pursue, outside the doors of either, and we must ask for ourselves the very question put by the Senator from Massachusetts with absolute accuracy, I think, as applied to the situation, which of those two sets or groups of five members from Silver Bow County had in their lawful possession the credentials or the certificates, or the finding or deliverance, of any officer or board clothed by law with the power to make such? That is our inquiry.

I agree with the Senator from Massachusetts for the purposes of this case—in fact, I agree with him absolutely in regard to this case or others—that that is our first duty; but I think I may speak certainly for all the members of the minority of this committee that for the purposes of this case and under the facts and the circumstances that surround us here that is our first duty.

Mr. President, I should like Senators who have not examined this question to go with me while we make this inquisition, while we ask this question, and wait for the reply: Who has the lawful certificate or credential or finding of an officer or board upon whom by law the duty has been devolved to make such? And I think that we shall find that certainly the five members who sat in that house, called the Iron Hall house, and who participated in the choice of Messrs. Sanders and Power as United States Senators, did not have such credentials, and did not have such a certificate from any board or officer clothed with the power under the circumstances to make such.

It is a fact that under the enabling act passed a year ago, which authorized a convention to be held in the State of Montana for the purpose of forming a constitution, it was also declared that that convention might provide by ordinance for the election of all State officers necessary to thoroughly equip a State government, including representatives in a legislative assembly, and that that convention, sitting under authority of that enabling act, did, by an ordinance called ordinance No. 2, provide:

> First. That an election shall be held throughout the Territory of Montana on the first Tuesday of October, 1889, for the ratification or rejection of the constitution framed and adopted by this convention.
>
> Second. At said election the constitution framed and adopted by this convention shall be submitted to the people of the Territory for their ratification or rejection, and all persons who are then qualified electors under the laws of this Territory shall be qualified to vote for the ratification or rejection thereof.
>
> Third. Said elections shall be held at the several polling places and precincts throughout the Territory appointed for the holding of elections under the laws of the Territory, and shall be conducted in the manner prescribed by the laws of the Territory regulating elections. The boards of county commissioners of the several counties of the Territory shall appoint judges and clerks of such election in each of said polling places and precincts in the same manner as is now required by law for the appointment of judges and clerks of general elections in the Territory.

Then it goes on to provide, as the Senator from Massachusetts has already observed, but which for my purpose it will be necessary for me to ask the attention of the Senate to again, in section 5:

> Fifth. The votes cast at said election for the adoption or rejection of said constitution shall be canvassed by the canvassing boards of the respective counties not later than fifteen days after said election, or sooner if the returns from all of the precincts shall have been received, and in the manner prescribed by the laws of the Territory of Montana for canvassing the votes at general elections in said Territory, and the returns of said election shall be made to the secretary of the Territory, who, with the governor and the chief-justice of the Territory, or any two of them, shall constitute a board of canvassers, who shall meet at the office of the secretary of the Territory on or before the thirtieth day after the election and canvass the votes so cast and declare the result.

Ah, Mr. President, here we have, I must admit, a canvassing board created by lawful authority and invested with power of canvassing the returns of votes coming up from the canvassing boards of the counties on the question of ratification or rejection of the Constitution. Undoubtedly that is so and they are invested with the power to canvass the votes so cast and declare the result. Now, in the eighth section—not pausing to read the intervening sections—it is provided that—

> The votes for the above officers—

That is, certain State officers above enumerated, and which include a member of the House of Representatives—

> shall be returned and canvassed as is provided by law, and returns shall be made to the secretary of the Territory and canvassed in the same manner and by the same board as is the vote upon the constitution, except as to clerk of the district court.

Omitting, I observe in passing, the words "to declare the result," upon which I shall not now comment. I admit that here we have constituted by competent legal authority a canvassing board clothed with the power of doing what? Of canvassing the returns from the county canvassing boards as to the election of members of the house of representatives of Montana. We are told that we must inquire and look for the finding or certificate of some such board, and I agree with the distinguished Senator from Massachusetts, in so far that I proceed side by side with him to this point, and find with him that here is a board upon which by law has been devolved a duty of making a canvass of the returns from the counties; but our inquiry must not stop there. It is not every act of such a board, even, that can have the conclusive effect upon us of deciding the question unless we are satisfied that that act is within the scope of authority legally conferred upon that board. Surely no Senator will take issue with me upon a proposition so plain as that. If I shall show that there has been no such act of such a board within the scope of its authority to make, no finding of such a board which it was authorized to declare in regard to the election of the five members from Silver Bow County who sat in the house of representatives which joined in the election of Messrs. Sanders and Power, then I must challenge that Senator's conscience and his judicial instinct to declare with me that there is no support for the proposition that we have a Legislature legally and technically constituted which has returned to us the election of Messrs. Sanders and Power as Senators of the United States from Montana.

Is it necessary that I should argue this question, so plainly and so obviously true, that where you are called upon to inquire for the finding or the certificate or the deliverance of an officer or a board clothed with authority to make such you should also inquire whether any given finding or certificate or deliverance was in pursuance of that very power which has been called to our attention? The Senator from Massachusetts says here is the finding of the board. We say to him respectfully that is true; but what is that finding? Here is the credential from the three gentlemen mentioned in this ordinance, the governor, the secretary of state, and the chief-justice. We say that is true; but what is that credential? Certainly he must answer satisfactorily that question before we can go hand in hand with him a step

further and declare that we are concluded by that finding. What is that certification, what is that finding, what is that act of this board that must be, if it be within the scope of its authority, conclusive upon us in the determination of the question now before us? Surely we are not to close our eyes and ears at the bidding of the Senator from Massachusetts and fail to scrutinize this supposed credential, this supposed finding, this alleged credential, that is to work results so important as to determine the question as to who shall occupy seats in this body.

Then if we must inquire, let us do so fearlessly, and first ask the question, what was it that this board was authorized to do? You can not object to that. You must ask and answer that question before you are justified in proceeding another step in this judicial inquiry. And we find by referring to the ordinance that they were authorized to canvass what? Votes? No. Poll lists? No; but returns from the canvassing boards of the counties, canvasses made under authority of the law of the Territory.

That was the very thing which they were authorized to canvass, and we must, if we do our duty and regard as sacred this high judicial function that we are now endeavoring to perform, require a strict adherence to that duty as prescribed by law. We can not go outside of that so much as a hair's breadth, for outside of it their acts are no more binding upon us than the acts of any three gentlemen, respectable or otherwise, who choose to get together and say that a certain thing has been done or announce a certain result as being a lawful result.

That being the thing required by law for them to do, that being the authority with which they were clothed, surely I shall meet with no dissent when I say the next inquiry must be, what did they do in conformity or pretended conformity to this authority which I have recited? We do not have to look far for that. We have the evidence of those gentlemen themselves as to just what they did, and in this case there is no Senator here, I know, that will for an instant say that as to what they did we are bound by what they say they did. If there be any such I should have to abandon the argument; I could not argue a proposition so plain as that.

What did they say they did? Did they say that they, Mr. Chief-Justice, Mr. Governor, and Mr. Secretary of the Territory, have canvassed the returns from Silver Bow and find that so and so, naming them, were elected? No, they did not. If they had found that the situation would have been a very different one; but we find in this deliverance, which is the only evidence in this case as to what was done by that board, that they not only did not canvass the returns from Silver Bow County, but that they did not have those returns before them when they put their names to that deliverance or finding.

What are we to do in a case like that? Admit that when they did a lawful act in pursuance of a lawful authority it would be conclusive upon us as showing us the five members who had the *prima facie* right to sit in that house? Surely that admission will not carry us to the extent of saying that we are bound by anything they choose to do, whether within or without the scope of their authority, and that for the purposes of this case they were more absolute in their powers than a czar or the most absolute monarch who ever sat upon a throne. That is not in conformity to the genius of republican institutions, of liberty regulated by law.

I will go as far as any Senator in paying the respect of my homage to all those legal forms and technical proceedings by which self-government has achieved its triumphs in this country of ours, and made liberty regulated by law on this continent the envy of the whole world, but I do not propose to stand uncovered before shams and mockeries, before those who pose masked in the forms of law and at the same time are trampling under foot all lawful authority and all orderly legal procedure.

This Territorial board of canvass, armed with the power to do those things which I have mentioned, undertakes to do something entirely different from those things which it lawfully by the letter of the statute may do.

Mr. GEORGE. I should like to interrupt the Senator to ask him a question.

The VICE-PRESIDENT. Does the Senator from Delaware yield to the Senator from Mississippi?

Mr. GRAY. Certainly.

Mr. GEORGE. I suppose that it is not a matter in dispute between the minority and majority of the committee that the canvassing board constituted under the ordinance of Montana had no judicial power, but only ministerial powers to look into the returns lawfully before them and to perform the arithmetical duty of adding them up and ascertaining the result of the vote.

Mr. GRAY. I do not suppose there will be any dispute about that. I shall have a word to say about it in a moment.

I was saying when interrupted that the thing this board was authorized to do was to canvass the returns made by the canvassing boards of the several counties as to the elections held therein, and I was about to say just at this point and in the line of the suggestion made by the Senator from Mississippi very aptly that that thing which they were authorized to do was undeniably a ministerial duty; that there was no judicial function attaching to that duty.

Mr. HOAR. Will it disturb the Senator before he passes to that point to put to him a question with reference to the other? If it does I will not do it.

Mr. GRAY. The Senator will interrupt me less in a moment when I get through with this point.

The duty is undeniably a ministerial one, and not a judicial one. As the Senator from Mississippi has said, it was to count up, to aggregate as a matter of arithmetic, the returns from the counties. Although I do not understand that the majority of the committee have contended that any other than a ministerial duty was devolved upon this board, it will be important in passing to call attention to the perfectly well settled doctrine upon that respect in this country.

I will not detain the Senate with reading, for it has been embodied in the report of the minority, in regard to the settled American doctrine that canvassing boards, unless expressly clothed with judicial power by statute, have none but ministerial duties to perform. Several authorities have been cited in the report of the minority, and the current of decision in State and Federal courts, from the beginning down to very recent times and to the very last decision, all run in one direction and all speak one voice on the subject. That is, then, the settled American doctrine.

It is also well known by every lawyer in this body that even a judicial tribunal that is clothed with limited jurisdiction, a court of statutory jurisdiction, must, before its judgments can be regarded and have the force and effect that belong to a judgment of a court, show by its record in a given case that the particular matter in which they were concerned was within its jurisdiction. Either the parties or the subject-matter or both must appear affirmatively in the record to have been within the jurisdiction of such court. And even in regard to a court of general jurisdiction, if it shall appear on the record that the matter or thing or parties were without its jurisdiction, then its judgment in that case is a nullity and entitled to no regard whatever. *A fortiori*, in regard to a merely ministerial board or officer who has no judicial function whatever to perform must it affirmatively appear when they call upon us to be bound by its or his act or deliverance that the special matter which gives them jurisdiction was properly before them, that the thing they undertook to do was within the scope of their legal authority. I need say no more upon the points that are so absolutely elementary as these and understood by every lawyer.

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

Mr. GRAY. Certainly.

Mr. TELLER. Where does the Senator find the authority for this body to inquire whether the board of canvassers exercised or attempted to exercise judicial power or the right in any manner to question their acts?

Mr. GRAY. I have not asked this body to inquire whether the Territorial board of canvassers exercised or attempted to exercise judicial power. I have said that they were clothed with no judicial power whatever, and that is true. But I have been trying to show, and if I have not my argument so far is a failure, that we must necessarily ask, what was this board constituted by law to do? What is the thing which it is authorized by law to do? This necessarily follows when the Senator points to this board and says that its finding in the premises is conclusive. We are bound as judges to look at the law of its creation. We must go with our eyes open and not shut, with our ears open and not closed, and act as intelligent human beings, and say what is the thing that you are authorized by law to do and which when done is to be conclusive and binding on us? It must be conceded, I think; I can not argue with any one who would dispute it; it is too elementary. Then must we not ask what was the act that you have done and compare the act with the legal authority? That is what I am proceeding to do now. I hope the Senator will not——

Mr. TELLER rose.

Mr. GRAY. I hope the Senator will not interrupt me just now. I do not object to an interruption, but let me get through with this point, and then I shall very gladly answer to the best of my ability.

Mr. TELLER. The Senator does not seem disposed to answer my question.

Mr. GRAY. I can not answer the question *uno flatu*. I must answer it in the course of my argument, if I am able to answer it at all. I do not think the Senator has done me the honor to listen to the first part of my argument on this question. Perhaps, however, I am more at fault than I think myself to be.

Mr. President, having asked first what the legal authority of this board is and then what it has done in pretended conformity to that legal authority, let us examine the evidence. That evidence, as I said awhile ago, is none other than what they say themselves, which is upon the face of the record. We are examining the jurisdiction of this court, if court it were, by what we find upon the face of the record itself. Here is what we find:

TERRITORY OF MONTANA,
County of Lewis and Clarke, ss:——

Mr. MORGAN. On what page does the Senator read?

Mr. GRAY. On page 129. It is a very formal document, indeed:

TERRITORY OF MONTANA,
County of Lewis and Clarke, ss:

We, Benjamin F. White, governor, Henry N. Blake, chief-justice, and Louis

A. Walker, secretary of the Territory of Montana, the duly appointed and authorized canvassing board designated in the act of Congress approved February 22, A. D. 1889, providing for the admission of Montana as a State in the Union, and also under and by authority of ordinance No. 2, passed and enacted by the constitutional convention of the said Territory, do hereby certify that the above and foregoing is a full, true, and correct abstract of the votes cast in said Territory at the election held on the first Tuesday in October, A. D. 1889, as appears by the duly certified returns from the counties named, and as counted and canvassed by us this the 4th day of November, A. D. 1889.

Mr. President, I assume (for I do not want to discuss this case otherwise than with the most absolute candor) that if this board had stopped there and that in this list to which they refer we had found Silver Bow County as one of the counties canvassed, we would have been concluded by their finding. But they did not stop there, and we have no right to stop there, for they afterwards and immediately proceeded to separate and segregate Silver Bow County from the counties before named, and we have no right in the face of their action in that respect to include it. They say:

And we further certify that, having duly convened as such canvassing board on the 31st day of October, A. D. 1889, the same having been the thirtieth day after the close of said election, and having received no duly certified returns from the county of Silver Bow in said Territory, we duly appointed and commissioned Benjamin Webster a special messenger to proceed forthwith to the said Silver Bow County and to demand and receive from the county clerk of said county a properly certified copy of the abstract of the votes cast in said county at said election as canvassed and declared by the proper canvassing board.

Mr. President, what are we to do with a declaration of that kind? First, they had no properly certified returns from Silver Bow County, and then, as if to clinch that statement of fact, they tell us that they sent a messenger for those returns which confessedly were not before them. Why did they send a messenger down to Silver Bow County, if by any construction we could say that those returns were before them? They said they had none and they sent a messenger for them.

That the said messenger, Benjamin Webster, duly appointed as aforesaid, did proceed to the said Silver Bow County, and did demand of the county clerk of said county the duly certified copy of said abstract of votes as aforesaid, and thereafter returned to Helena and made his sworn return that the demand for said abstract was by the said county clerk refused.

Where is this board now? By its own deliverance, by its own statement made in the most solemn and formal manner that at the time they canvassed the returns from all the other counties named in the list preceding, they had no returns from Silver Bow County and sent a messenger after them, who returned and made his sworn report that he could not obtain them. Talk about a board like that canvassing and certifying as to the election of five members of this General Assembly from Silver Bow County, the returns of which, by its own statement, were not before them! I shall be glad to hear the Senator from Colorado in his own time answer that part of this argument.

Being therefore—

This board proceeds to say. They were in a very communicative mood. They were very anxious to give the reasons for their decision, always a dangerous thing to do for an unequipped judge. If they had only decided and had not given us their reasons, they would have done better for themselves; as Lord Mansfield, I believe, advised a judge in one of the colonies, to give his decision, but to avoid giving reasons, and he could get along pretty well. They have given their reasons and have made their statements, which state them out of court; for they go on:

Being therefore—

Now, listen, Senators—

Being therefore without any proper copy of the abstract of votes cast in Silver Bow County and having exhausted the authority given by the statute in endeavoring to obtain the same, it now becomes our duty—

Says this board—

to ascertain and declare the same from the best sources of information obtainable.

Is there a Senator within the sound of my voice who will rise in this Chamber and say on his responsibility as a Senator that this board was clothed with any authority whatever to canvass the result in Silver Bow County upon any information obtained from any source other than from the returns which were sent to them from the canvassing board of the county according to the provisions of law? They might have certified that, not having such a return, they could not certify that anybody was elected, and that is what under their view of the situation they honestly should have done. But men who were so driven and so whipped by the party lash that they could gain their own consent to make a deliverance like that should also have been whipped at the cart-tail through every county town in the State. I have never seen, in my experience, a usurpation anywhere so bald and flagrant as the one attempted by this so-called Territorial board of canvassers in the State of Montana.

Mr. President, we are pursuing here a judicial inquiry. We are honestly seeking for the legally authorized finding or certificate of some board or officer, in the language of the Senator from Massachusetts, upon whom the law devolved the duty of making such a certificate. Have we found it or him? Have we found such a deliverance or such a certificate? Is there any one who can answer that question in the affirmative?

But the board did not stop there. They were afflicted with a *cacoëthes scribendi* or *loquendi*, as the case may be, and they went on to say:

We have before us the official certificate of Charles F. Booth, county clerk of Silver Bow County, showing that a certain number of votes were cast for the different candidates in that county in the different precincts thereof, naming each of them and the number received by each candidate in each precinct, and including the thirty-fourth precinct as having voted at said election.

And there it is embodied in print in the report, "including precinct 34." If they were guided by that, then it would be an impossibility as a matter of mere arithmetic to say that the five members in the Iron Hall house of representatives were elected, but on the contrary they would be compelled to say that the five members in the Court-House Legislature were the duly accredited members. But they say:

We also have before us an official notice signed by Mr. Booth as county clerk of said county, stating in effect that the board of canvassers in said county met as such on the 14th day of October, 1889—

Now, this is on the 4th of November they are talking—

and did then and there canvass and count the vote of Silver Bow County and declare the result thereof, and that they did not count, but did reject, as false, fraudulent, and void, all of the votes reported as cast and counted in election precinct No. 34, in said county.

Here is another evidence of the design artfully to make a case to suit the ambitions of some people in that State, for it is most disingenuously stated here that this official notice, signed by Mr. Booth as county clerk, was sent along with this abstract of votes, including precinct 34. You can not read that paragraph in that finding without coming to the conclusion, if you rested upon the evidence of that alone, that along with this abstract of votes came this disqualifying statement of Mr. Booth. It is not so. The abstract of votes came to their possession on the very day that they met, the 31st of October, and they have told us that that was not a proper or legal abstract and that they had none before them, although they say they had that. Now they say there is none. Then they tell us that Mr. Booth, the county clerk, sent a communication or a notice that on the 14th of October the county canvassing board had thrown out precinct 34, whereas the fact is that that notice had been sent to them on the 21st of October, ten days prior to their receipt of this abstract of votes to which they allude. There was no possible connection between the two. Mr. Booth, on the 21st of October, was notifying this central board of canvass of the reasons why he had not sent up the returns from the county. Here is what Mr. Booth says, on the 21st of October——

Mr. GEORGE. On what page?

Mr. GRAY. On page 124 of the report, at the bottom of the page. On the 21st of October he writes a communication to this central board of canvass to tell them why the abstracts from Silver Bow County had not yet been sent in. It was not an unnatural thing for him to do, because in the ordinary process that return ought to have been made days before; and he tells them that the county board had eliminated a certain precinct, but that while they were still in session and still engaged in making up that abstract a writ of mandamus had been served upon them, issued by the district court of the county, commanding them to include precinct 34 in the abstract of votes.

Mr. GEORGE. All that was upon the same notice?

Mr. GRAY. All that was upon this letter of the 21st of October. He says:

That by reason of said order from the district court the abstract of votes for said county is incomplete, and by reason of the fact that said abstract of votes is not complete I am unable to forward the copy of such abstract, as is required by law, to the secretary of the Territory, and that I shall be unable to forward such copy until after the 7th day of November, 1889.

And yet with that statement in that very communication which they, I am compelled to say, disingenuously would have us believe came to them with that abstract, and of which they likewise disingenuously state only a part—in that same communication is what I have just read, the information that by reason of the order of the court the work of the canvassing board of Silver Bow County was incomplete, that the abstract was not made up and would not be made up until the 7th of November, 1889. With that information before them these gentlemen gained their own consent to say:

We have before us the official certificate of Charles F. Booth, county clerk of Silver Bow County, showing that a certain number of votes were cast for the different candidates in that county in the different precincts thereof, naming each of them and the number received by each candidate in each precinct, and including the thirty-fourth precinct as having voted at said election. We also have before us an official notice signed by Mr. Booth.

The official notice had come ten days before, and was for the purpose I have stated and contained what I have recited. Now, they go on to say:

No other or further action having been had by the canvassing board of said county—

That is true—

in relation to the canvass of the vote therein, we conclude that the true result as canvassed and declared must be found by eliminating from the list of votes cast, as certified by County Clerk Booth, the vote of precinct 34, which was rejected by said canvassing board, as stated in the certificate of said county clerk, and which shows the true vote of Silver Bow County to be as follows.

That is what they did, and accompanied by the declaration that they had no proper return before them, that there was no abstract from Silver Bow County before them as required by law; and they undertook, upon the best information, as they say, that they could otherwise obtain, to canvass the true result of the vote in that county. You can not decide the title to seats in this august body from a deliverance such as I have recited in the presence of the Senate. For in that very deliver-

ance they have told you that the only thing that the law authorized them to do in the premises, to wit, canvass the returns from the county board of Silver Bow County, they did not do, and could not, for the reasons stated, do.

Mr. President, I submit to the Senate in entire candor whether I have not abundantly and overwhelmingly shown that this board acted without the scope of its authority; that it has stated itself out of court; that no judicial tribunal in the world, and certainly not this Senate acting in its judicial capacity, can for one moment be bound by or consider a finding like this. Suppose they told us that they had canvassed the census returns or reports of the United States as to the population of Montana Territory, suppose they had told us that they had canvassed the tax-lists of Silver Bow County or the license-lists that were published in a county newspaper, are we, as the Senator from Colorado would seem to think, bound by such an act as that? Are we to stultify ourselves by the proposition that whatever they chose to do and called a performance of their duty is to bind us?

Mr. TELLER. If the Senator means to ask me, I can tell him what I think about it.

Mr. GRAY. I should be glad to hear the Senator's answer.

Mr. TELLER. I think it is the universal rule of law that when we are not authorized to review the finding of a court we can not know what they have decided; our ears are closed; no information can come to us of a wrong that we can not remedy. If we have no right to review their proceeding, it is immaterial what they did, it is conclusive as to us. That is the ground we have taken in the Senate repeatedly, and that is what I say. They might have proceeded upon a tax-list or anything else. We do not know what they proceeded upon and we have no right to inquire.

Mr. GRAY. Mr. President, if a doctrine so astounding as that uttered by the Senator from Colorado and receiving the high authority of his name is to be considered the law for the Senate, then I would abandon the argument here. I venture the assertion that nowhere, by judicial authority or by finding of either House of Congress, was such a doctrine ever indorsed——

Mr. TELLER rose.

Mr. GRAY. In one moment—as to say that, when you have appointed an officer or a board to do a particular thing, to perform a ministerial act, you are not to inquire, when he tells you or they tell you that that act has been performed, whether it be the act authorized by law or not. I do not believe that on further reflection the Senator from Colorado will allow himself to reassert that proposition.

Mr. GEORGE. I desire to ask the Senator a question. Is this document, Appendix A, from which the Senator has been reading and on which he has been commenting and which is certified by the secretary of state of Montana, the paper which constitutes the credentials of those five men?

Mr. GRAY. That is the only paper.

Mr. GEORGE. The only one?

Mr. GRAY. It is the only one that anywhere by anybody is referred to as the credentials of those five members.

Mr. TELLER. Oh, no, Mr. President.

Mr. GRAY. I am glad to be corrected, if I am wrong.

Mr. GEORGE. Then you want to get outside of it and find another.

Mr. TELLER. I must correct the Senator as to the statement of fact. That is not the fact; nobody goes to that. They give a certificate and the Legislature recognizes that certificate.

Mr. GRAY. Where is that certificate?

Mr. TELLER. It does not make any difference. When the Senator says that my proposition never has been made before, I wish to state that I made it here in the Senate in the Turpie case, and it met the approval then of the Senator from Delaware because it seated a Democrat. My proposition is that things you are not authorized to inquire into you can not review; you must stop; *cadit quæstio*. That is the end of the question right there, and every lawyer knows that is the end of the inquiry. You may say that there is fraud in the conduct of the Legislature; you may believe that; but you have no right to pass upon it and predicate a judgment on it, because you have not been authorized to review the proceedings of the legislative body.

Mr. GRAY. Well, Mr. President, I am a poor sort of a country lawyer; but I do know that I am not claiming the right to review the proceedings of a legislative body.

Mr. GEORGE. I should like to interpose again. I interrupted the Senator from Delaware to ascertain a fact. I think it is a material fact to know whether this paper, Appendix A, from which the Senator from Delaware has been reading and upon which he has been commenting, constitutes the only credentials of the Silver Bow men who were seated.

Mr. PUGH. The majority report says it. It admits it.

Mr. GRAY. I answer most positively and upon knowledge that there is no other paper or writing of any kind whatever that is pointed to by anybody as a credential except that.

Mr. GEORGE. Then I want to ask the Senator another question right here. Is there any evidence in this record that the Legislature of which what is called the Iron Hall house claimed to be a part ever performed a legislative act, ever passed any law whatever?

Mr. GRAY. None whatever.

Mr. TELLER. I must correct the Senator from Delaware again. There were various communications between the Iron Hall house and the senate of a legislative character.

Mr. GRAY. One-half the senate.

Mr. GEORGE. I ask, did they ever pass a law?

Mr. TELLER. They did pass an appropriation law.

Mr. GRAY. With the permission of the Senator from Colorado and the Senator from Mississippi I will proceed.

Mr. GEORGE. I shall not interrupt the Senator again.

Mr. GRAY. I shall be very glad of interruptions of this kind on either side. I hope the Senator from Colorado does not understand me as objecting to any question that is really intended to draw my attention to a point upon which he is interested.

I am informed—I may as well allude to it in passing—that no legislative act has been performed by the Legislature of which this Iron Hall house is a part. That is my information. There have been communications, I believe, running from the senate which was organized to this Iron Hall house, backwards and forwards, but there was no legislative act. They communicated with them as they might have communicated with the common council of the city of Helena, so far as any lawful legislative performance is concerned.

Mr. GEORGE. Then let me ask the Senator one more question. There is no evidence here, then, that there was a body composed of the Iron Hall house and any other body called a senate, which was *de facto* a legislative body exercising legislative functions.

Mr. GRAY. Oh, no; not at all. There was not the slightest evidence, not a scintilla of that kind before the committee. More than that, the governor of the State, who by the constitution of the State of Montana must approve every bill that passes both houses before it can become a law, never has recognized this Iron Hall house of representatives, but has positively and by official declaration refused to so recognize it, and has on the contrary recognized the house of representatives sitting in the court-house at Helena as the lawful and rightful house of representatives of that State.

Mr. SPOONER. Will it disturb the Senator if I ask him a question, not going to his argument at all, but in reference to a matter of fact?

Mr. GRAY. Not at all.

Mr. SPOONER. It is stated in this certificate of the State board of canvassers——

Mr. PUGH. Not the State board, but the Territorial board.

Mr. SPOONER. Well, the Territorial board; and I merely say that in the way of distinction from the county board—

> We have before us the official certificate of Charles F. Booth, county clerk of Silver Bow County, showing that a certain number of votes were cast for the different candidates in that county in the different precincts thereof, naming each of them and the number received by each candidate in each precinct, and including the thirty-fourth precinct as having voted at said election. We also have before us an official notice signed by Mr. Booth as county clerk of said county—

showing the result of the canvass.

Were those papers laid before the committee?

Mr. GRAY. Which papers?

Mr. SPOONER. The papers referred to in this official notice.

Mr. GRAY. Yes; here they are, on page 128. In the appendix to the minority report you will find the list or abstract of votes to which he refers; and the Senator will find the letter of Mr. Booth, the county clerk, on page 51 of the case of Messrs. Clark and Maginnis. It is a little out of order, but I may as well, now that I can lay my hands on it, and I was not able to lay my hand on it before, say that that communication, which was sent on the 21st day of October, states:

> That while the clerks were engaged in their work, and before the completion of said abstracts—

That is, the abstract made by the county board—

> all the members of the canvassing board were served with a writ of mandate from the district court commanding them to make an abstract of the votes cast at said precinct No. 34, or to appear before the court on the 7th day of November, 1889, and show cause why they had not done so; that the canvassing board did not make an abstract of the votes cast at precinct No. 34, as directed by the court, nor have they shown cause why they have not done so; that by reason of said order from the district court the abstract of votes for said county is incomplete, and that by reason of the fact that said abstract of votes is not complete I am unable to forward the copy of such abstract as is required by law to the secretary of the Territory, and that I shall be unable to forward such copy until after the 7th day of November, 1889.

Thus all the evidence in the case conspires to drive home the conclusion that what this board stated in their deliverance on the 4th of November was the truth, to wit, that there was not before them, and could not have been before them, any abstract of the votes of Silver Bow County.

Mr. HOAR. Will the Senator allow me? When the Senator from Mississippi put a question of fact just now I sent for the document, which I had not before me at that moment, so that I might be able to answer. I think I can suggest to the Senator the fact, if he has no objection.

Mr. GRAY. Certainly.

Mr. HOAR. In the first place, as to the credentials, the journal of the house of representatives is——

Mr. GRAY. What page is the Senator reading from?

Mr. HOAR. Page 15 of the statement reported by the Senator from Delaware and myself of the facts made to the committee.

The roll of the members elected and holding certificates of the State canvassing board was called by the auditor, as follows, by counties.

Then on the eighteenth page, being part of the statement which has been rendered, is the following:

And we hereby further certify that the following-named persons, having received a majority of all the votes cast for the respective offices named and hereinafter designated, are, and they are hereby declared to be, duly elected.

Now, if the Senator will allow me to call his attention to the fact, upon this statement which he and I prepared, there is no other evidence existing at this moment in the world of the title of Governor Toole or any other State officer of the State of Montana or of anybody else in the senate or house of representatives except the declaration, leaving out now this claim that the county officers might certify to their representatives, except this very canvass which the Senator says was not only wrong in itself, but which was so wrong that it carries no legal validity or authority to the certainty of its result whatever. I want to call the attention of the Senator from Delaware and the Senator from Mississippi to my answer.

Mr. GEORGE. How is that?

Mr. HOAR. I will repeat it. The journal of the house of representatives shows——

Mr. GEORGE. The journal of the Iron Hall house?

Mr. HOAR. The journal of the Iron Hall house shows that the roll of men present and having credentials was called as follows. Then follows this certificate in the journal, the one which the Senator from Delaware has commented upon.

Mr. GEORGE. Is the Senator reading from the report in the Montana case?

Mr. HOAR. I am reading from the report of facts in the Montana case made to the Committee on Privileges and Elections by a subcommittee constituted of the Senator from Delaware and myself.

Mr. GEORGE. I have no copy of that. I have only the report proper.

Mr. HOAR. That is the reason why I read it now. I did not have it before me when the Senator put his question.

Now, I wish to repeat. These credentials were before that body. The body was made up of the men who had them, and there is no other lawful evidence of title of Governor Toole or any other State officer in the State of Montana, omitting now those about which it is questioned whether the county clerk's certificate was not a good one, except this very canvass which the Senator from Delaware says is so illegal that a declaration which followed it by the board who made it has no validity whatever.

In the next place, the Senator from Mississippi put the question whether there were any laws passed by this House, to which I reply, though that is not found in this pamphlet, that I am informed by one of the claimants here that it is a matter of public history that seven different laws were passed by this House, sent to the Senate, and passed by them so far as going through all the steps, except that the presiding officer of that senate refused to certify to them in the presence of the senate, because before he could make his certificate a certain number of senators ran away and left the State. That, of course, all appears in the record.

Mr. GEORGE. So, if the Senator will allow me, no consummated and complete legislative act was ever performed by that legislature.

Mr. HOAR. The act of Congress proceeds——

Mr. GEORGE. Please answer that question.

Mr. HOAR. I understand. Let me say, in answer to the Senator from Mississippi, if I can have the indulgence of the Senator from Delaware, that the act of Congress for the election of Senators proceeds on the very ground, theory, and expectation that the first thing which shall be done by a State Legislature when it meets substantially shall be the election of United States Senators.

It puts first in order the election of United States Senators where there is a vacancy or where they are to be appointed, and the Legislature is required to do it on the second Tuesday after their organization, or perhaps the first.

Mr. MORGAN. On the second Tuesday.

Mr. HOAR. They are required to do it on the second Tuesday, when in the ordinary course of legislative proceedings bills will not be ripe for action. This is to be done before any legislative functions of any importance are exercised.

Mr. GRAY. Mr. President, I do not care to take up time by discussing the proposition whether any pretended legislation was had or participated in by the Iron Hall house of representatives. I am informed that no legislative act of that kind was performed, but whether it be true or not does not in the slightest affect my argument. Confessedly by the position taken by the distinguished Senator from Massachusetts this very morning in this very Chamber, the question for us to discuss, and to which I have tried respectfully to address myself, is, which set or group of five members from Silver Bow County had the credentials of a board or officer (I am quoting his exact words, I believe) upon whom the law devolved the duty to make such certificate or credential? That is the question I am discussing. The Senator has admitted by his argument, impliedly if not expressly, that we were not to stay within the doors of either house in order to determine this question, but that we must go outside of it and anywhere for some such board or officer so invested by law with this duty, and then find what has been done by them under that authority of law. I have totally misunderstood the Senator if that is not the position he took in his opening this morning.

Mr. HOAR. If the Senator will pardon me, I wish to say that I entirely agree with him in that statement. He has stated my opinion much more clearly and distinctly than I could state it myself as to the point of difference between him and me.

Mr. GRAY. I should be very glad——

Mr. HOAR. One sentence only in reply, because that states our point of difference. The point of difference between the Senator and me in this part of the case is exactly this: He thinks that if it appeared that the proceedings of the board in getting at the result of which they make the certificate that the man is elected were incorrect or illegal or otherwise, so that it was not a just and proper canvass, then the value of their certificate is destroyed, so that we may inquire into it and disregard it. I say when that board has certified that A. B. is elected he is clothed with authority to act as a representative until he is unseated by the house who alone are judges of that question. There is the point of difference between us.

Mr. GRAY. The Senator from Massachusetts has with his usual candor admitted, and I am gratified to hear him admit, that I have not misstated his position; but I must beg leave to state my own, for I submit that the distinguished Senator has not quite apprehended it. It is not that we are authorized as in this judicial inquiry to go behind the certificate or finding of a lawfully constituted board; it is not that bald proposition, but that we must inquire what that finding is before we can pass upon it at all. We must ask ourselves the question, and we must ask that board the question, which is more to the point, what did you do under the authority of this law that created you? for if you did a certain thing we confess we are bound by it. Let us see what you did. Tell us what is the nature and character of this act that is to be conclusive on the Senate of the United States. In answer to that inquiry, the only declaration we have, the only particle of evidence in this case is this finding of the board which I have read, in which they tell us they did not canvass the returns from Silver Bow County; that they did not have those returns before them, and that then they proceeded on the best information they could obtain outside of the certificates to declare the result. I say that the act of no officer or board that was ever created by an English-speaking people or by any State in this Union or by authority of any law ever passed by Congress ever was invested with an authority such as is claimed for this board by the Senator from Massachusetts and the Senator from Colorado.

As I was saying, they may tell us in their deliverance, "We have no returns from Silver Bow County, but we have taken the census of the United States and we have canvassed that. We have no proper abstract of votes from that county, but we have taken the tax-lists of the county and we have run over the names on those, and we have satisfied ourselves that so and so was the result." That can not be. It is not in the nature of things. We do not want authority to deny a proposition so monstrous as that.

If they had stopped short, such is the effect of our traditions, such is the result of liberty regulated by law, that if a lawfully constituted board authorized to say a certain thing says it we can not inquire into their motives, we can not say that they were corrupt, we can not inquire what the evidence was upon which they said it; but when they undertake to tell us that they did not do the thing the law required them to do, we should only stultify ourselves by undertaking to make ourselves a party to usurpation so monstrous.

Mr. President, I did not think it necessary and did not intend to trouble the Senate by reading authority from text-book or report in support of a position so manifestly true, so necessarily true as that which I have just stated, but since the colloquy which has taken place between the Senators and myself I will ask the attention of the Senate to a passage from a very painstaking book, and I have no doubt a very good book on elections, written by Mr. Halbert E. Paine, who was the counsel before the committee, and has filed a brief and made an argument in behalf of Messrs. Sanders and Power, a very able argument, too, and who, in his work on elections, at section 626, says what I shall read. I ask the attention of Senators to this, not as binding of course upon the Senate by way of authority, but as coming from a respectable gentleman who has made a book, and I have great respect for any man who has made a book, and as entirely confirming the position I have taken. He says:

A certificate of a board of canvassers, in which they declare that certain candidates were elected, but, at the same time, state facts which disprove their declaration—

I ask Senators to mark the language—

and show that such candidates were not elected, is not *prima facie* evidence o the title of the persons certified to be elected.

That is in his chapter in which he is treating of the *prima facie* effect of the certificates of canvassing boards and officers upon whom the law devolves the authority to make a certificate, declaring, as I declare and

as the minority of this committee declare, that such a finding is *prima facie* evidence of title; but when they go further, says Mr. Paine, and state facts which disprove their declaration, their certificate is not *prima facie* evidence of title.

There is a case in 19 Howard's Reports of the Supreme Court (Hart *vs.* Harvey) that concerned the election of certain trustees in a religious society. There were certain persons authorized by law to hold the election and declare the result. I need not go into the facts of the case, but I call the attention of the Senate to this language of the court in that case:

I have no doubt—

Says the judge—

I have no doubt that the certificate under the hands and seals of the inspectors, that a person has been elected a trustee, is *prima facie* evidence of his right; and had the certificate given to the defendants contained nothing but the declaration that defendants are elected, I should deem myself bound to so regard it. But it recites the facts upon which they rely as their justification and authority for declaring these parties elected; and these facts most clearly show that the defendants, Harvey and Tompkins, were not elected. When the inspectors admit that 64 votes only were received by them and placed in the box, and that of these the plaintiffs had each 33, it is shown to be legally impossible that the defendants, Harvey and Tompkins, could be legally elected. The certificate destroys itself. While it declares the right, it demonstrates that no such right existed.—19 *Howard's Practice Reports* (New York), pages 251, 252.

So in this case the canvassers have undertaken to say that no return or abstract of votes from Silver Bow County was before them, and yet they have undertaken to declare a result.

McCrary on Elections, to whom I have already referred (and the Senate will pardon me for citing such elementary authority on a proposition so plain), when speaking of the *prima facie* character of a certificate from a canvassing board, says:

Yet something may appear upon the face of the certificate itself to destroy or impair its value as *prima facie* evidence. If, for instance—

I call the attention of Senators to the instance he makes—

If, for instance, the certificate states that the vote of one county out of five had not been canvassed, it seems that this would make it necessary even to the determination of the *prima facie* case to inquire into what the vote was in the county omitted.

That is precisely what has been done by the board of canvassers in this case. They have told us that they had no returns from Silver Bow County, and therefore, as I shall show presently, it devolves upon the Senate as a judicial duty to inquire what those returns were.

Mr. President, I do not think that I need occupy the time of the Senate longer, after having already trespassed so far upon its patience, by further argument or illustration on this point. I submit to the Senate that in the opinion of the minority of this committee it has been clearly demonstrated by the facts and evidence in this case that there is no finding or deliverance or certificate of any Territorial board in regard to the election of the five members from Silver Bow County that can be or is worthy of being regarded in this case.

The Senator from Massachusetts and I started out from the doors of these two competing houses hand in hand, and in the most friendly and amicable spirit I wanted to inquire with him for the certificate of a board or officer clothed with the legal authority to give one. So far we have been in company. So far as I am concerned I hope the company has not been unpleasant to the Senator from Massachusetts and that I have conducted my part of this inquiry with due decorum and courtesy to him.

I certainly have not been able to find any lawful authority or any legal character that can be attached to this thing that he points me to. He says there is a certificate; but in finding it to be what I have displayed to the Senate to the best of my humble ability, and considering what my duty as a Senator is and what is the duty of every Senator in exercising his judicial function, I must seek elsewhere than this Territorial board for evidence of what was the vote in Silver Bow County, and we must look further for some certificate or finding by competent authority as to what that vote was. We must look for the very thing that this Territorial board say they did not have, and that is a return of the canvassing board of Silver Bow County. Surely that becomes a necessity now. Surely we can not refuse to take this further step in pursuing this judicial inquisition on the part of the Senate of the United States, that having found that this Territorial board had no returns from the county board which it was authorized to canvass, that being demonstrated by their own declaration, we must leave them on one side and seek for the thing itself by our own methods and by such ways as we believe are lawful and justifiable.

We do not have to go very far. Let me, before proceeding further, though—as it seems necessary that I should fortify myself at every step by something like authority—call the attention of the Senate to Paine on Elections, at section 622, to justify the step that we are about to take under the theory which seems a true one to the minority of the committee. Mr. Paine, at section 622, says this, to which I call the attention of the Senate:

Under a statute conferring upon the county canvassers power to determine primarily the result of a county election and upon the State canvassers power to make a final and conclusive determination of such result, the failure of the State canvassers to make a proper determination has the effect to leave that of the county canvassers final and conclusive.

Accepting that as the true doctrine which I had arrived at before I saw that citation from Mr. Paine—but it was very gratifying to me to be supported in this conclusion to which I seem to have been driven in pursuance of that invitation—what was the lawful action of these county canvassers? We have the certificate of the Territorial board that on the 4th of November, 1889, they had taken no action, for they had sent down to them a messenger to get their abstract of votes, and he returned and made a sworn report that none could be obtained.

We have also the report of Mr. Booth, the county clerk, indorsed by this Territorial board of canvassers, that no such abstract had been made on the 31st of October, and none could be made until the 7th of November. We have also the fact that a writ of mandamus had been served upon the members of this board on the 14th or 15th of October, an alternative writ returnable on the 28th of October.

No lawful action of that board of canvassers had been taken, if we are to accept the deliverance of the Territorial board, on the 4th of November, which is the date of that finding by them; but we do find—and it is in the evidence before the Senate, properly certified, questioned by no one, discussed in the committee, but nowhere invalidated as competent evidence—the certified record of a court of competent jurisdiction that it was the duty of this canvassing board to perform this plainly ministerial function and include precinct 34 in their abstract of votes. That mandate was served upon that board, and certain proceedings were had which at last resulted in a peremptory mandate, issuing on the 31st of October in one case and on the 1st of November in another, the judgment delivered awarding the writ on the 31st of October in one case and the 1st of November in another, in which the whole matter of the proceedings of that board was considered by this competent judicial authority and it was declared by them in a judgment which is cited in the report:

Ordered, adjudged, and decreed by the court that said motion be sustained—

That is, a motion for a judgment—

and that defendants, William M. Jack, William E. Hall, and Caleb E. Irvine, the canvassing board aforesaid, had no power or authority to exclude the votes as shown by the returns from said precinct No. 34, in said county, and that their action therein was illegal and void, and that the returns, including the said precinct, constitute the true and correct result of said election, and that said relators have their peremptory writ of mandate, as prayed for in their petition.

And it is further ordered, adjudged, and decreed that it is the duty of the said clerk of the said county commissioners to issue a certificate to relators, as prayed for in said petition and affidavit, and that a peremptory writ of mandate issue to compel him to issue said certificates, and that said relators recover cost and disbursements in this behalf expended.

That writ was awarded on the 1st of November; the judgment awarding the writ in the other case was on October 31. This Territorial canvassing board, it is interesting to observe, convened on the 31st day of October, the day before, and they sat upon the 4th of November, upon which date they made this deliverance which I have discussed before the Senate. So while they were in session, and the very next day after they convened, this judgment awarding the peremptory writ on the county board was made by this court, whose jurisdiction in the premises no one questions. That writ, for some reason was not served until the 7th of November, but the county clerk swears in an affidavit, which is before the Senate as it was before the committee, that when he sent this communication to the board on the day of their assembling and sent this abstract that he made of the votes, including precinct 34, he attached a copy of this judgment of the court to that paper, and they had this judgment of the court before them, according to the affidavit of Clerk Booth, and it is not denied anywhere.

Mr. GEORGE. The State canvassers had it before them?

Mr. GRAY. The State canvassing board had a certified copy.

Mr. GEORGE. Before they made their certificate?

Mr. GRAY. Before they made their certificate, and it is not denied by any member of that board or anybody on their behalf, so far as I know.

It may be well to pause for one moment in the progress of this argument to comment upon the fact, so patent upon the face of these proceedings, of the indecent haste with which this Territorial board sought to evade the performance of their sworn and lawful duty, to note the fact that by the evidence in this case they became the participants in a conspiracy as base and as black and as unjustifiable (if conspiracy could ever be justifiable) as ever was proved to exist against the liberties and freedom of a people of our race and lineage.

It is an irresistible conclusion which every unbiased and unprejudiced mind must draw from the facts in this case, that this canvassing board called the Territorial board, in order to evade their duty in regard to Silver Bow County and the election of representatives, rendered their judgment on the 4th of November with the knowledge that a court of competent jurisdiction had ordered those returns to be made, and the further fact that within three days after their adjournment, in obedience to the order of the court, that return was made and certified to by that canvassing board, including precinct 34. That is the thing to which we turn as the only and best evidence remaining to us of who were the lawfully elected members from Silver Bow County to the Legislative Assembly of Montana.

Mr. GEORGE. Did the canvassing board obey the order of the court?

Mr. GRAY. They did.

Mr. BUTLER. And made their return?

Mr. GRAY. And made their abstract from the return, and that was duly sent to the secretary of the Territory.

Mr. VANCE. And was duly disregarded.

Mr. GRAY. And, as the Senator from North Carolina says, it was duly disregarded. I know personally none of these gentlemen; I do not suppose that any member of the committee knows any of them personally; but it is my duty here in my place in the Senate to say that conduct such as that appears to be by the evidence in this case deserves and should receive the condemnation of every law-abiding and law-loving citizen in this broad land. There was no excuse for this indecent haste. They could have sat until now, if it was necessary, to perform their duty. There was no necessity that the State of Montana should have been admitted into the Union on the 8th day of November rather than on the 10th or 12th or 20th of November, but so it was. They made their finding on the 4th of November, and that finding has to be brought to the knowledge of the President of the United States in order that in obedience to the enabling act his proclamation can make the admission of the State into the Union complete.

Mr. GEORGE. Let me ask another question, because I want to get the facts right. I have not studied this record. Does the Senator desire to be understood as saying that before this State or Territorial canvassing board adjourned they had notice of the decree of the court or the judgment of the court directing this thirty-fourth precinct to be counted by the canvassers of that county?

Mr. GRAY. In answer to the Senator from Mississippi, I distinctly say that according to the affidavit of Charles F. Booth he attached to that abstract of the vote of Silver Bow County which he sent to that board on the 31st day of October, the day on which they convened, a certified copy of the judgment of this court ordering that mandamus.

Mr. HOAR. Mr. President——

Mr. GRAY. One moment, and I will allow the Senator from Massachusetts to ask me a question. There is the admission of that State or Territorial board that they had before them that abstract. There is no denial anywhere in this record that the certified copy of the judgment was not also a matter within their cognizance.

Mr. HOAR. Does not the Senator also understand that that was the judgment of a local and inferior district court?

Mr. GRAY. Ah!

Mr. HOAR. From whose judgment an appeal was taken and which judgment was rendered absolutely null and void upon that appeal.

Mr. GRAY. I will tell the Senator what I understand. I understand that the judgment was by a court of competent jurisdiction. It was by the district court, authorized by law to sit in and for the county of Silver Bow. No one here or elsewhere, so far as I know, has ever denied that jurisdiction at all, and, it being the mandate of a court of competent jurisdiction, it was bound to be obeyed by the county canvassers, and was entitled to be respected by every law-abiding citizen in that community, including their high mightinesses, the members of the Territorial canvassing board.

Mr. HOAR. The Senator does not answer my question.

Mr. GRAY. Wait one moment, and I will. Part of this indecent conduct will appear to any Senator who will take the trouble to read this record, when he looks at the dilatory motions which were made all through the conduct of that case; but he will find that the appeal of which the Senator from Massachusetts speaks was unavailing for any purpose under the laws of Montana, because the laws of that Territory required that an appeal bond, or undertaking, as it is called, should be filed within five days of the notice of appeal, and we find that the notice of appeal was given on the 1st day of November, and the appeal bond was not filed until the 7th.

Mr. GEORGE. Two days too late?

Mr. GRAY. Two days too late. I have not the statutes of Montana here, but I will quote them with sufficient accuracy to satisfy the Senate (and if I am wrong I can easily be corrected by reference to the statute itself), that, where an appeal is taken the provision is that unless an appeal bond is filed within five days of the notice of the appeal, the said appeal shall be unavailing for any purpose whatever. That being the condition of this case, with this mandate of this court of competent jurisdiction lying before them, as in the absence of their denial or countervailing testimony we must agree that it was, what did this board do? They adjourned on the 4th of November, when they might have sat until the 10th, much less might have sat until the 7th, with this communication from C. F. Booth before them, too, upon which they lay so much stress, in which he tells them that this writ could not issue until the 7th of November, and that after the 7th of November he would send them the abstract of votes from that county.

Mr. GEORGE. Let me ask the Senator again, is there no limitation in the statutes of Montana as to the period of time at which this board could hold its sessions?

Mr. GRAY. None at all. It could, so far as the ordinance providing for it was concerned, have sat until the present time, and it should have sat just so long as truth and justice and a regard for the orderly conduct of lawful proceedings required them to sit. That was their duty; and I say in view of that fact and of that plain duty, when we find what their conduct really was, that they stand convicted in the mind of every honorable man of a participation in these sharp practices which the majority of this committee by their report would have this Senate be made a participator in.

Mr. President, party exigency is a thing of terrible strain and great effect, I know; but there are limits even to party pressure and what it can do with honest men. Party exigency and party necessity will take us all sometimes to the verge of the conduct that a citizen of a self-governing republic ought to engage in, but it should never take us beyond that verge. Admitting that that is a potent factor in this as in other cases where politics are involved, the ambition of party leaders in this young State should never have caused them to have so far departed from propriety as to make them hurry this case beyond the law, beyond decency, and beyond the evidence that admittedly was before them. What do we find? Why this haste? Is it so important that these worthy gentlemen, Mr. Power and Mr. Sanders, one of whom I have the pleasure of knowing and against whom I have not a word to say and never heard a word that could in any way impinge upon his high standing as a citizen and a gentleman—is it so important that these gentlemen should occupy seats in this body that this canvassing board might not have waited to see the result of the judgment of this court, a certified copy of which they had before them?

Only three days they would have had to wait, and this anxiety that they express, this perturbation of mind in which they seem to have been by reason of the want of this return of Silver Bow County, would all have been dissipated, and they would have had not only the returns, including precinct 34, before them, but they would have had them there in obedience to a law-directed duty, as interpreted by the judicial department of the State. They ran away from that. This judicial court was not a court that pleased them in its conduct of this suit. Seeking for motives, we must seek those that lie on the surface. It did not please them. The admission of the State of Montana ousted, too, the jurisdiction of all the Territorial courts, and the judge who rendered this judgment and awarded this peremptory mandamus would be out of office the moment that State was admitted; and so making their findings as to the vote on the constitution and as to the officers and representatives on the 4th of November somehow, by some winged messenger, faster than the iron steed, more swift than any method of transportation of which we have any knowledge, as swift as the lightning comes the proclamation of the President of the United States telling them that he had the certified proceedings of that board before him, and that in obedience to the law he proclaimed Montana duly admitted as a State into this Union.

I will not pause to criticise the preparation of that proclamation and the evidences of haste upon its face it also bears when compared with the other proclamations in regard to the others of this sisterhood of Northwestern States, but we find this remarkable thing about it. I am not here to accuse the President of the United States of being a participator in this crime—far from it; but he has been persuaded by this active cabal of conspirators in a distant State to make himself an instrument in consummating their designs. We find this proclamation was dated on the 8th day of November, and that board made its deliverance on the 4th day of November; and we find also that it was not late in the day on the 8th day of November, but in a note it is stated:

Ten o'clock and 40 minutes a. m., Friday, November 8, President's signature attached.

This is an official copy from the State Department obtained yesterday. No such note as to the hour of the proclamation or the attachment of the President's signature appears upon any proclamation for the admission of the new States but this, and I have them all in my hand, Washington, North Dakota, and South Dakota.

Mr. HOAR. The Senator from Mississippi [Mr. GEORGE] put a question to the Senator from Delaware——

Mr. GRAY. I wish the Senator would let me answer.

Mr. HOAR. Certainly, if the Senator desires. I do not wish to interfere.

Mr. GRAY. The Senator may proceed. I do not object.

Mr. HOAR. The Senator said he would like to have the facts made right.

Mr. GRAY. If I have made any mistake or misstatement I shall be glad to be corrected.

Mr. HOAR. The Senator from Mississippi asked the Senator from Delaware just now in regard to a peremptory mandamus issued by the district court, and the Senator from Delaware answered that that mandamus had issued, and that this returning board, knowing the fact, had proceeded to make up their judgment or take action disregarding it. I asked the Senator if he was not aware that that was a district court of local jurisdiction and that an appeal had been entered, to which the Senator, with great earnestness of manner, undoubtedly forgetting the facts, I am sure, but still with very great earnestness of manner, made what seemed to him to be quite a triumphant answer.

Mr. GRAY. The Senator will allow me to interrupt him a moment. I am very willing to answer a question, but I want to get through. I am very tired, and the Senator will have his own time to answer me.

Mr. HOAR. I wish to call the Senator's attention to one fact; I do not wish to make any speech. The Senator said, as I understood him, that the bond was not filed in time. Now I wish to read from the statement of facts made by the Senator himself: "To which ruling of

the court defendants, by counsel, duly except and file notice of appeal." That is the 1st of November. This other bond was not filed for six days afterwards, while the statute requires five. There was entered in the cause an agreement that the whole matter should remain unchanged, in *statu quo*, until the 12th of November. This is the proposition.

Mr. GRAY. I have considered that matter and examined the record. If that appeal bond had been filed within the time prescribed by the statute, then this peremptory writ of mandamus could not have issued on the 7th, because it would have been a supersedeas. Now, as a matter of fact, that mandate did issue on the 7th, and therefore we must conclude that this understanding or note of an agreement by counsel in court had no effect at all upon extending the time prescribed by the statute within which an appeal bond should be filed. Therefore, I say you can not change the statute by agreement; you can not extend the time prescribed by law by mere agreement, although it may be where a right has accrued it may be waived by agreement, but the statute of Montana, as I understand it, is positive and mandatory that if an appeal bond is not filed within five days from notice of the appeal said appeal shall be unavailing for any purpose whatever. That is the language.

Mr. HOAR. Mr. President——

Mr. GRAY. I do not object to answering any question of the Senator from Massachusetts or to having him call my attention to anything that is a mistake of fact; I will only be grateful to him for doing it, and I hope he does not understand me as objecting on that ground; but I am anxious to conclude my remarks.

I was commenting when interrupted by the question of the Senator from Massachusetts, which I do not object to, on the fact that is here in the record, that the President of the United States, to whom I attribute no unworthy motive at all, had been induced by this active cabal of conspirators out in this distant State to issue his proclamation of the 8th of November, certifying to a fact that was not officially found until the 4th day of November, 2,000 miles away from this city and a distance so great that it could not by any possibility have been traversed by any of the ordinary modes of communication between those two dates.

Now, we find, as I said before, what seems to me a significant thing, showing the extraordinary zeal with which these parties in Montana pressed upon the President of the United States, that they were so anxious that this Territorial court should be ousted from its jurisdiction by the admission of the State, and prior to the service of the writ of peremptory mandamus, that they would not leave it in doubt as to whether the fraction of a day, which the law does not regard, might save them or not; and so they put in that the President's signature was attached to this proclamation at 10.40 a. m. on that 8th day of November, a note which is not found in any other proclamation in regard to States in the Northwest, as to the hour at which the President's signature was attached. But, unfortunately for them, fast as they traveled, swift as this lightning was, it was not swift enough to anticipate the service of this peremptory writ, for it was served on the 7th of November, and 10.40 a. m. on the 8th could not save them.

Mr. GEORGE. I desire to ask the Senator a question right there, if he will allow me.

Mr. GRAY. Certainly.

Mr. GEORGE. The Senator said that the communication of this constitution and these proceedings could not have been made from Helena—I believe that is the name of the capital of the Territory, where these proceedings were had—within the time limited. I desire to ask the Senator if he has inquired into that fact particularly and satisfied his mind that it is true.

Mr. GRAY I am satisfied about that. I do not know of my own knowledge, of course, but I have been informed that there are no trains running across this continent anywhere within reach of Helena that can bring anybody here except by about the consumption of five days. I am informed that the first possible train that could have brought any one here from the 4th of November, the date of this finding by the board as to the vote on the constitution, the earliest date at which any one could arrive here would be at 5 o'clock on the afternoon of Friday, and this proclamation was issued on Thursday at 10.40 a. m. Do not forget that. But, unfortunately for these conspirators, at 10.40 a. m. on Thursday, the 8th of November, in the year of our Lord 1889, the peremptory writ of mandamus issued by this court of competent jurisdiction, and not superseded, had been served upon these county canvassers and had been obeyed. That was complete. There is no room to question the legality in any sense of that proceeding. It was *fait accompli*.

Now, Mr. President, apologizing for the time that I have already taken, which has been somewhat due to the interruptions, which were, of course, pertinent, but have led me somewhat off from the orderly track of my argument, we come to inquire into what is this thing done by the county board; what is this act performed by them in accordance with their law-directed duty, interpreted by a court of competent jurisdiction, which this Territorial canvassing board complained was not before them or in their jurisdiction. Why, here it is; here it is in the evidence before the committee, and, of course, before the Senate, this return from Silver Bow County, in the name of all the commissioners who constituted that county board, certifying to the result, adding up the figures, including precinct 34, and clearly showing that the five members who sat in the Iron Hall house of representatives, and who participated in the election of Messrs. Sanders and Power, were not elected, but, on the contrary, the five members who sat in the Court-House assembly, and participated in the election of Messrs. Clark and Maginnis, were elected.

What are we going to do about it? How shall we treat it? Oh, it is the Democratic party, and it elects Democratic members, and therefore some different law and rule of action must apply than if the contrary had been the fact. Oh, no; I do not accuse our friends on the other side of any feeling of that kind. I know that they feel bound, as I feel bound, to treat this case according to the law and evidence, and to exercise this judicial function of the Senate on a high plane of conscience and loyalty to duty.

What must we do? If we have no finding of this Territorial board that is binding upon us, are we not bound, in the language of Mr. Paine, on Elections, to turn to the canvassing board of the county which has been omitted to be canvassed by the Territorial board? I do not know how to state the case more plainly. Argument on my part could not make our duty plainer. It would not emphasize, it seems to me, the force and pressing urgency of this duty for me to dwell upon it and seek by argumentation to press it further on the minds of Senators. I conceive, of course, that Senators agree with me, as I submit they must, that we have no finding of the Territorial board in the premises, because they tell us that this very thing we are now face to face with was not before them.

Then, it seems to me, under the circumstances, as reasonable beings, much less as men fit to occupy as we do occupy positions as lawyers, as Senators, and as statesmen, this finding of the county canvassing board under the law of the Territory of Montana, recognized by Montana, recognized by all departments, must be conclusive upon us. And if that is so, we have found, in the language of the Senator from Massachusetts, five members holding credentials of an officer or a board upon whom was devolved by law the duty of making such a finding; and there this case rests, and from that point it can not be moved, except by sophistry and a process of reasoning which must disregard the facts, disregard the principles which have always governed this Senate heretofore, and arbitrarily seek to accomplish results over and in spite of both facts and principles.

Now, Mr. President, unless I have demonstrated that this finding of the county board is binding upon the Senate and is the lawful and sufficient evidence of title of the five members who sat in the Court-House house of representatives and participated in the election of Messrs. Maginnis and Clark as Senators of the United States from Montana, of course I have failed to accomplish what I had in view. That evidence is all before the Senate, as it was before the committee. You have here in the record, and it is in no way denied to be a veritable and true record in that respect, the finding of that county board of canvassers, made in obedience to law, made in obedience to the mandate of a judicial tribunal competent to make and issue such a mandate, and that is the only lawful certificate we have. We are not seeking to go behind the returns; we are not taking any of the positions which the Senator from Massachusetts attributed to the minority; we are not indorsing the doctrine of the Senator from Wisconsin, Mr. Carpenter, distinguished as he was in his lifetime as a lawyer and as a statesman, and which I, as well as the Senator from Massachusetts, depart from and decline to indorse; not at all.

We are trying to answer truly, to answer as a judicial tribunal upon a judicial inquisition, as we must, the question which of these two groups of members had in their lawful possession a lawful credential from a board or officer authorized by law to give it, and we have found it going step by step from the doors of either house and seeking, first, the highest or central authority, and failing to find it there, seeking for the next, which was the county board of the county in which and from which alone these members were elected, and there we stop. We do not seek to go behind these returns; we do not seek for the purposes of this case to engage in any discussion with the Senator from Massachusetts as to the fairness and legality of the election that was held at precinct 34, although on that subject we have something to say, but we simply say that, standing upon the same ground, professing to indorse the same principles, and governed by the same rules, we have found this result; and I think, with becoming respect for the majority of the committee, I may say we challenge them to show wherein we have not, pursuing that very path that they have pointed out, come to a strictly just, logical, and legal conclusion of this whole matter, and that is that Messrs. Maginnis and Clark, as the duly chosen and accredited Senators of a body duly elected and composed of members holding lawful credentials, are entitled to sit in this body.

Mr. President, we might pause there and I might well, and perhaps should, apologize to the Senate for continuing longer in what must already have been a tiresome deliverance on my part, but for the fact that the Senator from Massachusetts, both in the report of the majority which he submitted and also in his remarks this morning, has reflected upon the integrity of those polls at precinct 34, in Silver Bow County, of the then Territory of Montana, and perhaps it is my duty, because

I am thoroughly possessed with the conviction that the honest vote of that precinct will have to be suppressed in order to support the resolution of the Senator from Massachusetts, that I should say a word in defense of those as yet undefended people.

Mr. President, it seems to me that it will be utterly impossible and, but for the fact that the Senator from Massachusetts did undertake to impugn the fairness of that election, I would have said that it was impossible for any honest mind to examine the evidence that is before the Senate, to examine it all, all that the Senator from Massachusetts had before him, all that was spread before the committee, all that I have ever heard of, and then say that the election at that poll was not as peaceable, as fair, as orderly, and as legally conducted as in any precinct of which any one of us ever had any knowledge anywhere in the course of our lives.

It seemed to have been a part of the exigency of this case, which from the first to the last appears to have been so pressing in every direction and on all sides upon the majority of this committee, that they should attack the integrity of that poll at precinct 34; and upon what sort of evidence and upon what ground? The Senator from Massachusetts told you this morning, and he has told you in the report submitted by him on behalf of the majority of this committee what those grounds were, and when I recite them I will venture to say that every Senator who does me the honor to listen will agree with me that never before in his experience were objections so frivolous, so light, so unfounded, brought as a ground to throw out and discard the votes of American freemen in any election in this country.

Mr. President, I heard it suggested, not by the Senator from Massachusetts, but in some of the arguments made in behalf of these interested gentlemen in Montana, that this was a poll up in the Rocky Mountains, far away from the centers of civilization, where none but those rough and rugged spirits, who are the pioneers of our civilization nevertheless, were congregated—"laborers on railroads" was sneeringly said, working under a railroad contractor, continuing those mighty works which have done more to civilize this continent, to magnify its importance, and demonstrate its strength and greatness than all other labor combined—that these were the class of men at those polls, presumably ignorant and controlled by their bosses. That was urged and that was suggested in argument made on behalf of these gentlemen, Messrs. Power and Sanders, to commence with, and then what were the facts? So far from its being very distant, I do not know that it would make any difference if it was distant, but as a mere matter of fact it is interesting to observe as we pass along that it is only 9 miles from this precinct to the city of Butte, the largest and most important and most populous town in the Territory of Montana—only 9 miles, with railroad communication part of the way.

Well, they were not so far off from the civilizing illumination that comes from the urban populations of this country that they might not have enjoyed some of that light and been entitled to enjoy the right of an American freeman to cast a ballot. Almost within the sight of the lights of that great city, they might be presumed to have been so far advanced in civic virtue and civic attainments that they might have been allowed, without this unnecessary aspersion, to drop their ballots in the box and exercise that ordinary but most precious gift of every freeman, the right to cast one vote and have it counted. Well, they did presume that they had that right, and they came down to precinct 34, and under the Australian ballot law—the law which the State of Massachusetts was the first of all the States, I believe, in this country to enact, and which I should be glad to see everywhere—under that Australian system they came down and they dropped their ballots in the box. One man went into the booth at a time—I am reciting the substance of the evidence now in this case, though I will not stop to read it at large—each man went into the booth unattended and alone, and there he had communication with that mysterious being, the election officer, who sat back there, and who, at his direction and in his presence, marked the ticket and designated the names for whom he wished to vote, and that vote was stamped as official by another judge, and by another was dropped in the box. There is no evidence that there was any intimidation, bribery, corruption, or undue influence exercised towards any man on that day. There is no evidence that a man was offered so much as the value of a nickel to cast his vote one way or the other, and, therefore, there were certainly some presumptions—some presumptions that even partisans must entertain—in favor of the regularity of the ballot of an American freeman cast in this way.

Oh, but the Senator says—for I really think the Senator from Massachusetts was not able to go the length that the gentleman who represented these aspiring Senators did—the returns were irregular, the election was not conducted according to law, and we get up, lawyers of some experience as most of us are, and make objections. These poor railroad men went down there and cast their ballots under the Australian system, and then, with an additional safeguard (which I am sure some of my friends on the other side will think an additional safeguard), the majority of the judges were of the Republican party, put their ballots in the box, and they fancied that they had performed this great duty of an American citizen, and their self-respect was increased and magnified, and it ought to have been.

They went back to their work, humble though it was, and with pick, and ax, and shovel sought to make advance towards the setting sun with this great line of railway over the Rocky Mountains, it is true, 9 miles away from this center of illumination and enlightenment, the city of Butte; but going back to that work, honest, though humble, they had a right, we would suppose, to think of this act of theirs as properly contributing to that great drama enacted on that day all over Silver Bow County and all over the Territory of Montana. They had a right, one would think, to believe with some satisfaction that their votes would be taken into the account when they came to reckon up the results. That is all they had a right to ask. They certainly had a right to ask that much.

But now come the lawyers from Helena, with 1 Dogberry, bound in boards, under their arms. They walked down to these polls, and they pick up the returns, and they put on their gold-bowed eye-glasses, and they sneer and laugh at these poor, innocent laborers, and they say, "All right; you voted; the election officers swear the election was honestly and peaceably conducted; that is all so; but after you had gone back to your work these officers of the election, over whom you had no control whatever and for whose acts you were not responsible, have in making their returns, we observe, not signed their names in the proper place, and we will call your attention, gentlemen"—or laborers from this tunnel—"to the fact, in regard to which, no doubt, when you observe, you will be quite content to share our conclusions, that, whereas the law of Montana requires the returns to be signed by the clerks and attested by the judges, these returns are signed by the judges and attested by the clerks, and surely under circumstances of that kind you do not expect your votes to be counted!"

Now, that is the first objection seriously urged before a tribunal of American Senators, and to-day it stands among the objections upon which this Senate is called to pass. The law of Montana said that these returns must be signed by the clerks and attested by the judges, but actually they were signed by the judges and attested by the clerks. That is the first objection.

That is not all. There are other objections. But, as the Senator from Massachusetts says, it is not one objection he places it upon, but upon the cumulative force of several such objections. Now, let us see. There is another as to the laws of Montana—and the Senator from Massachusetts dwelt with great emphasis upon this—that under this new law for the Australian ballot passed in March of last year, just about a year ago, this being the first election held under it, it was directed that there should be five judges of election at each precinct, except that the county commissioners, whose duty it was to appoint the judges, might, where there were less than 100 votes, appoint only three judges.

This was a new precinct established for the first time. It was a small precinct, and there was no evidence of any previous vote by which the county commissioners could be guided, and, therefore, on the best evidence I suppose that they could get, they supposed there was only occasion to appoint three judges, and three judges only they did appoint. But then these laborers, these railroad laborers up in this tunnel, called Homestake tunnel, did not know about this when they went down to cast their votes, and they dropped their ballots in the box all unsuspicious of the fact that only three judges had been appointed by the county commissioners who supposed that not more than one hundred votes would be cast at this new precinct. That was not their fault, but, according to the Senator from Massachusetts, they must suffer for it.

Mr. HOAR. Oh, no.

Mr. GRAY. And their votes must be thrown out and trampled under foot as unworthy of being counted with the votes of other freemen of that county because for that and other reasons they were not entitled——

Mr. HOAR. The Senator from Delaware will permit me to say that he entirely misrepresents me in consequence of having entirely misunderstood me. In pointing out the numerous badges of fraud and irregularity in this election, when I alluded to each one of those irregularities I said expressly, for that the people who cast the votes ought not to suffer if it were taken alone. Every time I made that observation.

Mr. GRAY. I meant to, if I did not, quote that language of the Senator from Massachusetts.

Mr. HOAR. The Senator says "for this the Senator from Massachusetts would have them suffer."

Mr. GRAY. "And for other reasons."

Mr. HOAR. "For this the Senator from Massachusetts would have their votes thrown out." Then he repeated "for this and other reasons."

Mr. GRAY. Of course I would not do the Senator an injustice knowingly, and I am perfectly willing he shall make that explanation.

Mr. HOAR. The Senator would do himself a great injustice if he should let it pass.

Mr. GRAY. I agree with the Senator from Massachusetts that I would do myself a great injustice if I misrepresented the Senator from Massachusetts or any other Senator.

Mr. EVARTS. Mr. President——

The VICE-PRESIDENT. Does the Senator from Delaware yield to the Senator from New York?

Mr. GRAY. Yes, sir.

DEATH OF HON. DAVID WILBER.

Mr. EVARTS. I ask that a communication from the House of Representatives, giving us notice of the death of a colleague of ours in that body, may now be read.

The VICE-PRESIDENT. The resolutions of the House of Representatives will be read.

The Secretary read as follows:

Resolved, That the House has learned with profound regret of the death of Hon. David Wilber, a Representative from the State of New York.

Resolved by the House of Representatives (the Senate concurring), That a special committee of seven members of the House of Representatives and three members of the Senate be appointed to take order for attending his funeral at his residence in the State of New York; and the necessary expenses attending the execution of this order shall be payable out of the first funds in the contingent fund of the House available therefor.

That the Sergeant-at-Arms of the House be authorized and directed to take such steps as may be necessary for properly carrying out the provisions of this resolution.

Resolved, That the Clerk communicate the foregoing resolutions to the Senate.

Resolved, That as a further mark of respect to the memory of the deceased the House do now adjourn.

Mr. EVARTS. I offer the resolutions which I send to the desk.

The VICE-PRESIDENT. The resolutions will be read.

The Secretary read as follows:

Resolved, That the Senate have heard with deep sensibility the announcement of the death of Hon. David Wilber, late a Representative from the State of New York.

Resolved, That the Senate concur in the resolutions of the House of Representatives, providing for the appointment of a special joint committee to take order for attending the funeral of the deceased at his residence in the State of New York, and that the members of the committee on the part of the Senate be appointed by the Vice-President.

Resolved, That the Secretary communicate these resolutions to the House of Representatives.

The resolutions were agreed to unanimously.

The VICE-PRESIDENT. The Chair will appoint as members of the committee representing the Senate Messrs. HISCOCK, SQUIRE, and KENNA.

Mr. EVARTS. Mr. President, as a further mark of respect to the memory of the deceased, I move that the Senate do now adjourn.

The motion was agreed to; and (at 4 o'clock and 48 minutes p. m.) the Senate adjourned until to-morrow, Thursday, April 3, 1890, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *April* 2, 1890.

The House met at 11 o'clock, a. m.

The SPEAKER. The Chair is informed that the Journal of yesterday's proceedings is not quite ready to be submitted to the House; therefore, without objection, that matter will be passed over for the present.

There was no objection.

CHANGE OF REFERENCE.

Mr. LACEY. I ask unanimous consent that the Committee on Manufactures be discharged from the further consideration of House bill No. 313 and that the bill be referred to the Committee on the Judiciary. This is a bill involving the question of trusts. Some of the bills on this subject have been sent to the Committee on Manufactures and others to the Committee on the Judiciary. I understand that the Judiciary Committee is about to take up this subject, and therefore I would like to have this bill before them.

There being no objection, the Committee on Manufactures was discharged from the further consideration of the bill (H. R. 313) to prohibit the formation of interstate trusts and trade conspiracies, and the same was referred to the Committee on the Judiciary.

IRRIGATION.

Mr. LANHAM. I ask unanimous consent that House Report No. 409, from the Select Committee on Irrigation of Arid Lands, be printed in the RECORD, together with extracts from letters received by me from the Secretary of State and the Secretary of the Interior.

There being no objection, leave was granted.

The documents referred to are as follows:

Mr. LANHAM, from the Select Committee on Irrigation of Arid Lands, submitted the following report (to accompany bill H. R. 3924):

The Select Committee on Irrigation of Arid Lands in the United States, to whom was referred House bill No. 3924, entitled "A bill concerning the irrigation of arid lands in the valley of the Rio Grande River, the construction of a dam across said river at or near El Paso, Tex., for the storage of its waste waters, and for other purposes," have considered the same and respectfully report it to the House with the recommendation that it do pass.

The reasons which commend this bill to legislative attention, the conditions which have given rise to its introduction, and the necessities which have brought about its consideration are substantially formulated in the preamble. (See copy of bill hereto attached.) The statements therein made have been affirmatively established. The investigation of the committee has been aided by the presence and testimony of gentlemen who are fully conversant with the facts and have had ample opportunity for an actual observation of their existence; besides, documentary and historic evidence bearing upon the situation has been available, from which additional information, believed to be reliable and accurate, has been obtained.

It will be observed that the measure proposed is inceptive and initiatory in its character, contemplating in its terms no present final or conclusive legislation, carrying no appropriation, but reserving any ultimate proposition on the subject to be controlled by the future judgment and discretion of Congress, after international consultation and methods for concert of action shall have been considered and devised. It is not expected that the remedies suggested for a solution of the troubles indicated can be rendered operative without the preliminary negotiations provided for shall be followed by appropriate and necessary legislation to carry them into effect. A mutual understanding and co-operation by and between the respective Governments concerned will be a necessary antecedent, and any practical results are contingent on the event that, after full conference shall be had and full investigation shall be made, it shall be regarded expedient and of such importance as to warrant future authoritative and conjoint execution by the two countries. Accordingly the fourth section of the bill provides—

"That the President is requested to communicate to Congress the result of said negotiation, together with his recommendation thereon, at the earliest practicable opportunity."

The committee are of the opinion that the issues involved are of such moment, the complications so embarrassing, the national and international interests so important, and the situation one of such gravity as to suggest the wisdom and propriety of the two Republics conferring and reasoning together, and inaugurating all suitable and possible measures for the conservation of that harmony and prosperity of their respective citizens and that amicable and orderly administration of their respective Governments so greatly to be desired, and yet so seriously menaced by the existence of the causes stated in the preamble. These difficulties will, it may be assumed, grow more serious and critical the longer the correctives are delayed, and it would seem to be the part of prudence to anticipate and provide against their consequences as far as it is possible to be done.

The Republic of Mexico is our near neighbor, separated from us, in part, by the Rio Grande River for a distance of some 1,200 miles. With its twelve millions of people, with its developing resources and wonderful possibilities, with its invitation to and reception of American capital, with its great trunk-line railroads, practically extensions of ours, with its varied fields for our commerce and constant demand for our products, with all its multiplied relations to us, it is a neighbor with whom we shall always have to deal and whom it is both our duty and policy to treat and cultivate in a neighborly way. There are many Mexicans who are citizens of the United States, enjoying all the immunities of such. They are to be found all along on our side of the Rio Grande. The treaty of Guadalupe Hidalgo in its eighth and ninth articles made especial provision for such citizenship.

In a report relating to troubles on the Rio Grande, transmitted to the House of Representatives by the Secretary of War in 1878 (see Ex. Doc. No. 84, Forty-fifth Congress, second session), Colonel Hatch says:

"The people are one and the same on the two sides of the river; although subjects and citizens of different nations, they are one in race and religion, and bound by the closest ties of interest and blood; their customs, habits, and traditions are the same, and there is hardly a family on the one side but is related by ties of blood or marriage with those on the other; hence, when you touch one you touch all, and when one is hurt all feel it. * * * One [trouble] which must be looked for sooner or later is in connection with the water taken from the Rio Grande for irrigation. As soon as the attempt is made to largely extend cultivation in this valley (there will not be enough water for all, and both sides have an equal right), from this troubles are certain to arise sooner or later, which may involve the two countries seriously."

In the report of the board of officers (see Ex. Doc. No. 93, Forty-ninth Congress, second session), March 16, 1878, is to be found the following statement:

"The Rio Grande, at this season of the year even an insignificant stream, its channel often shifting and always erratic, but during the heats of summer sometimes dry, affords, by being directed into *acequias* on either bank, a scant and variable supply of water to the people of both nationalities, but is utterly insufficient to irrigate this extensive valley, where the yearly rainfall measures but a few inches. As time progresses and the country is opened by accessions to its populations, sure to come—for it is a most fertile region and gloriously rewards the labor spent in irrigation—the question must grow in importance, and may occasion trouble beyond the reach of diplomacy to settle."

Time has verified in a great degree these prognostications, as will appear subsequently. The "accessions to the populations" have been rapidly made. A new and different citizenship has been attracted here and added to those residing in the valley at the time when these official reports were submitted. Energetic and progressive Americans have since made their homes and invested their capital here, while substantial and material development by the Mexicans is also observable. Our people along the border are thrown in daily contact with the people of Mexico. Notwithstanding our covenants of amity, it has been not only difficult but at times impossible to prevent outbreaks and conflicts on the Mexican frontier from various causes, despite the efforts of good men in either country to maintain friendly relations. Depredations, reprisals, bloodshed, and retaliations have occasionally marked and marred the history of these border peoples. General Stanley, commanding the department of Texas, in his official report, dated September 12, 1889 (see Report of General Schofield to Secretary of War, 1889, page 100), says:

"Our relations with our Mexican neighbors upon the long line of the Rio Grande have been kindly, although they are a good deal excited over what they deem the violation of their riparian rights, through our people taking all the water of the Rio Grande for the irrigation of the San Luis Valley, which leaves the Rio Grande a dry bed for 500 miles. The question is one that must be settled by the State Department, and thus far there has been no call for military force. The remedy for this water famine and consequent ruin to the inhabitants of the Rio Grande Valley must be found in storage reservoirs, so easy of construction, one in the cañon opposite Taos, and the other in the cañon near and north of El Paso."

The Rio Grande is quite a long stream, being with its meanders some 2,000 miles in length. It rises in Colorado and is supplied from a number of tributaries in that State and Northern New Mexico, the rainfall and melting of the snow and ice. There are frequently vast accumulations of snow and ice in the deep cañons of that region during the long winters. If the snowfall be great and its melting accompanied by rains in the spring, the river becomes a raging torrent from about the 1st of April until July, carrying enormous quantities of water through its entire length. Much of this time it is wholly unused and unnecessary for irrigating purposes in either Colorado or Upper New Mexico, and its flow is not only vastly more than is required for such purposes lower down the stream, but, because of its temporary superabundance, becomes really destructive. In such cases it goes on unused to the Gulf, carrying as waste that which if it could be conserved for the seasons later on would be precious indeed to the people along its course. If the snowfall in the mountains above be light, and its melting unaccompanied by rains, the water from the snow is in a great degree evaporated and the floods are less enormous.

The middle third of this river, say from Albuquerque, N. Mex., to Presidio del Norte, Mexico, a distance of about 500 miles, has no important living confluents and passes through an extremely arid belt, where the evaporation from a water surface is many times the rainfall annually; and in unusually dry seasons its history for the past forty years shows that it failed to carry a current for short periods during August or September on an average of about once in seven years. At and below Presidio del Norte it has living confluents from

Mexico and Texas which maintain a constant flow to the Gulf of Mexico. Midway in this arid belt are the two large valleys of the river—Mesilla in New Mexico and El Paso in Texas and Mexico—where agricultural pursuits have been maintained almost since prehistoric times certainly, and of record for more than two centuries, essentially dependent on irrigation, the ordinary rainfall not being an important factor in the growth of crops.

Near and just above El Paso, Tex., the Rio Grande, or rather "the middle of that river, following the deepest channel" (treaty 1853), or "the center of the normal channel," etc., (convention 1884), becomes the international boundary of the United States of America and the Republic of Mexico. But for the last forty years the river has been so continuously changing its bed from one side of the valley to the other, more or less with each recurring flood, in many cases it being unknown whether caused by avulsion or gradual erosion and deposit, that it is frequently impossible to determine to which country the land on either bank of the river belongs in different localities and to great extents in area.

These floods have sometimes become devastating torrents, inundating the whole valley for miles, cutting new channels, and sweeping everything before them. In 1842, in the El Paso Valley, the river changed its bed for a distance of 30 miles, and in some places 7 miles laterally. Hundreds of smaller changes have been made since. In 1884 it began moving back from the Mexican side at this point, and in a few months carried away 15 miles of the Southern Pacific Railroad, and threw a single body of over 5,000 acres of land on the south side of the river, although it is still claimed to be within the domain of Texas. This land was just above the Mexican town of San Ygnacio, and as the river left the town for miles its people were compelled to take a canal from the river where it is entirely in Texas and carry it for more than 3 miles over Texan soil to irrigate their land and for domestic purposes. The situation is further well described in an able report submitted in the last Congress by the Hon. Mr. HITT, of the Committee on Foreign Affairs, as follows:

"It [the Rio Grande] has shifted its channels so often and so far, in some cases gradually, in others abruptly and by cut-offs, that no man knows accurately where the boundary is to-day. Sometimes the stream will suddenly cut a new channel, abandoning the old ones altogether, and in a single day, by a cut-off, a tract or 'banco' of a hundred acres will be found to be on the other side of the river. These causes have produced uncertainty as to the boundary, and this encourages smuggling, which is always carried on more or less on the border. When a man smuggles from a 'banco' it is almost impossible to catch and convict him. No surveys are made nor official records kept of the time and place of cut-off changes and no one can tell with accuracy the extent of a cut-off. The bed of the old channel is the boundary, though it may be long since dry. There are sometimes two or three old beds, and it is hard to tell where is the middle of the old bed contemplated by the treaty.

"At the last term of the United States district court at Brownsville, the most noted case of smuggling was lost by the Government for want of that accurate knowledge that would satisfy the court. * * * These bancos with their uncertain boundaries afforded retreats for smugglers, thieves, kidnapers, murderers, and every class of criminals, as well as bases of supplies from which to carry on their operations, free from interference by either Government."

He concludes his report with a recommendation from the committee in favor of the creation of a boundary commission, "in view of the protection of the revenue, the prevention of crime, the maintenance of good order, and the preservation of international harmony."

"Article 5 of the convention of 1884 between the two countries provides that rights of property in respect of lands which may have become separated through the creation of new channels shall not be affected thereby, but such lands shall continue to be under the jurisdiction of the country to which they previously belonged."

It is easy to be perceived how serious are the difficulties to both countries in the adjustment of titles to land, the prevention of smuggling and the arrest and punishment of all kinds of criminals on account of the confusion of boundary and doubtful jurisdiction, which arise from the facts stated.

But a further complication has arisen in recent years, growing out of the fact that in Colorado and New Mexico a great number of irrigating ditches and canals have been taken from the Upper Rio Grande and its tributaries, resulting to a great degree in the absorption of the water before it reaches the point of international boundary. By reference to the fourth biennial report (pages 287 to 325) of the State engineer of Colorado for 1887–'88 it will be seen that more than three hundred ditches have been taken out in that State alone, while vast quantities of water have been and are being similarly appropriated in New Mexico. The result has been a great depletion of the flow of the river in the driest part of the year, July and August, when it is most needed. This has been so great for the last three years in the above-indicated middle third of the river's course as to almost entirely destroy the growing annuals, the younger vines and fruit trees, and unless corrected in some way will finally eventuate in the total destruction of the agricultural interests in this entire section.

In 1888 the river was absolutely dry for over sixty days about August and September, and in 1889 it had no flow whatever from the 5th of August to the 20th of December, a period of 137 days. While this dearth of water may not be wholly imputed to the irrigating agencies and consumption of water by the people of Colorado and New Mexico—for it must be admitted that these seasons were dry, with little snow in the mountains—still there can be no doubt that they have materially contributed to that end, and will continue to do so in the future in an increasing ratio as the number of ditches multiply. It is stated by Major Powell, Director of the Geological Survey, as a reasonable probability, that within a comparatively short period, with the growing development of agricultural interests in the region of the Upper Rio Grande, the impounding, distribution, and utilization of the waters of that river and its tributaries after the manner already begun, there will be a wholly inadequate, if not utter absence of, supply of water in the stream below.

Such continued and serious dearth of water in the river has never been known before by those inhabitants of the valley who are and have been for many years best acquainted with its history and characteristics, and both Americans and Mexicans claim that the deprivation of their accustomed water supply is attributable to the action of the people of the United States in the localities mentioned. They further insist that the Rio Grande is an international stream, belonging not to Chihuahua or other Mexican States or to Texas or its people, but that an equal undivided one-half interest in it, with all its privileges, belongs to the United States of America and the Republic of Mexico, and that as such it is entitled to receive the care and attention of the respective Federal Governments.

The El Paso Valley extends from the pass at El Paso 90 miles below, and is from 4 to 10 miles wide. It contains about 200,000 acres of magnificent lands, situated about equally on the Mexican and Texan side of the river, that under proper and possible conditions could be reduced to a fine state of cultivation. There are now in this valley about 50,000 people, nearly equally divided between the two countries. They at present cultivate about 50,000 acres of land, which in fertility is not surpassed on the continent. Here are grown fruits and vegetables of the rarest quality, with cereals of nearly every kind. Perhaps the best grapes in the world are produced here, and this vineyard-dotted valley, under proper auspices, can nowhere be equaled. Of many products the climate and soil afford more than one crop per year; there are numerous valuable farms and gardens, and the people have been heretofore prosperous. There are towns on either side of the river some of which are centuries old. It would not be extravagant to say that this valley and these people represent values aggregating $25,000,000.

These people claim vested rights in the water of the Rio Grande antedating even the written history of the country, of which they insist they are being unjustly deprived by those seeking to form new communities above them. They look with dismay on the manifest and "consequent ruin," described by General Stanley, which inevitably awaits them, if not already upon them, unless some solution of the water question can be found and the "water famine" averted. Their values will be dissipated, their valley depopulated, their homes abandoned, and their possessions useless unless some relief can be afforded and some remedy applied. Severe as these sacrifices may be, it is to be seriously apprehended that they will not peaceably be made.

If these be the facts, and such conditions as above described exist, is not the subject one that should challenge the thoughtful inquiry of Congress, and is it not worth the while and within the proper functions of our Government to take a step in time for promoting some authoritative investigation of the matter through the medium of international negotiation, looking to an ultimate application of any proper correctives? And is it not obvious that the sooner this is done the better it will be for the interests of both Governments?

Confronted as they were with these conditions, it was quite natural that both Americans and Mexicans in the El Paso Valley should take a lively interest in the discussion and discovery of some feasible and practicable remedy for and solution of their troubles. Much was thought, said, and written about it. Finally, Maj. Anson Mills, of the Tenth Cavalry, United States Army, who had lived along the Rio Grande before and since the war and was familiar with the people and history of that part of the country, as well as the characteristics of the river, conceived the idea of impounding the torrential flow of the river in the pass just above El Paso, where the channel is narrow and passes between the mountain walls on either side, and over a solid rock bottom, by means of the construction of a dam about 60 feet high. In this way it is maintained that a vast lake or reservoir, 15 miles long by 7 miles wide, with immense storage capacity, can be created.

There is certainly a wonderful natural adaptation at this point for such a purpose, both in the basin and rim for a lake of such dimensions, and the advantages afforded for the construction of a dam, one end of which to rest on the mountain wall on the Mexican side, and the other on the American side. The project was submitted by Major Mills to the Secretary of State in December, 1888. By the approval of the Secretary of War he was detailed to make observations and to act under the instructions and directions of the Director of the Geological Survey at this point. He has made full and exhaustive examination and submitted an elaborate report in the premises. He was assisted in the work by Señor Ygnacio Garfias, an accomplished and distinguished Mexican engineer, who was detailed by his Government for that purpose, and whose judgment fully approves the plan. The Senate Committee on Irrigation, appointed at the last Congress, accompanied by Major Powell, of the Geological Survey, visited the locality last September, and also made considerable examination concerning the matter. Major Powell pronounces the plan feasible, and stated before your committee that the only remedy to be found was in such a storage of the water, expressing at the same time the apprehensions before mentioned with reference to the possible future consumption of the water near the sources of the river. The Select Committee on Irrigation and Reclamation of Arid Lands in the Senate have at this session considered and favorably reported a measure substantially the same as that here presented.

The following extract from a recent letter addressed to the writer of this report by the Hon. JOHN G. CARLISLE contains an admirable statement of the situation. He was at El Paso during the long period of drought mentioned, and was afforded an opportunity for personal observation of the conditions which there obtained. Believing that anything said on the subject by so eminent a man as the ex-Speaker can not fail to be of interest, a portion of his letter is here copied:

"I had an opportunity last summer, while on a visit to Mexico, to investigate this matter to some extent, and became satisfied that the situation on that part of the river to which your bill relates was such as to demand the immediate and careful attention of both countries. The diversion of the water of the river in New Mexico and Colorado for irrigation purposes has practically destroyed, during a large part of the year, a very considerable section of it flowing between the two countries, and thus deprived the people on both banks of the use of the stream for any purpose whatever. Besides this the numerous changes that occur in the channel render it difficult, if not impossible, to determine precisely where the boundary line between the two countries is located. This is a source of constant irritation, and unless some remedy can be devised may ultimately produce serious disagreement between the two Governments.

"The subject is an international one in both its aspects. Whether the people of Mexico can be lawfully deprived of the waters of the Rio Grande as they would, if not diverted, naturally flow from that part of the stream within the United States, may be a disputed question; but there certainly is a moral obligation upon our part to co-operate with the Government of that country in such measures as may be necessary to prevent injury in the future. Of course the question of boundary is one which equally concerns both Governments and must be settled, if at all, by their joint action.

"As your bill proposes only to open negotiations upon the subject and leaves final action to be taken hereafter when the results of the conference have been communicated, I think it ought to pass."

The preliminary investigation heretofore made by Major Mills and Mr. Garfias, representing both countries, leads to the conclusion and has demonstrated, so far as their concurrent judgment is concerned, that it is possible, by the construction of the dam before described, to solve both the water and boundary problems. The proposed dam, it is affirmed, can be built upon solid bed-rock abutting on the solid-rock walls on the bluffs of the Pass, with a length of about 450 feet. It can be constructed upon the approved principles of modern masonry dams. The plan used in the preliminary survey was from the profile recommended by Mr. Alphonse Fteley for adoption in the building of the great Quaker Bridge Dam in the Croton River, New York, designed to be 270 feet high and 1,350 feet long, and is "Practical profile No. 2" of Wegman's Design and Construction of Masonry Dams, which is understood to be the best and latest authority on that subject.

It gives a historical description of some forty of the principal dams constructed throughout the world in the last three hundred years. It describes the Almanza dam in the province of Albacete, Spain, which has successfully impounded water for three centuries. This is 67 feet high and 292 feet long. Another is the Alicante dam, also in Spain, which is 134 feet high and 190 feet long, which has had a safe and successful existence for about the same length of time. Most of the other dams described in this work are on a grander scale, but of more recent construction. The opinion seems to be sustained that masonry dams, if properly constructed, can be rendered absolutely safe and permanent.

The proposed reservoir or lake, it is maintained, can be supplied with a "by-wash" or "waste-weir," 200 feet wide by 5 feet deep—that is, with its crest 5 feet below the crest of the dam—and through and over one of the solid rock walls or banks of the river, having an easy outward slope for the passage of the waste waters in their descent to the channel of the river below, avoiding the shock or tremor of a perpendicular fall, injurious to masonry work. It is estimated that such a sized weir will pass all the waters in excess of the storage capacity between its crest and that of the dam proper possible to come from any extended flood in the river.

To maintain a constant and uniform channel of the river below, when the surface of the lake may be below the crest of the by-wash, it is stated that six 48-inch cast-iron pipes may be placed through the masonry of the dam near its base, three on each side of the river, and that each of these pipes can be provided

with valve gates, so arranged that one person can easily adjust one or all of them, to permit just the desired amount of water to pass through them from the lake. By this means it is claimed that there can be maintained a small stream of clear water, unburdened by silt, equal to the mean annual flow constantly each day in the year, the bed and channel of which could be permanently directed and controlled in such a manner as to fix and determine a boundary line of a living and permanent stream between the two countries for 200 miles below El Paso to the point where a sufficient water supply is afforded by confluents of the Rio Grande.

It is not intended in this report to discuss the scientific details of the proposition, but simply to submit a general and substantial statement. It may be said, however, that no essential feature of the project was overlooked or left unconsidered by the parties who made the preliminary investigation. The amount of silt and its effects on the reservoir, the liability to evaporation, the extent of percolation, the structural security of the dam, and all cognate questions were made subjects of careful and intelligent inquiry. Connected necessarily with the measure for the rectification and establishment of the boundary line is the benefit to be afforded to our own and the Mexican people in the use of the waters to be stored for the purpose of irrigation, and the restoration, as far as the same could be accomplished, of those ancient and valuable rights of which they are being deprived by reason of the facts mentioned.

It is believed, from statements made by prominent Mexican citizens and the profound interest known to be felt and taken by them in this matter, that such a movement as is here proposed on our part will not only receive their grateful acknowledgment and cordial approval, but that it will be earnestly indorsed by the authorities of their Government, and that they will readily be disposed to participate in the expense involved, should the negotiations contemplated result in any practical execution.

Whatever project may be finally considered the proper one for the settlement of the troubles described, whether the plan suggested shall ultimately be adopted, the bill reported will open the way for a thorough international conference and comprehensive consultation concerning the whole matter, the results of which can not be in any sense injurious, but on the contrary give promise of some satisfactory adjustment of difficulties and complications manifestly serious and worthy of earnest consideration. To avoid greater length in this report, a further discussion of the bill is omitted, as it is believed that with the explanations already made a simple inspection of its provisions will enable its scope and purpose to be fully understood. It is accordingly here subjoined.

—

A bill concerning the irrigation of arid lands in the valley of the Rio Grande River, the construction of a dam across said river at or near El Paso, Tex., for the storage of its waste waters, and for other purposes.

Whereas the Rio Grande River is the boundary line between the United States and Mexico; and

Whereas, by means of irrigating ditches and canals taking the water from said river, and other causes, the usual supply of water therefrom has been exhausted before it reaches the point where it divides the United States of America from the Republic of Mexico, thereby rendering the lands in its valley arid and unproductive, to the great detriment of the citizens of the two countries who live along its course; and

Whereas in former years annual floods in said river have been such as to change the channel thereof, producing serious avulsions, and oftentimes and in many places leaving large tracts of land belonging to the people of the United States on the Mexican side of the river and Mexican lands on the American side, thus producing a confusion of boundary, a disturbance of private and public titles to lands, as well as provoking conflicts of jurisdiction between the two Governments, offering facilities for smuggling, promoting the evasion and preventing the collection of revenues by the respective countries; and

Whereas these conditions are a standing menace to the harmony and prosperity of the citizens of said countries and the amicable and orderly administration of their respective Governments: Therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States be, and he is hereby, authorized to negotiate with the proper authorities of the Republic of Mexico, to the end that these conditions may be improved and the proper correctives applied.

SEC. 2. That he is further empowered to negotiate in the premises for the construction of an international dam across the Rio Grande River in the vicinity of El Paso, Tex., at such point as may be determined upon by competent engineers, to be appointed for that purpose by the respective Governments, with the object of storing the waste waters of said river during the torrential flow thereof, and affording a permanent reservoir for the necessary water supply of the citizens of the two countries who reside in the immediate valley below, having in view the proper definition and protection of their respective rights to the use thereof for irrigation and other purposes, as well as the maintenance of a uniform and steady flow of water in the channel of the stream below said dam and the direction of its current in such a manner as to insure permanency of the channel in said river as far as the same may be done.

SEC. 3. That he is further empowered to negotiate for the creation of a joint international commission, to consist of not exceeding three persons on the part of each Government, whose duty it shall be to adjust and determine the respective water rights of the citizens of the two countries in and to said reservoir, to mark and define the correct bed or channel of said river, to hear and investigate conflicting claims as to titles to land growing out of the avulsions aforesaid, and report their action and finding thereon to their respective Governments. He may also negotiate concerning any additional authority of said commission touching other matters of an international character between the two countries, the length of its existence, and further definition of its duties.

SEC. 4. That the President is requested to communicate to Congress the result of said negotiations, together with his recommendation thereon, at the earliest practicable opportunity.

Mr. LANHAM. Under date of March 8, 1890, in a letter to me relating to this report, the Secretary of the Interior says, among other things:

I have read the report with great interest. The subject is most important, and at the present time demands the earnest consideration of Congress.

* * * * * * *

I concur in the general purport of the report and think that it has fully covered the subject and presented all that is necessary to be said in support of the bill.

The Secretary of State, under date March 12, 1890, says:

* * * The matter is important, and the results would seem to promise benefit to the agricultural interests in those regions no less valuable to Mexico than to us. Much advantage, too, is discernible in the opportunity which such an engineering work would give for regulating the flow of the river in torrential seasons through the unstable channels below the rocky gorge at El Paso, and thus doing away with the questions involved in the construction of wing-dams and revetments on either bank for the protection of the river front or as feeders for local irrigation. Disputes in such cases are constantly liable to arise, and, as you are aware, a pending convention looks to the establishment of an international commission to decide them.

It is very desirable that an international dam, such as your report contemplates, should be controlled, and the water supply dispensed, for the equal benefit of the inhabitants on either side, and not through the interested management of a local corporation. It is probable that should the proposal take more definite shape any successful negotiation with Mexico would turn upon the practical guaranties for a fair distribution of water and open enjoyment of water rights by Mexicans and Americans alike under international supervision, by a mixed commission or otherwise, on behalf of the respective Governments, as proposed in section 3 of the bill which accompanies your report.

CLAIM OF SCHUYLKILL COUNTY, PENNSYLVANIA.

Mr. REILLY. I ask unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of the bill which I send to the desk, and that it be now considered by the House.

The Clerk read the title of the bill, as follows:

A bill (H. R. 5601) to authorize the proper accounting officers of the Treasury to audit and pay the claim of the county of Schuylkill, in the State of Pennsylvania, for money advanced by it under allotments made by soldiers from said county during the late rebellion, by virtue of section 12 of the act of Congress entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861.

The bill having been read at length,

The SPEAKER said: Is there objection to the present consideration of this bill?

Mr. KILGORE. I call for the regular order.

Mr. REILLY. I hope the gentleman will allow this bill to pass. It is a unanimous report, and there has been a favorable report on several previous occasions.

Mr. KILGORE. I can not withdraw the objection.

Mr. REILLY. Is this the highest duty the gentleman can perform here—to make objection to meritorious bills? It is a very captious objection, I think.

ORDER OF BUSINESS.

The SPEAKER. The regular order being called for, the morning hour begins at eight minutes past 11 o'clock. The call rests with the Committee on Commerce.

Mr. BAKER. I yield to the gentleman from Georgia [Mr. TURNER].

BRIDGE ACROSS OCONEE RIVER, GEORGIA.

Mr. TURNER, of Georgia. I call up the bill (H. R. 5729) to authorize the construction of a bridge across the Oconee River in the State of Georgia.

The bill was read, as follows:

Be it enacted, etc., That the assent of Congress is hereby given to the Wrightsville and Tennville Railroad Company, an organization incorporated under the laws of the State of Georgia, its successors and assigns, and such other person or persons as may be associated with it to construct and maintain a bridge over the Oconee River, in the State of Georgia.

SEC. 2. That said bridge shall be built and located under and subject to such regulations for the security of navigation of said river as the Secretary of War shall prescribe; and to secure that object said company or corporation shall submit to the Secretary of War a design and drawings of said bridge, for his examination and approval, and a map of its location, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject, and in all things shall be subject to such rules and regulations as may be prescribed by the Secretary of War; and until said plan and location of said bridge are approved by the Secretary of War said bridge shall not be commenced or built; and, should any change be made in the plan of said bridge during the progress of the work of construction, such change shall be subject to the approval of the Secretary of War.

SEC. 3. That any bridge built under this act and subject to its limitations shall be a lawful structure, and shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States, or passengers or freight passing over said bridge, than the rate per mile paid for the transportation over the railroads or public highways leading to said bridge; and they shall enjoy the rights and privileges of other post-roads of the United States. And equal privileges in the use of said bridge shall be granted to all telegraph companies, and the United States shall have the right of way across said bridge and its approaches for said postal telegraph purposes.

SEC. 4. That the right to alter, amend, or repeal this act is hereby expressly reserved; and the right to require any changes in said structure, or its removal, at the expense of the owners thereof, whenever the Secretary of War shall decide that the public interest requires it, is also expressly reserved.

SEC. 5. That this act shall be null and void if actual construction of the bridge herein authorized be not commenced within one year and completed within three years from the date thereof.

Mr. TURNER, of Georgia. Mr. Speaker, before the reading of the amendment reported by the committee I ask unanimous consent to make a verbal correction in the fourth line of section 1. The name "Tennville" should be "Tennille."

The SPEAKER. Without objection, that correction will be made.

There was no objection.

The amendment reported by the Committee on Commerce was read, as follows:

Strike out all of section 2 and insert in lieu thereof the following:

"SEC. 2. That the bridge shall be so constructed by draw-span or otherwise that a free and unobstructed passage may be secured to all vessels and other water craft navigating said river. That any bridge constructed under this act shall be built and located under and subject to such regulations for the security of navigation of said river as the Secretary of War shall prescribe; and to secure that object the said company shall submit to the Secretary of War, for his examination and approval, the design and drawings of the bridge, piers, and approaches, and a map of the location, giving, for the space of at least 1 mile above and 1 mile below the proposed location, the topography of the banks of the river, the shore-lines at high and low water, and the direction and strength of the currents at all stages, and the soundings, accurately showing the bed of the stream, and the location of other bridge or bridges, wharves, landings, or ferries, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject; and until said plan and location of the bridge are approved by the Secretary of War the bridge shall not be built,

and after such approval by the Secretary of War the approved plans and designs for the bridge shall not be deviated from or added to, either during the construction or after the completion of the bridge, until the proposed change shall have been submitted to the Secretary of War and received his approval; and the said bridge shall be at all times so kept and managed as to offer reasonable and proper means for the passage of vessels through or under said bridge; and if said bridge be built with a draw said draw shall be opened promptly upon reasonable signal for the passage of boats, and the said company or corporation shall maintain at its own expense, from sunset until sunrise, such lights or other signals on said bridge as the Light-House Board shall prescribe; and, if at any time the navigation of said river shall in any manner be obstructed or impaired by the bridge authorized by this act to be constructed, the Secretary of War shall have authority, and it shall be his duty, to require said company to alter and change the said bridge, at its own expense, in such manner as may be proper to secure free and complete navigation without impediment; and if, upon reasonable notice to said company to make such change or improvements, the said company fails to do so, the Secretary of War shall have authority to make the same, and all the rights conferred by this act shall be forfeited, and Congress shall have power to do any and all things necessary to secure the free navigation of the river: *Provided, also*, That nothing in this act shall be so construed as to repeal or modify any of the provisions of law now existing in reference to the protection of the navigation of rivers or to exempt this bridge from the operations of the same."

The amendment was agreed to.

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

Mr. TURNER, of Georgia, 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.

BRIDGE ACROSS MISSOURI RIVER AT FOREST CITY, S. DAK.

Mr. BAKER. On behalf of the Committee on Commerce I call up the bill (H. R. 7164) to amend and continue in force "An act to authorize the construction of a bridge across the Missouri River at Forest City, Dak., by the Forest City and Watertown Railway Company," approved August 6, 1888.

The bill was read, as follows:

Be it enacted, etc., That the time for the commencement and completion of the bridge authorized by the act of Congress entitled "An act to authorize the construction of a bridge across the Missouri River at Forest City, Dak., by the Forest City and Watertown Railway Company," approved August 6, 1888, as provided for in section 7 thereof, be, and it is hereby, extended two years from the date of the passage of this act.

SEC. 2. That wherever in said act the term "Territory of Dakota" is used it shall be held to mean and shall read "State of South Dakota."

The amendment reported by the committee was read, as follows:

Amend by adding the following as a new section:

SEC. 3. That so much of said act as authorizes the said bridge to be built as a draw-bridge be, and the same is hereby, repealed, and any bridge constructed under the authority granted by said act shall be built as a high bridge.

The amendment was agreed to.

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

Mr. BAKER 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.

FREE BRIDGE ACROSS ARKANSAS RIVER.

Mr. BAKER. I yield to the gentleman from Missouri [Mr. WALKER].

Mr. WALKER, of Missouri. By direction of the Committee on Commerce I call up the bill (S. 2026) authorizing the construction of a free bridge across the Arkansas River, connecting Little Rock and Argenta, Ark.

The bill was read, as follows:

Be it enacted, etc., That it shall be lawful for the county of Pulaski, State of Arkansas, to build a free foot, wagon, and street-railway bridge across the Arkansas River, at the city of Little Rock, in Arkansas; and in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said river by reason of the construction of said bridge the cause may be tried before the district court of the United States having jurisdiction over that portion of the State of Arkansas where said bridge shall be located.

SEC. 2. That if any bridge built under the provisions of this act shall be constructed as a draw-bridge the same shall be constructed as a pivot draw-bridge, with a draw over the main channel of the river, at an accessible and navigable point, and with the spans of not less than 160 feet in length in the clear, on each side of the central or pivot pier of the draw; and the next adjoining spans to the draw shall not be less than 250 feet; and said span shall not be less than 20 feet above high-water mark, measuring to the bottom cord of the bridge: *And provided, also*, That said draw shall be opened promptly upon reasonable signal for the passage of boats whose construction shall not be such as to admit of their passage under the permanent spans of said bridge; and the bridge-piers shall be parallel to the current of the river.

SEC. 3. That any bridge constructed under this act and according to its limitations shall be a lawful structure and shall be recognized and known as a post-route, upon which no charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States.

SEC. 4. That the United States shall have the right of way for postal telegraph purposes across said bridge. And all telegraph and telephone companies shall have equal rights and privileges as to constructing their lines across said bridge.

SEC. 5. That the said county of Pulaski shall submit to the Secretary of War, for his approval, a plan with the necessary drawings of the said bridge conforming to the above requirements, and until the Secretary of War approve the plan and location of said bridge and notify the county court of the said county of the same in writing, the bridge shall not be built or commenced; and should any change be made in the plan of the bridge during the progress of the work thereon, such change shall be subject likewise to the approval of the Secretary of War.

SEC. 6. That this act shall be null and void if actual construction of the bridge herein authorized be not commenced within one year and completed within three years from the approval of this act.

SEC. 7. That Congress shall have power at any time to alter, amend, or repeal this act, or any part thereof, if, in its judgment, the public interests so require, and any change in the construction of the bridge hereby authorized made necessary by the action of Congress, or the entire removal of the same, if required, shall be at the expense of the owners of said bridge or the parties controlling and using the same.

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

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

The latter motion was agreed to.

Mr. BAKER. I now yield to the gentleman from Georgia [Mr. TURNER].

BRAZOS TERMINAL RAILWAY COMPANY.

Mr. TURNER, of Georgia, on behalf of the Committee on Commerce, I call up the bill (S. 1873) authorizing the Brazos Terminal Railway Company to construct a bridge across the Brazos River, in the State of Texas.

The bill was read, as follows:

Be it enacted, etc., That the assent of Congress is hereby given to the Brazos Terminal Railway Company, a corporation incorporated and organized under the laws of the State of Texas, and to its successors and assigns, to construct and maintain a bridge and approaches thereto across the Brazos River, in the State of Texas, between its mouth and a point 12 miles up said river. Said bridge shall be so constructed as to provide for the passage of railway trains, and, at the option of said corporation, may be used for the passage of wagons and vehicles of all kinds, for the transit of animals, and for foot-passengers, for reasonable rates of toll, to be fixed by said company and approved by the Secretary of War.

SEC. 2. That any bridge built under this act shall be constructed as a pivot draw-bridge, with a draw over the main channel at an accessible and the best navigable point, and with spans giving a clear water way, measured at the lowest stage of water known at the locality, of such width and height as the Secretary of War may, upon examination, prescribe; and the lowest part of the superstructure of the bridge shall be of such elevation above the plane of the highest flood known at the locality as the Secretary of War may deem advisable; and the piers of said bridge shall be parallel to and the bridge shall be at right angles to the current of the river: *Provided*, That the draw shall be opened promptly upon reasonable signal for the passage of boats and other water craft, except when trains are passing over the draw; but in no case shall unnecessary delay occur in opening the draw during or after the passage of trains; and said corporation shall maintain, at its own expense, from sunset to sunrise, such lights and other signals on said bridge as the Light-House Board shall prescribe, and said corporation shall provide, at its own expense, such sheer-booms, guide-piers, and other devices as may be necessary to facilitate the safe passage of boats or other water craft through the spans of such bridge. The said bridge shall be located and built under and subject to such regulations for the security of the navigation of said river as the Secretary of War shall prescribe; and to secure that object the said company shall submit to the Secretary of War, for his examination and approval, a design and drawings of said bridge and a map of the location, giving for the space of 1 mile below and 1 mile above the proposed location the topography of the banks of the river, the shore-lines at high and low water, the direction and strength of the current at all stages, and the soundings, accurately showing the bed and channel of the stream, and shall furnish such other information as shall be required for a full and satisfactory understanding of the subject; and until the said location and plans of the bridge hereby authorized to be constructed are approved by the Secretary of War, the said bridge shall not be built; and should any change be made in the plan of such bridge during the progress of construction thereof, such change shall be subject to the approval of the Secretary of War; and in case of any litigation arising from the obstruction or alleged obstruction caused by said bridge to the free navigation of said river, the cause may be tried before the circuit court of the United States in whose jurisdiction any portion of the bridge is located.

SEC. 3. That the bridge authorized to be constructed under this act shall be a lawful structure, and shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transmission over the same of the mails, troops, and the munitions of war of the United States, or for through railway passengers or freight passing over said bridge, than the rate per mile for their transmission over the railroads leading to said bridge; and equal privileges in the use of said bridge shall be granted to all telegraph companies; and the United States shall have the right of way across said bridge and its approaches for postal-telegraph purposes.

SEC. 4. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains or cars over the same, and over the approaches thereto, upon payment of a reasonable compensation for such use; and in case the owner or owners of said bridge and the several railroad companies, or any of them, desiring such use, shall fail to agree upon the sum or sums to be paid and upon rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War upon a hearing of the allegations and proofs of the parties.

SEC. 5. That the right to alter, amend, or repeal this act, when ever Congress shall consider it necessary to the public interest, is hereby expressly reserved; and any alterations or changes that may be required by Congress in the bridge constructed under this act, or the entire removal of said bridge, if required by Congress, shall be made by the corporation owning or controlling the same at its own expense; and if said bridge shall not be commenced within one year and be finished within three years from the passage of this act the rights and privileges hereby granted as to such bridge shall be null and void.

Mr. CRAIN. Mr. Speaker, I desire to offer an amendment which I send to the desk.

The amendment was read, as follows:

In section 3, line 6, strike out the words "or for through railway passengers or freight."

Mr. TURNER, of Georgia. How would the section read with that amendment?

The SPEAKER. The Clerk will read the provision as it would stand amended.

The Clerk read as follows:

That the bridge authorized to be constructed under this act shall be a lawful structure, and shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transmission over the same of the mails, troops, and the munitions of war of the United States passing over said bridge than the rate per mile for their transmission over the railroads leading to said bridge.

Mr. SWENEY. Mr. Speaker, I do not believe that amendment ought to be adopted. It changes the bill from the usual form of bills of this character. The word "through" as incorporated in the bill is different from that sometimes employed in these bills, but it is not usual to permit without restriction the imposition of charges for the passage of freight and passenger over a railroad-bridge.

Mr. CRAIN. The bill authorizes a terminal railway company to construct the bridge. It will not be more than 600 feet long, and to limit the charge on through passengers and freight to the rates that are collected on the road on land will not pay. This is not a bridge such as are provided for in the bills to which the gentleman refers, but it is intended as a terminal railway bridge. There will be a town near the mouth of the Brazos River, or as soon as deep water is obtained there.

Mr. SWENEY. Is it not a part of a line of railroad?

Mr. CRAIN. No, sir; there is no railroad there. There is not a house where this bridge is intended to be built. A private corporation is endeavoring to procure deep water at the mouth of the Brazos. If that attempt is successful the corporation contemplates establishing a town somewhere on the river, and this bill is intended to enable them to cross the river with a bridge if they see proper to do so.

Mr. SWENEY. With a railroad?

Mr. CRAIN. There may or may not be a railroad. There is nothing of that kind provided for in the act establishing the corporation.

Mr. SWENEY. If a railroad is to cross the bridge then I think the bill ought to conform to the provisions usually contained in bills passed for such cases, requiring that no higher rate shall be charged over the bridge than over other parts of the railroad line.

Mr. CRAIN. Well, I have stated the reasons why I think these words should be stricken out.

The amendment was agreed to.

The bill as amended was ordered to a third reading; and it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

Mr. BAKER. I now yield to the gentleman from Iowa [Mr. SWENEY].

BRIDGE ACROSS THE MISSOURI.

Mr. SWENEY. On behalf of the Committee on Commerce I call up the bill (S. 1738) to authorize the construction of a railroad bridge across the Missouri in the county of Monona, in the State of Iowa, and the county of Burt, in the State of Nebraska.

The bill was read, as follows:

Be it enacted, etc., That the Iowa and Decatur Bridge Company, a corporation organized under the laws of the State of Iowa, its successors and assigns, be and they are hereby, authorized to construct and maintain a railroad bridge over the Missouri River from and through section numbered 7, in township numbered 83 north of range 46 west of the principal meridian, in the county of Monona, State of Iowa, and in and through the county of Burt, in the State of Nebraska.

SEC. 2. That any bridge built under the provisions of this act shall be built as a high bridge, with unbroken and continuous spans, all spans over the waterway to have a clear channel way of not less than 300 feet and a clear head room of not less than 50 feet above high-water mark; and the piers of said bridge shall be parallel with the current of the river, and the bridge itself at right angles thereto: *Provided*, That if actual construction of the bridge herein authorized shall not be commenced within two years from the passage of this act, and be completed within four years from the same date, the rights and privileges herein granted shall cease and be determined.

SEC. 3. That any bridge constructed under this act and according to its limitations shall be a lawful structure, and shall be known as a post-route, and the same is hereby declared to be a post-route, upon which no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war oft he United States and for passengers or freight passing over said bridge than the rate per mile paid for their transportation over the railroads and public highways leading to said bridge; and equal privileges in the use of said bridge shall be granted to all telephone and telegraph companies, and the United States shall have the right of way for postal-telegraph purposes across said bridge.

SEC. 4. That all railway companies desiring to use said bridge shall have and be entitled to equal rights and privileges in the passage of the same, and in the use of the machinery and fixtures thereof, and of all the approaches thereto under and upon such terms and conditions as shall be prescribed by the Secretary of War, upon hearing the allegations and proofs of the parties, in case they shall not agree.

SEC. 5. That the structure herein authorized shall be built and located under and subject to such regulations for the security of the navigation of said river as the Secretary of War shall prescribe; and to secure that object the said company or corporation shall submit to the Secretary of War for his examination and approval a design and drawing of the bridge and a map of the location, giving, for the space of 1 mile above and 1 mile below the proposed location, the topography of the banks of the river, the shore-line at high and low water, the direction and strength of the current at all stages, and the soundings, accurately showing the bed of the stream, the location of any other bridge or bridges, and shall furnish such other information as shall be required for a full and satisfactory understanding of the subject; and, until the said plan and location of the bridge are approved by the Secretary of War, the bridge shall not be commenced or built; and, should any change be made in the plan of said bridge during the progress of construction, such change shall be subject to the approval of the Secretary of War; and the said bridge shall be constructed with such aids to the passage of said bridge, in the form of booms, dikes, piers, or other suitable and proper structures for confining the flow of water to a permanent and easily navigated channel for a distance of not less than 1 mile above the bridge location, and for the guiding of rafts, steam-boats, and other crafts safely through the draw and raft spars as the Secretary of War shall prescribe and order to be constructed and maintained, at the expense of the company owning said bridge; and the said structure shall be at all times so kept and managed as to offer reasonable and proper means for the passage of vessels through or under said structure; and for the safety of vessels passing at night there shall be displayed on said bridge, from the hours of sunset to sunrise, such lights as may be prescribed by the Light-House Board; and the said structure shall be changed or removed at the cost and expense of the owners thereof as the Secretary of War may direct, so as to preserve the free and convenient navigation of said river; and the authority to erect and continue said bridge shall be subject to revocation and modification by law, when the public good shall, in the judgment of the Secretary of War, so require, without any expense or charge to the United States.

SEC. 6. That said company or its successors may construct and maintain defensive and corrective works in or along said river above and below said bridge, for the protection of the same, and the approach thereto, or the improvement, correction, or control of the channel of said river.

SEC. 7. That in case the western end of said bridge shall abut upon the Omaha Indian reservation in the State of Nebraska the right to construct the same thereon and the approaches thereto, together with all structures proper for the construction, maintenance, and operation of said bridge is hereby granted and confirmed: *Provided*, That compensation therefor shall first be made to the Indians holding in severalty or by allotment the lands upon or over which said approaches, tracks, or structures are erected, built, and maintained, to their satisfaction, or to the satisfaction of the Secretary of the Interior, or by proceedings for condemnation in the usual manner under the laws of the State of Nebraska.

SEC. 8. That the right to alter, amend, or repeal this act is expressly reserved.

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

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

The latter motion was agreed to.

Mr. BAKER. I now yield to the gentleman from Missouri [Mr. WALKER], who desires to call up three bills.

RAILROAD BRIDGE ACROSS THE TENNESSEE AND CUMBERLAND RIVERS.

Mr. WALKER, of Missouri. On behalf of the Committee on Commerce, I call up the bill (H. R. 380) to amend an act entitled "An act to authorize the Cairo and Tennessee River Railroad Company to construct bridges across the Tennessee and Cumberland Rivers," approved January 8, 1889.

The Clerk proceeded to read the bill.

Mr. BAKER. I ask unanimous consent that the reading of these bills be dispensed with. They are in the usual form in all respects, and the reading consumes time unnecessarily.

The SPEAKER. The gentleman from New York [Mr. BAKER] asks unanimous consent that the reading of these bills be dispensed with. Is there objection?

Mr. HOLMAN. Mr. Speaker, I think all bills ought to be read at least once.

The bill was read, as follows:

Be it enacted, etc., That an act of Congress approved January 8, 1889, entitled "An act to authorize the Cairo and Tennessee River Railroad Company to construct bridges across the Tennessee and Cumberland Rivers," be, and the same is hereby, amended by striking out the words "below Aurora," in section 1, and inserting in lieu thereof "from Birmingham, in Marshall County, Kentucky, to the;" and in section 4, line 3, after the word "such" insert "reasonable;" and in line 16, section 4, after the words "Secretary of War" insert "or conform to the existing laws of Congress concerning the building of such bridges across navigable streams;" and in section 6, line 3, strike out "two" and "three" and insert in lieu thereof "three" and "four."

The committee recommended an amendment in line 16, striking out "four" and inserting "five."

The amendment was agreed to.

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

BRIDGE ACROSS THE ARKANSAS AT OR NEAR PENDLETON, ARK.

Mr. WALKER, of Missouri, also, on behalf of the Committee on Commerce, called up the bill (S. 2323) to authorize the construction of a bridge across the Arkansas River at or near Pendleton, Desha County, Arkansas.

The bill was read, as follows:

Be it enacted, etc., That it shall be lawful for the Arkansas and Gulf Railroad Company, a corporation organized, chartered, and duly perfected under and in full accordance with the statutes of the State of Arkansas, or its successors or assigns, to construct and maintain a bridge and approaches thereto over the Arkansas River, at a point on said river at or near Pendleton, Desha County, in the State of Arkansas, and to lay on and over said bridge a railroad track or tracks, for the more perfect connection of any railroad or railroads that are or shall hereafter be constructed to the said river, on either or both sides thereof, at or opposite said point, under the limitations and conditions hereinafter provided; said bridge shall be constructed to provide for the passage of railway trains, and, at the option of the builders and owners thereof, may be used for the passage of wagons and vehicles of all kinds, for the transit of animals of all kinds, and for foot-passengers for such reasonable rates of toll as may be approved, from time to time, by the Secretary of War.

SEC. 2. That any bridge built under this act and subject to its limitations shall be a lawful structure, and shall be recognized and known as a post-route, upon which also no higher charge shall be made for the transmission over the same of the mails, troops, and the munitions of war, or other property of the United States than the rate per mile paid for the transportation of the same over the railroad or public highways leading to the said bridge, and it shall enjoy the rights and privileges of other post-roads in the United States. Equal privileges in the use of said bridge shall be granted to all telegraph companies; and the United States shall have the right of way across said bridge and its approaches for postal-telegraph purposes.

SEC. 3. That the said bridge shall be constructed with a draw or pivot span, which shall be over the main channel of the river at an accessible navigable point, and the openings on each side of the pivot-pier shall be of such width as the Secretary of War shall prescribe, and, as nearly as practicable, both of said openings shall be accessible at all stages of water; that the spans shall be of such height above extreme high-water mark, as understood at the point of location, to the lowest point of the superstructure of said bridge as may be directed by the Secretary of War in the interests of navigation; that the piers and draw-

rests of said bridge shall be built parallel with the current at that stage of the river which is most important for navigation, and the bridge itself at right angles thereto; and that no riprap or other outside protection for imperfect foundations be permitted to approach nearer than 4 feet to the surface of the water at its extreme low stage or otherwise to encroach upon the channel-ways provided for in this act: *Provided*, That said draw shall be opened by the company or persons owning said bridge upon reasonable signal for the passage of boats; and there shall be maintained, at the expense of the owners thereof, from sunset to sunrise, such lights or other signals on said bridge as the Light-House Board shall prescribe.

SEC. 4. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains over the same, and over the approaches to the same, upon payment of a reasonable compensation for such use; and in case the owner or owners of said bridge and the several railroad companies, or any of them, desiring such use shall fail to agree upon the sum or sums to be paid, and upon rules and conditions which each shall perform in using said bridge, all matters at issue between them shall be decided by the Secretary of War upon hearing of the allegations of proofs of the parties.

SEC. 5. That any bridge authorized to be constructed under this act shall be built and located under and subject to the regulations for the security of said river as the Secretary of War shall prescribe; and to secure that object the owner or owners thereof shall submit to the Secretary of War, for his examination and approval, a design and drawings of the bridge and a map of the location, giving, for the space of 1 mile above and 1 mile below the proposed location, the topography of the banks of the river, the shore-line at high or low water, the direction and strength of the current at all stages, and the soundings, accurately showing the bed of the stream, the location of any other bridge or bridges, and shall furnish such other information as may be required for the full and satisfactory understanding of the subject; and until such plan and location of the bridge are approved by the Secretary of War the bridge shall not be commenced or built, and, should any change be made in the plan of said bridge during the progress of construction, such change shall be subject to the approval of the Secretary of War.

SEC. 6. That the right to alter, amend, or repeal this act is hereby expressly reserved, and the right to require any changes in said structure, or its entire removal, at the expense of the owners thereof, whenever the Secretary of War shall decide that the public interest requires it, is also expressly reserved.

SEC. 7. That this act shall be null and void if actual construction of the bridge herein authorized be not commenced within two years and completed within five years from the date thereof.

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

BRIDGE ACROSS WHITE RIVER, ARKANSAS.

Mr. WALKER, of Missouri, also, on behalf of the Committee on Commerce, called up the bill (S. 2324) to authorize the building of a bridge across White River, Arkansas, by the Mississippi and Little Rock Railway Company.

The bill was read, as follows:

Be it enacted, etc., That it shall be lawful for the Mississippi and Little Rock Railway Company, a corporation created and existing under and by virtue of the laws of the State of Arkansas, its successors and assigns, to erect, construct, and maintain a bridge over the White River in sections 16 and 21, in township 1 south, range 3 west. Said bridge shall be constructed to provide for the passage of the railway trains, and, at the option of the corporation, or its assigns, by which it may be built, may be used for the passage of wagons and vehicles of all kinds, for the transit of animals, foot-passengers, and of all kinds of commerce, travel, or communication.

SEC. 2. That any bridge built under the act and subject to its limitations shall be a lawful structure, and shall be recognized and known as a post-route, upon which also no other charges shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States or for passengers or freight passing over said bridge than the rate per mile paid for the transportation over the railroad or public highways leading to said bridge, and it shall enjoy the rights and privileges of other post-roads in the United States; and equal privileges in the use of said bridge shall be granted to all telegraph companies; and the United States shall have the right of way across said bridge and its approaches for postal-telegraph purposes.

SEC. 3. That said bridge may be constructed as a draw-bridge, with an opening over the center of the channel of such width as the Secretary of War shall determine, and which shall be at least 120 feet in the clear: *Provided, also*, That said draw shall be opened promptly upon reasonable signal for the passage of boats, vessels, or other water craft, and in no case shall unnecessary delay occur; and said company or corporation shall maintain, at its own expense, from sunset to sunrise, such lights or other signals on said bridge as the Light-House Board shall prescribe, and such sheer-booms or other structures as may be necessary to safely guide vessels, boats, rafts, or other water craft safely through said draw openings as shall be designated and required by the Secretary of War.

SEC. 4. That said bridge shall be built and located under and subject to such regulations for the security of navigation of said river as the Secretary of War shall prescribe, and to secure that object the said company or corporation shall submit to the Secretary of War, for his examination and approval, a design and drawings of the bridge and a map of the location, giving, for the space of 1 mile above and 1 mile below the proposed location, the topography of the banks of the river, the shore-lines at high and low water, the direction and strength of the current at all stages, and the sounding, accurately showing the bed of the stream, and shall furnish such other information as may be required for a full and satisfactory understanding of the subject; and until the said plan and location are approved by the Secretary of War the bridge shall not be built, and, should any changes be made in the plan of said bridge during the progress of construction, such change shall be submitted to the approval of the Secretary of War.

SEC. 5. That all railroad companies desiring the use of said bridge shall have and be entitled to equal rights and privileges relative to the passage of railway trains, engines, or cars over the same, and over the approaches thereto, upon payment of a reasonable compensation for such use, and in case the owner or owners of said bridge, and the several railroad companies, or any one of them, desiring such use, fail to agree upon the sum or sums to be paid, and upon rules and conditions to which each shall conform in using said bridge, all matters at issue between them shall be decided by the Secretary of War, upon a hearing of the allegations and proofs of the parties: *Provided*, That the provisions of section 2, in regard to charges for passengers and freight across said bridge, shall not govern the Secretary of War in determining any question arising as to the sum or sums to be paid to the owners of said bridge by such railroad companies for the use of said bridge.

SEC. 6. That the right to alter, amend, or repeal this act or to require any changes in such structure, or its entire removal at the expense of the owners thereof, whenever the Secretary of War shall decide that the public interest requires it, and the right to prescribe such rules and regulations in regard to toll and otherwise as may be deemed reasonable, are expressly reserved.

SEC. 7. That this act shall be null and void if actual construction of the bridge herein authorized be not commenced within two years and completed within five years from the date hereof.

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

Mr. WALKER, of Missouri, moved to reconsider the several votes by which the three bills called up by him were passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WRECKED OR DISABLED VESSELS.

Mr. BAKER. I now yield to my colleague on the committee, the gentleman from Illinois [Mr. MASON].

Mr. MASON. Mr. Speaker, I call up for present consideration the bill (H. R. 7985) to amend an act entitled "An act to aid vessels wrecked or disabled in the waters conterminous to the United States and the Dominion of Canada," approved June 19, 1878.

The bill is as follows:

Be it enacted, etc., That an act entitled "An act to aid vessels wrecked or disabled in the waters conterminous to the United States and the Dominion of Canada," approved June 19, 1878, be, and the same is hereby, amended so that the same will read as follows:

"That Canadian vessels and wrecking appurtenances may render aid and assistance to Canadian or other vessels and property wrecked, disabled, or in distress in the waters of the United States contiguous to the Dominion of Canada: *Provided*, That this act shall not take effect until proclamation by the President of the United States that the privilege of aiding American or other vessels and property wrecked, disabled, or in distress in Canadian waters contiguous to the United States has been extended by the Government of the Dominion of Canada to American vessels and wrecking appliances of all descriptions. This act shall be construed to apply to the Welland Canal, the canal and improvement of the waters between Lake Erie and Lake Huron, and to the waters of the St. Mary's River and Canal: *And provided further*, That this act shall cease to be in force from and after the date of the proclamation of the President of the United States to the effect that said reciprocal privilege has been withdrawn, revoked, or rendered inoperative by the said Government of the Dominion of Canada."

Mr. ADAMS. I desire to ask my colleague what the present state of the law is in respect to aid afforded to American vessels by Canadian wrecking tugs, and, on the Canadian side of the water, with respect to Canadian vessels by American wrecking tugs.

Mr. MASON. Under the present law neither the Canadian nor the American wrecking tugs can assist vessels of the other nationality.

Mr. ADAMS. They can not operate at all?

Mr. MASON. We can not operate on Canadian vessels in our waters, if they are in distress, nor can Canadian wrecking boats operate on American vessels in distress in Canadian waters.

The present bill provides that we may now assist them, provided the Canadian Government passes a similar legislative act to this; and the law now proposed goes into force and effect upon a proclamation by the President after a similar bill shall have been passed by the Canadian Parliament.

Mr. ADAMS. I noticed that, but I notice also that there is a restrictive provision in the act as to aid to Canadian vessels——

Mr. STOCKBRIDGE. If the gentleman will permit an interruption, I think I can explain this matter. A bill similar to this is pending and is about to become a law in the Canadian Parliament, and the object of the present bill is to make this reciprocal, for the mutual extending of aid to disabled vessels of either nationality.

Mr. ADAMS. But if this passes and the Canadian legislature passes a similar act, still it would be unlawful for Canadian tugs to help American vessels or for American tugs to help Canadian vessels under these circumstances.

Mr. STOCKBRIDGE. After the proclamation of the President has been issued, however, this becomes a mutual arrangement——

Mr. ADAMS. But the gentleman does not understand my point. Suppose that the President's proclamation shall issue, announcing that proper legislation has been had under the purview of this bill by the Canadian Parliament, then the bill becomes effective; but, after that, still it would be unlawful for a Canadian tug to help an American vessel or for an American tug to help a Canadian vessel in distress.

Mr. MASON. Oh, I should say not.

Mr. ADAMS. It so appears from the bill.

Mr. MASON. That is not the understanding of the committee nor of the author of the bill. The gentleman from Michigan, who introduced the bill, is in his seat.

Mr. BAKER. Let us have a vote and not consume any more time, as we are limited to-day. [Cries of "Vote!" "Vote!"]

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

Mr. MASON 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.

BRIDGE ACROSS THE HUDSON RIVER, N. Y.

Mr. BAKER. I now call up for consideration the bill (H. R. 3886) to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road.

The bill is as follows:

Be it enacted, etc., That authorization is hereby given to Jordan L. Mott, John King McLanahan, James Andrews, Thomas F. Ryan, Garrett A. Hobart, W. A. Roebling, Charles J. Canda, Edward F. C. Young, Henry Flad, Gustav Lindenthal, John H. Miller, Samuel Rea, William F. Shunk, Philip E. Chapin, and their associates, as a corporation as hereinafter provided, to locate, build, maintain, equip, and operate a bridge, proper approaches thereto and terminals, appurtenances, and works connected therewith, across the Hudson River in and between the city of New York, in the State of New York, and the State of New Jersey, and to lay tracks thereon for the connection of the railroads on either side of said river, in order to facilitate interstate commerce in the transportation of persons and property, and for postal, military, and other purposes: *Provided*, That said bridge shall have not less than six railroad tracks and shall be constructed with a single span over the entire river between the established pier lines in either State, and at an elevation above the river to be determined by the Secretary of War as hereinafter provided, and that no pier or other obstruction to navigation shall be constructed in the river between said pier lines, and that the bridge shall be completed within seven years after the passage of this act; but no time, if any, unavoidably consumed by the pendency of legal proceedings shall be deemed a part of any period of time limited in this act.

SEC. 2. That the plans for said bridge shall be approved by the Secretary of War, and the structure shall be built subject to such regulation for the security of navigation as he may prescribe. Before the construction of said bridge shall be begun, a design and plan thereof must be submitted to the Secretary of War with a map of its location, showing, for the distance of one-half mile above and below, the existing bulkhead, pier, and shore lines, and any existing piers, docks, and basins, and also a profile of the bottom of the river on the center line of said bridge, with such other information as the Secretary of War may require for a full and satisfactory understanding of the subject; and before he approve the plans for said bridge the Secretary of War may order such changes in the same relative to the clear height of the superstructure above ordinary high water as may be necessary or reasonable for the security of navigation on said river; and any subsequent changes in the plans shall be subject likewise to the approval of the Secretary of War.

SEC. 3. That the bridge, with its approaches and railroad thereover, constructed under the provisions of this act shall be a lawful structure and a military and post road, but no toll charges shall be made for the transmission over the same of the mails of the United States or for the right of way for United States postal-telegraph purposes.

SEC. 4. That, for the purpose of carrying into effect the objects stated in this act, the persons named in the first section hereof, and their associates, are hereby constituted and created a body corporate in law, to be known as the North River Bridge Company, and by that name, style, and title shall have perpetual succession; may sue and be sued, implead and be impleaded, complain and defend, in all courts of law and equity, of record, and otherwise; may make and have a common seal, and shall have and possess all the rights, powers, franchises, and privileges incident to or usually possessed by such companies. It may receive, purchase, and also acquire by lawful appropriation and condemnation upon making proper compensation therefor, to be ascertained according to the laws of the State within which the same is located, real and personal property and rights of property, and may mortgage, encumber, charge, pledge, grant, lease, sell, assign, and convey the same. And to aid in the construction of said bridge and approaches thereto, and railroad terminals, appurtenances, and works connected therewith, and to carry out the purposes of this act, the said North River Bridge Company is hereby authorized to issue its bonds and secure the same by mortgage on its property and rights of property of all kinds and descriptions, including its franchise to be a corporation. And, generally and specially for the fully carrying out of the purpose and intentions of this act, the said North River Bridge Company, and its successors, shall have and possess all such rights and powers to enter upon lands, and for the purchase, acquisition, condemnation, appropriation, occupation, possession, and use of real estate and other property, and for the location, construction, operation, and maintenance of said bridge, with its approaches, terminals, and appurtenances, as are possessed by railroad or bridge companies in the States of New York and New Jersey, respectively. That all persons, railroad and telegraph companies, respectively, desiring to use said bridge shall have and be entitled to equal rights and privileges in the passage over and the use of the same and the approaches thereto, for a reasonable compensation, to be approved by the Interstate Commerce Commission, as hereinafter determined, and to be paid to the North River Bridge Company, which is hereby duly empowered to collect the same. And sufficient trackage and terminal facilities shall be provided for all railroads desiring to use said bridge and appurtenances. In case any litigation arises out of the construction, use, or operation of said bridge or approaches thereto and railroad thereon, or for the condemnation or the appropriation of property in connection therewith under this act, the cause so arising may be heard and tried before the circuit court of the United States for the judicial district in which the bridge or one of the approaches is located. Applications for condemnation or appropriation of property shall be made in the circuit court of the United States for the district in which such property is situated, upon the petition of said company, and the hearing and trial of all other proceedings thereon shall conform as nearly as may be to the practice in the courts of the State in which such district is situated, in the case of condemnation or appropriation of property for railroads.

SEC. 5. That the Interstate Commerce Commission is hereby authorized to require the said North River Bridge Company, in addition to such reports as it may lawfully require of railroad companies, a statement, certified to by the president of said North River Bridge Company, of the actual cash expenditure for all property acquired and for the cost of construction of all structures and appurtenances, for equipment and for other proper and legitimate expenses incurred under this act; said statement shall be made on the completion of all the work and before the said North River Bridge Company shall collect tolls from the connecting railroad companies. The Interstate Commerce Commission shall be authorized to employ, at the expense of said North River Bridge Company, such expert accountants as it may appoint and direct to examine the accounts of said North River Bridge Company for the purpose of verifying the said actual cash expenditures under this act. And the said ascertained cash expenditures shall form the basis on which the Interstate Commerce Commission shall approve the toll charges to be paid by the connecting railroad companies to said North River Bridge Company for the use of said bridge, approaches, tracks, and terminals, in such manner that whenever the net revenue derived from said toll charges after paying all expenses for the proper and safe operation and maintenance of its property, and after paying all taxes, and after deducting 5 per cent. of the gross revenue for the sinking fund, to be applied to the liquidation of any indebtedness, shall exceed 10 per cent. on the above specified cash expenditure, the Interstate Commerce Commission may order a reduction of toll charges: *Provided*, That said reduction shall not be ordered oftener than once in three years.

SEC. 6. That the government and direction of said company shall be vested in a board of seven directors, who shall be stockholders of record, and who shall hold their office for one year, and until their successors are duly elected and qualified. The said directors, five of whom shall be a quorum, shall elect one of their number president; they shall also appoint a secretary and treasurer. The directors of said company shall have power to make such prudential by-laws as they shall deem proper for the management and disposition of the stock, property, and business affairs of said company, not contrary to the laws of the United States, and prescribing the duties of officers, artificers, and servants that may be employed, for filling vacancies, and for carrying on all business within the objects and purposes of said company. There shall be an annual meeting of the stockholders for choice of directors, to be held at such time and place, under such conditions, and upon such notice as the by-laws may prescribe; and such directors shall annually make a report of their doings and of the business of the company to the stockholders, a copy of which, sworn to and signed by the president of the company, shall be transmitted to the Interstate Commerce Commission. Failure to elect directors on the day fixed by said by-laws shall not be deemed to dissolve said company, but such election may be held on any day appointed thereafter by the directors, first giving thirty days' notice thereof in manner provided in said by-laws. The capital stock of said company shall consist of not less than 10,000 shares of $100 each, which shall in all respects be deemed personal property, and shall be transferable in such manner as the by-laws of said company shall provide; but no share shall be transferable until all calls thereon shall have been fully paid in, and it shall not be lawful for said company to use any of its funds in the purchase of any stock in its own or any other corporation. The amount of such capital stock may be increased upon the vote of two-thirds of such stock of said company at any time outstanding.

SEC. 7. That the said North River Bridge Company shall maintain on the bridge, at its own expense, from sunset to sunrise, such lights or signals as the United States Light-House Board shall prescribe.

SEC. 8. That nothing in this act shall be held or construed to in any manner involve the United States Government in any pecuniary obligations whatever, other than the payment of tolls over said bridge and approaches for troops and munitions of war, for which no higher charge per mile shall be made than the rate paid to railroads connecting with said bridge; but Congress hereby reserves the right to alter, amend, or repeal this act as the contingencies of commerce or the public good may require, and said company shall further be subject to the provisions of the interstate-commerce laws and any amendments and supplements thereof.

The committee recommend the adoption of the following amendment in the nature of a substitute:

That authorization is hereby given to Jordan L. Mott, John King McLanahan, James Andrews, Thomas F. Ryan, Garrett A. Hobart, F. W. Roebling, Charles J. Canda, Edward F. C. Young, Henry Flad, Gustav Lindenthal, A. G. Dickinson, John H. Miller, William Brookfield, Samuel Rea, William F. Shunk, Philip E. Chapin, and their associates, as a corporation as hereinafter provided, to locate, build, maintain, equip, and operate a bridge, proper approaches thereto, and terminals, appurtenances, and works connected therewith, across the Hudson River in and between the city of New York, in the State of New York and the State of New Jersey, and to lay tracks thereon for the connection of the railroads on either side of said river, in order to facilitate interstate commerce in the transportation of persons and property, and for vehicle, pedestrian, postal, military, and other purposes: *Provided*, That said bridge shall have not less than six railroad tracks, with a capacity for four additional tracks for future enlargement, and shall be constructed with a single span over the entire river between the towers, located between the shore and the established pier-head lines in either State, and at an elevation above the river not less than that of the existing Brooklyn suspension bridge over the East River, and which elevation may be increased by the Secretary of War as hereinafter provided, and that no pier or other obstruction to navigation, either of a temporary or permanent character, shall be constructed in the river between said towers.

SEC. 2. That the construction of said bridge shall be commenced within three years after the passage of this act, and shall be completed within ten years after the commencement of construction. But that the Secretary of War is hereby authorized to extend the time for the commencement of construction for two additional years upon cause shown by the company, and provided that the Secretary of War shall deem such cause sufficient and satisfactory; and that if the company fail to commence the construction of said bridge within the time so extended this act shall be null and void. And the company, at least three months previous to commencing the erection of said bridge, shall submit to the Secretary of War a plan of the bridge, with a detailed map of the river at the proposed site of the bridge, and for the distance of one-half of a mile above and below the site, with such other information as the Secretary of War may require for a full and satisfactory understanding of the subject. And the Secretary of War may, upon receiving said plans and map and other information, order a hearing before a board of engineers, appointed by him for taking testimony of persons interested in railroads and navigation, relative to the clear height of the superstructure above ordinary high water. Such clear height shall not be less than that named in section 1 of this act, and the Secretary of War may thereupon order such additional clear height as he shall deem necessary for the security of navigation. And he is hereby authorized and directed, upon being satisfied that a bridge built on such plan and at said locality will conform to the conditions of this act, to notify the said company that he approves the plans therefor; whereupon said company may proceed to the erection of said bridge. But until the Secretary of War approve the plan and location of said bridge the erection of the same shall not be commenced; and, should any change be made in the plan of the bridge during the progress of the work thereon, such change shall likewise be subject to the approval of the Secretary of War.

SEC. 3. That the bridge, with its approaches and railroad thereover, constructed under the provisions of this act, shall be a lawful structure, and a military and post road, but no toll charges shall be made for the transmission over the same of the mails of the United States or for the right of way for United States postal telegraph purposes.

SEC. 4. That for the purpose of carrying into effect the objects stated in this act the persons named in the first section hereof and their associates are hereby constituted and created a body corporate in law, to be known as the North River Bridge Company, and by that name, style, and title shall have perpetual succession; may sue and be sued, implead and be impleaded, complain and defend, in all courts of law and equity, of record and otherwise; may make and have a common seal, and shall have and possess all the rights, powers, franchises, and privileges incident to or usually possessed by such companies. It may receive, purchase, and also acquire by lawful appropriation and condemnation, upon making proper compensation therefor, to be ascertained according to the laws of the State within which the same is located, real and personal property and rights of property, and may mortgage, encumber, charge, pledge, grant, lease, sell, assign, and convey the same. And, to aid in the construction of said bridge and approaches thereto, and railroad terminals, appurtenances, and works connected therewith, and to carry out the purposes of this act, the said North River Bridge Company is hereby authorized to issue its bonds and secure the same by mortgage on its property and rights of property of all kinds and descriptions, and its franchise to be a corporation. And generally and specially, for the fully carrying out of the purposes and intentions of this act, the said North River Bridge Company and its successors shall have and possess all such rights and powers to enter upon lands, and for the purchase acquisition, condemnation, appropriation, occupation, possession, and use of real estate and other property, and for the location, construction, operation, and maintenance of said bridge, with its approaches, terminals, and appurtenances, as are possessed by railroad or bridge companies in the States of New York and New Jersey, respectively. That all persons, railroad and telegraph companies, re-

spectively, desiring to use said bridge shall have and be entitled to equal rights and privileges in the passage over and the use of the same, and the approaches thereto, for a reasonable compensation, to be approved by the Interstate Commerce Commission as hereinafter determined, and to be paid to the North River Bridge Company, which is hereby duly empowered to collect the same. And sufficient trackage and terminal facilities shall be provided for all railroads desiring to use said bridge and appurtenances. In case any litigation arises out of the construction, use, or operation of said bridge or approaches thereto and railroad thereon or for the condemnation or the appropriation of property in connection therewith under this act, the cause so arising shall be heard and tried before the circuit court of the United States for the judicial district in which the bridge or one of the approaches is located. Applications for condemnation or appropriation of property shall be made in the circuit court of the United States for the district in which such property is situated upon the petition of said company, and the hearing and trial of all other proceedings thereon shall conform as nearly as may be to the practice in the courts of the State in which such district is situated in the case of condemnation or appropriation of property for railroads.

SEC. 5. That the Interstate Commerce Commission is hereby authorized to require the said North River Bridge Company, in addition to such reports as it may lawfully require of railroad companies, a statement, certified to by the president of said North River Bridge Company, of the actual cash expenditure for all property acquired and for the cost of construction of all structures and appurtenances, for equipment, and for other proper and legitimate expenses incurred under this act; said statement shall be made on the completion of all the work and before the said North River Bridge Company shall collect tolls from the connecting railroad companies. The Interstate Commerce Commission shall be authorized to employ, at the expense of said North River Bridge Company, such expert accountants as it may appoint and direct to examine the accounts of said North River Bridge Company for the purpose of verifying the said actual cash expenditures under this act. And the said ascertained cash expenditures shall form the basis on which the Interstate Commerce Commission shall approve the toll charges to be paid by the connecting railroad companies to said North River Bridge Company for the use of said bridge, approaches, tracks, and terminals in such manner that whenever the net revenue derived from said toll charges, after paying all expenses for the proper and safe operation and maintenance of its property, and after paying all taxes, and after deducting 5 per cent. of the gross revenue for the sinking fund, to be applied to the liquidation of any indebtedness, shall exceed 10 per cent. on the above specified cash expenditure, the Interstate Commerce Commission may order a reduction of toll charges: *Provided*, That said reduction shall not be ordered oftener than once in three years: *Provided further*, That nothing contained in this section shall be construed as establishing contract rights between the United States and said North River Bridge Company as to the rate of toll authorized to be collected, but this section shall be subject to amendment or repeal as is provided may be in relation to every other section of this act.

SEC. 6. That the government and direction of said company shall be vested in a board of seven directors, who shall be stockholders of record, and who shall hold their office for one year, and until their successors are duly elected and qualified. The said directors, five of whom shall be a quorum, shall elect one of their number president; they shall also appoint a secretary and treasurer. The directors of said company shall have power to make such prudential by-laws as they shall deem proper for the management and disposition of the stock, property, and business affairs of said company, not contrary to the laws of the United States, and prescribing the duties of officers, artificers, and servants that may be employed, for filling vacancies, and for carrying on all business within the objects and purposes of said company. There shall be an annual meeting of the stockholders for choice of directors, to be held at such time and place, under such conditions, and upon such notice as the by-laws may prescribe; and such directors shall annually make a report of their doings and of the business of the company to the stockholders, a copy of which, sworn to and signed by the president of the company, shall be transmitted to the Interstate Commerce Commission. Failure to elect directors on the day fixed by said by-laws shall not be deemed to dissolve said company, but such election may be held on any day appointed thereafter by the directors, first giving thirty days' notice thereof in manner provided in said by-laws. The capital stock of said company shall consist of not less than ten thousand shares of $100 each, which shall in all respects be deemed personal property, and shall be transferable in such manner as the by-laws of said company shall provide; but no share shall be transferable until all calls thereon shall have been fully paid in, and it shall not be lawful for said company to use any of its funds in the purchase of any stock in its own or any other corporation. The amount of such capital stock may be increased upon the vote of two-thirds of such stock of said company at any time outstanding.

SEC. 7. That the real and personal property of the company shall be subject to taxation for State, county, and municipal purposes in the State where the same is located, but at no higher rate than other real and personal property in the State.

SEC. 8. That the said North River Bridge Company shall maintain on the bridge, at its own expense, from sunset to sunrise, such lights or signals as the United States Light-House Board shall prescribe.

SEC. 9. That nothing in this act shall be held or construed to in any manner involve the United States Government in any pecuniary obligations whatever, other than the payment of tolls over said bridge and approaches for troops and munitions of war, for which no higher charge per mile shall be made than the rate paid to railroads connecting with said bridge; but Congress hereby reserves the right to alter, amend, or repeal this act as the contingencies of commerce or the public good may require, and said company shall further be subject to the provisions of the interstate-commerce laws and any amendments and supplements thereof.

Amend the title so as to read: "A bill to incorporate the North River Bridge Company and to authorize the construction of a bridge and approaches at New York City across the Hudson River, to regulate commerce in and over such bridge between the States of New York and New Jersey, and to establish such bridge a military and post road."

The SPEAKER. The Chair would suggest to the gentleman in charge of the bill that in the seventh line of the printed bill, on page 18, the word "reserves" is printed "reverses."

Mr. BAKER. I ask that the proper correction be made.

The SPEAKER. In the absence of objection the correction will be made.

There was no objection, and it was so ordered.

The amendment recommended by the committee was adopted.

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

The title of the bill was amended as recommended by the committee.

Mr. BAKER 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.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced that the bill (S. 1332) granting to the city of Colorado Springs, in the State of Colorado, certain lands therein described for water reservoirs, having been returned from the President, in compliance with the request of the two Houses, the vote on said bill had been reconsidered, and the Senate had passed the same, with amendments in which the concurrence of the House was requested.

COLORADO SPRINGS WATER RESERVOIR.

The SPEAKER. If there be no objection, the Chair will lay before the House the bill just received from the Senate, as the amendments are merely verbal.

The Clerk will read the amendments.

The Clerk read as follows:

In line 21, strike out "and" and insert "of;" also, in the same line, strike out "and" where it occurs the second time and insert in lieu thereof the words "of the."

The amendments were agreed to.

ORDER OF BUSINESS.

Mr. DORSEY. Mr. Speaker, this day being set apart under the special order for the consideration of the Idaho bill, I desire now to proceed with the consideration of that measure.

Mr. BOUTELLE. Will the gentleman yield to me for a moment? I ask unanimous consent to take up Senate resolution No. 46, which is on the Speaker's table, for immediate consideration.

Mr. COVERT. Mr. Speaker, I am constrained to object, unless the same measure of consideration can be given to this proposition as it would be entitled to receive in the Committee of the Whole; that is, that it shall be open for discussion and amendment.

Mr. MANSUR. I shall feel compelled to object if this is to consume any time.

Mr. BOUTELLE. This is a very important matter. I will state to the House that it relates to the removal of a powder magazine in New York Harbor, which has been reported as dangerous to life and property; and both the Navy and the Treasury Departments are desirous that the resolution shall be passed. This has already passed the Senate and is unanimously recommended by the Naval Committee and recommended by the Committee on Immigration; and I trust that we may be able to dispose of it at this time. It is most important that it should be considered now.

Mr. COVERT. If the joint resolution went no further than stated by the gentleman from Maine, there would be absolutely no objection on my part; but unfortunately it is complex in its character and goes a great deal further than suggested by the gentleman. It not only provides for the removal of the magazine, as suggested by the gentleman from Maine, but it seeks to establish a site for the landing of immigrants as well. It is the latter portion of it to which I object.

Mr. BOUTELLE. On that point, I will state that it is even more important than the other consideration, because the lease of the present immigrant station in the city of New York expires on the 18th of this month and it is absolutely necessary that provision be made for the establishment of an immigrant station on the island to be vacated by this magazine.

Mr. MANSUR. I demand the regular order.

The SPEAKER. The gentleman from Missouri [Mr. MANSUR] demands the regular order.

Mr. BOUTELLE. Very well; I hope it will be understood by the House and the country how this matter is obstructed.

ADMISSION OF IDAHO.

Mr. DORSEY. I am directed by the Committee on Territories to call up for consideration the bill (H. R. 4562) to provide for the admission of the State of Idaho into the Union, and ask for its consideration under the order adopted yesterday.

The bill was read, as follows:

A bill (H. R. 4562) to provide for the admission of the State of Idaho into the Union.

Whereas the people of the Territory of Idaho did, on the 4th day of July, 1889, by a convention of delegates called and assembled for that purpose, form for themselves a constitution, which constitution was ratified and adopted by the people of said Territory at an election held therefor on the first Tuesday in November, 1889, which constitution is republican in form and is in conformity with the Constitution of the United States; and

Whereas said convention and the people of said Territory have asked the admission of said Territory into the Union of States on an equal footing with the original States in all respects whatever: Therefore,

Be it enacted, etc., That the State of Idaho is hereby declared to be a State of the United States of America, and is hereby declared admitted into the Union on an equal footing with the original States in all respects whatever; and that the constitution which the people of Idaho have formed for themselves be, and the same is hereby, accepted, ratified, and confirmed.

SEC. 2. That the said State shall consist of all the territory described as follows: Beginning at the intersection of the thirty-ninth meridian with the boundary line between the United States and the British Possessions, then following said meridian south until it reaches the summit of the Bitter Root Mountains; thence southeastward along the crest of the Bitter Root Range and the continental divide until it intersects the meridian of thirty-four degrees of longitude; thence southward on this meridian to the forty-second parallel of latitude; thence west on this parallel of latitude to its intersection with a meridian drawn through the mouth of the Owyhee River; thence north on this meridian to the mouth of the Owyhee River; thence down the mid-channel of the Snake River

to the mouth of the Clearwater River; and thence north on the meridian which passes through the mouth of the Clearwater to the boundary line between the United States and the British Possessions, and east on said boundary line to the place of beginning.

SEC. 3. That until the next general census, or until otherwise provided by law, said State shall be entitled to one Representative in the House of Representatives of the United States, and the election of the Representative to the Fifty-first and Fifty-second Congresses shall take place at the time and be conducted and certified in the same manner as is provided in the constitution of the State for the election of State, district, and other officers.

SEC. 4. That sections numbered 16 and 36 in every township of said State, and where such sections, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one quarter-section and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said State for the support of common schools, such indemnity lands to be selected within said State in such manner as the Legislature may provide, with the approval of the Secretary of the Interior.

SEC. 5. That all lands herein granted for educational purposes shall be disposed of only at public sale, the proceeds to constitute a permanent school fund, the interest of which only shall be expended in the support of said schools. But said lands may, under such regulations as the Legislature shall prescribe, be leased for periods of not more than five years, and such lands shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

SEC. 6. That fifty sections of the unappropriated public lands within said State, to be selected and located in legal subdivisions as provided in section 4 of this act, shall be, and are hereby, granted to said State for the purpose of erecting public buildings at the capital of said State for legislative, executive, and judicial purposes.

SEC. 7. That 5 per cent. of the proceeds of the sales of public lands lying within said State which shall have been sold by the United States prior and subsequent to the admission of said State into the Union, after deducting all the expenses incident to the same, shall be paid to the said State, to be used as a permanent fund, the interest of which only shall be expended for the support of the common schools within said State.

SEC. 8. That the lands granted to the Territory of Idaho by the act of February 18, 1881, entitled "An act to grant lands to Dakota, Montana, Arizona, Idaho, and Wyoming for university purposes," are hereby vested in the State of Idaho to the extent of the full quantity of 72 sections to said State, and any portion of said lands that may not have been selected by said Territory of Idaho may be selected by the said State; but said act of February 18, 1881, shall be so amended as to provide that none of said lands shall be sold for less than $10 per acre, and the proceeds shall constitute a permanent fund to be safely invested and held by said State, and the income thereof be used exclusively for university purposes. The schools, colleges, and universities provided for in this act shall forever remain under the exclusive control of the said State, and no part of the proceeds arising from the sale or disposal of any lands herein granted for educational purposes shall be used for the support of any sectarian or denominational school, college, or university.

SEC. 9. That the penitentiary at Boisé City, Idaho, and all lands connected therewith and set apart and reserved therefor, and unexpended appropriations of money therefor, and the personal property of the United States now being in the Territory of Wyoming and which has been in use in the said Territory in the administration of the Territorial government, including books and records and the property used at the constitutional convention which assembled in the said Territory at Boisé City in the year 1889, are hereby granted and donated to the State of Idaho.

SEC. 10. That 90,000 acres of land, to be selected and located as provided in section 4 of this act, are hereby granted to said State for the use and support of an agricultural college in said State, as provided in the acts of Congress making donations of lands for such purposes.

SEC. 11. That in lieu of the grant of land for purposes of internal improvement made to new States by the eighth section of the act of September 4, 1841, which section is hereby repealed as to the State of Idaho, and in lieu of any claim or demand by the said State under the act of September 28, 1850, and section 2479 of the Revised Statutes, making a grant of swamp and overflowed lands to certain States, which grant it is hereby declared is not extended to the State of Idaho, and in lieu of any grant of saline lands to said State, the following grants of land are hereby made to the State of Idaho, namely: For the establishment and maintenance of a scientific school, 100,000 acres: for State normal schools, 100,000 acres; for the support and maintenance of the insane asylum located at Blackfoot, 50,000 acres; for the support and maintenance of the State University located at Moscow, 50,000 acres; for the support and maintenance of the penitentiary located at Boisé City, 50,000 acres; for other State, charitable, educational, penal, and reformatory institutions, 150,000 acres. None of the lands granted by this act shall be sold for less than $10 an acre.

SEC. 12. That the State of Idaho shall not be entitled to any further or other grants of land for any purpose than as expressly provided in this act. And the lands granted by this section shall be held, appropriated, and disposed of exclusively for the purpose herein mentioned, in such manner as the Legislature of the State may provide.

SEC. 13. That all mineral lands shall be exempted from the grants by this act. But if sections 16 and 36, or any subdivision, or portion of any smallest subdivision thereof in any township shall be found by the Department of the Interior to be mineral lands, said State is hereby authorized and empowered to select, in legal subdivisions, an equal quantity of other unappropriated lands in said State, in lieu thereof, for the use and the benefit of the common schools of said State.

SEC. 14. That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the Secretary of the Interior, from the surveyed, unreserved, and unappropriated public lands of the United States within the limits of the State entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said State the number of acres heretofore donated by Congress to said Territory for similar objects.

SEC. 15. That the sum of $25,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, for defraying the expenses of the said convention and for the payment of the members thereof, under the same rules and regulations and at the same rates as are now provided by law for the payment of the Territorial Legislatures and for elections held therefor and thereunder. Any money hereby appropriated not necessary for such purpose shall be covered into the Treasury of the United States.

SEC. 16. That the said State shall constitute a judicial district, the name thereof to be the same as the name of the State; and the circuit and district courts therefor shall be held at the capital of the State for the time being, and the said district shall, for judicial purposes, until otherwise provided, be attached to the ninth judicial circuit. There shall be appointed for said district one district judge, one United States attorney, and one United States marshal. The judge of the said district shall receive a yearly salary of $3,500, payable in four equal installments, on the first days of January, April, July, and October of each year, and shall reside in the district. There shall be appointed clerks of said courts, who shall keep their offices at the capital of said State. The regular terms of said courts shall be held in said district, at the place aforesaid, on the first Monday in April and the first Monday in November of each year, and only one grand jury and one petit jury shall be summoned in both said circuit and district courts. The circuit and district courts for said district, and the judges thereof, respectively, shall possess the same powers and jurisdiction and perform the same duties required to be performed by the other circuit and district courts and judges of the United States, and shall be governed by the same laws and regulations. The marshal, district attorney, and clerks of the circuit and district courts of said district, and all other officers and persons performing duties in the administration of justice therein, shall severally possess the powers and perform the duties lawfully possessed and required to be performed by similar officers in other districts of the United States, and shall, for the services they may perform, receive the fees and compensation allowed by law to other similar officers and persons performing similar duties in the State of Oregon.

SEC. 17. That all cases of appeal or writ of error heretofore prosecuted and now pending in the Supreme Court of the United States upon any record from the supreme court of said Territory, or that may hereafter lawfully be prosecuted upon any record from said court, may be heard and determined by said Supreme Court of the United States; and the mandate of execution or of further proceedings shall be directed by the Supreme Court of the United States to the circuit or district court hereby established within the said State from or to the supreme court of such State, as the nature of the case may require. And the circuit, district, and State courts herein named shall, respectively, be the successors of the supreme court of the Territory, as to all such cases arising within the limits embraced within the jurisdiction of such courts, respectively, with full power to proceed with the same and award mesne or final process therein; and that from all judgments and decrees of the supreme court of the Territory mentioned in this act, in any case arising within the limits of the proposed State prior to admission, the parties to such judgment shall have the same right to prosecute appeals and writs of error to the Supreme Court of the United States as they shall have had by law prior to the admission of said State into the Union.

SEC. 18. That in respect to all cases, proceedings, and matters now pending in the supreme or district courts of the said Territory at the time of the admission into the Union of the State of Idaho and arising within the limits of such State, whereof the circuit or district courts by this act established might have had jurisdiction under the laws of the United States had such courts existed at the time of the commencement of such cases, the said circuit and district courts, respectively, shall be the successors of said supreme and district courts of said Territory; and in respect to all other cases, proceedings, and matters pending in the supreme or district courts of said Territory at the time of the admission of such Territory into the Union, arising within the limits of said State, the courts established by such State shall, respectively, be the successors of said supreme and district Territorial courts; and all the files, records, indictments, and proceedings relating to any such cases shall be transferred to such circuit, district, and State courts, respectively, and the same shall be proceeded with therein in due course of law; but no writ, action, indictment, cause, or proceeding now pending, or that prior to the admission of the State shall be pending, in any Territorial court in said Territory shall abate by the admission of such State into the Union, but the same shall be transferred and proceeded with in the proper United States circuit, district, or State court, as the case may be: *Provided, however*, That in all civil actions, causes, and proceedings in which the United States is not a party transfers shall not be made to the circuit and district courts of the United States, except upon written request of one of the parties to such action or proceeding filed in the proper court; and in the absence of such request such cases shall be proceeded with in the proper State courts.

SEC. 19. That from and after the admission of said State into the Union, in pursuance of this act, the laws of the United States not locally inapplicable shall have the same force and effect within the said State as elsewhere within the United States.

SEC. 20. That the Legislature of the said State may elect two Senators of the United States as is provided by the constitution of said State, and the Senators and Representative of said State shall be entitled to seats in Congress and to all the rights and privileges of Senators and Representatives of other States in the Congress of the United States.

SEC. 21. That, until the State officers are elected and qualified under the provisions of the constitution of said State, the officers of the Territory of Idaho shall discharge the duties of their respective offices under the constitution of the State, in the manner and form as therein provided; and all laws in force made by said Territory at the time of its admission into the Union shall be in force in said State, except as modified or changed by this act or by the constitution of the State.

SEC. 22. That all acts or parts of acts in conflict with the provisions of this act, whether passed by a Legislature of said Territory or by Congress, are hereby repealed.

Mr. SPRINGER (during the reading of the bill). I ask unanimous consent to dispense with the further reading of the bill, as it is to come out of the time allotted for debate.

The SPEAKER. The gentleman from Illinois asks unanimous consent to dispense with the further reading of the bill. Is there objection? The Chair hears none.

Mr. DORSEY. Before opening debate I offer the following amendment, to come in at the end of section 3 of the bill.

The Clerk read as follows:

Add to section 3 the following:

"The law of the Territory of Idaho for the registration of voters shall apply to the first election of State, district, and other officers held after the admission of the State of Idaho. The county and precinct officers elected at the first election held after the admission of the State of Idaho shall assume the duties of their respective offices on the second Monday of January, 1891."

Mr. DORSEY. The minority of the committee make no objection to this amendment, and I move its adoption.

The amendment was agreed to.

The SPEAKER. The Chair understands that there are several verbal amendments which can be adopted.

Mr. DORSEY. There are several verbal amendments that can be adopted now.

The SPEAKER. The Chair understands that they are merely verbal amendments, and the Clerk will report them.

The Clerk read as follows:

In section 2, line 11, on page 2 of the printed bill, strike out the word "thence."

In section 3, in line 5, strike out the word "Congresses" and insert the word "Congress;" in line 4, after the word "Fifty-first" insert the word "Congress;" and in line 5, after the word "and," insert the words "the Representative to

the;" also, in line 8, insert after the word "officers" the following words: "in the first instance."

In section 7, line 2, strike out the words "have been" and insert the word "be;" also, in line 3 of section 7, strike out the words "prior and."

In section 9, after the word "of" in line 5, strike out the words "Wyoming and" and insert "Idaho;" also, in the same section, in lines 8 and 9, strike out the following words: "assembled in the said Territory," and insert in lieu thereof the word "convened;" also, in line 9, after the word "the," strike out the word "year" and insert in lieu thereof "month of July."

In section 11, in line 12, strike out the word "namely."

In section 15, in the first line of the section, strike out the word "five" and insert the word "eight" in lieu thereof.

In line 13 of section 16, after the word "courts," insert the following words: "in the said district."

The amendments were agreed to.

Mr. SPRINGER. I desire to call the attention of the gentleman from Nebraska to section 4. The proviso that was in the four-States bill, and which was agreed to be put in here, was not reported, the provision in regard to the sixteenth and thirty-sixth sections for permanent reservations.

Mr. DORSEY. The Delegate from the Territory [Mr. DUBOIS] will offer an amendment to cover that before the final vote is taken on the bill.

Mr. SPRINGER. All right.

Mr. DORSEY. Mr. Speaker, in presenting the claims of the Territory of Idaho for admission to statehood, I shall not attempt to discuss the policy that should be pursued by Congress touching the admission of new States. In the great political contest waged in 1888 this question was freely discussed and was decided by the American people. In the future no political party, no man who aspires to leadership in either party, will dare oppose the admission to statehood of a Territory that is shown to possess the constitutional requirements. The Constitution provides that "New States may be admitted by the Congress into this Union." Hereafter we will interpret that clause so as to read: "New States shall be admitted by the Congress into this Union whenever the constitutional requirements are complied with."

We all know the position taken by the people upon this subject, and, as representatives of the people sent to this Chamber to voice their will, we have in this case a very simple duty to perform; that is, we shall investigate the claims of the Territory of Idaho, and if we find that this Territory has a sufficient population, that its material resources are sufficient, and that her people are intelligent and progressive and are attached to the principles of the Constitution of the United States, then our votes on the roll-call for the admission of Idaho must be in the affirmative. We should not consider to which one of the great political parties a majority of the citizens of a Territory may belong. Every case should be tried upon its merits, and if the showing is satisfactory its admission should be speedy.

Let us apply the tests to Idaho. Idaho was created a Territory by act of Congress March 3, 1863, and was formed from parts of the Territories of Dakota, Nebraska, and Washington. By the creation of the Territories of Montana and Wyoming Idaho was reduced to its present size of 86,294 square miles, extending from the British Possessions on the north to Utah and Nevada on the south, and from Montana and Wyoming on the east to Oregon and Washington on the west, having a length from north to south of 410 miles and a width from east to west varying from about 50 miles on the line of the British Possessions on the north to 306 miles on its southern boundary line. This Territory contains in round numbers 55,000,000 acres, 16,000,000 acres of which are agricultural, 10,000,000 acres forests, 20,000,000 acres grazing and mineral lands, 8,000,000 acres rough and mountainous, and 1,200,000 acres in lakes and rivers.

Idaho has a greater area than New York, New Jersey, Massachusetts, and New Hampshire combined, and being on the west side of the Rocky Mountains, the warm currents from the Pacific sweep over the Territory and have a most beneficial effect on the arable and grazing belts. The average mean temperature is about 51°. Idaho is well supplied with water, and in fact better than any of the States or Territories west of the Missouri River. The great Snake River, which in volume of water is about equal to the Ohio, traverses the Territory from east to west. The Salmon River courses through the Territory for over 500 miles; Clarke's Fork, Spokane, Boisé, Payette, Weiser, Big and Little Wood Rivers, Clearwater, Cœur d'Alêne, St. Joseph, Bear River, and other large streams, into which hundreds of tributaries empty, also flow through the Territory.

Of the 16,000,000 acres of agricultural lands in the Territory but a small portion has been surveyed. About 4,500,000 acres have been filed upon under the several land acts of Congress.

The deep soil in the valleys and on the plateaus in the eastern and southern counties is composed of decayed vegetable matter mixed with sufficient mineral and disintegrated rock to give warmth and great productiveness. In the northern counties a dark loam of great depth prevails. This section of Idaho does not require irrigation and is in itself an empire.

The yield of all kinds of cereals and vegetables is most gratifying, wheat ranging from 30 to 50 bushels, potatoes from 250 to 500 bushels, oats from 50 to 75 bushels per acre, and other cereals and vegetables in the same proportion. The agricultural report for the Territory for 1889, compiled after the most careful inquiry and investigation by Governor Shoup, shows the following as the amount of grain raised in 1889:

Wheat	bushels	4,000,000
Oats	do	2,014,800
Barley	do	1,150,400
Corn	do	47,400
Rye	do	64,900
Flaxseed	do	555,000
Grass-seed	do	17,350
Potatoes	do	1,085,900
Other vegetables	do	838,350
Apples	do	277,000
Pears	boxes	29,850
Peaches	do	34,850
Plums and prunes	do	34,350
Hay	tons	424,740
Grapes	boxes	18,200
Berries	baskets	76,600

The fruits and berries raised in the Territory are not excelled in any country. The sage-brush lands of Idaho are more easily turned into fruit farms and with as little expense as in any other State. For the past ten or twelve years from 25,000 to 40,000 fruit trees have been set out annually. Their growth is rapid, and trees bear abundantly when quite young, especially so in all valleys and plateaus not exceeding 3,500 feet above tide water. Trees mature and bear fruit at the altitude of 4,500 feet, but do not produce so abundantly as in the lower valleys.

Shorn of all other resources, the agricultural lands of Idaho alone are sufficient to support a large population and build up a great State.

Stock-raising is one of the great industries of the Territory. On the large area of grazing lands there are now 385,896 cattle of all grades, 123,840 horses, 2,480 mules, and 447,924 sheep.

The 10,000,000 acres of forest land will be a source of large revenue to Idaho for hundreds of years and will give employment to a large population.

I desire to call the particular attention of the House to the wonderful productions of the mines of Idaho.

The mines of the Territory have produced to date $157,720,962.84, the production of last year, 1889, being the largest in the history of the Territory, amounting to the princely sum of $17,344,600, namely:

Gold	$3,204,500
Silver	7,564,500
Lead	6,490,000
Copper	85,600

Idaho is rapidly advancing to the front as a bullion-producing State, and with the present rate of increase will soon be the greatest bullion-producing State in the Union. The Territory has developed several of the largest mines on the globe, the production of which will be largely increased during the year 1890. Besides the bullion-producing mines, Idaho also has an abundance of iron, salt, sulphur, marble, sandstone, granite, limestone, and mica, with tin and cinnabar in limited quantities. Coal is known to exist in nearly every county in the Territory, but is not sufficiently developed to determine its extent.

As to population, I submit a table showing the number of inhabitants of the Territory for the different years from 1880 to 1889. These estimates are based upon the census taken of the school children. Under the law the enumeration of children of school age is taken annually.

Years.	Children of school age.	Rates.	Total population.
1881	6,698	4.87	32,619
1882	8,193	4.87	39,999
1883	9,650	4.87	46,995
1884	10,936	4.87	53,258
1885	13,140	4.87	63,991
1886	15,399	4.87	74,993
1887	17,372	4.87	84,601
1888	19,994	4.87	97,370
1889	24,071	4.87	117,225

I also desire to call particular attention to what has been done by this Territory to foster the public-school system.

The total number of schools in the Territory was, on the 21st day of August last, 434; total number of children of school age reported, 24,071. A large number of families live many miles from organized school districts and their children are not included in the above enrollment. Total receipts for school purposes (independent of private schools), $198,782; expenditures, $175,579; balance remaining in the school fund at the close of school year, $23,203.

The following gains appear in the report of the superintendent of public instruction for the Territory for the year 1889: Increase of children of school age, 4,077; schools, 69.

There is a compulsory school law in the Territory, and the greatest interest is taken by the people in educational matters. Substantial and commodious school-houses adorn and add to the attractions of every town and settlement. Besides the public schools there are several independent school districts, and many religious denominations

have schools of their own. The estimated cost of buildings used for school purposes for public schools in the Territory is $344,500, an increase of $65,000 during the past year.

There are 109 church edifices in the Territory, valued at $220,500, with a membership of 11,137. I append a table showing the membership and number of church buildings of the different denominations. Idaho is not behind the Western States and Territories so far as public buildings are concerned:

Denominations.	Number of churches.	Value of churches.	Number of members.
Presbyterian	14	*$20,000	762
Baptist	16	15,500	375
Catholic	22	60,000	8,000
Episcopal	19	40,000	*500
Methodist	*23	*70,000	*1,000
Other denominations†	*15	*15,000	*500
Total	109	220,500	11,137

*Estimated.
†In addition to the above, the Congregationalists, Christians, and other denominations not enumerated have ministers and places of worship.

The above does not include the adherents to the Mormon faith.

The Territory has constructed and furnished, unaided by the General Government, a capitol building, at a cost of over $100,000. The capitol is a most substantial building, the basement being solid masonry, while the main structure is of the best quality of brick and is heated by the latest improved heating apparatus. This fine structure contains spacious and elegantly furnished rooms on the first floor for governor, surveyor-general, Territorial secretary, comptroller, superintendent of public instruction, and United States attorney, library, and armory. On the second floor are the council chamber, representatives' hall, the supreme court-room, the judges' chamber, and various committee-rooms. The third floor is connected with the galleries, and also has book and committee rooms.

The Territory has in course of construction, at Moscow, in Latah County, a State university. This fine structure, when completed, will cost $75,000. The Territory appropriated from the general fund $15,000 for the building, and an annual Territorial tax of one-half mill is levied and collected, the proceeds going to the university fund.

The Territory constructed at Blackfoot, Bingham County, a fine three-story brick building for an insane asylum, with a two-story wing and other annexes. The building, furniture, and grounds cost the Territory about $55,000. In December last the main structure was destroyed by fire, but the sixty-five patients are comfortably quartered in the wing and annexes.

The United States assay office, located in the heart of Boisé City, is the property of the United States, and cost the Government $81,000.

The United States penitentiary, located 2 miles from Boisé City, is built of sandstone. It has forty-two cells. An appropriation has been made and the contract let for a wing duplicating the one now in use. There are now incarcerated in the prison sixty-six Territorial and three United States prisoners.

The governor of the Territory, in his report for 1889, places the number of miles of railroad in the Territory at 888.73, the products exported to outside markets by railroads and steam-boats at 184,015 tons, and the imports at 119,000 tons.

There are 917 miles of telegraph lines and 41 newspapers are published within the Territory.

The finances of this Territory are in the most satisfactory condition.

The comptroller, in his annual report to the governor, December, 1889, states that on the 20th day of January, 1890, the registered or floating debt would be paid in full, leaving the bonded indebtedness alone unpaid. The total bonded indebtedness of the Territory is $146,715.06. Under the act of 1887 there were issued, for general purposes of indebtedness, bonds amounting to $46,715.06. The denomination of these bonds is $1,000 and the rate of interest 10 per cent. per annum. The interest is payable semi-annually, in June and December, at the office of the Territorial treasurer. They mature December 1, 1891. There will be an ample fund in the Territorial treasury to redeem these bonds at maturity and without additional taxation.

Under the act approved February 2, 1885, $100,000 additional bonds were issued for the following purposes: Eighty thousand dollars for the capitol building and twenty thousand to aid in construction of insane asylum. These bonds were issued in denominations of $1,000 each, bearing 6 per cent. per annum coupons, payable semi-annually, in July and January. The capitol building bonds mature in 1905 and the asylum bonds fall due in 1892, 1893, 1894, and 1895, in multiples of $5,000 annually. The capitol building fund is maintained by one-tenth of the receipts arising from the Territorial and county licenses and the proceeds of all rents derived from the use of the capitol building.

These bonds are redeemable at the pleasure of the Territory at any time after the expiration of ten years from the date of issue. All these bonds will be extinguished in ten years from date of issue from the sinking fund, as the receipts are increasing annually. There is in this fund at the present time over $20,000.

The rate of Territorial tax is a fixed sum of four mills on the dollar, three and a half mills for general and one-half mill for university funds. The assessed valuation of property in the Territory for the last fiscal year (1889) is in round numbers $24,000,000.

Mines and lands not patented are not assessed. Fully one-half of the improved farms in the Territory are not patented. These lands are worth from $10 to $40 per acre. The present cash value of property in Idaho will equal $100,000,000 at a conservative estimate.

The admission of Idaho to her place among the States of the Union has been agitated by her people for many years, and to-day the press of the Territory, irrespective of party, is urging admission, and the people of the State, irrespective of party, are anxious that this Territory shall take her place in the galaxy of States, and what has been done looking to this end has been in strict conformity to the Constitution.

A proclamation was issued by Governor E. A. Stevenson on the 2d day of April, 1889, recommending the election by the people of Idaho of seventy-two delegates, to assemble at Boisé City, the capital of the Territory, on the 14th day of July, 1889, for the purpose of framing a constitution for the State of Idaho, and a proclamation of his successor, Governor George L. Shoup, was issued on the 11th day of May, 1889. A majority of the delegates elected to said Territorial convention of Idaho assembled at Boisé City, the capital of the Territory, on Thursday, the 4th day of July, 1889. The convention was called to order on that day by his excellency Governor George L. Shoup, governor of Idaho, and a temporary organization was effected by the election of John T. Morgan, of Bingham County, temporary president, and James W. Reed, of Nez Percé County, temporary secretary. Seventy delegates presented their credentials and were found entitled to seats in the convention. Sixty-nine delegates took the oath and participated in the proceedings. A permanent organization was effected by the election of William H. Claggett, of Shoshone County, as president; James W. Reed, of Nez Percé County, as vice-president, and Charles H. Reed, of Ada County, as secretary. The oath as prescribed by the rules of the convention was administered to the officers and members of the convention by his honor Chief-Justice Hugh W. Weir, of Idaho.

In the convention every county of the Territory was represented, and at no time during the convention was there less than a majority of the delegates in attendance. The deliberations of the convention were characterized by harmony and a single purpose, a good constitution for statehood for Idaho. The session of the convention lasted thirty-four days, and after adopting a constitution for the State of Idaho adjourned *sine die* on the 6th day of August, 1889. The constitution as adopted by the convention was signed by all the delegates present at the adjournment with the exception of one member. In compliance with the direction of the convention, the constitution as adopted by the convention and signed by the delegates and all the records thereof were deposited with the secretary of Idaho.

On the 2d day of October, in pursuance of section 6 of schedule and ordinance of said constitution, George L. Shoup, governor of Idaho, issued a proclamation submitting the constitution of the State of Idaho to the people of the Territory for its adoption or rejection at an election to be held on Tuesday the 5th day of November, 1889, said election to be conducted in all respects as provided by law for general elections, and abstracts of such returns, duly certified, to be submitted to the board of canvassers as now provided by law for canvassing the return of votes for Delegates to Congress.

As provided in section 6, article 21, of schedule and ordinance of the constitution of the State of Idaho, a meeting of the board of canvassers therein provided for was held in the executive office, December 2, 1889; present, Edward J. Curtis, secretary of the Territory, and Joseph P. Wilson, United States marshal of the Territory. In the presence of his excellency George L. Shoup, governor of the Territory, said board of canvassers proceeded to a canvass of the votes cast for the adoption or rejection of the constitution at an election held November 5, 1889, as returned by the canvassing boards of the several counties. Returns from all the counties were found to have been received by the Territorial secretary, which were opened, examined, and canvassed, with the following results:

For the constitution	12,389
Against the constitution	1,773
Scattering	13
Total	14,184

Thus the people of Idaho, by an overwhelming majority, ratified the action of the delegates to the convention which framed their constitution.

The character of the population of Idaho is the highest type of American manhood, being composed principally of the descendants of New England, Southern, and Western States. The foreigners are the hardy sons of Norway, Sweden, Germany, Canada, and Great Britain. There is no question that with a stable and settled government, which statehood will insure, the increase in population and development will equal that of other Western States. There is no doubt that Idaho has the

resources, wealth, and population to sustain without difficulty a State government. The people of the Territory are almost unanimous in asking this recognition.

The only opposition to the admission of Idaho under the constitution, which the legal voters of the Territory adopted almost unanimously, came from the Mormons. They protested because of section 3 of article 6 of the constitution. I will ask the Clerk to read this section, and I ask the particular attention of the House, as it is against this section of the constitution that the minority of the committee make their assault.

The Clerk read as follows:

SEC. 3. No person is permitted to vote, serve as a juror, or hold any civil office who is under guardianship, idiotic, or insane or who has, at any place, been convicted of treason, felony, embezzlement of public funds, bartering or selling or offering to barter or sell his vote, or purchasing or offering to purchase the vote of another, or other infamous crime, and who has not been restored to the right of citizenship, or who at the time of such election is confined in prison on conviction of a criminal offense, or who is a bigamist or polygamist, or is living in what is known as patriarchal, plural, or celestial marriage, or in violation of any law of this State or of the United States forbidding any such crime, or who in any manner teaches, advises, counsels, aids, or encourages any person to enter into bigamy, polygamy, or such patriarchal, plural, or celestial marriage, or to live in violation of any such law or to commit any such crime, or who is a member of or contributes to the support, aid, or encouragement of any order, organization, association, corporation, or society which teaches, advises, counsels, encourages, or aids any person to enter into bigamy, polygamy, or such patriarchal or plural marriage, or which teaches or advises that the laws of this State prescribing rules of civil conduct are not the supreme law of the State; nor shall Chinese nor persons of Mongolian descent not born in the United States, nor Indians not taxed who have not severed their tribal relations and adopted the habits of civilization, either vote, serve as jurors, or hold any civil office.

Mr. DORSEY. A law similar to the section of the constitution complained of has been in force in Idaho since 1864. It will be found in section 501 of the revised statutes of Idaho. I will ask the Clerk to read this section.

The Clerk read as follows:

No person under guardianship, *non compos mentis* or insane, nor any person convicted of treason, felony, or bribery in this Territory or in any other State or Territory in the Union, unless restored to civil rights; nor any person who is a bigamist or polygamist or who teaches, advises, counsels, or encourages any person or persons to become bigamists or polygamists, or to commit any other crime defined by law, or to enter into what is known as plural or celestial marriage, or who is a member of any order, organization, or association which teaches, advises, counsels, or encourages its members or devotees or any other persons to commit the crime of bigamy or polygamy, or any other crime defined by law, either as a rite or ceremony of such order, organization, or association or otherwise, is permitted to vote at any election or to hold any position or office of honor, trust, or profit within this Territory.

Mr. DORSEY. The Mormon citizens of the Territory were represented before the Committee on Territories by Judge Wilson and Bishop Budge, of Idaho, who objected to the admission of Idaho under a constitution containing such provisions as are embodied in section 3 of article 6. The committee accorded the gentlemen patient hearings and were instructed by the arguments submitted. During the time this was under discussion a decision of the Supreme Court delivered by Justice Field settled the constitutionality of the Idaho statute, and should have been accepted as final by those who opposed the admission of the Territory on account of this section preventing polygamous Mormons from voting.

The minority of the committee, however, have taken a different view of the case and have filed a report that quotes from the constitution of nearly every State of the Union as well as from statesmen and sages of the past. I will not at this time attempt to reply to the argument submitted in the minority report, but will wait until the gentlemen who made this report have given to the House their views on the subject of the admission of Idaho. Later in this discussion we will endeavor to answer satisfactorily the objections urged against admission by the minority of the committee.

In my judgment, Idaho should now be admitted into the sisterhood of States. I am very sure that the citizens of that State are in full sympathy and accord with the best and most advanced thought of the country. We should do this in order that they may be able to enjoy the privileges of American citizens, and the admission of Idaho by this Congress under the constitution adopted by its people will give encouragement to other Territories that contain Mormon population.

Mr. Speaker, the case of the Territory of Idaho is now before us, and I sincerely hope that this House may carefully consider the claims presented, and that we will no longer keep the people of Idaho in political vassalage, but will give to them the rights and privileges to which they are entitled under the Constitution of the United States, by their admittance into the great American Union, and thus add another star to the bright galaxy of States, feeling sure, as I do, that no act of the hardy men who have brought Idaho to her present high position will ever cause the Representatives of the people to regret their action in giving to Idaho the rights of statehood. [Applause.]

Mr. Speaker, I reserve the balance of my time.

The SPEAKER. The gentleman has spoken twenty-two minutes.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. MCCOOK, its Secretary, announced the passage of a bill (S. 3131) for the registry or enrollment of the barges Herdis and Agostino C., in which concurrence was requested.

It further announced that the Senate agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7496) to provide for certain of the most urgent deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1890, and for other purposes.

URGENT DEFICIENCY BILL.

Mr. HENDERSON, of Iowa. I ask, by unanimous consent, to call up for consideration at this time the conference report which has just come over from the Senate.

The SPEAKER. The Chair hears no objection, and the report will be read.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on amendment of the Senate numbered 41 to the bill (H. R. 7496) to provide for certain of the most urgent deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1890, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

First. That the House recede from its disagreement to the amendment of the Senate numbered 41, and agree to the same with an amendment as follows:

Add to the end of said amendment the following: "*Provided*, That no part of said amount shall be expended in sinking wells or the construction of irrigation works, and the work done under this appropriation shall be completed and a report of the same made within the appropriation, and nothing herein shall commit the Government to any plan of irrigation or the construction of works therefor;" and the Senate agree to the same.

D. B. HENDERSON,
J. G. CANNON,
WM. C. P. BRECKINRIDGE,
Managers on the part of the House.

EUGENE HALE,
WILLIAM B. ALLISON,
F. M. COCKRELL,
Managers on the part of the Senate.

The statement accompanying the report under the rules is as follows:

The managers on the part of the House of the conference on the disagreeing vote of the two Houses on the amendment of the Senate numbered 41 to the bill (H. R. 7496) to provide for certain of the most urgent deficiencies, submit the following written statement in explanation of the action agreed upon and recommended in the accompanying conference report:

The provision covered by said Senate amendment numbered 41, as agreed upon by the conference committee, reads as follows:

"Location for artesian wells: To authorize the Secretary of Agriculture to make such preliminary investigation of an engineering and other character as will, so far as practicable, determine the proper location for artesian wells for irrigation purposes within the area west of the ninety-seventh meridian and east of the foot-hills of the Rocky Mountains, $20,000; and a report of all operations and expenditures hereunder shall be made to Congress immediately after July 1, 1890: *Provided*, That no part of said amount shall be expended in sinking wells or the construction of irrigation works, and the work done under this appropriation shall be completed and a report of the same made within the appropriation, and nothing herein shall commit the Government to any plan of irrigation or the construction of works therefor."

D. B. HENDERSON,
J. G. CANNON,
WM. C. P. BRECKINRIDGE,
Managers on the part of the House.

Mr. HENDERSON, of Iowa. I wish to say a word which I feel it to be my duty to say in this connection. This, the only item the former House conferees did not concur in, appropriates $20,000 for the investigation of artesian wells for irrigation. The House conferees were unwilling to enter upon this investigation at this time and preferred to wait until the Committee on Irrigation of the House and the same committee of the Senate could thoroughly investigate the matter and bring it before the House, so the House might have the opportunity to pass on this question.

The proposition in the amendment also places it under the control of the Agricultural Department. The conferees of the House were unwilling to accede to that proposition. They thought, if the irrigation matter was gone into at all, that, inasmuch as we have already an equipped department of the Government for scientific observations, that bureau should make the scientific investigations, and not transfer it to the Department of Agriculture; but we have waived this consideration by offering the amendment which the House accepted, and which the Senate conferees agreed to, which was adopted by the Senate, providing that no wells should be sunk out of this appropriation, which was acceptable to the friends of the proposition in the Senate, and also that whatever should be done with this appropriation should be complete in itself, leaving no opening for any future appropriation to be fitted on to this. It was deemed advisable not to treat this as an entering wedge, but to make this a complete report in itself, and not bind or commit Congress to the system of irrigation by sinking artesian wells.

Speaking only for myself, Mr. Speaker, I do not believe that irrigation by the method of artesian wells for agricultural purposes is possible. I am afraid of entering into that wide field, and regretted the necessity for having to do so at this time even to the extent proposed here through the Appropriations Committee of the House, preferring that it should be done through the committees having charge of the matter after a thorough and complete investigation of the whole subject. But under the heavy pressure which has been made for this preliminary, as they say, investigation, we have yielded with the adoption of the amendment.

Mr. MANSUR. Mr. Speaker, I would like to inquire if the time

consumed in the consideration of this report is to be taken from the time allowed for the debate on the Idaho bill?

The SPEAKER. It will not be counted against the time allotted to the gentleman from Missouri, but generally to the time fixed for debate on the bill.

Mr. SPRINGER. But this time, it seems to me, ought not to come out of the debate allowed on the Idaho bill.

The SPEAKER. Whatever time is consumed in the discussion of this matter will necessarily be taken from that time.

Mr. SAYERS. I desire to ask the gentleman from Iowa, in charge of this report, before he takes his seat, for what purpose this appropriation is to be used?

Mr. HENDERSON, of Iowa. Simply to ascertain what irrigation wells can be found, not by sinking the wells themselves, but by an inspection of the surface of the earth.

Mr. VANDEVER. I desire to be heard for a few moments on this.

Mr. SPRINGER. I have no objection to the consumption of time on this report if the time will be extended to-morrow before the final vote is to be taken on the Idaho bill. At present that time is limited to 3 o'clock, and it seems to me it is not right to consume it for other purposes.

Mr. HENDERSON, of Iowa. This will consume but a very few moments. How much time does the gentleman from California want?

Mr. VANDEVER. I should like to have about five minutes.

The SPEAKER. Within five minutes is it not possible to dispose of the report?

Mr. HENDERSON, of Iowa. Entirely possible. We can conclude it in that time, I think.

Mr. SPRINGER. I ask unanimous consent that the time consumed on the conference report be added to the time to-morrow when the previous question is to be considered as ordered on the Idaho bill.

The SPEAKER. That time has been agreed upon, and the House will govern itself accordingly. There is difficulty, of course, about the new arrangement, as the gentlemen must see.

Mr. SPRINGER. But if all of that time should be consumed with other matters?

The SPEAKER. It is always within the control of the House itself.

Mr. PERKINS. This will only take a minute or two, I think.

Mr. HENDERSON, of Iowa. I will yield three minutes to the gentleman from California, if that is sufficient.

Mr. MANSUR. With the understanding that no further time is consumed I will not object.

The SPEAKER. It is understood that the previous question will be then demanded upon the report.

Mr. VANDEVER. I desire only to say a word in response to the remarks which the gentleman from Iowa has made. Irrigation is a branch of agriculture; and if the views expressed by the conference committee in regard to the necessity of investigating this subject of artesian wells scientifically is a valid reason, it will apply to all agricultural operations.

Now, sir, the Committee on Irrigation have this matter under consideration, and they will be prepared, in the course of a short time, to make their report to this House, which shall include irrigation by surface water as well as underflow and artesian wells. It is not necessary, therefore, at this time to conclude the question by turning this over to the Agricultural Bureau to keep it open, to let us consider whether that bureau has not something to do with it as well as the scientific bureau referred to.

Mr. HENDERSON, of Iowa. That is what the amendment does.

Mr. VANDEVER. I do not understand it so.

Mr. SPINOLA. I ask unanimous consent, in this connection, that my colleague from New York [Mr. FLOWER] may be permitted to publish certain remarks on this question.

There was no objection.

Mr. HENDERSON, of Iowa. I ask a vote on the report.

The conference report was adopted.

ADMISSION OF IDAHO.

Mr. MANSUR. Mr. Speaker, from the time that the Lord God of the universe created man and woman and placed them in the Garden of Eden, the law of nature and nature's God has undoubtedly been one man for one woman and one woman for one man, and the practices of all civilized nations, without exception, have proven undoubtedly that this relation is that in which the destinies of the race are best preserved and advanced. All civilized nations, so far as I know without exception, visit the heaviest hand of punishment upon all violations of this law, sanctified by the wisdom of men as well as created by the God of nature. Hence, I desire in opening this debate, at the very beginning, to say that I have no sympathy nor do I believe that any person on this side of the House has any sympathy whatever with the institution of bigamy or of polygamy; but while so stating and so confessing, and urging implicit belief in the truth of the fact that these offenses should be crushed out, yet we find in this bill there is a mode of striking at these offenses that is in violation of all the best of our doctrines and tenets of liberty as we have universally understood and enforced them in all the past to the present time.

We find, furthermore, that up to this day and this hour no State in the Union has ever sought to enforce what this constitution, if it shall be granted to the people of Idaho, seeks to enforce; and we find that the proposition upon principle that is to be debated before Congress at the present hour is whether we shall turn back on all the wisdom of the past, whether we shall turn back on each and every State constitution of this Union without a single exception—constitutions that have given to the several States of this Union all their power, all their prestige, all their glory, and enabled them to develop so that in the aggregate they constitute to-day the greatest nation on the globe.

The proposition is whether the gentlemen on the other side will permit a violation of what we believe to be one of the highest Republican as well as Democratic principles upon which our institutions of liberty are founded, and strike down a man without a hearing in a court, without indictment, without trial, or without opportunity of defense, because of an alleged belief in certain doctrines, when the fact is the constitution does not say what in reality they intend, which is that it shall strike down the Mormon Church. I repeat, then, the attitude which is presented by the minority here is not a question of the absolute rejection of the State of Idaho, because, if the plan and policy outlined by the Democratic minority in their report and in the amendments submitted to this bill shall prevail, the State of Idaho is as certain to be represented in this Congress by its Senators and its Representatives at the assembling of Congress at its next session in December as that that day shall roll around.

Then let it be understood that, so far as our amendments are concerned and so far as the attitude of the minority is concerned in their report, it is not an absolute factious fight or opposition to the admission of Idaho, but is because we believe that they are seeking to ingraft upon the constitution under which they seek admission a principle that ought not to find any toleration in the mind or in the heart of any lover of liberty, whether he be Republican or Democrat; and that is, never to strike down, never to punish an American citizen without first giving to him a trial and a hearing.

That the men who may be involved in the penalties attached to section 3, article 6, of the constitution submitted for your consideration are American citizens in the general sense of the term no one can doubt; and yet, under the peculiar system which prevails in this country and has prevailed from the time of the establishment of the Federal Constitution, it is equally plain that, while men are citizens of the United States, yet they gain their right of suffrage solely and entirely from the States. This has been decided divers times by the Supreme Court of the United States. From that standpoint, then, it will be urged by gentlemen on the other side, especially with reference to the case of Davis *vs.* Beason in the Supreme Court of the United States two or three weeks ago, that this section 3, to which exception is taken by us, is constitutional; that is, the Supreme Court of the United States has decided that a State has a right to prescribe an oath as a prerequisite to the right to vote. That may be so. That is constitutional because the Supreme Court say it is so.

But the Supreme Court do not decide the other point which is involved in this case, that when you prescribe that oath for a man he can be accused at the threshold and be deprived of his right of suffrage on the day and at the hour of accusation without a trial and without a hearing under the prescribed forms of law. To this assumption we object, and the question here is simply whether men shall be deprived of three great rights—the right to vote, the right to hold office, and the right to serve upon juries—without being first convicted of crime. That is the question and that is the proposition that is challenged by the Democratic minority in their report.

Let us see now what is the character of the people assailed and what are their numbers. There is some little difference of opinion, perhaps, in the committee who have had this subject under investigation as to the number of people that may be in the Territory of Idaho. I do not think that any estimate I have heard or now remember places the population at over 110,000 or 115,000. I think, however, that that estimate is probably a little swollen. I doubt very much if they have more than 100,000 people, if so many. But take the population at 100,000; from all we can learn there are 25,000 of that population who are Mormons in their belief. In other words, 25 per cent. of the entire population of the Territory of Idaho at this time belongs to the Mormon faith.

Assuming that there is one male adult voter to every five of the population, there would be 5,000 adult Mormon voters in the Territory. I come now to what I believe to be the real reason, or at least one of the real reasons, why the Mormons there are to be disfranchised. It is because it is understood and charged, and not denied anywhere, that almost every Mormon in the Territory of Idaho is a Democrat and votes the Democratic ticket. Let it be understood that I am now charging distinctly that, from all the information we have, nearly every Mormon in Idaho is a Democrat, and, when he votes at all or has an opportunity to vote under their test-oath laws, votes the Democratic ticket.

On the other side gentlemen may laugh this to scorn, but it is true all the same. Just pass across the line, an imaginary line at that, into Wyoming Territory, which you admitted as a State the other day, and,

while there are not so many Mormons there as in Idaho, yet they are nearly all Republicans, and, because of the well understood fact that every Mormon there votes the Republican ticket, you let them vote; and not merely that, but you provided the other day that their wives should have the right to vote, thus giving to every Mormon and his wife in Wyoming two votes, while in Idaho you deny the right to vote even to Mormon men! Let these things be understood as we go along. Let it be understood that this is not a question of principle anywhere, but is, in every instance, a question of expediency alone for the Republican party.

Let it be further understood that from forty-eight hours after the Republicans began to think that they had carried the Presidential election of 1888 the whole political world of the United States was filled with rumors of the new programme to be inaugurated by that party. One feature of that programme was the admission of new States to strengthen the party in the Senate. It was also reported and published that there was to be a revolutionizing of the rules of parliamentary procedure; that there was to be the unseating of divers members on the Democratic side, and that the Republicans were to fortify themselves by the passage of such laws in this Congress as they deemed from their standpoint necessary to be passed, and if new Territories were admitted as States, the Republican party being thus strengthened in the Senate, it would be many years before, under any circumstances, the legislation of this Congress could be repealed or done away with. These, then, are the circumstances that have led up to the Republican demand for the admission of these two Territories, the youngest of our remaining Territories, certainly the smallest in population, and not the best equipped in their financial ability to maintain statehood.

Let us next inquire what is the character of the alleged reasons for the disfranchisement of these people in Idaho. They are white, all of them. If they were black there would be protection for them under the fifteenth amendment of the Constitution of the United States. Then legislation for their disfranchisement could not be inaugurated and carried into effect by the Republican party under the Constitution. But they are white and Democrats, and so your victims. What is the character of these people? It is necessary perhaps here to state that which some gentlemen present undoubtedly well know, but others may not know, that the Mormons are divided into two classes, known as Josephites and Brighamites. The Josephites to a man repudiate polygamy and bigamy; do not believe in them; say they never were embraced in the original revelations, and they live a sober life of monogamy, as much so as any class of people on this continent. It is the other class, the Brighamites alone, who believe in bigamy and in polygamy.

Just what are the proportions of these two classes of Mormons I do not know. Judge J. M. Wilson, who appeared for these people before the committee, estimates that there are 25,000 Mormons in the Territory of Idaho. Of this number he places the male adults having the right to vote at 5,000, and he seems to be careful and accurate in his figures and in his information. Furthermore, he says that from investigation and upon reports which he deemed reliable from every source and quarter, there are not over 125 of these Mormons, out of 5,000, that are now or have been living either in polygamy or in bigamy. That number is 2½ per cent. of the male population. Of the whole population of 25,000 it would be only one-half of 1 per cent.

Now, if these figures be true, we have the numbers and proportion of the Mormons addicted to these habits, and for whose sins is to be inflicted upon their whole people the penalty of disfranchisement and degradation from the rank of American citizenship.

What is the general character of these people for thrift, industry, sobriety, forecast, and similar qualities? I may say, in the light of the evidence before the committee, that their character in this respect is remarkable. Mr. Carlton was appointed a member of the Utah commission by President Arthur under the anti-polygamy law of March 22, 1882. He went to Utah and served there seven years, so that his experience comes down to last year. Here is his statement in regard to that people:

At that time—

The time of his appointment—

I had the usual predilections in regard to the Mormons, which were not at all to their advantage. But I resolved that, so far as possible, I would divest myself of all prejudice and judge for myself fairly and impartially. I was not long in discovering that in many respects things were quite different from what I had anticipated, and I began to strongly suspect that the Mormon people had been greatly misrepresented and misunderstood. I found them to be intensely devotional in their religion and as honest and sincere in their creed as any church or religious society of which I have any knowledge; and at the end of seven years' careful investigation I can say emphatically that, for honesty, industry, temperance, and peace and good order, they deservedly stand as high as any other community on this continent.

At this, the honored chairman of our committee, the gentleman from Iowa [Mr. STRUBLE], said:

Judge Carlton, you need not dwell on this point, for we are satisfied of the good qualities of the Mormons in these respects.

Judge Carlton proceeded:

Then I will pass from this topic, only remarking that it is a serious thing for the Government to disfranchise a whole community possessed of such good qualities for the building up of a Commonwealth. But, as it is one of the schemes of the anti-Mormon agitators in the West and elsewhere to represent the Mormons as incorrigible rogues and criminals as an excitative to hostile action by Congress, I wish to state another fact: That while the Mormons of Utah are over 75 per cent. of the whole population, yet seven-eighths of the heinous and felonious offenses, as murder, manslaughter, burglary, robbery, rape, and the like, are committed by the non-Mormon minority. This is proved by the statistics, and is confirmed by my own investigations.

But there is further evidence in regard to the character of these people. Bayard Taylor, the celebrated traveler, after paying them a visit, said:

We must admit that Salt Lake City is one of the most quiet, orderly, and moral places in the world. There are a few Gentile liquor saloons, but the Mormons, as a people, are the most temperate of Americans. They are chaste, laborious, and generally cheerful; and what they have accomplished in so short a time, under every circumstance of discouragement, will always form one of the most remarkable chapters in our history. The Territory does not owe a dollar; the people have established manufactories, built roads and bridges, irrigated wastes of sage-bush, colonized the basin of the interior desert for an extent of 500 miles, and made a nucleus of permanent civilization in the most forbidding part of the continent.

Dr. Miller, the editor of the Omaha (Nebr.) Herald, writes:

One feature of the influx into this hitherto quiet, sober, moral, and intelligent Mormon community carries with it its own comment to the thoughtful. To the lasting honor of the Mormon people and system be it said that for twenty-five years such machines of moral infamy as whisky shops, harlotries, faro-banks, and all the attendant forms of vice and iniquity were totally unknown in Utah. It can not be denied that the Mormons have achieved victories and conquests over the most gigantic evils that curse our race, and which are to-day the chief banes of every civilized state. Already the hydra-headed monsters of infamy are gaining footholds in Salt Lake City. The gambler and woman of the town are there. The damning fact, so creditable to Mormon morality, is that it is only by the surreptitious evasion and overthrow of Mormon authority that these and kindred curses now invade the beautiful city of Salt Lake.

Elder Miles Grant, the Adventist and editor of the World's Crisis, says:

After a careful observation for some days, we came to the settled conclusion that there is less licentiousness at Salt Lake City than in any other one of the same size in the United States, and were we to bring up a family of children in these last days of wickedness we should have less fears of their moral corruption were they in that city than in any other. Swearing, drinking, gambling, idleness, and licentiousness have made but little headway there when compared with other places of equal size. As a body they are a very sincere people and believe the Lord led them there. They are close Bible students, and are very familiar with the Old Testament prophecies, upon which they dwell much in their preachings. Among them are a number of able men who are capable of entertaining an intelligent audience. They preach without notes and present such thoughts as come to them on the occasion.

Mrs. Emily Pitt Stevens, editor of the Pioneer, a woman's journal, writes as follows:

Utah wants to assume the prerogative of State sovereignty. She has population and wealth superior to any other Territory, and why should she not enjoy the privilege of self-government? Utah is the wisest and best governed of any large section of people in the United States. In Great Salt Lake City there is less of rowdyism, drunkenness, gambling, idleness, theft, conspiracy against the peace of society, and crime generally than there is in any other city of the same population in the country, if not on the globe.

And Chief-Justice White, in charging the grand jury, at Salt Lake City, in February, 1876, said:

This land they have redeemed from sterility, and occupied its once barren solitudes with cities, villages, cultivated fields, and farm-houses, and made it the habitation of a numerous people, where a beggar is never seen and almshouses are neither needed nor known.

Please note this language:

Where a beggar is never seen and almshouses are neither needed nor known. These are facts and accomplishments which any candid observer recognizes and every fair mind admits.

Mr. KERR, of Iowa. Does the gentleman claim that this is the result of Mormonism there?

Mr. MANSUR. It is evident it is not the result of Gentile rule.

Now, this is the character of that people, as a rule; yet it is proposed to disfranchise them *en masse* and to deprive them of the highest privilege of American citizenship. It goes without saying that if these men were other than Mormons no such provision would be sought to be placed in the Idaho constitution. It is leveled, then, at polygamy and bigamy; and I, in common with every man on this side, say that so far as it is leveled against those offenses it is right; that there ought to be and must be in that community, as in all others, strict laws prohibiting those crimes, and grave penalties inflicted which shall stamp them out of existence. While the American citizen everywhere is willing, as a rule, to tolerate a man's belief in almost anything, yet when a man attempts to carry out his belief in action, and that action is a violation of any law of the land, then Americans claim the right absolutely, under our civilization and our precedents and all the laws of the land, to punish him for such action, and we do punish him.

Why, on account of the few men who are thus engaged in the practice of bigamy or polygamy, whether the number be one hundred and twenty-five, as Mr. Wilson estimates, in the whole Territory of Idaho, or whether it be greater, as gentlemen on the other side will contend, but certainly not the whole Mormon population, why should we, on account of the conduct of these comparatively few persons, visit the penalty of disfranchisement upon every male adult of that church merely because he is a Mormon? And why should we refuse him even the poor, pitiful right of purging himself by an oath in which he shall swear that he does not thus believe? For, gentlemen, please observe that in said section 3, which it is sought to ingraft into the constitution of Idaho, there are quite a number of provisions whereby a man is declared to have the right of trial and shall not suffer the penalty of disfranchisement until after his conviction, whereas those offenses connected with the Mormon Chnrch are taken outside of the list of ordi-

nary offenses, and a man can not purge himself by his own oath that he does not believe in bigamous or polygamous practices, does not countenance them, and does not aid or assist in their perpetration.

I will read and call the attention of gentlemen to this remarkable section, a part of it being as follows:

No person is permitted to vote, serve as juror, or hold any civil office who is under guardianship, idiotic, or insane, or who has at any place been convicted of treason, felony, embezzlement of public funds, bartering or selling or offering to barter or sell his vote, or purchasing or offering to purchase the vote of another, or other infamous crime, and who has not been restored to the right of citizenship, or who at the time of such election is confined in prison on conviction of a criminal offense.

As to all that, this side of the House agrees to its truth and soundness, because here you have said that any man who attempts to deprive the people of their choice by outrages perpetrated on the ballot at the time of the election whereby that certainty necessary to public peace each and every man must have in the purity of that election and the belief those who voted were entitled to vote, as well as that those charged with heinous crimes like the embezzlement of public funds, felony, treason, every one of these offenses, has the right to be placed on trial by the presentment of a grand jury, with the right to be heard in his own defense by himself or his attorney, has the right to have his case under the rules of law presented to a jury.

When that is done he can not complain if he be deprived of his privileges if convicted. That is universal law in all the States and it is correct. I have been at the trouble of collating the law from all the several States, and there is not to be found in one of the States of the Union any different law than that there must be first conviction of crime before you can degrade a man or deprive him of those inestimable rights, the right to vote, the right to serve on a jury, or the right to hold an office. In no State of the Union can such rights be taken from him without conviction for crime first being had.

I ask each and every gentleman on the other side, if you vote to strike down these men without a hearing and you go home and the men in your district ask you how you could deprive citizens of Idaho of these privileges without a hearing, what will your answer be, when you know the people universally in your own State believe in a different doctrine and decreed it should become a part of the fundamental constitution of each and every one of your States—how, I repeat, will you answer your own people when they put that question to you?

We now come to the remarkable part of section 3. Up to this point conviction must precede his degradation and deprivation of his political rights.

I now invite the attention of the House to the remainder of the remarkable provisions of section 3 in the constitution under consideration:

Or who is a bigamist or polygamist, or is living in what is known as patriarchal, plural, or celestial marriage, or in violation of any law of this State or of the United States forbidding any such crime, or who, in any manner, teaches, advises, counsels, aids, or encourages any person to enter into bigamy, polygamy, or such patriarchal, plural, or celestial marriage, or to live in violation of any such law, or to commit any such crime, or who is a member of or contributes to the support, aid, or encouragement of any order, organization, association, corporation, or society which teaches, advises, counsels, encourages, or aids any person to enter into bigamy, polygamy, or such patriarchal or plural marriage, or which teaches or advises that the laws of this State prescribing rules of civil conduct are not the supreme law of the State; nor shall Chinese or persons of Mongolian descent, not born in the United States, nor Indians, not taxed, who have not severed their tribal relations and adopted the habits of civilization, either vote, serve as jurors, or hold any civil office.

Of course we take no exception to the disfranchisement of Chinese or Indians not taxed. The denial of the right of suffrage under all the constitutions of the States of our country, almost from the establishment of the Government and without exception, applies to the Chinese and to Indians not taxed; but the remainder goes on the idea that if there be such persons as are described in this section, to wit, the bigamist, or the polygamist, or he who believes in patriarchal, plural, or celestial marriage, or who is living in that condition, or supports, aids, or encourages any order, organization, association, corporation, or society which teaches, advises, counsels, or encourages anything of the kind—that evidently means the Mormon Church—can not mean anything else, and that the church teaches these things, asserting that the church does teach them, then thereby, at once, from that very moment, he is disfranchised and deprived of all of these inestimable rights, without trial, without opportunity to be heard, without opportunity to purge himself even by taking an oath before the officers of election denying the fact that he does so believe.

It is this violation of the fundamental principle of the right of a man to be heard and to be considered innocent until he has heard the charge, has been brought face to face with his accusers, and convicted of the offense—it is a violation of this fundamental right of every American citizen, as I believe, without which neither Republicanism nor Democracy is of much value, that caused us to take this stand against these particular provisions of this constitution. The charge being made, if he denies it before the registering board there is to be no trial or hearing. He is at once deprived of his right, which is the most valuable right of an American citizen. It is the very corner-stone upon which our ideal Republic is built. The strength and perpetuity of our Republic and of its institutions alike depend upon the free suffrage of its citizens.

Another very remarkable feature of this oath, you will observe, is that while the constitution guaranties to a man who is accused of many minor offenses that are commonly and popularly known as misdemeanors, that are merely *mala prohibita*, he has the right of trial, while as to others, *mala in se*, he can have no trial. It can not be conceded with any good reason that if a man is living in polygamy or living in bigamy his offense can not be proven upon him. The open, overt act of living in bigamy or living in polygamy can be proven upon a man who is guilty of those offenses, or of either of them, just as well as the offense of horse-stealing or of murder can be proved upon him, and yet this constitution provides no such punishment for these offenses.

There is no sympathy on our part, nor do I believe there is any on this side of the Chamber, for any one who may be guilty of polygamy or bigamy. We say that he ought to be punished severely when tried and convicted of these offenses; and it would be eminently right and just after conviction for crime to put upon him the degradation of this section; that is to say, deprive him of the right of suffrage, of the right to hold office, or the right of serving on a jury.

It will be conceded by every person that it is hard, in fact absolutely impossible, to show why a man should be entitled to a trial and the right of jury as in these *mala prohibita* and minor offenses, and to the right of a jury in a case of treason against the very life of the nation itself; also in embezzlements and in felonies of all kinds other than bigamy and polygamy, and then deny it in bigamy and polygamy—I say it would be very hard, except upon the principle of arbitrary power, by which a man is condemned who is accused of these two offenses, to take him from out of the right and privilege guarantied him of a trial in all other offenses.

It is certain that no reason why this should be done can be suggested that will stand the test of our judgment. Observe its effect. A man walks up on election day and tenders his suffrage. The charge is made against him by the register or other election officer: "You believe in these things, polygamy or bigamy, or you are a member of the Mormon Church, that teaches them." He is branded at once as infamous; he is branded as an outcast. He has stricken from him the highest right of American citizenship, and a character of punishment is visited upon him that makes him stand humbled and degraded in his own eyes and in his own estimation.

Let us consider, if you please, the value of suffrage, remembering that in this argument we are taking ground against this section 3 simply because it is discriminating and deprives the citizen of inestimable rights without a hearing and defense before constituted tribunals of the country of his liberties and franchises, and these ought, in the eyes of an American citizen, to be more precious than life itself.

It is evident that under the provisions of section 4, which immediately follows section 3, the Legislature possesses the power of prescribing other limitations and conditions upon the right of suffrage, additional to those that are prescribed in section 3, that contains the disfranchisement proper. But it also goes a step further, and says that the Legislature shall never possess the power to annul the provisions of section 3 or any of the provisions that Article VI contains.

That being the case, the Legislature is put undoubtedly in this position: That when it goes on to frame the necessary machinery to carry out section 3, the effect of it will be to invest the register or the election officer, by whatever name known, with summary power similar to that possessed by a drum-head court-martial to hear a charge and to determine it then and there. Of course, if he is, as he is likely to be, of the dominant party and a believer in the tenets of disfranchising this class of people, he will rule rigidly upon it; and it is not too much to say that all that will have to be done is to accuse a man and thereby rob and deprive him of his right to vote, without any opportunity to show the falsity of the charge made against him, and, if you please, without the constitutional right of his being enabled to deny that he does believe in these doctrines or that he has ever lived in a condition of polygamy or bigamy.

It was hardly to be expected under ordinary circumstances that a hundred years after the adoption of the Constitution of the United States, with all its guaranties in behalf of personal liberty, such a provision as this should have been submitted to the deliberate consideration of an American Congress. Yet we have it here before us.

Let us see a little bit further into the inconvenience and the trouble of enforcing these provisions, namely: The right to serve on a jury, the right to hold office, and the right, possibly, to become a member of the Legislature.

These are the rights upon which depends practically the preservation of the liberties and of the property, not alone of the man himself, but of the community in which he lives. Let us suppose that a trial is going on and a man is summoned as a juror. There being no provision in the Constitution by which you can determine from the looks of a man whether he is a Mormon or whether he is a Gentile, this man is summoned, and when he comes into court some one knowing him says, "This man is a Mormon." What is the judge to do? It is evident that he can not stop the trial in the midst of which he is engaged, yet it must be held in *statu quo*, at least until the question is determined whether this man is a Mormon or not, because, if he denies that he is a Mormon, then it is the duty of the court to investigate that question.

But how is the court to do that? There are no rules prescribed here. Naturally, therefore, the judge would call to his aid all the adjuncts that go to the trial of any question submitted to the court, he himself sitting as both judge and jury; in other words, trying the question from the standpoint of a judge in equity. He would have to hear testimony pro and con. Now, it has been stated that in some of those counties, in one, in particular, in Southern Idaho, there are six or seven thousand people, and there are not 100 Gentile voters in the whole county who will administer public affairs there. But to return. At every stage of the procedure in the gathering of the jury and at every stage until the complete impanelment of it, there would arise vexed questions which might take hours and days for the court to determine.

Again, supposing a man should run for office and be elected and the question should come up, when he was about to take the oath of office, as to whether or not he was a Mormon, who is to try him in such a case? How is the accusation to be made good? By what authority? In the mean time in what way and manner are the interests of the people in the conduct of the office to which this man has been elected to be conserved and carried out? These, however, are some of the minor disadvantages connected with this provision of this constitution.

Passing them by for the present, let me for a little while call the attention of the House to the value of suffrage and the estimate that has been placed upon it in the past by some of the wisest and best men of the land, not only of our own country, but of the motherland whence we came.

Alexander Hamilton, in an extract which is cited in 4 Wallace, 291, says:

A share in the sovereignty of the state, which is exercised by the citizens at large in voting at the elections, is one of the most important rights of the subject, and in a republic ought to stand foremost in the estimation of the law. It is that right by which we exist as a free people, and it will certainly therefore never be admitted that less ceremony ought to be used in divesting any citizen of that right than in depriving him of his property.

But the Constitution has an impregnable bulwark, in so many words, whereby it is declared that as to our property we can not be deprived except for just compensation. We are bulwarked by the very provisions of the Constitution in the protection and in the value of our property, but we are not so bulwarked in our right of suffrage.

Again, on another occasion Mr. Hamilton said:

It is that right by which we exist as a free people.

How much of blood and treasure has not been sacrificed to obtain it? When will men who know and appreciate liberty cease to value it above fortune and even life? The supreme court of Pennsylvania say:

The most important of all our franchises is the right of an elector and citizen. It is true that, in a confined sense, it can not be called property; it is not assets to pay debts, nor does it descend to the heir or administrator; but who does not feel its value? And who would not turn pale if he thought he could be deprived of it, without a hearing or trial, by an act of assembly?

The court speak of the right of an elector as a franchise; but by all authorities, English and American, "liberty" and "franchise" are synonymous terms (4 Tom. Jac. Law Dic., 148; 2 Black, 21–37). The right of the people to elect officers is a franchise (2 Bouv. Dic., 1593). In Mr. Webster's argument, Dartmouth College case (5 Webster's Works, 479–481), he said, "Liberties and franchises are the same."

Mr. Madison held that the citizen had not only a right to his property, but a property in all his rights (4 Writings of Madison, 478–480). When, under the English common and statute law, one was made a citizen of London or other city or free burgess of any town corporate, "he had a freehold in his freedom during life" (2 Tom. Jac. Law Dic., 378). Can it be possible that in America the liberty of suffrage is less secure than it is under the rule of lords and kings? Is it true that while an acre of land or $50 in money is protected by a jury trial the liberty of suffrage is not?

There is one case which the minority have cited in their report which comes down to us from ancient days in England, a case which is so appropriate, so strong, and which states the doctrine of the value of the right of suffrage and what depends upon it so tersely, so strikingly, that I desire to read it:

In the case of Ashby *vs.* White and others (Lord Raymond's Reps., 938), after verdict for the plaintiff, the judgment was arrested in the court of the Queen's Bench by Justices Gould, Powys, and Powell. The action was brought against the returning officers (who fill the same place in England that judges of election fill in this country) for refusing to receive the vote of the plaintiff. This case is a most interesting one.

Gould, justice, was of opinion that the action was not maintainable, first, because the returning officers were judges of the qualification of voters; second, because the plaintiff's privilege of voting is not a matter of property or credit, so that the hindrance of it is merely *damnum absque injuria*.

Justices Powell and Powys concurred mainly on the last point. Lord Holt dissented. He said:

It is not to be doubted but that the Commons of England have a great and considerable share in the Government and a share in the legislature, without whom no law passes; but because of their vast numbers this right is not exercisable by them in their proper persons, and, therefore, by the constitution of England it has been directed that it should be exercised by representatives chosen by and out of themselves, and this representation is exercised in three different qualities, either as knights of shire, citizens of cities, or burgesses of boroughs; and these are the persons entitled to represent all the Commons of England. The election of knights belongs to the freeholders of the county and it is an original right vested in an inseparable form from the freehold, and can be no more severed from the freehold than the freehold itself can be taken away. * * * The right of election is an original right incident to and inseparable from the freehold. As for citizens and burgesses, they depend on the same right as knights of shire, and differ only as to the tenure, but the right and the manner of their election is on the same foundation.

After examining the various tenures of the different cities and boroughs, he proceeds:

Hence it appears that any man that is to give his vote on the election of members to serve in Parliament has a several and particular right in his private capacity as a citizen or burgess; and surely it can not be said that this is so inconsiderable a right as to apply that maxim to it, *de minimis non curat lex;* a right that a man has to give his vote at the election of a person to represent him in Parliament, there to concur in the making of laws which are to bind his liberty and property is a most transcendent thing and of a high nature, and the law takes notice of it as such in several statutes. * * * The right of voting at the election of burgesses is a thing of the highest importance, and so great a privilege that it is a great injury to deprive the plaintiff of it. * * * But my brother says we can not judge of this matter because it is a parliamentary thing. Oh! by all means, be very tender of that. * * * To allow this action will make public officers more careful to observe the constitution of cities and boroughs, and not to be so partial as they commonly are in all elections, which is indeed a great and growing mischief, and tends to the prejudice of the peace of the nation. * * * If it be a matter within our jurisdiction, we are bound by our oaths to judge of it. This is a matter of property determinable before us.

Such was the opinion of Lord Holt. He was overruled by the three associate judges, but most fortunately a writ of error was taken to the House of Lords, and the judgment of the Court of Kings Bench was reversed by the vote of fifty lords to sixteen. Trevor, chief-justice of the common pleas, and Baron Price, of the exchequer, were of opinion with the three judges of the King's Bench. Ward, chief baron of the exchequer, with his associates, Bury and Smith, agreed with the Lord Chief-Justice Holt. Tracy, justice, agreed with Holt on the main point, but differed on the point of pleading.

When this case was argued in the House of Lords, Holt, chief-justice, said, addressing those in favor of affirming the judgment:

The plaintiff has a particular right vested in him to vote. Is it not then a wrong and an injury to that right to refuse to receive his vote? * * * This action is brought by the plaintiff for the infringement of his franchise. You would have nothing to be a damage but what is pecuniary. * * * Let all people come in and vote fairly. It is to support one or the other party to deny any man's vote.

I repeat that language for the benefit of my friends on the other side:

It is to support one or the other party to deny any man's vote. By my consent, if such an action comes to be tried before me, I will direct the jury to make him, the defendant, pay well for it. It is denying him his English right; and if this action be not allowed, a man may be forever deprived of it.

Oh, that I could say here on the floor of this American Congress, "it is denying a man his American right;" but you, gentlemen on the other side, if I were to make such a statement, would, I am very fearful, give the lie to it by your votes on this bill.

Then Lord Holt wound up his address with these memorable words, which ought to be graven in letters of living light upon the heart of every American lover of liberty:

It is a great privilege to choose such persons as are to bind a man's life and liberty by the laws they make.

Yet this is a privilege of which gentlemen are seeking by this bill, if it should become a law, to deprive 5,000 men, representing 25,000 people.

The case to which I have just referred has been cited at length in order to combat the notion that the right of suffrage is of slight estimation in the eye of the law, is not regarded as having the same sacredness which hedges and protects rights as to things tangible, the right to personal and real property. In reply to those who would make light of this right of suffrage we cite this case as an authority for the proposition that the right of suffrage is eminently a right belonging to every American; that it is his property, something which is his own, the infringement of which debases and degrades him, being a deprivation of that which constitutes the principal dignity of his position as an American citizen.

Any one who controverts this ground must be prepared to maintain three propositions: First, deny this right to these men by adopting this constitution and then tell me if you dare that the liberty of an American citizen is on a par or anything like equal with that of an English citizen. Next, it must be maintained that popular rights in America which are sought to be conserved and protected by our constitutions as the bulwark of those principles of liberty upon which our entire institutions are framed are less secure, are on a less assured basis in America than they are by this decision in England. Thirdly, it must be held that the right of suffrage, if possessed by a man in England by virtue of being a freeholder or a member of a borough, is more invaluable, more sacred, than it is in this country under the constitutions of the several States as they exist, and of infinitely more value than under the constitution of Idaho, if it shall now be admitted as a State of the Union.

It must be evident, then, with this review, that the deprivations put upon citizens by this constitution are, from the standpoint of the framers of that constitution, imposed upon them because these things alleged against them are, in the minds of the people of Idaho, crimes. I confess if they can be proved guilty of polygamy or bigamy those are crimes, and for them the guilty parties ought to be disfranchised—ought to be punished to the extent of the law.

[Here the hammer fell.]

Mr. MANSUR. Inasmuch as I shall have charge of the time on this side of the House, I ask unanimous consent to proceed for ten minutes longer.

There being no objection, leave was granted.

Mr. MANSUR. I have within the last two or three days been placed in possession of a copy of the Philadelphia Record, dated Wednesday, March 26, 1890, not over six days old. I desire to call the attention of the House to the remarkable progress in public sentiment and the extent to which the dominant majority, when they believe their ideas are being trampled upon, are emboldened to go, the length to which they are seeking to carry their doctrines because of the presentation of this constitution of Idaho to Congress and because of the recent decision by the Supreme Court of the United States in the case of Davis vs. Beason.

I am not familiar with the causes which led to the creation of the committee of one hundred in the city of Boston; but they have issued a pamphlet reviewing the last encyclical letter of the Pope and taking the position that according to this encyclical no man can be an obedient and loyal Catholic and at the same time be a loyal citizen of the United States. This pamphlet takes the position that the relation of Catholics towards our Government is similar to that of Mormons who have taken the oaths of the Endowment House, and then declares: "No ballot for the man who takes his politics from the Vatican." This is a remarkable length for such an organization to go, and it shows the extent to which some leading citizens are aroused over the attitude of the Catholic authorities towards the public schools.

The close of the address is in these words:

We have no hesitation in affirming that the oath of allegiance to our Government taken by Romanists, and by which they have obtained the rights of the ballot, citizenship, and office, amounts to nothing—if they are good Romanists—and has no binding obligation where the interests of the church or the Pontiff require it to be disregarded. * * * We do not hesitate to say as a measure for the nation's self-protection that no man who confesses allegiance to the Pontiff should be allowed to participate as a citizen in either holding an office or casting a ballot. The United States Supreme Court has decided that the law of one of our States disfranchising Mormons is constitutional, on the theory that the man who takes the oath the Mormons are required to take can not be a good citizen. Why should not this principle be applied to those who confess allegiance to the Papal hierarchy?

Let Romanists who would become citizens of the United States be required not only to take the oath of allegiance to the Government, but to take an oath also renouncing all allegiance to the Pope of Rome. This is not a question of religious intolerance, nor is it one of antagonism to foreigners who are willing to homologate with us in accordance with the spirit of our institutions. But this is a question of self-protection and self-preservation, and the law of self-preservation is supreme in all social and political organizations. Romanism is a political system; it is a political power. As a political power it must be met; as a political force it must be treated when viewed in its relations to our institutions. We can have no divided citizenship. No man should be allowed to participate in the political affairs of this country who is the subject or ally of a foreign power that is at war with her national institutions. No ballot for the man who takes his politics from the Vatican.

This is the address now being issued by a committee of one hundred citizens of Boston. I think I can fairly say to the Catholics that if the Mormons are stricken down, if this bill is to be carried into effect in this way, thus emboldening the dominant majority, it will not be long before we shall find certain denominations and certain classes of people in this country inaugurating a crusade against the Catholic because he is a Catholic.

Mr. ALLEN, of Michigan. Will the gentleman allow a question?

Mr. MANSUR. Yes, sir, although my time is very short.

Mr. ALLEN, of Michigan. Is it not true that Catholics are as much opposed to polygamy as are Protestants?

Mr. MANSUR. I presume they are absolutely as much opposed to it—more so, if anything, because they come nearer to holding the bond of marriage inviolable than Protestants do.

Mr. ALLEN, of Michigan. Do you, then, expect Catholics to object to polygamy being restricted for fear that afterward their church will be attacked?

Mr. MANSUR. That is not the question. The question is that any one who believes in a church that teaches belief in a higher power shall be disfranchised. I tell you original Republicans, I tell you original Abolitionists, under this section 3, word for word, line for line, Seward never could have voted, nor could Wendell Phillips, nor Lloyd Garrison, for they believed in the higher law. I wish you gentlemen on the other side to think whether you are willing to go to the extreme this clause indicates.

Mr. KERR, of Iowa. Did not the gentleman and all his party denounce them because they believed in the principles of human liberty?

Mr. MANSUR. I never denounced the principles of liberty, and I never knew you people to believe in the Constitution where the question of a higher law was involved.

Mr. DUBOIS. Will the gentleman allow me to ask him a question?

Mr. MANSUR. Certainly.

Mr. DUBOIS. You are not stating the law at all.

Mr. MANSUR. That is not a question. I insist I am stating it without possibility of mistake. I am fairly stating it. I say word for word:

Or who in any manner teaches, advises, counsels, aids, or encourages any person to enter into bigamy, polygamy, or such patriarchal, plural, or celestial marriage, or to live in violation of any such law, or to commit any such crime, or who is a member of or contributes to the support, aid, or encouragement of, any order, organization, association, corporation, or society which teaches, advises, counsels, or encourages or aids any person to enter into bigamy, polygamy, or such patriarchal or plural marriage, or which teaches or advises that the laws of this State prescribing rules of civil conduct are not the supreme law of the State; nor shall Chinese nor persons of Mongolian descent not born in the United States, nor Indians not taxed who have not severed their tribal relations and adopted the habits of civilization, either vote, serve as jurors, or hold any civil office.

Now, recollect the proposition is, if any man or person belongs to any organization, association, corporation, or society which teaches or advises the laws of the State are not the supreme law of the land, he shall be disfranchised.

Mr. STRUBLE. That is, if he belongs to those organizations.

Mr. MANSUR. Yes, sir; and I say that if Seward, or Garrison, or Phillips, who belonged to the Abolition party and its organization, and believed in the higher law—I say this Idaho constitution doctrine would apply to them and would break down every barrier by which they were protected and enjoyed the privilege of voting.

Mr. STRUBLE. Does the gentleman claim there is any analogy between the old association of Abolitionists and the established Mormon church?

Mr. MANSUR. It is a very far-fetched one, I will admit; but the only question of similarity which is true is this: They were an association of free-soilers; they were an association of Abolitionists, to bring about eventually the doctrine in which they believed, that when any law of the State was in conflict with the higher law, then they were relieved from their obedience to the law of the State, and they were bound only to obey that higher law. [Applause.]

[Here the hammer fell.]

Mr. DUBOIS. Mr. Speaker, the subject which I arise to discuss is the grandest, politically, that ever engaged the thoughtful consideration of man. I have the distinguished honor, which comes to but few, of representing freemen and American citizens who ask for themselves a place among the States of the American Union. These people who have subdued the desert and the forest, who have wrenched untold millions from the solemn and reluctant hills, thus aiding struggling humanity everywhere, who have borne the hardships which have opened up an empire for thousands of homes, are the worthy descendants of their fathers of the Revolution, and seek now by petition what their fathers gained one hundred years ago by arms and blood, the right of self-government.

In these days of centennial celebrations, when we are commemorating the achievements which marked the real beginning of the Government by the people; in these days when our institutions have proved themselves so strong and the prosperity of our people under them so great that their contemplation shakes thrones; in these days when we are swift as a nation to recognize the sovereignty of foreign republics and to send words of cheer to Ireland, struggling for "home rule," it is fortunate for Idaho that she presents her claims and petitions to her kindred.

I ask of this Congress of the American people that they will divest their minds of all prejudice for or against Idaho, and that they will consider our claims as presented regardless of the claims or conditions of any other Territory. I trust above all things that no partisan consideration will influence your judgment. I promise you to state facts as they exist and confidently rely on the patriotic judgment which you will form.

In the discussion on the Wyoming bill, precedents were cited in detail and numbers to show that Wyoming was possessed of sufficient population and resources to entitle her to admission. It was abundantly proved by comparison that if she were kept out, it would be contrary to precedent. Those arguments apply with greater force to Idaho, but as they have been presented so recently I will not take your time to repeat them in detail. I will, however, call your attention to some unanswerable expressions concerning the admission of States.

Before I enter into a discussion of our resources and capabilities for State government, I desire to have it understood that I speak of non-Mormons only. Our Mormon population contribute nothing practically to our local government. Any one of half a dozen counties pay more taxes than all the Mormons combined.

DUTY OF CONGRESS.

In the famous ordinance of 1787, for the government of the Northwest Territory, appear these words:

To provide also for the establishment of States and permanent government therein and for their admission to a share in the Federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest: It is hereby ordained and declared that the following articles shall be considered as articles of compact between the original States and the people and the States in the said Territory. * * * Article V. * * * Whenever any of the said States shall have 60,000 free inhabitants therein such States shall be admitted by its delegates into the Congress of the United States on an equal footing with the original States, in all respects whatever, and shall be at liberty to form a permanent constitution and State government. * * * and so far as it can be consistent with the general interest of the Confederacy such admission shall be allowed at an earlier period and when there may be a less number of free inhabitants in the State than 60,000.

For more than a century a mighty and fructifying tide of immigration has poured into and over the West, converting the vast waste into a rich garden, the hardier and more progressive spirits in the East, who have constituted that unceasing flood, parting for a time with the

most valued of their political privileges in full trust of their restoration so soon as the conditions of the great ordinance shall be fulfilled. Over and over again communities planted and rooted upon the faith of that compact or in reliance upon the broad and unchanging principle that underlies it have come knocking at the door of Congress, asking for "the establishment of States," for "permanent government," and "admission to a share in the Federal councils," according to the letter and the spirit of the irrevocable compact. Over and over again Congress has listened to and granted the appeal, never standing upon the maximum requirements of the ordinance, but, conformably to its true intent, heeding most the special admonition that "so far as it can be, consistent with the general interest of the Confederacy, such admission shall be allowed at an earlier period."

It was not without reason that the ordinance of 1787 sought rather to hasten than to retard the time when the unorganized and unpeopled public domain of that day should be divided and erected into sovereign members of the family of States. American statesmen have never imagined to themselves, nor proposed to their countrymen, a political system or arrangement under which that portion of their fellow-citizens who should take upon them or upon whom should fall the task of national expansion should remain for the space of an unnecessary moment in a state of public dependence upon or inferiority to the remaining portion of the national community. So far was this from their ideas and purposes that when the Supreme Court was called upon to expound the provisions of the Constitution framed almost contemporaneously with the ordinance of 1787, it said, through the lips of its presiding member:

There is certainly no power given by the Constitution to the Federal Government to establish and maintain colonies bordering on the United States. * * * No power is given to acquire a territory, to be acquired and permanently held in that character. * * * The power to expand the United States by the admission of new States is plainly given, and in the construction of this power by all the departments of the Government it has been held to authorize the acquisition of territory, not fit for admission at the time, but to be admitted as soon as its population and situation entitle it to admission.

Agreeably to this judicial view of the purposes of the Constitution are the utterances of distinguished statesmen of various parties and sections. Madison, advocating the admission of Tennessee in the early days of the Union, said:

The inhabitants in that district are in a degraded situation; at present they are deprived of a right essential to freemen, the right of being represented in Congress. Laws are made without their consent or by their consent in part only. An exterior authority appoints their executive, which is not analogous to the other parts of the United States and not justified by anything but an obvious and imperious necessity.

Douglas, speaking on the admission of Kansas, said:

I helped to admit Florida into the Union when she had a population of 48,000. * * * While I think it is not right to admit new States with too small a population—30,000, or 40,000, or 50,000—yet it has ever been done. * * * Under these circumstances, I think we had better waive these small technical objections and treat this question on its merits.

Mr. Seward, supporting the bill for the admission of Oregon, said, among other things:

She is to be admitted some time, and, inasmuch as she is to be admitted, it is only a question of time whether you admit her here to-day or admit her six months hence or seven years hence. What objection is there to her being admitted now? You say she has not 100,000 people. What of that? She will have 100,000 in a very short time. * * * The State of Oregon is here of her own free will, is here ready to be admitted.

I think there is nobody who doubts that the people are ready, desirous, willing to come in. They have made a constitution which is acceptable to themselves, a constitution which, however it may be criticised here, after all complies substantially with every requirement which the Congress of the United States or any considerable portion of either House of Congress has ever insisted on in regard to any State. For one, sir, I think that the sooner a Territory emerges from its provincial condition the better; the sooner the people are left to manage their own affairs and are admitted to participation in the responsibilities of this Government, the stronger and more vigorous the States which those people form will be.

Senator Collamer, in the Kansas debate, said:

The Territorial condition is not one which it is desirable to extend. It is an unnatural condition in our Government.

It was James Buchanan, afterwards President of the United States, who spoke these words:

Congress will never turn a deaf ear to a people anxious to enjoy the privileges of self-government. Their desire to become one of the States of the Union will be granted the moment it can be done with safety.

Trusten Polk, of Missouri, declined to accept the population test in the case of Oregon, but conceding the comparatively small population of that Territory, said:

That population is settled, industrious, and well-to-do in all respects.

The late Senator Howe, of Wisconsin, said, with reference to the admission of Colorado:

I have but one test by which to judge for myself when this thing we call a State ought to be admitted or not. Whenever I find a community friendly to the United States and able to pay the expenses of their own government, defray the charges of their own control, if they say they are willing to do it, I am not the man to forbid them. If my own judgment is not quite in accord with theirs, if I find a pretty spirited and pretty plucky people saying that they are equal to the work of self-government, when I am not quite satisfied of the fact myself, I rather yield my own opinion to theirs. I would rather encourage a little ambition of this kind than discourage it.

With such a consensus of constitutional, judicial, and political provision, action, and opinion, it is not surprising that the principle of erecting new States as fast and as soon as their own desire and the general interest coincides, has become so axiomatic that not even the bitterest strifes of party or of sections have succeeded in overriding the principle. It would be an unexampled misfortune to Idaho if party lines should be drawn against her upon this bill for her admission to statehood. The movement for her enfranchisement and the popular support behind the present application have been the movement and support of her people of both parties, and Democrats and Republicans alike in Idaho would feel and deplore the injustice and hardship of raising a partisan question at Washington, which has been universally ignored and reprobated within the confines of the Territory.

The records of the two great parties that confront each other on the floors of Congress and of the great parties that have preceded them since the institution of Federal government are undimmed by factional strife over the admission of States whose inhabitants had earned the privilege of full participation in the affairs of the nation, and the people of Idaho may reasonably hope that their cause may be heard and determined upon the broad and elevated grounds to which Congress has heretofore honorably and patriotically conformed. Armed with proofs and arguments against all valid objections, they could only meet partisan opposition by reminding Congress of its own past history in dealing with waiting States.

The duty of Congress to admit Idaho to statehood is made plain by the examples of the early Confederation Congress, the Supreme Court, the past legislation of Congress itself, and the arguments of leading American statesmen.

RIGHTS AND EQUITIES OF THE TERRITORY.

Insomuch as Idaho is not one of the alternative three or five States proposed to be carved out of the Northwest Territory by the ordinance of 1787, it can not be said that her case is literally provided for by the text of that organic enactment. On the other hand, it can not be gainsaid that she, as well as every other nascent State similarly situated, is within the spirit and purview of that ordinance. Her need is as great as was that of any and every State heretofore admitted into the Union to be incorporated into the "establishment of States," to have a "permanent government," to possess "a share in the Federal councils."

Her present organization and situation are but provisional and temporary; her people have advised Congress of their wish to be developed into a full and permanent Commonwealth, and the only true issue raised by her application is, whether it "may be consistent with the general interest" to admit her now or keep her in dependence for a time longer. How is that issue as to the proper time of admission to be determined? The Supreme Court, as already quoted, has said:

As soon as its population and situation entitle it to admission.

Mr. Buchanan said:

The moment it can be done with safety.

The test of Senator Polk, of Missouri, was that the population should be "settled, industrious, and well-to-do in all respects." The only test proposed by Senator Howe, of Wisconsin, was that of "a community friendly to the United States and able to pay the expenses of their own government; defray the charges of their own control." Two striking arguments for prompt rather than dilatory admission were made by Senators Seward and Douglas in the case of Oregon. The first said:

She is to be admitted some time, and inasmuch as she is to be admitted it is only a question of time whether you will admit her here to-day or admit her six months hence or seven years hence. What objection is there to her being admitted now? You say she has not 100,000 people. What of that? She will have 100,000 in a very short time.

The last-named said:

I have seen Oregon and Washington Territories suffer in their interests because of the want of representation here, and it was not in my power to prevent it. California has had vigilant Senators here looking after her interests and drawing everything that the Government could control into California, when if there had been representation of the whole coast we would have heard oftener of the Columbia River and Puget Sound when you came to the distribution of the patronage of this Government or the distribution of money for public works and to develop the country.

Two of the immediate neighbors of Idaho have been recently admitted as States, and unless it be deemed actually unsafe to the general interest to advance Idaho to an equal situation and opportunity, the Federal Congress, her natural guardian and protector, should not leave her to languish in an unequal race.

Idaho has a larger population, excepting Wisconsin, than any State admitted to the Union prior to 1889. The now great State of Illinois came into the Union with but little more than a fourth part of the population of Idaho, and another great State, Ohio, had but little more than a third in number of Idaho's population. Though her population is still considerably below the basis of representation in Congress, that basis will be reached within three years at the present rate of growth, and probably materially within that limit.

Illinois, Florida, California, Oregon, Kansas, Nebraska, and Colorado all came into the Union with populations below the basis of representation. In the Oregon debate, William Pitt Fessenden, of Maine, said that he did not choose to commit himself to require any particular number; Judah P. Benjamin, of Louisiana, said that the want of a

number fixed for a Representative would not debar him from voting for the admission of a new State; Trusten Polk, of Missouri, said it might be well enough to have a rule as to population, but he would not discriminate against a people that came, like Oregon, seeking admission; Stephen A. Douglas, of Illinois, said that while it was a good rule to require the ratio requisite for a member of Congress, they had never adhered to the rule, and William H. Seward, of New York, said that he could conceive of a State with a million of people that he would not admit into the Union, and of another that he would admit upon a population of 40,000. Speaking of Oregon, Mr. Seward said:

> You say she has not 100,000 people. What of that? She will have 100,000 in a very short time.

No doubt he had in mind the prodigious rate of growth of population in Michigan, Ohio, Iowa, and Wisconsin during the first few years after their admission; a growth to which Alabama, Illinois, and California made a good second. Idaho simply invokes principle and precedent when she asks that the question of population in her case be dealt with as prior questions of population have been, so that she may have equity and equality in the common forum. She simply invokes the principle of the ordinance of 1787, the doctrine enunciated by the Supreme Court, and the precedents created by uniform Congressional action and utterance, when she asks to be admitted as she now stands, not as a favor, but as an equitable right.

On February 19, 1890, the Senate of the United States ordered publication of the report of its Committee on Territories on the bill before that Chamber for the admission of Idaho as a State. The report ends with the following recommendation:

> It is the conclusion of the committee that Idaho's right to admission is full and complete. Some verbal and formal amendments to the bill are suggested, and so amended the committee recommend that the bill do pass.

Here was no partisan division, the report being unanimous. The assigned grounds of the recommendation are that the Territory is rich in natural resources; that its population and wealth are increasing at a rate that affords a sure prospect of a stable and prosperous commonwealth; that the inhabitants are of a high grade of intelligence and morals; that they have, by harmonious and non-partisan popular action, framed and adopted a State constitution the provisions of which are agreeable to the Federal Constitution and in all other respects commendable; and that, in view of the present condition, substantial progress, and assured future of the Territory, the time has arrived for redeeming the standing Federal pledge of statehood, with full safety to Federal interests.

The Committee on Territories of the House of Representatives has likewise submitted a similar report and recommendation upon a bill for the admission of the Territory as a State of the Union. This committee reviews in much detail the characteristics and circumstances of the Territory and its people, and reports in favor of immediate admission.

The habitual deference paid by both Houses of Congress to the action and opinions of their committees leads the people of Idaho to entertain the strongest kind of hope and expectancy that these reports to the respective Houses will meet with the customary ratification by the votes of the two Chambers.

PHYSICAL CHARACTERISTICS OF THE TERRITORY.

Idaho lies between the forty-second and forty-ninth degrees of north latitude, having British Columbia on the north, Utah and Nevada on the south, Montana and Wyoming on the east, and Washington and Oregon on the west. Its area is 55,228,160 acres, or upwards of 86,000 square miles; thus exceeding in size every State of the Union except Texas, California, Oregon, Nevada, Colorado, and Montana. Of this imperial domain fully 85 per cent. is adapted to industrial occupation, and the other 15 per cent. has a considerable aggregate of valuable timber.

The physical constitution of the Territory is worthy a brief attention. Mountains rich in the precious metals stretch along its eastern frontier and in the center of the Territory, forming countless and fertile valleys, and innumerable like valleys are projected into the Territory from extensive and exterior mountain ranges lying south, southwest, and westward of Idaho. The Territory is a table-land, diversified by mountains. What is called Southern Idaho is an immense plateau, with an average elevation of fully 3,000 feet above the ocean level. In the northern part of the Territory is a very beautiful, fertile, and salubrious lake region. The rest of the inhabitable parts of the Territory may be classed as the valley lands.

Idaho is richly watered. The great Snake River wanders along the eastern, southern, and western parts for upwards of a thousand miles before leaving the Territory, and its volume of water is enormous. The Clarke and Spokane Rivers are large streams in the north. The Salmon River crosses the center of the Territory from east to west, and the Clearwater River flows northwesterly across the Territory. Owing to the mountainous formation of the whole region, the tributaries of these great rivers are almost without number. Many of them, such as the Boisé, Payette, Weiser, and Wood, in the center and south, and the Cœur d'Alêne, St. Joseph, and Kootenai, in the north, have distinctive names and reputations, and outrank in size and volume some of the famous commercial rivers of the Atlantic Slope and the Mississippi Valley.

The important lakes of Idaho are Pend d'Oreille and Cœur d'Alêne in the north and Bear Lake in the southeast. Of smaller lakes there are a considerable number, as would be natural in any such mountainous formation.

Apart from the medicinal springs which constitute one of the physical characteristics of Idaho, there are a vast number of pure springs which supply the domestic and industrial needs of the towns, villages, farms, ranches, and mining camps. Many are so large as to constitute natural reservoirs for irrigation. There can be no fear that the Territory will ever run short of water for all its needs.

The climate of Idaho is bracing but not severe, and is happily free from either torrid or frigid conditions. The atmosphere is unusually clear, bright, and dry, the average of fair days being three hundred per annum. The Rocky Mountains to the eastward shelter it from the blizzards and cyclones that sweep the Missouri Valley, and from the westward it receives the warm wind locally known as the "Chinook." It is owing to this warm current that the temperature belt is extended so far northward into British America, westward of the Rocky Mountains. The mean temperature is higher than that of Eastern and Western States of more southerly latitude.

The inhumidity of the air gives the Territory an advantage which may be expressed by saying that it would require a summer temperature of 105° at Boisé City to make one as uncomfortable as 85° would do at New York or Boston, while 12° below zero at the Idahoan capital would be no more severe than 8° above zero at the eastern cities named. Sunstrokes and frost-bites are equally unknown. The character of the climate, supplemented by the elevation of the land above the sea-level, insures an extraordinary salubrity. The scarcity of rainfall is compensated by the ease with which irrigation is applied to land under cultivation.

NATURAL RESOURCES OF IDAHO.

One of the surest and steadiest sources of industry and wealth in the Territory is mining. Gold, silver, lead, copper, iron, salt, sulphur, marble, limestone, sandstone, granite, and mica are abundant. Coal measures are profusely spread over the Territory, but these deposits have not been sufficiently prospected to determine their value. In 1880, when placer-mining was about worked out, $1,634,637 represented the total value of the precious metals obtained. Mechanical mining then came into vogue, and in 1889 the yield of gold was $3,204,500; of silver, $7,564,500; of lead, $6,490,000, and of copper, $85,600; or $17,344,600 in all. The value of the mines taken up is about $50,000,000, but all that has been done hardly amounts to a scratching of the surface. According to the surveys of the mineral deposits, the business of mining is capable of extending over centuries of time. The Territory is now third on the list of bullion-producers and is expected to obtain the second place during the present year.

Nearly 20 per cent. of the area of the Territory, or about 10,000,000 acres, consists of timber land, producing oak, white and yellow pine, fir, cedar, spruce, and tamarack. This timber is habitually tall, large, and of dense growth, and easily gotten to market. The timber trade of the Territory shows a steady and vigorous growth. There are several hundred thousand acres of scattered timber not included in the forest lands, properly so called. Allowing for the destructive use of timber in the United States but having regard also to the competition of other industries, localities, and materials, it is evident that the lumber interests of Idaho will afford employment and support for all that choose to turn to them for a great number of years—more years than need to be scanned by this generation.

More than 35 per cent. of the area, or nearly 20,000,000 acres, is good grazing land. A recent live-stock return shows 385,896 cattle, 123,840 horses, 2,480 mules, and 447,924 sheep, representing a value of $12,000,000 in round figures. So long as the Territory shall be inhabited by civilized man cattle-raising, horse-breeding, and wool-growing are sure to be among the important industries. This is insured by the gradual conversion of the method of business from the primitive range system to close herding and winter feeding, with their attendant inducement to introduce highly bred stock. For a number of years to come, however, those who prefer the range system will be able to find sufficient and proper lands, and the supply of natural grasses is simply inexhaustible. For winter grazing there is an abundance of sage and greasewood shrubs. The people of the Territory set a high value on their stock-raising resources and are never in want of a market.

Now that the General Government is giving so much attention to increasing and varying the supply of food fishes throughout the Union, it may not be unimportant to mention that the people of Idaho might subsist on the trout, sturgeon, and red-fish that abound and multiply in the innumerable streams of the Territory, if they should take chiefly to a piscatorial diet from taste or necessity. Trout, especially, are so plentiful that those who catch them for market do so by wagon-loads. Antelope, deer, wild duck, grouse, and quail are very plentiful among the eatable varieties of game in the Territory. In addition to these, the sporting and hunting resources of Idaho afford, in much abundance, grizzly, black, and cinnamon bears, elk, moose, California lion, yellow wolf, coyote, wolverine, lynx, four varieties of the fox, wild-

cat, mountain sheep, weasel, badger, marten, mink, four varieties of the squirrel, raccoon, jack rabbit, and other small game; also bald and golden eagles, wild swan, wild geese, and a multitude of smaller land and water birds. The peltry trade will not be unimportant, and a stream of tourists, anglers, and hunters, in the not distant future, will solve the problem of working and living for a due proportion of the inhabitants; for nature has been very bountiful in natural beauty and in native attractions for rod and gun, as well as in the natural wealth of the industrial kind.

AGRICULTURAL RESOURCES OF IDAHO.

The popular belief in and reliance upon agriculture as the chiefest source of national prosperity and the principal object of human industry render it fitting that this Territory, in asking to be admitted into the Union as a sovereign State, should truly exhibit her agricultural capacities. Her surface wealth in placer mining naturally left agriculture to become an afterconsideration in the earlier days of her history. In the same manner and for the same reason the agricultural aspects of California were disregarded for a season, but none would venture to say now that agriculture is not the leading industry of the Golden State. Furthermore, Idaho being in the so-called arid region, it needed the popular understanding and appreciation of the place and function of irrigation in the economic system to realize the agricultural position and prospects of the Territory. The theory and practice of irrigation have now been sufficiently developed to enable a trustworthy agricultural estimate of Idaho to be made.

Although irrigation is in its earliest infancy, 6,000,000 acres of the arid belt have already been successfully and profitably reclaimed. In this widespread and scattered reclamation Idaho has shared to the extent of over 12 per cent. The Director of the Geological Survey, Major Powell, to whom the country is indebted for its fullest and most accurate knowledge of irrigation, has stated and explained that irrigation implies neither a defect nor a disadvantage; that it is a better fertilizer than rainfall; that the bright skies of the arid region are more favorable to vegetation than cloudy skies; that the arid soil is the most fertile soil, so that irrigation is now opening the best lands of the Union to cultivation; that irrigable soils are more productive than those fertilized by showers, and that irrigation is favorable to the creation of a numerous class of comparatively small proprietors, because, owing to the interstate questions arising respecting the use and direction of the water supply, the General Government must control the subject of irrigation, and so incidentally defeat attempts at monopolization which could only produce an undesirable class of hired farm laborers or rack-rented tenants.

Major Powell estimates the average first cost of irrigation at $10 per acre for the irrigable part of the arid region; but in Idaho the first cost has thus far been considerably less than $3 per acre, which is a favorable indication for the Territory at large, though the cost must necessarily average higher as the more difficult part of the irrigable lands are brought under the system.

The waters of the Snake River are the most important for irrigation use in Idaho at present, but there are almost innumerable other streams and bodies of water that can be turned to the same account.

About 30 per cent. of the area of the Territory, or 16,000,000 acres, is agricultural land, and of this 14,000,000 acres are of exceptional richness. The Snake River plateau, occupying the eastern, southern, and southwestern parts of Idaho, contains 5,000,000 of these acres, the rest being disposed in numberless valleys of all sizes, from very small to very great. Something less than one-half of the aggregate area of agricultural land is in Northern Idaho, and nearly all of this proportion is fertile without irrigation. The valuable irrigable lands amount to upwards of 6,000,000 acres, being 43 per cent. of the really desirable lands. The waste lands, attractive neither for mining, lumbering, grazing, nor agriculture, are under 15 per cent. of the whole area of the Territory, including the water area.

The valley soils consist of a dark, deep loam, with gravel subsoil, well drained and highly fertilized by the vegetable and mineral wash from the mountains. The plateau soils contain a very large proportion of vegetable mold. The alkali soils are of very limited extent and so disposed as not to interfere with agriculture. They have now a value for their cattle grass, but when needed for cultivation in the future they can be reclaimed by leaching and converting into what the principal expert of the Geological Survey deems "among the most fertile" of soils.

Some conception of the agricultural future of Idaho may be had by considering that when the lands that may be profitably irrigated are so redeemed the area of the practicable and valuable arable lands will equal one-half of the whole area of the great State of Ohio.

The average yield of wheat to the acre in Idaho is 30 bushels, as against 17 in California and 13 in the East; rye, 25 bushels, as against 15 in California and the East; oats, 55 bushels, as against 30 in California and 31 in the East; barley, 40 bushels, as against 23 in California and the East; and potatoes, 250 bushels, as against 114 in California and 69 in the East. The average yield of hay is 5 tons to the acre. Corn grows well in Southern Idaho, averaging 35 bushels, to 34 in California and 26 in the East. Tobacco and sweet potatoes are also profitably grown in the south.

The official statistics of agriculture for 1889 show a production of 4,000,000 bushels of wheat, over 2,000,000 bushels of oats, 1,000,000 bushels of barley, 65,000 bushels of rye, 50,000 bushels of corn, 555,000 bushels of flax-seed, 17,350 bushels of grass-seed, 1,000,000 bushels of potatoes, 850,000 bushels of other vegetables, and 424,740 tons of hay. That this was below the actual product is probable from the difficulty of reporting every case of production.

The readiness and cheapness with which the extensive areas of sage-brush lands can be converted to fruit farms have laid the foundations of a great fruit-growing industry. Apples, pears, peaches, nectarines, apricots, plums, prunes, and grapes are now good marketable crops, apples growing remarkably well—as much as 2 bushels per tree in a young orchard—and finding a quick sale. Among the smaller fruits, strawberries are cultivated at a good profit and command a ready market, and a similar remark may be made as to raspberries, blackberries, and dewberries. An official return of fruit culture shows that in 1889 there were marketed 275,000 bushels of apples, 30,000 bushels of pears, 34,850 boxes of peaches, 34,350 boxes of plums and prunes, 18,000 boxes of grapes, and 75,000 baskets of berries. These totals would be a little swelled by the transactions that escaped enumeration.

In the presence of the facts and figures that have now been given respecting the agricultural capacities of Idaho, it must be with a grim humor that one reads, in the narratives and reports of twenty and as late as ten or twelve years ago, that Idaho is a bleak and sterile country, resorted to by daring and adventurous men for the purpose of picking enough gold from the surface to enable them to live in comfort elsewhere. Such mistakes were common as to the whole Rocky Mountain region, from the British to the Mexican boundary, but the present condition, as to population, society, and agricultural industry of Idaho, Montana, Wyoming, Colorado, New Mexico, and Arizona, is their best refutation. Orderly communities inhabit these States and Territories, living in unexampled abundance, under skies as genial as those of Southern Europe, and their treasures in precious minerals are simply an addition to the more ordinary sources of wealth and employment.

The growth and movement of population and the occupation and development of the public domain have forever effaced from the maps of the United States the legend Great American Desert, borne by them so long. This "desert," says the Director of the Geological Survey, consists of lands more fertile and productive than the American farmer has yet been privileged to cultivate. All that is needed to unlock their potentiality is that the evaporated waters, which in rainfall regions are returned to the earth in capricious and often injurious showers, shall be conducted back to the soil by the hand and art of man at such times and in such manner and quantity as best accords with the special necessities created by the practice of tillage.

A fact bearing upon the future capacity and resources of Idaho is that, up to the present time, not more than one-tenth of the useful area of the Territory has been appropriated. Thus a magnificent endowment of natural resources remains for the support and enrichment of succeeding generations, to say nothing of the reproductive capabilities of present animal and vegetable life, and the new creations of productive industry.

POPULATION OF THE TERRITORY.

By the Federal census of 1880 the population of Idaho was 32,619 persons, whereof one in five were children of school age. From the statistics gathered by the Bureau of Education and from the rapid flow of adult immigration during the past two years, there is good reason to believe that the ratio has declined to a little more than one in seven. But letting the higher ratio stand and applying it to the careful, but unavoidably incomplete enrollment of children of school age made last year, the population would be close upon 120,000 persons, not including the 4,500 Indians.

If it be assumed that only one child in twenty has missed in making a school enrollment over so large and thinly settled an area, that very reasonable assumption would carry the population to quite 125,000, and if there should be the further assumption that the true ratio is one child of school age to six of the population, that exceedingly reasonable assumption would carry the population to 140,000 souls at least. The average annual gain in population from 1881 to 1889, inclusive, was 10,500, which would make the population slightly over 127,000. Beginning with 1887, however, the average annual growth has been 14,500, and by estimating on that basis the population would be 140,000 and a trifle over. It seems certain that the population is somewhere between 120,000 and 140,000 persons, and between those limits it must rest till the new census shall be taken.

The people of Idaho are very largely of native birth, and principally from the New England, Western, and Southwestern States. The leading foreign elements are Scandinavian, German, Canadian, and British. The health of the population is admirable, dry air, bright skies, a moderate temperature, an elevated situation, and freedom from swamps and other aids to malaria reducing disease and death to a minimum. The rate of mortality is but four in a thousand, as against eight in Oregon, the healthiest of States. While the death-rate will naturally increase with the growth of density in population and of town life and the addition of larger proportions of infantile and aged elements to the

whole number of inhabitants, the salubrity of Idaho must long remain superior to a rate of 18 per 1,000, which is that of Massachusetts; of nearly 16 in New York, 11 in Ohio and Indiana, upwards of 9 in Michigan and Wisconsin, 15 in Missouri, 12 in Kansas, upwards of 10 in Georgia and Alabama, and 16 in California.

The sanitary statistics of the American, British, and French armies and the Canadian Northwest force show that, while the deaths of soldiers in garrison are only 3.74 per thousand in Idaho, they are 4.76 in the Dakotas, 6.05 on the great lakes, 6.88 on the Pacific coast, 17.83 on the Atlantic coast, 22.50 on the Gulf coast, 10 in the south of France, a health resort; 14.50 in Algiers, another sanitarium; 7.5 at Gibraltar, in the sanitary zone of the Mediterranean; 12 in Australia, 6.50 in Eastern Canada, and only 3.4 at the station in British Columbia immediately north of Idaho and having a similar climate.

PUBLIC EDUCATION.

The one institution of Idaho whereof the people are most proud, in which they take the liveliest interest, and upon which they spend their means without stint is the public-school system. Under a compulsory school law more than 13,000 children, organized into nearly 450 schools and occupying 300 school buildings, which dot and glorify the Territory, are the actual daily wards of the community during the school term. The people have spent $350,000 on these buildings and their fixtures; they are spending some $200,000 for current expenses this present year, and the increase and maintenance of schools is costing them at the rate of $75,000 per year over each preceding year. They employ good teachers, to whom they pay good salaries, and the school fund is so promptly and liberally supplied that the session of 1889 opened with a clear balance of $40,000 in the treasury.

Take the Eastern States of New Hampshire and Connecticut, the Middle States of New York and New Jersey, the Southern States of North Carolina, Georgia, Alabama, and Mississippi, the Northwestern States of Indiana, Illinois, Wisconsin, and Minnesota, the Southwestern States of Kentucky, Missouri, and Kansas, and the far Western States of Colorado, California, and Oregon—they have an average population of 49 to the square mile. Idaho has, at most, but 1.56 persons to the square mile. If, with regard to the distribution of population, her school attendance were as 1 to 20, as compared with the average attendance of the States named, she would be doing well. As a matter of fact, it is greater than as 1 to 2, so that she is doing more than ten times as well as she might be expected to do in the matter of attendance. This comparison shows how earnest and devoted her people are to the cause of popular education.

But the whole story has not been told. The ratio of children of school age to the whole population in the States named is 18.56 per cent., but in Idaho it is but 16.66 per cent.; so she might do worse than as 1 to 20 in the matter of school attendance and still be doing relatively as well as the average of the eighteen States selected for illustration.

The people of Idaho are neither so rude nor so sordid as to be blind or deaf to the advantages or claims of higher education. They are building a home for a Territorial university at a cost of $75,000, and have imposed on themselves a special tax of one-twentieth of 1 per cent. on the assessed value of their taxable property for its present institution and maintenance. When Idaho shall have become a State and its lands shall have reached a good value, this university will have a rich endowment, already provided by the wisdom of the Federal Congress.

Supplementary to the public-school system are numerous private and denominational schools, established by individual enterprise and religious zeal.

For the service of religion churches have been erected at a cost of $225,000 or thereabouts.

There are forty-one newspapers to inform and instruct the people of the Territory.

MEANS OF COMMUNICATION.

Two great trunk lines of railway connect Idaho with the rest of the civilized world. The Union Pacific runs east and west and north and south, across Central and Southern Idaho. The Northern Pacific runs east and west across Northern Idaho. Local railways supplement these greater agencies. There are 894 miles of railway in operation and 535 miles in various stages of location and construction.

There are more than 900 miles of telegraph lines in the Territory.

INDUSTRIAL STATISTICS AND INFORMATION.

There were 600,000 acres of land in cultivation in 1889, producing more than 7,000,000 bushels of cereals, nearly 2,000,000 bushels of vegetables, upwards of 400,000 tons of hay, and large and small fruits in the quantities already stated. The wool clip was over 2,000,000 pounds.

Nearly 1,800,000 acres of tillable land are in preparation for cultivation, part of them included in the 400,000 acres entered at the land offices during the year.

The mineral yield, in spite of a bad year from drought, was more than $17,000,000, and some of it from the richest ores known to the annals of mining.

The products of 1889 had a market value of $27,000,000, and 350,000 tons of freight were moved during the year.

Large stocks of goods are carried by the merchants; mercantile profits average 20 per cent. net; the average rate of interest is 12 per cent., wages are $4 to $5 per day for artisans and $2 to $2.50 per day for unskilled laborers, and living expenses as a whole are not more than 10 per cent. above Eastern rates.

In Northern Idaho the chief industries are mining, lumbering, cereals, and fruits. Burke, Cœur d'Alêne, Moscow, Lewiston, Mullen, Post Falls, Murray, Grangeville, Wallace, Mount Idaho, and Wardner are the important towns.

Northeastern Idaho is devoted to mining, cereals, and fruits, and has also rich stores of timber. Salmon City and Challis are the principal towns.

Central Idaho is a great mining, lumbering, and grazing district.

West Central Idaho is distinctively a mining district.

South Central Idaho is a mining and grazing region. Bellevue, Shoshone, Hailey, Mountain Home, Albion, and Ketchum are large and busy towns.

Eastern Idaho is an agricultural and stock-raising district. Soda Springs is a famed sanitarium and pleasure resort, with magnificent hotels and appurtenances. Blackfoot, Pocatello, and Eagle Rock are also important towns.

Southeastern Idaho is noted for fruits, cereals, grazing, cattle, and lumbering. Franklin, Malad City, and Montpelier are notable towns.

Western Idaho is an agricultural, grazing, and fruit country. Boisé City, the Territorial capital, and Caldwell, Silver City, Weiser, Payette, and Salubria, important towns, are in this section.

Southern Idaho is an agricultural and grazing district and contains much building stone.

This review of the Territory by sections shows that its industries are diversified and that it already has numerous seats of trade and manufacture.

FINANCIAL CONDITION OF THE TERRITORY.

The estimated value of real and personal property, including marketable mines, is about $100,000,000, and is growing at the rate of 15 to 20 per cent. annually. The total cost of general and local government is $533,000, of which only $28,000 comes from the national Treasury. The expense of Territorial government, excluding the Federal contribution, is $84,000, and is met by a levy of 3.5 mills per $1 on taxable property, assessed at about 40 per cent. of its real value, and some license and poll taxes. The Territorial debt is $146,715.06, but there is a balance of $60,000 in the treasury, and there are public buildings costing $150,000.

In 1891 indebtedness to the amount of $47,000 will mature, and it can be paid, and $4,700 in annual interest saved thereafter, without increase of taxation. Part of the remaining debt is provided for by a sinking fund, and, so far as can be seen, the whole debt will disappear without raising the taxes. The estimated additional cost of State government will be less than 2 mills upon the hundred dollars, and, as the people are now paying less than 7 mills per hundred dollars upon the actual value of their property for the whole expense of central and local government, the increase will not be appreciably felt, while statehood will bring them a large accession of population and capital.

PREPARATION FOR STATEHOOD.

After Idaho had been an organized Territory for twenty-six years the Committee on Territories of the United States Senate reported a bill providing for her admission to the Union. The bill died on the Calendar of the Fiftieth Congress; but, acting pursuant to its moral force and authority, the Democratic governor of the Territory issued a call for a convention to frame a State constitution, which call was ratified and repeated by his Republican successor. Party divisions were not regarded in the selection of delegates, nor was there a material preponderance of either political party in the membership of the convention.

A constitution was framed by the labors of 69 out of the whole number of 72 members of the convention. It was then with due deliberation submitted to a popular vote, which resulted in 12,398 ballots for and 1,733 ballots against its adoption. This constitution has been examined by the Committees on Territories of the two Houses of Congress and has met their approval. Whensoever it may please the Congress of the United States to pass an act for the admission of Idaho into the family of States, this constitution, prepared for the people by the people, will enable the change or political status to be effected without public or private injury or inconvenience.

The minority of the Committee on Territories has seen fit to make a report against our admission. It becomes my duty to discuss it, but before doing so I will ask the Clerk to read what I now send to the desk.

The Clerk read as follows:

[Headquarters Democratic Territorial central committee. Francis E. Ensign, chairman, Hailey, Alturas County; James H. Wickersham, secretary, Boisé City, Ada County. Executive committee: Charles C. Stevenson, chairman; J. B. Wickersham, Boisé City; J. B. Mullen, Pocatello; Green White, Boisé City; A. D. Greene, Lewiston; W. G. Lane, Shoshone; D. W. Stanrod, Malad.]

BOISÉ CITY, IDAHO, *March* 10, 1890.

At a meeting of the Democratic Territorial central committee of Idaho Territory, held at the capitol, in Boisé City, on September 10, A. D. 1889, the following resolutions were unanimously adopted, to wit:

Resolved, That the Democratic party of Idaho Territory through its represent-

atives, the central committee, heartily indorses the movement in behalf of statehood, and we pledge ourselves to use every endeavor to secure the ratification by the people of the constitution framed and submitted by the constitutional convention recently in session in Boisé City.

Resolved, That the Democratic county committees of the various counties be instructed to use every effort to present the constitution fairly before the people and bring out the full vote of the party at the election in November next.

Resolved, That E. A. Stevenson, George Ainslie, and Jas. H. Wickersham are hereby appointed the agents of this committee to act in behalf of this committee, with like agents already appointed by the Republican Territorial central committee, to devise ways and means to properly present before the people the benefits to be derived through the admission of Idaho as a State.

I, the undersigned, secretary of the Democratic Territorial central committee of Idaho Territory, do hereby certify that the above and foregoing is a true and correct copy of the resolutions adopted by the said committee on September 10, 1889.

JAMES H. WICKERSHAM,
Secretary.

WASHINGTON, D. C., *March* 31, 1890.

To the Democratic Members of the Fifty-first Congress:

I have the honor of handing you a copy of a telegram received by me from Idaho on yesterday:

"BOISÉ CITY, IDAHO, *March* 29, 1890.

"Hon. GEORGE AINSLIE,
"*Metropolitan Hotel:*

"Democratic Territorial central committee in session unanimously requested Democratic members of Congress to vote for admission of Idaho.

"F. E. ENSIGN, *Chairman.*
"J. H. WICKERSHAM, *Secretary.*"

I can assure you that such action of the committee reflects the sentiments of the Democracy of Idaho beyond question.

Respectfully,

GEORGE AINSLIE, *Ex-Delegate from Idaho.*

Mr. DUBOIS. It is very plain that the distinguished gentleman from Illinois [Mr. SPRINGER] and his colleagues who sign the minority report do not represent the Democratic party of Idaho or any portion of it. They themselves even will not claim that they represent the Republicans of Idaho. Whom, then, do they represent? They represent the Mormon Church and nothing and nobody else.

Could partisan zeal go to more extreme limits? I do not believe they can command the solid support of the gentlemen on that side of the Chamber on this proposition.

I desire to state now that I will be glad to answer any questions which may be asked concerning any statements I may make respecting the Mormons. Having lived among these people and studied their system and having been brought in contact with their modes of life, I speak from actual knowledge. Should the members of the minority committee or others, in their defense of Mormonism, undertake to quote any authorities from Idaho newspapers or individuals, I trust they will extend the same courtesy to me and allow me the privilege of questioning them. I presume the country desires facts on this important subject.

As soon as our constitution was submitted to Congress the Mormons appeared here through a retained attorney, one of the ablest in the country, and fought the progress of the bill step by step before the Senate and then the House committee.

The attorney was untiringly assisted by the Delegate from Utah, a Mormon, and by the leading Mormon of Idaho, William Budge, a president of a "stake." President Budge well represented his people, for he stated to each committee that at the present time he was blessed with three wives. No one else from Idaho, nor the representatives of any one else from Idaho, appeared against our constitution or against statehood. Yet, in the face of the fact that both political parties in Idaho are a unit for statehood under this constitution, the minority of the Committee on Territories totally disregard their wishes and do the bidding of the Mormon chiefs; and, to emphasize the fact that they intend to represent the Mormons, they object to but one clause of our constitution, that which is aimed at this organization. Does it count for nothing that the Supreme Court of the United States has unanimously affirmed the constitutionality of this very clause? It seems not.

Does it count for nothing that Congress has passed laws excluding bigamists and polygamists from the franchise? It seems not, for the minority insist that while yet in a Territory bigamists and polygamists shall be permitted to vote for delegates to a constitutional convention, the Edmunds law to the contrary notwithstanding. This is the language of the minority:

Provided, That no person otherwise qualified shall be denied the right to vote at said election (for delegates) because of alleged crime, for which the punishment embraces disfranchisement as a part of the penalty therefor, except where he has been duly convicted thereof by a court of competent jurisdiction.

The language of the Edmunds law, passed March 22, 1882, is as follows:

SEC. 8. That no polygamist or bigamist or any person cohabiting with more than one woman, and no woman cohabiting with any of the persons described as aforesaid in this section, in any Territory or other place over which the United States have exclusive jurisdiction, shall be entitled to vote at any election held in any such Territory.

Nothing is said in this law about conviction.

The minority also recommend the adoption of an additional proviso to section 1 of the bill, namely, making it a fundamental condition to our admission that no one shall be denied the right of suffrage unless convicted of crime and that the Legislature shall give its assent to that fundamental condition. In other words, they insist that bigamists and polygamists shall vote in Idaho Territory, when the Edmunds law says they shall not vote, and they insist that bigamists and polygamists shall always vote in the State of Idaho, when the people of that State clearly and distinctly insist that they shall never vote. The minority say:

We insist, therefore, that when Idaho is admitted it shall not be with a provision in the constitution which deprives a citizen of the right of suffrage or of the right to serve on juries and to hold office because of alleged crime of which the party has not been convicted. We insist that these disqualifications shall only result from a conviction of crime.

Methinks they insist too much. What right or precedent have they to impose upon Idaho conditions which have never been imposed upon any State coming into the Union? Heretofore and always the qualified electors of the Territory only have been allowed to vote on the constitution. There is nothing in the Mormon system so commendable as to call for such a radical and unjust departure in their behalf. Should the minority prevail, bigamy and polygamy will be firmly fastened upon the State of Idaho.

The gentleman from Tennessee [Mr. WASHINGTON] signs this report. Let us see what the constitution of Tennessee says on the subject of franchise. By article 9:

Ministers of the gospel are forbidden to hold office, also persons who deny God or fight duels.

Yet the gentleman from Tennessee signs a report which says:

We insist that in Idaho disqualifications for holding office shall only result from a conviction of crime.

The people of Idaho say bigamists and polygamists shall not hold office in Idaho, the people of Tennessee say ministers of the gospel shall not hold office in Tennessee.

The State of Texas, whose Representative, Judge KILGORE, signs this report, disqualifies paupers. Several States disqualify those who fight duels, send or accept challenges to fight duels, or aid or assist others to fight duels, without requiring a conviction, as Virginia, Indiana, Kansas, Kentucky, Michigan, and others.

Running through the debates in Congress on the laws affecting the Mormons, I notice that those who uphold the institution invariably preface their remarks with the earnest statement that they themselves are opposed to bigamy and polygamy, but, forsooth, their conscience and regard for the Constitution will not permit them to vote for any measure which will tend to destroy these practices. In our country we have a *genus homo* called "Jack-Mormon," an individual or class of individuals who do not belong to the Mormon church, who profess abhorrence of polygamy, yet who are ever found doing the bidding of Mormon priests and fighting with them to render futile the laws aimed at the destruction of their pernicious practices.

I observe that the minority in their report iterate and reiterate that they must not be classed with the sympathizers of polygamy, yet they would force us to eradicate the only laws which have been at all effective in checking this crime. If the distinguished gentleman from Illinois [Mr. SPRINGER] were in Idaho I fear he would be classed as a "Jack-Mormon."

Why is it, gentlemen of the minority, that there has always been bitter strife and contention between the Mormons and their neighbors? Why were they driven from Ohio to Missouri, from Missouri to Illinois, from Illinois to Iowa, then across the trackless desert? Why, now, do men range themselves solidly into hostile classes of Mormons and anti-Mormons in Utah and Idaho? Does it bode no significance to the minority that every American citizen brought in contact with this organization is opposed to it? No question has ever confronted citizens of our country, save this one, which absolutely and surely breaks down party lines. The Mormons claim to be Democrats, yet every Democrat in Idaho is in favor of this clause.

In Utah, where the evil is greater, they do not even have Democratic and Republican parties and never have had. Will you attempt to answer with the stale and unprofitable slanders that the Gentiles want their property, and the scheme is a political one? Will you not for once calmly and honestly confront the cold fact that here is a theocracy, made worse because its foundation stone is polygamy, in whose polluted embrace every tender and fond recollection of mother and home withers and dies? Could you but see, as I have seen, the wretched and appalling misery and degradation of polygamist women and children, you would stop at no legal means to destroy the power of a corrupt hierarchy which holds its fanatical and ignorant followers in an iron grasp.

I have seen three sisters living in one room and each raising a family to the same husband. I have seen a mother and daughter who were married to the same husband. I have seen an alleged second wife on the witness stand and heard her swear that she was not married to the defendant, and heard her father, mother, sisters, and brothers swear to the same thing while at the time she was the mother of one child by him and pregnant with another.

I have heard time and time again a father or mother swear they did not know who the father of their daughter's children was, nor did they feel curious to inquire. These are not exceptions which I cite. Every term of court brings numerous cases of this character.

No crime can be greater, in my estimation, than to bring children into the world with this brand upon them, without the ability to furnish sufficient nourishment for their bodies and none for their minds. But with all its hideousness polygamy is not what impels the fiercely partisan ex-Confederate Democrat from Tennessee and the unyielding ex-Union Republican from Illinois to range themselves under the same banner, in opposition to this so-called church, so soon as they come in contact with it.

No matter how different the methods of the ex-Confederate and ex-Unionist, each is loyal to his Government and jealous of its fame and power, and their differences melt away as the snow before our "Chinook" winds when the startling truth quickly and inevitably dawns upon them that here is an organization, firmly intrenched, which is hostile to the Government and its laws in every fiber; that here is a government within our Government in which the priests are supreme and the followers slaves. They quickly recognize that there is but one law, that of the theocracy; they feel instinctively, it is in the very air, that they are dealing with an organized community which has not one element of democracy in it.

There is absolutely no difference of opinion, and all who live among these people are irresistibly led to the same conclusion. They all know that every privilege which is granted this community they use not as other citizens, to build up and strengthen the nation, but to destroy it. These facts are patent, and you must deal with them as statesmen, and not as partisans. All the high civil and ecclesiastical offices were formerly lodged in the hands of the polygamists. The polygamists can not hold civil office now, but they control the politics of the organization as firmly as of old, and still retain the chief offices of the church. They are the dictators. When you break down polygamy, the institution will crumble to pieces; when you break down the political power of the institution, which is the source of strength to polygamy, it will perish.

In this connection I call your attention to the very significant fact that the polygamous Mormons are the ones who represented their church here and opposed this constitution; they are the ones who are vitally interested; it is not a matter of such deep concern by far to the monogamous Mormons.

The effect of this legislation in Idaho has been extremely good, and if we are admitted as a State with this clause in our constitution the monogamous Mormons, who compose the large majority of the organization, as the polygamists themselves persistently state, will either demand that polygamy be abandoned as the foundation stone of the institution or the monogamists will abandon the church.

The monogamists will not consent to be deprived of political privileges in order to maintain the doctrine of polygamy which they themselves do not practice. Either of these courses will be fatal to the polygamists who now, as always, absolutely rule the church. When polygamy is abandoned the members will commence to think for themselves, will refuse to be governed in all their temporal affairs by their leaders, will divide on political lines, and will become the same as members of any other church organization. When the monogamists leave the church and refuse it and polygamy their support the polygamists will occupy the position of ordinary criminals and will quickly meet the fate of other criminals.

In 1884–'85 the Legislature of Idaho passed a law which deprived of the franchise those who are bigamists or polygamists or who belong to an organization which practices, teaches, and encourages bigamy or polygamy. The vote was practically unanimous. Two successive Legislatures have confirmed the law. The same law was put in our constitution by a unanimous vote both in convention and at the polls. I do not deny that its object was to take the political power away from the Mormons. We defend it on that ground. We claim that it is a duty we owe our State and country to protect the State against the insidious and constant attacks of an alien government.

The delegates charged by their fellow-citizens with the preparation of a State constitution for Idaho rightly considered themselves bound to so frame that instrument as to afford guaranties to the Federal Government that the State, when admitted, would become and remain a useful and creditable member of the Union, and guaranties to the people of Idaho that the constitution made for them would secure to them and to their posterity the blessings of political liberty and social integrity. In other words, the framers of this constitution sought, by its agency and assistance, to found an American State, with all the traditional and wholesome characteristics of such a community. In pursuit of this object, the constitutional convention was confronted by the fact that a part of the inhabitants of Idaho, numbering between one-ninth and one-tenth of the present population, were organized into a religious body, holding and exercising a doctrine professedly based on divine revelation, one of the tenets of which doctrine is that polygamous marriage is lawful, meritorious, and beneficial.

There are now forty-two States in the American Union, and in each of them the form of government is republican and the political institutions are those of an advanced democracy. That is to say, there is no State in the Union having any other form or operation of government than that of a government of the people, by the people themselves. In each of these States the social structure of the community, which underlies and precedes the political institutions, is based upon a family organization wherein monogamous marriage is alone recognized or permitted and wherein the practice of bigamy or polygamy is prohibited and treated as an assault upon the safety and welfare of the Commonwealth and pursued and punished at the public expense as a crime against the State.

Furthermore, the people of these forty-two States are organized into a Federal Union, and, through their Federal legislative, executive, and judicial departments of government, they enforce monogamous and suppress bigamous and polygamous marriage in those parts of the national territory not within the boundaries of any State. In view of these examples the people of Idaho could not hope for nor expect admission into the Union, unless they could show the taking of reasonable precautions, in their organic instrument of government, for the maintenance and vindication of the only kind of marriage admitted or permitted by public law or public sentiment throughout the length and breadth of the United States.

At present, in Idaho, this kind of marriage is under the patronage and protection of the Federal Government, the laws of which forbid and suppress bigamy or polygamy within the Territory; but after the admission of Idaho as a State of the Union the enforcement of monogamy must depend wholly upon the State. How the people of Idaho propose to provide for the contingency is disclosed in section 3, article 6, of the constitution for the proposed State. The provisions of that section, so far as they relate to bigamy and polygamy, are substantially identical with the statute law of the Territory on the same subjects, and the legality of the statute has been recently and unanimously affirmed by the Supreme Court of the United States in the case of Davis against Beason, No. 1261 of the October term, 1889. Nothing is left, therefore, for present consideration but the question of the policy of the polygamy clauses of the constitution adopted for and by the expectant State.

The polygamists of Idaho, including both those who merely profess and those who actually practice polygamy, are an inconsiderable minority of the population. Individually considered, their profession of polygamy, being at war with the profession and practice of the whole of the civilized world, is not dangerous, and the individual practice of it could be met by the common-law provisions and remedies against bigamy, adultery, and fornication. But, unhappily for all parties, the polygamists of Idaho can not be individually considered. They belong, each and all, to a theocracy, set up and maintained within the sphere and limits of the democracy constituting the United States of America. All other members of this democracy, whatever their religious beliefs, professions, and practices, reserve to themselves their individual freedom and independence in public affairs, and do not look further than to human advice and guidance in the shaping and performing of their political action.

Not so with the polygamists of Idaho. To them polygamy comes as a divine revelation and injunction, designed for the spiritual and eternal exaltation of those who accept and exemplify the revelation. If this religious doctrine was of such a form and structure that the exemplification of it was, in each case of its acceptance, to be postponed to a future stage and state of existence, the matter would not come within the domain of civic policy or human law. Unfortunately, the doctrine is so constituted that the practice of it is to begin and endure on earth, and thus a rivalry and conflict is precipitated within the sphere of human society and of human regulation for the government of that society.

The laws of civilized communities not providing for the practice of polygamy, but, on the contrary, being directed to its suppression, it follows that polygamy can only be practiced outside the territorial jurisdiction of civic law or in defiance or evasion of that law. In Idaho those who profess and practice polygamy reside within the jurisdiction of civic law and can only enforce their profession or practice by violation of the law, to which every inhabitant of the Territory is equally subject. In order to facilitate this violation of the common law of the Territory, the members of the body by which the doctrine of polygamy is held as a religious tenet, being the denomination commonly known as the Mormon Church, mingle their spiritual and temporal concerns in such wise and to such extent as to subordinate their secular conduct as members of the body politic to the advice, control, and direction of their religious superiors, who have no lawful authority whatever in secular matters, and in case of conflict between the law of the church and the law of the Territory or of the Union preference is given to the former, both as a matter of principle and conduct, wherever and whenever the preference can be practically effected or attempted.

The people of Idaho, without wish or procurement of their own, are thus brought face to face with the question whether or not any individual among them, upon plea of conscience or religion, shall be exempted from prohibitions which the great majority, in common with the vast majority of their race, deem essential to the safety and perpetuity of civilization, and permitted to pursue practices, form connections, and help to found a social system which, in the belief and opinion of this vast majority, would undermine morality, weaken intelligence, impair energy and enterprise, degrade women, debase men, deprive children of necessary example and discipline, substitute for the stability of

the family group a fluctuating and temporary relation, based on sordid considerations of convenience or sexual passion, and ultimately destroy the State. Upon such a question there can be but one decision.

If the State constitution for Idaho had provided that any person who should practice, aid, or encourage polygamy should not be permitted to gain or retain a residence within the expectant State it would have gone no further than the exigency justified or than the Federal law has gone in excluding incongruous, enfeebled, and corrupt elements from the population of the Union. But the Idaho constitution stops very far short of remedies with which the people of the United States are already familiar and which they have themselves adopted. This constitution simply proposes to disqualify as an elector, a juror, or an office-holder any person who practices bigamy or polygamy or who teaches, counsels, encourages, or aids others to engage in bigamy or polygamy, or who adheres to, supports, aids, or encourages any organization that teaches, counsels, encourages, or aids persons to engage in bigamy or polygamy, or which teaches or advises that the civic laws, prescribing rules of civic conduct, are not the supreme law of the land.

A polygamist or propagandist of polygamy, as an elector, either from individual preference or from obedience to an authority claiming a divine commission, would vote so as to advance or defend the interests of polygamy; as a juror, he could not render an unbiased verdict in a cause involving polygamy; as an officer, he would not feel free to enforce the laws against polygamy. The people of Idaho, having solemnly and deliberately determined that authorized polygamy within their borders would be inconsistent with their social and political perpetuity and prosperity, and not wishing to persecute their polygamous fellow-citizens, nor to dispute their integrity and sincerity, but being willing that honest differences of belief or opinion should exist and have all the freedom and tolerance that the paramount interests of the community may allow, have sought for a *modus vivendi* between the monogamists of Idaho, who are in a very great majority, and the polygamists, who are in a very marked minority, until such time as these differences may disappear without heat or violence.

This *modus vivendi* the people of Idaho believe they have found by leaving the actual individual practice of polygamy to the operation of the common law of the civilized world and by imposing a limited disqualification and disability upon those who desire to propagate polygamy by individual or concerted action, such disqualification being shaped and measured strictly according to the known mode and extent wherein polygamy seeks to promote and shelter itself among the communities wherever it exists.

Is polygamy better than monogamy, having regard to what the American people are now and what they hope to be hereafter? Is it as good as monogamy from that point of view? Can polygamy and monogamy subsist, side by side, on equal terms, without altering, as Americans do not wish them to be altered, the character, the institutions, the destiny of American people, American communities, American States, and the American Union? If each and all of these questions be answered in the negative, as they must be, should not some discouragement and restraint be laid upon polygamy? If so, should it not be efficient enough to prevent polygamy from obtaining any undue advantage in legislation, in the administration of justice, and in the execution of the law?

Is the greatest good of the greatest number to be promoted by first placing polygamy under the ban of the law and public opinion, and then offering opportunity to polygamists, in fact or in principle, to evade the law and defy public opinion? Would it be kind to polygamists themselves to first tell them that their religious teachings and practices are too destructive of the foundations of modern society and public morals to be sanctioned and then tempt them to violate their obligations as citizens in favor of their preferences as religionists? The Catholic, the Protestant, the Israelite, the agnostic, keeps his theological principles and practices apart from his secular character. He votes, he legislates, he renders verdicts, he discharges the functions of office free from theological control or direction.

The sincere and faithful Mormon knows nor recognizes no such separation between religious and secular affairs. To him the hierarchy at Salt Lake City unites in itself the several characters and qualities of prophet, priest, and king. Its revelations are divine, its ministrations sacred, its commands imperative. To prophets and priests of every kind and name the American Commonwealth extends an equal hospitality; it tolerates no sovereigns but the people themselves, speaking and acting through the laws they ordain and the agencies they constitute.

Legal functions are secular functions, and whenever the Mormon Church withdraws from the secular field and confines itself, as do all other religious orders, organizations, and bodies, to prophetic utterances and priestly ministrations, so that the civic sovereignty may exert itself unchallenged within its own sphere, the Mormons will cease to be "a peculiar people" and to be subjected to peculiar laws. That time not having arrived and the people of Idaho, both upon national and local grounds, being unwilling to have two independent, separate, and inconsistent systems of civic government operating within the same limits upon the same matters and subjects, confidently submit the provision they have made for maintaining the vigor and integrity of American principles among them to the considerate judgment of Congress. If they can not have statehood without subjecting themselves to the stagnating and corrupting secular activities of an exterior theocratic government, they will remain under the provisional protection of Federal laws, expressly aimed at the baleful rule and effects of such a theocracy as the Mormon Church under its present constitution.

I will close this branch of the subject by saying to you, gentlemen of Congress and of the country, that the issue is fairly joined here. If you are in earnest in your desire to crush this corrupt institution, which has been a disgrace and a stain upon our national honor for half a century, the opportunity is offered. The head of the church in Idaho comes here in person to tell you so. The results of this clause in our legislative enactment convince me of it. On the one hand is a commercial and political organization, held together by crime; on the other are your own kindred, as brave and loyal people as ever founded a State.

Will you sustain this treasonable and lascivious institution or will you hold up the hands of the brave pioneers who have gone to Idaho, who on this proposition have abandoned all party ties and unite in saying, "We earnestly desire statehood, but we desire it only for loyal American citizens?" Give us statehood under our constitution and the Mormon question will soon be an issue of the past. The responsibility is no longer with us. We have done our full duty as American citizens.

Trusting that I have shown, at least, that, firmly holding to the views in regard to the Mormons which I have so imperfectly given expression to, our people could not consistently with the duty they owe to their country change their position or laws in regard to this organization, and thanking you for your courtesy and patience I will conclude my remarks with a résumé of the reasons why statehood should be granted us.

CONCLUSION.

The whole field has now been traversed and surveyed. It has been seen how, even before the dawn of the Federal Constitution, the Congress of the Confederation, feeble in power, but strong in great individualities, invited the enterprising spirits of the seaboard to move upon and build up the unoccupied spaces of the West, pledging themselves that their temporary deprivation of American rights should be minimized and shortened to the uttermost degree. It has been seen how the Congress of the Union, beginning within five years of the giving of the pledge, has repeatedly and consistently redeemed the promise of its precedent Congress. It has been seen how, in cases of doubt, the collective judgment of the national legislature and the voices of its great leaders have always gone in the direction of liberally anticipating the maturity of the promise rather than risk the least injury or injustice to the holders of it by delay in realization.

It has been seen how numerically weak and how poorly endowed with accumulated wealth, when erected into States, were some of the communities that are now so great and strong and rich that they might figure as kingdoms in other worlds or times than ours. It has been seen how the transformation from the inferior to the superior political condition wonderfully stimulates the growth and prosperity of a newly admitted State; for it is quite true that men feel deeply their temporary disfranchisement so long as it lasts. It is to be seen of all how richly the wisdom and courage of the Federal Congress have been rewarded by the marvelous growth of the Union under its Territorial policy.

The rights and equities of Idaho in the matter of present admission to statehood have been made plain to view. The precepts of statesmen and the precedents of statesmanship are all on her side. She can neither be denied nor delayed without the exercise of an invidious discrimination altogether indefensible. There are no principles of public policy, no precedents of party action, to excuse or condone her exclusion if it should be effected.

Idaho, in its material embodiment, is large enough, rich enough, and prolific enough to serve as a theater for the activities of a great American community for more centuries than mortal beings are warranted to think or dream about. Partly by her common inheritance in the beneficent forces of nature and partly by a bountiful endowment, all her own, she is able to tender to the custodians of the national welfare every reasonable guaranty and prospect that she will be no laggard in the never-ceasing onward race. Even her soil has been fattened for ages, that the skill and energy of man may fit it to his own further advancement when he shall have become capable for and worthy of the prize.

None can be otherwise than willfully blind to the high rank, character, and promise of Idaho's people, nor the guaranty that their devotion to popular enlightenment affords, who doubts that the Commonwealth of Idaho will always be found armed with a trusty sword and shield for the assertion and defense of American principles and institutions, and always prepared to use those weapons of safety with intelligence and effect. The social condition of this people, their possessions, their connection with other communities, their industries, their finances, and pecuniary ability for the support of the Government, and last, but not least, their eager desire for the political independence which they have earned and are able to maintain, have all been passed in review.

If further argument or entreaty were needed to establish a persuasion in the mind of the National Legislature that Idaho should be admitted

to representation therein, the very requirement or necessity for such additional urgency would be proof that the Territory had been singled out for exceptional treatment. To assume such a possibility would be unfair to Congress and to Idaho. The former has never been deaf to the appeals for statehood and the latter has yet had no occasion for doubt in her own case. She is simply waiting upon the public convenience and waiting in confidence as much as in hope. [Applause.]

During the delivery of the foregoing remarks the hammer fell.

The SPEAKER *pro tempore* (Mr. GEAR in the chair). The time of the gentleman has expired.

Mr. BAKER. I ask unanimous consent that the gentleman from Idaho may be permitted to continue his remarks and conclude them.

Mr. DORSEY. I will yield whatever time the gentleman may require.

Mr. DUBOIS. I shall not want more than a few minutes longer.

Mr. DORSEY. I yield the gentleman ten minutes.

Mr. DUBOIS resumed and concluded his remarks as above.

Mr. SMITH, of Arizona. Mr. Speaker, I have lived so long under a Territorial form of government, I have been so long subject to the legislative caprices and whims of Congress, I have been so long dominated by a reign almost as bad as reconstruction was at its very worst that I would not on this floor and in this presence, nor would I elsewhere, raise my voice against the admission of any Territory to the Union of States now within the confines of this Republic which produced a constitution republican in form for the approval of Congress. That is not my purpose in taking the floor at this time. Far from it.

But, Mr. Speaker, it is my purpose to say that the people who sent me here have been unfairly and unjustly treated in this regard. It is my purpose to say that the people of the Territory of Arizona, having every qualification for statehood that exists in Wyoming or Idaho, or Montana or Washington, or in any one of the Territories, complain that that Territory is unjustly treated in being kept out of the Union and in being kept under Territorial degradation, and this, too, with a population larger, with a wealth greater than either Wyoming or Idaho, simply because she has seen fit and proper to send a Democrat to represent her in the Congress of the United States.

It is, I repeat, unfair treatment, and, Mr. Speaker, I but voice the Republican sentiment of my Territory in that assertion. It is unmanly treatment to force my people and the people of New Mexico, which has a population larger than the Territories of Wyoming and Idaho combined—I say it is unmanly and unfair that these should be denied statehood while those are accorded admittance. Wyoming and Idaho are received into the Union, but I am, by your partisan action, forced to go back to my people and tell them that, although they possess all the qualifications necessary for statehood, yet they made a serious mistake in sending a man here to represent them who happened to be a Democrat, for I am free to confess that I can not see any other reason for such treatment of my people at the hands of the dominant party of this House.

But, Mr. Speaker, I will go further. I had assurances from Republican members of the committee that my Territory would be reported favorably with the others. But from some unknown source, for some reason yet unexplained (and I will wait patiently for an explanation if any member of the Committee on Territories of this House wants to make one), for some reason unexplained and yet unknown to me, from some voice reaching the committee unheard by me, my Territory, with a population as large as the others, has been kept in the Committee on the Territories, and, I believe is now, by some equally strange and unexplained reason, referred to a subcommittee for further action. There was no reason for such reference. The full committee had already been placed in full possession of the facts. There was no such delaying reference made in the case of Wyoming or Idaho. Yet my case, or, more strictly speaking, the case of my people, has been relegated to a subcommittee and it is kept there, Mr. Speaker, as far as I can see, without reason, except such as may be explained in the hope of partisan advantage; and I am to go home to my people, who sent me here for the purpose, if possible, of securing statehood for them—I am to be sent back to them and have the taunt, the unjust taunt, thrown in my face that "You did not use the exertion and the energy which was used by the other Delegates on the floor of the House of Representatives; for if you had you would have received the same kind treatment, the same gracious consideration from Congress that the others received." In response to this I ask this House, has the Committee on the Territories met once since I arose from a sick-bed in January last, without my asking to be heard on Arizona's claims to recognition? Was it not accorded me after a report on both of the other Territories, and did not I lay convincing facts before the committee, which failed to convince any save the minority?

Mr. Speaker, this morning it struck me that there was peculiar suggestiveness in the fact that the divine favor was not asked at the beginning of the proceedings of the House. It seemed to me that an injustice was contemplated, and God's favor was not asked. [Laughter and applause.] Why was it? Was it a coincidence——

Mr. STRUBLE. That is a Democratic coincidence, is it not?

Mr. SMITH, of Arizona. No; Democrats had nothing to do with it. They never fail to invoke divine blessings on legislative acts, and sincerely desiring, as I did, the prosperity and happiness of my people I was much in hope that the Speaker of the House himself would invoke the divine aid for Arizona. [Laughter and applause.]

It reminded me, gentlemen—and I believe I agree with the child who, with its parents, was going to take a permanent western trip (perhaps you have heard it). The child, after offering its invocation to the blessed throne and concluding the prayer, pathetically said, "Good-by, God; we are going to Arizona in the morning." [Laughter and applause.] And I think that is just about what the Republican committee has done its best to say to me: "Good-by, SMITH; you are going to Arizona to stay, simply because you are a Democrat." [Renewed laughter.]

Gentlemen, this treatment is not fair. If you knew the promptings of this people, if you knew their desire, if you knew their burdens, if you had, with me, for ten long years borne what you could of their burdens and suffered with them as they have suffered, you would not permit a mere question of population to settle their right to statehood. It should not be a question of party domination in House or Senate, but a question upon which men should rise to a high constitutional standpoint, far above political parties, and act on the higher plane of American statesmanship and American manhood. It is the right of freemen, it is the right of republican government, a right which belongs to a people who pay taxes (and my people bear their burdens of the government equally with any other portion of the country), for which I here contend. Why, then, is Arizona left out? Does any one know? Why are my people to be branded with disgraceful Territorial servitude and New Mexico to be likewise branded, while blessed Wyoming and Idaho are to be admitted? Action on these great problems should not be one-sided or partisan.

Mr. Speaker, I do not desire it to be understood that I am making complaint because of Idaho's admission, for if I had a hundred votes I would cast each and every one of them for the admission of both Wyoming and Idaho under proper constitutions, and I would not let politics affect my action. It matters not to me whether their people be Protestant or Catholic, Jew or Gentile, Greek or Scythian; if they have the qualifications for statehood they are entitled under the Constitution to State government. My people have the qualifications, and I shall demonstrate it in a very few moments by comparison with Idaho, which you will admit to-morrow as a State. And in this comparison you will please remember that Idaho far exceeds Wyoming in population as well as resources. You have already voted favorably on Wyoming.

Now, let us look fairly at the facts. Will any one of the Republican members of the Committee on Territories (and I will wait for any one) answer the question, and give me an explanation, any one, from the chairman down to the last man put on it, why New Mexico, with double the population (I believe more than double) either of the Territories of Idaho or Wyoming, one already passed the House and the other to pass to-morrow—why New Mexico, with a population of more than double, with wealth double, with settlements and homes anchored in the soil three times what either of them have, is denied statehood, while they are granted it? Arizona, producing more than Wyoming in every single line that I have been able to find from looking at every report, is retarded in her aspirations and Wyoming is encouraged in hers? Is it because poor Mr. JOSEPH got started wrong in his early life and became a Democrat? [Laughter and applause on the Democratic side.]

Gentlemen, is this the way the Fiftieth Congress acted with Washington and the two Dakotas? Did not Democrats come to the rescue? Can I expect Republicans outside of the committee to help me get a report out of the Committee on Territories? Would not fourteen or fifteen gentlemen on that side help me, as they were helped in the dividing of Dakota, and bringing in the two Republican States of North and South Dakota, and admitting Washington, a well known Republican State, and Montana, which, as every man of information knew, was doubtful? Yet we are kept back. No reason is assigned. My friend from New York [Mr. BAKER], with his smiling countenance and rotund form, did say that after Wyoming was disposed of Arizona would receive due consideration, and he thought she was entitled to it.

Mr. BUCKALEW. In due time, he said.

Mr. SMITH, of Arizona. Yes, he said that in due time it would receive consideration; and I hope he will adhere to it, but I fear that he will let four years—the usual statute of limitations—run if he does not change his peculiar way of giving due consideration in due time to a Democratic Territory.

Now, gentlemen, let us look sensibly and reasonably at this matter. To be understood, I repeat again and again, that I am heart and soul for Idaho and Wyoming being admitted into the Union with proper constitutions. Now, I want to ask gentlemen opposed to the admission of Arizona and New Mexico to tell me why we are not equally entitled to admission with Wyoming and Idaho.

Mr. STRUBLE. I wish to say right here that the gentleman knows very well that this is not the time to answer such a question as that.

Mr. SMITH, of Arizona. Yes, it is. This is the very time.

Mr. STRUBLE. He knows very well that it will take at least one hour to make an exhibit of the reasons why New Mexico ought not to be admitted into this Union.

Mr. SHIVELY. It will take more time than that to tell why that Territory has been so treated.

Mr. BRECKINRIDGE, of Kentucky. Give him an hour.

Mr. SMITH, of Arizona. It would take a month.

Mr. STRUBLE. And I say here that the gentleman is not doing himself or his Territory very great service in reflecting upon the action of the Republican party because an answer is not made to a question of that kind now.

Mr. SMITH, of Arizona. You could have answered it in the time you have been on the floor if it could have been answered at all. Why do you postpone the answer? Your side has plenty of time to answer it in.

Mr. STRUBLE. But not properly now.

Mr. SMITH, of Arizona. Then let us have an answer at the proper time.

Mr. Speaker, the facts as they exist in relation to these Territories have not been thoroughly understood.

Mr. PERKINS. I ask the gentleman from Arizona why the Democratic committee of the last House did not report a bill for the admission of Arizona.

Mr. SPRINGER. It did report one.

Mr. SMITH, of Arizona. It did report one, if you please. It was not partisan. It was patriotic. It was not blinded by prejudice, nor was it deaf to the voice of justice. That Democratic Congress not only admitted three known Republican Territories, but went further and reported a bill in the form of an enabling act for Wyoming, Idaho, New Mexico, and Arizona.

Mr. PERKINS. I asked one of the members, and he did not so inform me.

Mr. SMITH, of Arizona. It did so report, whether you were so informed or not.

Mr. PERKINS. Why did it not bring it up for consideration?

Mr. SMITH, of Arizona. Because it could not.

Mr. PERKINS. Why could you not, when you had the majority?

Mr. SMITH, of Arizona. Because we had unfortunate rules that we could not "do business" under against the will of the minority. [Laughter.]

Mr. KELLEY. That is an honest confession.

Mr. SMITH, of Arizona. But we can now do so, your way, only. [Laughter.]

Mr. BAKER. If my friend will allow me, was there any disposition on the part of the Democratic side of the House to admit Arizona during the last Congress; and was not there a disposition to force in New Mexico before that Territory had fairly asked consideration for herself?

Mr. SMITH, of Arizona. In answer to the first inquiry, I say yes, there was such disposition. In answer to the second, I say emphatically no. New Mexico twelve years ago was voted in as a State by the Republican party. If competent then, why incompetent now?

Mr. BAKER. She is coming in.

Mr. SMITH, of Arizona. Then, if she is coming in and if Arizona is to come in, we are on pleasant grounds again; there will be no further trouble between me and my excitable friend from Iowa [Mr. STRUBLE].

Mr. STRUBLE. It is merely a little plain talk. That is all.

Mr. SMITH, of Arizona. Yes, that is what I am, as usual, indulging in. I want now a little plain action. If it was just talk only, I would not care. Action is what I have been praying for and working for, but non-action meets me in this committee. I am not arraigning gentlemen personally. I am not asserting that the Committee on Territories has been indecently and outrageously unfair. I do not say that, because, you know, it might not be parliamentary; and another reason is because I might expect some sort of favor from that committee hereafter, even in the discouraging light of what it has signally failed to do in behalf of those who sent me here.

Mr. DORSEY. Mr. Speaker, I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. DORSEY. Is the gentleman from Arizona discussing the question under consideration? [Cries of "Oh!" "Oh!"]

Mr. SHIVELY. The gentleman from Arizona is giving us a very interesting argument.

The SPEAKER. It is very difficult to state what are arguments for or against a bill. [Laughter.]

Mr. SMITH, of Arizona. I think the Speaker is exactly right, for I have listened to all these arguments about admission and I am from them thoroughly convinced of the correctness of the Speaker's statement. [Laughter.] I thought of raising the same point against the gentleman, but I saw he was not hurting anybody.

Mr. STRUBLE. Well, we know you are in favor of admission.

Mr. SMITH, of Arizona. Yes, all here know I am.

But to return: The population of Arizona in 1880 by the national census was 40,000; the population of Idaho was 32,619. The registered vote of Arizona in 1888 was 16,230; the vote for Delegate in Idaho in 1888 was 16,013. The area in square miles of Arizona is 113,929; the area in Idaho is 86,234. The forest acreage of Arizona is 20,000,000—a thing unknown to this House—20,000,000 acres of land of as fine forest as there is in the world; yet this is called an arid country, with nothing in it, nothing but sand-hills and waste and sage-brush. Yet there stands within it the largest body of untouched timber to-day on this continent; and by the way, our people have not the right to touch it. If they want to build a church to worship the living God they must send to Oregon to get the lumber at $35 per thousand feet, when trees are growing within a hundred miles of them as fine as grace the earth.

Those 20,000,000 acres of forest alone stands a guaranty to Congress of Arizona's power and willingness to take care of herself. Idaho has only 10,000,000 acres.

Take, now, the assessed property of these Territories, which I estimate at about one-third or one-quarter of the actual value. In 1889 Arizona had, by the figures taken from the county tax-lists, $30,000,000; Idaho, $24,000,000. The estimated values are: Arizona, $95,000,000; Idaho, $68,000,000.

The bullion output of 1887 was: Arizona, $10,751,555; Idaho, $9,000,000. I have not the figures for Arizona for 1889; but it is safe and honest for me to say that, in my opinion, Idaho has far outstripped her in the product of the mine in that period if the Idaho returns are correct. That discrepancy may have resulted from some great discovery of rich mines in Idaho. I do not know the exact reason; but I see from the report that Idaho has made the marvelous output of $17,000,000 from her mines during the past year. How these figures were obtained I do not know. Whether they are accurate or not I do not know.

The cattle of Arizona are estimated at 1,150,000, and by the same estimate, which is derived from the tax-lists of the various counties in the Territory, I find that Idaho has less than 1,000,000. Of sheep we have 1,390,000; Idaho, 900,000. The figures in the report of the Department of Agriculture are taken, I presume, from the tax-lists of the various counties, and when you gentlemen understand that these herds of cattle roam over an area of hundreds of miles, that there are sometimes 15,000 or 20,000 in a herd, and that the tax-gatherer has no earthly means of knowing the exact number, but must take what is given him, you will readily understand that the real number is probably greatly understated. In the county where I live we know that the figures do not represent over one-third of the actual number. But, taking the figures as representing one-third, the report of the Department of Agriculture shows cattle in Arizona 698,000; in Idaho, 480,000.

Comparing railroads, we have 1,097 miles in Arizona, with some 150 or 200 miles more under construction, while Idaho has 888 miles by the last report, and no further lines under contract.

Now, gentlemen, it seems to me that the proper thing to have done at the outset with these four Territories, so similar, so much alike, so nearly equal in the resources they claim, was to bring in an "omnibus bill," in which each one could have been treated at the same time with the same justice you now accord Wyoming and Idaho. We all know that this House will get busy after the admission of Idaho and have no time for Arizona. [Laughter.] Do not we all know it? Is there a man here who disputes that very patent fact? When I get my report for the admission of Arizona, as I know I shall get it, from the Committee on Territories, what is going to be the result? I am going to get the bill on the Calendar, and then the House is going to be too busy to consider it.

Mr. BAKER. My friend ought to understand that under the rules of the House bills for the admission of States have precedence. They can be reported and moved along at any time.

Mr. SMITH, of Arizona. I am aware of that, my friend; but these rules to which you refer happen to be so constructed that the majority of the committee as well as the majority of the House can "do business" in aid of the majority. If you will permit me to paraphrase a statement of the Speaker in one of his celebrated rulings, I would say that "action" for the Republican party and "non-action" for the Democratic party "is the function of the House."

Yes, I know that these bills for admission of States have precedence under the rules, but that preference can not be given effect by my motion. I can not make the motion. I can not press the question. If Arizona were properly represented I could, and it would be very delightful for me to do it. Under present conditions I can not even vote when the question comes up. I could not vote when Silcott was leaving the country with all my money. [Laughter.] What am I to do when you are running off with or running over all my rights?

Mr. STRUBLE. Well, you can take your money when it comes.

Mr. SMITH, of Arizona. Oh, I can do that with as much expert grace as any man you ever saw. [Laughter.]

But earnestly, gentlemen, if I get from the Committee on Territories a report in favor of the admission of Arizona, as I hope against hope I shall, all I ask is that this House will take up the bill and pass it and admit her under my enabling act to the Union. I am in favor of the admission of Idaho, and, as I have already said, I have made these suggestions for no other purpose than to call the attention of this House and of my people at home to the fact that whatever could be done toward the admission of Arizona I have attempted in my poor way to do. I do not want to go home and I do not intend to go home and have it truthfully said to me or of me that I stood here a laggard in the race for statehood. [Applause.]

I have done my best, and every man on the committee knows it, and I can only now express my earnest hope that when the Committee on Territories shall report a bill for the admission of Arizona as a State of

this Union she will receive the same proper, prompt, and adequate action that has characterized your conduct in the case of Wyoming. I hope for that. That is what ought to be done.

Mr. Speaker, it is an outrage to keep out of this Union a State containing 100,000 of as well educated people as are to be found within the borders of this broad land, a people with less illiteracy and with as much patriotic devotion to the country and as much ability to take care of themselves as can be found in any equal number of people in any other part of the Union. Yet those people are kept out of the Union, are kept in disgraceful servitude, while this Congress legislates about their affairs without consulting them. Bills are introduced and considered here affecting the interests of the people of Arizona that have never been asked for by them, bills which, if passed, will ruin or greatly damage them.

Such bills, I say, are introduced and pressed here, and I am not consulted about them nor even so much as notified as to who introduced them or when it was done. But I ought to say that this has not occurred, so far as I know, in the Committee on Territories, and my remarks on this point do not apply to the members of that committee, for I have always received the most graceful attention at their hands when I have been before them, but am sorry to say that my importunate eloquence had no effect further than to secure their graceful attention. I know in this matter they did not do what I asked of them, but why they did not I forbear an attempt to explain.

Now, I repeat that I took the floor on this occasion for no other purpose than to call the attention of the House and the attention of the country, and the attention of my people at home to the fact that I have been doing and that I am doing all I can do to secure the admission of our Territory as a State; that I am pleading for that in and out of season; that I am working day and night to secure for Arizona the justice which her sister Territories, with equal or with less claims, are receiving from this Congress. That is all I ask. I know that we can rise here, or ought to rise, above any question of party in these matters, and I think we shall do so.

All that I claim for the people of Arizona is the constitutional right to vote on the taxes which they have to bear, the constitutional right to local self-government. If these other Territories are entitled to statehood Arizona is likewise; and the mistake of this Congress, the mistake of the last Congress, and the mistake of every Congress since twelve years ago, when New Mexico was voted into the Union by both Houses, has been that they did not treat the Territories as they deserved to be treated; that they did not facilitate and encourage their admission as States of this Union. You have not advanced them as they should have been advanced; you have not helped to encourage in their hour of need those struggling people. Now they have grown in strength. They feel and know that they can bear on their own shoulders their own burdens. We ask of Congress simply to give as law the enabling act which I have introduced.

Let us bear our own burdens; let us run for ourselves the race of life; throw off the handicap; give us a fair chance, and we will show you that the State of Arizona will yet rise to be a great, almost unbounded land, of the pleasantest homes, of the most patriotic people, that the sun in all its course ever smiled upon.

Our demands are not those of a hostile people. Four-fifths of our adult population were born and have resided amid the same influences and civilization that surround you. They represent the rugged strength and dauntless courage and inflexible patriotism of all the States. They are as brave as they are strong, and when the nation yet may need defenders it is certain that the contingent from Arizona can be relied upon "for everything that man can do in the way of toil or dare in the way of danger."

Mr. Speaker, these men for whom I speak are your kindred by the ties of a common country and by the closer ties of blood. In behalf of these and for the recognition of their right to the liberties enjoyed by you, I appeal to your sense of justice in the same spirit in which our fathers prayed redress of English wrongs, and, using the language of their petition, I beg of you to "listen to the voice of justice and consanguinity."

This appeal is prompted by no personal ambition, is actuated by no hope of personal aggrandizement, but it is simply the reflection of the sentiments of those who commissioned me to speak for them here.

True, the Committee on Territories has been informed by several self-constituted ambassadors from Arizona that the people of that Territory did not desire statehood. Prominent among these was the present governor, whose term of office is lengthened or shortened by the action the committee may take on the enabling act which I have introduced. Statehood for Arizona means his descent from the high office which he now holds.

In answer to his assertions, I submit, first, that the press of the Territory, regardless of politics, favor my enabling act. Second, the representatives of the people convened in General Assembly at its last session passed an act providing for a constitutional convention. By the terms of the act the governor was directed to make the call by proclamation for the election of delegates to such convention. This bill passed both houses and received the sanction of the then governor. It was thus the law of the land which all were bound to respect.

Just at this time Governor Wolfley's appointment was confirmed by the United States Senate. He came on from Washington and began to review the acts of the Legislature. He immediately deemed this particular act unwise and violated public conception of his duty by refusing to see that the laws were "faithfully executed," and outraged the people by refusing to issue the proclamation required of him by law. Yet he comes before members of the committee and asserts that Arizona does not want statehood. He did not represent the people in such action any more than he represents their choice as governor.

I think, under such circumstances, the majority of the Committee on Territories might have given my statement of the desire and wishes of my constituents fully as much weight as was accorded to his. I am sure the committee did do so. I think any volunteer statements by unaccredited representatives had no more effect than to furnish an excuse for the wrong done Arizona in refusing to report this enabling act.

I have no personal controversy with Governor Wolfley. I desire for him a successful administration, and what I have said has been forced on me by his action, and would not even now have been said except to show this House that such statement by the governor was no valid excuse for the non-action of the committee. I am sorry that I met his opposition to this enabling act. I wish he could have seen fit to assure the committee that Arizona desired to have an enabling act passed and give the people an inexpensive vote on the question. At the polls they could say whether or not they desired statehood. It was not for him, but for them, to settle.

It is not for me, nor for you, but for them, to determine. Why not, then, pass the measure for which I am contending and take the people's word as expressed in their ballot? If they do not want statehood they will not have it. They know their own condition. They will see that their wishes are carried out. And as for me, I am happy to assert that their action on this great question will receive my hearty commendation, no matter what their verdict may be. I am contending for their right to act, not suggesting what their course should be. And in this contention I represent no party or clique, no political, religious, or other combine, but the whole people of Arizona, regardless of distinctions or differences, political or otherwise.

My people have made no political question of this matter. They are above it. They love their land of sunshine and silver more than they love party politics. They love their country more than they love candidates. I commend them in this regard as examples worthy the emulation of Congress.

It has been urged that Arizona's debt is large, and therefore she should not be admitted to the Union of States. The debt will remain until paid, whether we be Territory or State. Kept down by a condition of dependence, the debt will grow faster than our resources. Given statehood, a rapid increase of population and wealth will follow, our wonderful resources will be speedily developed, and the debt will soon and easily be paid. What is now a grievous burden might then become a light and easy load.

The existence of such a debt is to my mind the strongest possible argument against a Territorial form of government. The existence of such a debt is in a measure due to reckless legislation, but ill advised legislation is not by any means the only reason for it. We have never received one cent of aid from the National Government in any public building. We have built many at great cost from our own means. Courthouses, school-houses, asylums, jails, hospitals, and colleges are necessary adjuncts of modern civilization. We have assumed a large debt in order to maintain charity, preserve order, educate the young, protect the helpless, and aid the infirm, and this very fact is here offered as an argument against our ability to sustain proper government. Is it not rather an assurance that we are eminently able and willing to do it?

The population of Arizona has been urged as insufficient. I admit that we are much below the present ratio of representation in Congress; but so is Idaho and so was Wyoming. A waiver of the objection in the case of these two ought equitably to apply in our case. But that we have a far greater population than many States had at the date of their admission the following table, taken from the report in the Wyoming case, will clearly show. The table, I think, was compiled by the industry of my friend from Wyoming [Mr. CAREY]. It is as follows:

State.	Population when admitted.	State.	Population when admitted.
Ohio	45,000	Missouri	66,000
Indiana	63,000	Oregon	45,000
Mississippi	35,000	Kansas	100,000
Illinois	35,000	Nebraska	100,000
Alabama	40,000	Colorado	100,000

The population noted in each instance was based upon an estimate or an imperfect census. It shows an average population of but little above 60,000 for each State. Nearly every State doubled its population in five years after admission.

From the same source I also obtain the following table, showing the votes cast at Presidential elections at different periods in the history of the several States mentioned:

States.	Years after admission.	Votes cast.	Members of Congress.
Tennessee	28	20,725	9
Indiana	8	15,725	3
Illinois	10	8,344	1
Do	14	19,576	3
Missouri	15	5,192	2
Do	19	19,332	2
Mississippi	15	5,007	2
Do	19	19,667	2
Arkansas		3,638	1
Do	4	11,209	1
Do	12	16,888	1
Do	16	19,357	2
Michigan		11,360	1
Louisiana	28	18,914	4
Florida	3	4,963	1
Do	7	7,193	1
Do	15	14,345	1
Texas	3	15,177	2
Do	7	18,647	2
Iowa	3	24,303	2
Wisconsin		39,166	3
Oregon	2	12,410	1
Do	14	14,649	1
Nebraska	2	15,168	1
Do	6	26,141	1

Wisconsin Territory at election preceding admission cast 20,318 votes, admitted with two Representatives, and she cast, first Congressional election, 24,600.

Iowa admitted with two Representatives, who were elected with total vote of 20,064.

Kansas cast at second Congressional election after admission 15,272.

Nebraska cast first Congressional election subsequent to admission 14,710.

Colorado cast at election previous to admission 17,100.

California at her first State election, after a most bitter political fight, when the selection of governor, judiciary, and other State officers, including United States Senators, was dependent upon the result, cast only 12,875 votes.

In the great debate over the admission of Oregon and Kansas it was not claimed that more than 10,121 votes had ever been cast in the former, and 13,289 votes in the latter, Territory. The votes rejected as well as those counted were included in these totals.

At almost every Presidential election up to and including that of 1872 there were from three to five States that did not have as many male voters as there were in Wyoming in 1888.

Now let us proceed to a comparison of the actually assessed valuation of property of several States shortly after admission. I am indebted to Mr. CAREY, of Wyoming, for the following facts:

State.	Assessed wealth.	State.	Assessed wealth.
Wisconsin	$31,200,000	Minnesota	$32,087,730
Arkansas	23,400,000	California	13,296,000
Florida	13,800,000	Kansas	22,500,000
Iowa	13,200,000	Wyoming	31,500,000
Oregon	11,400,000		

Arizona has actually on her assessment roll $30,000,000, which is less than one-third of her actual wealth. It is safe, then, in view of our scattered population and large herds of cattle and sheep that can not be definitely listed, our vast wealth in untaxed mines, that we now have more than double the property that any of the foregoing States possessed at the time of their admission to the Union.

Now, Mr. Speaker, as I said in my argument before the Committee on Territories when an enabling act for Arizona was under discussion, "I can see no reason in the world, from the showing made, why any one of these four Territories should be refused admission to the Union as a State. I think New Mexico is largely ahead of the others in developed wealth, and certainly largely ahead of any in population. But why any distinction should be made between Idaho, Wyoming, and Arizona is inexplicable to me. Why should one be taken and another left? There is no earthly reason why all should not be taken in together, and for the life of me I can not see why we should not provide a bill for an enabling act, passing a law allowing them all to come in together. There is no use in keeping them standing out in this way. It is wearying to them and to Congress."

Arizona is superior to any of your new-made States in natural resources and only requires fair treatment in order to illustrate her boundless possibilities. On her silver-ribbed mountains and verdant valleys, in the hushed stillness of her primeval forests, "God's hand has written the charter" of her ultimate imperial supremacy.

I appeal to the Committee on Territories and to Congress to give an enabling act to these people. Relieve her from "a system of courts which are inherently wrong and which never can be made suitable" to rapidly developing conditions. Give her people a chance to say whether or not they desire to govern themselves or prefer to be governed by officers selected at the dictates of politicians who never saw the Territory or felt an emotion or impulse in common with her citizens. I am not forecasting their conclusion on the question of statehood, but, knowing them, I can make a reasonably fair guess as to their course.

In portraying the tribulations incident to Territorial vassalage I can do no better, nor can any man do better, than to repeat what was said in the Fiftieth Congress by the present governor of Montana in advocacy of Montana's right to statehood. In his picture of our wrongs he very truthfully showed what Congress has done for the Territories:

"It has regulated the number of our judges, which is grossly inadequate in every instance, resulting in the delay, and in many cases the denial of justice.

"It has arbitrarily fixed the time when our local Legislature shall meet and adjourn, to our great damage and inconvenience.

"It has reserved the right to invalidate any law which our Legislature may pass, thereby destroying that full faith and credit which our legislation ought to command.

"It has bound us hand and foot by a law which restricts these growing and ambitious communities in the expenditure of money for public improvements.

"It has declared what we shall teach in our public schools, and manifested a lack of confidence in us in other instances of legislation too numerous to mention.

"It has attempted to stifle our industries by prohibiting us from selling our mining properties in foreign markets, thus laying upon us an embargo not borne by citizens of the States.

"It has exempted a railroad and the improvements on its right of way for 820 miles in length from taxation, furnishing another evidence of the gross inequality of citizenship in and out of the Territories.

"It has withheld from us our dowry of lands which belong to our school fund and refuses to give to us any kind of supervision or control over it until we become a State, and then sets deliberately to work to prolong the time when that event shall happen.

"It has professed to give us a representative in the lower House of Congress, but denies to us a vote, the only element of representation which gives character or influence to a Member.

"It has left us without any kind of representation in the Senate and remits us to the beggarly methods of the lobbyists.

"It has imposed upon us, with an iron hand, the obligations and burdens of citizenship, while it withholds its corresponding benefits by steadily denying to us participation in the framing of Federal legislation and the right of suffrage in national elections.

"It has refused to appropriate the salaries provided by law for the hungry officials whom it has been pleased to send us, and compels them to accept a measly sum in full compensation, notwithstanding an overflowing Treasury.

"It has refused to appropriate sufficient money to extend the public surveys in the Territories, but has doled out annually its driblets, which have ofttimes been covered back into the Treasury, leaving our boundaries undefined and our titles insecure.

"It has failed to cause to be surveyed, selected, and conveyed to the grantees the lands falling to railroad grants in the Territories, as required by law, whereby millions of acres of land owned by rich corporations escape taxation.

"It has persistently refused to pass laws by which timber or timber lands in the Territories (except Washington) may be leased or purchased, professing, however, to give the right to actual settlers to cut and remove the same for domestic purposes, while it has hedged in this privilege with an odious and impracticable system of rules and regulations which has resulted in harassing our citizens with expensive civil and criminal proceedings based wholly upon the *ex parte* statements of a crouching and obsequious special agent or spy, who has been taught to believe that his term of office will be measured by the extent of his activity in stirring up strife.

"It has, by the organization of these Territories, invited settlement and occupancy of the frontier upon the promise and obligation that our persons and property should be protected against depredations by hostile Indians. These promises have been honored more in the breach than in the observance. The history of our early settlement is red with the blood of the pioneers who blazed the trails of civilization in these remote lands by the lurid light of their burning homes, which went down in ashes before the merciless savage. Millions of dollars of unpaid claims, mildewed by age, growing out of these atrocities, are piled up in the Departments, while the heroes of those troublous times, overcome with the weight of years and no longer able to conquer their feelings, have gone to join the silent majority, leaving destitute widows and orphans to keep alive before Congress the memory of their trials and tribulations. Verily the cruelty of Congress cuts as keenly as the scalping-knife or the tomahawk."

Is it any wonder, then, Mr. Speaker, that I find difficulty in restraining the expression of indignation at any attempt by anybody for any purpose to prevent the people who sent me here from having a fair chance by their votes to inform Congress whether or not they are tired

of this, whether or not they want a change, whether or not they want a voice in the selection of those who are to execute the law, whether or not they want a voice in the enactment of laws under which they are to survive or perish.

This is all I ask for them; it should be speedily accorded. Short of that you outrage justice. I am not ready to believe that you will intentionally do that. I have great confidence in the sense of justice which usually does, and always should, actuate the chosen Representatives of the American people. I invoke it now. I know that the thousand varied duties devolving on us here render it impossible for each to act intelligently on every bill presented for consideration, and you all are forced to rely largely on the findings and reports of committees to which was specially delegated the duty of investigation. This fact of necessity defeats many proper measures and passes some bad ones. But these mistakes are incident to every large legislative body and in the shortcomings of human wisdom can not be avoided.

But, sirs, you can avoid injustice in this case. Forget party politics, look unprejudiced to the rights of men and see that their rights are respected, and a proper enabling act will be passed whereby the people of Arizona can express their will to Congress.

I had intended to express somewhat my views on the constitutions presented here by both Wyoming and Idaho, and to call the attention of the House to what appear to me objectionable and unrepublican features appearing in each. But the question has been so worthily presented by abler men than I that nothing which I could say would influence or entertain the House. I can not, however, forbear recording my objection to a constitutional provision conferring female suffrage and I equally oppose any purely sectarian or, if you please, church legislation. It is well enough and very proper to prescribe and punish crime, but very dangerous to prescribe and punish opinions or creeds or faiths.

The constitution of Idaho, in my opinion—granting proper sectarian supremacy in the State—can prevent a Presbyterian or a Catholic from voting. All good Presbyterians and all good Catholics and, in fact, all other christians believe the law of God superior to an unjust law of man and more deserving obedience. The constitution of Idaho says that all persons who belong to any organization, order, society, or association "which teaches or advises that the laws of this State prescribing rules of civil conduct are not the supreme law of the State * * * shall neither vote, serve as jurors, nor hold any civil office." Suppose the law of the State should prescribe bigamy, then every member of every church or society which taught that such law was not supreme would be disfranchised.

I repeat, it is a dangerous constitutional provision and may reach further, under fanaticism, than the builders ever designed. The legislature, not the constitutional convention, should determine the qualification of electors.

With these brief suggestions of change in the proposed constitutions, I am, as I have already repeatedly said, heart and soul in favor of the admission of all these candidates for statehood. In my judgment, obedience to the law, not opinion of the law, should determine the question of guilt.

Now, in conclusion, Mr. Speaker, these people of the Territories should have fair, impartial treatment at the hands of Congress. Their wishes should have respectful consideration. They should be kept no longer under guardianship than is absolutely necessary to their welfare and happiness. In my heart of hearts I beg for my people fair and impartial treatment at the hands of this Congress. I ask nothing more. I thank the House cordially for its considerate attention. [Applause.]

Mr. CHIPMAN. Mr. Speaker, I agree entirely with the gentleman from Arizona [Mr. SMITH] that it would have been better if all four of the Territories mentioned by him had been put into one bill and submitted to our consideration: I can see no reason—I never have, since I have been in Congress, seen any reason—why either New Mexico or Arizona should not be admitted to the sisterhood of States. As compared with the Territory of Wyoming and with the Territory of Idaho, they have all the elements which entitle them to admission. If there is any objection to New Mexico, it is an objection which applies to it in common, as it would seem, with the Territory of Idaho.

What has been urged against New Mexico is the character of her population. If the extraordinary provision concerning suffrage in the sixth article of the constitution now before us is justified by the facts, it shows that there is an improper population in Idaho, a population in numbers so great as to be a menace to the prosperity of the State, a population which, upon the hypothesis of this clause in the constitution, is hostile to our institutions and unfit to take part in the government. This is the argument which has been urged against New Mexico. It is the only argument which I have ever heard against it, and it now stands, if I am correctly informed, as a barrier against a bill being reported to the House for the admission of that Territory.

But, sir, I would not upon any political ground oppose the admission of any Territory into the Union. My political brethren will bear me witness that in the last Congress I was an advocate for the admission of all the Territories, and that in our party councils I asserted, what I now repeat, that it is impossible to exact any pledge of party fealty from a State prior to its admission—not only impossible, but wrong and unpatriotic in every way in which you can view it. I believe that it is best—best for the country—to get rid of these Territorial governments, and it is infinitely best for the people of a Territory themselves to enjoy the rights and privileges of statehood.

Yet while I feel in this way I can not forget that the Constitution of the United States imposes upon us the duty of guarantying a republican form of government to the States which constitute the members of the Union. "What is a republican form of government?" would open a wide range of discussion. There are republics and there are republics—republics which in our view utterly fall short of the true definition of a commonwealth of that nature. And our own Republic, even in the estimation of many of the best thinkers, does not contain that popular freedom which constitutes the ideal of a truly democratic state.

But I think I may say safely that no government is republican in form which makes oppressive distinctions between the citizens of a State. A government which in its policy, in its constitution and laws, distinguishes oppressively against one class of citizens and in favor of another falls far short of the model which we set before us as the true one of republican institutions.

This is especially true of distinctions which impair in any way a proper enjoyment of the elective franchise. That franchise is the very breath of republican institutions. Manhood suffrage is the very body of liberty.

The American people have adopted this as a faith, and though nowhere expressed in so many words in any of our constitutions, I think I am fully justified in saying that it may be considered as a sort of natural right, because it is the only method which the world has yet discovered by which a full and perfect liberty may be maintained for the people.

The report of the majority on this bill seems to treat manhood suffrage as a mere political right. It undoubtedly is such a right; but it bears the same relation to freedom as the right to pray and to preach bears to the full exercise of the religion in which we believe. And just so far as men are unjustly debarred from exercising it, just so far are they debarred from a full enjoyment of self-government.

I admit, Mr. Speaker, that there ought to be disabilities to vote. It is not wise to permit every one to exercise this great right. I know of no State in the Union, I can conceive of no civilized State, which would allow every one to exercise it. I certainly have no particular objection to the disqualifications prescribed in section 3 of article 6 of this constitution proposed for the State of Idaho. Almost all the States in the Union have disabilities of this kind; but in almost every one of them they are clearly defined, and not only are they clearly defined, but the method of ascertaining them and of applying them as a barrier to the exercise of the elective franchise is explicitly set forth.

This constitution prescribes two classes of disabilities; and in my judgment it prescribes two different ways of ascertaining whether a citizen is subject to them. First, there are those disabilities which arise from conviction in a court of justice; and the ascertainment of such a disability is, by the very nature of the language, referred to the action of a court, making it dependent upon the prior action of a judicial tribunal, as in the case of persons under guardianship and persons convicted of certain offenses.

As to the second class, no method of ascertainment is prescribed *eo nomine*, but the matter is plainly left to the discretion of the Legislature and the election officers. This class embraces idiots, insane persons, persons in prison, every person who is a bigamist or polygamist or is living in patriarchal, spiritual, or plural marriage, and so on. The last clause of the provision supposed to refer to the Mormons embraces persons who are excluded because they belong to an organization which teaches and advises that the laws of the State prescribing rules of civil conduct are not the supreme law.

In this second class of disabilities no reference is made to convictions whatever. There is nothing in the proposed constitution on that subject. Everything is left in this important, in this most precious, matter to the citizen, to the will of the legislator.

The provision in regard to membership of organizations which teach or advise that the laws prescribing rules of civil conduct are not the supreme law of the land is of a very grave nature.

I do not say that it is intended to trench upon religion; I do not say it is meant to interfere between a man and his God; but I do say that it has a broad latitude, a latitude so great that in times of popular passion it may embrace within its fold many and many an organization, spiritual or temporal, which to-day we have no idea can be subject to it. Wrong ideas grow. It is not the prerogative of good alone to thrive.

Why, Mr. Speaker, it is only a few years ago that that great and beneficent order, the Masonic body, was attacked from one end of the country to the other as being hostile to the freedom of the country and as setting itself above courts and above the laws themselves. There is another body, a church, venerable with years, noted for its learning, for the great good it has done in the world, and for buttressing civilization against paganism, against which this very reproach is made, a church which like the Masonic body denies the truth of that reproach and denounces it as a calumny invented by its enemies. And yet I can imagine, and any man on this floor can imagine, in times of high

excitement, especially of high religious excitement, excitement the most unreasonable, the most vindictive to which the human mind can be subject—I can imagine that in such times men might become so frenzied by prejudice and fear that even the very convent fires which were the shame of Boston may be relighted and sectarian hate rule men with savage power.

Why, even the Savior of mankind was accused of setting up and teaching a religion which claimed to be superior to the state. The histories of your race and the histories of all religions are crowded with thumbscrews, racks, scaffolds, and the fires in which men have been tortured or destroyed because accused of making this very claim; men who we now see in the clear, calm light of history were done to death unjustly, as they were treated cruelly and barbarously while living. While error is multiform, its essence is the same.

And it is only just to say of this Mormon Church that it denies the imputation that it essays to overturn the law.

Shall it be honored with the cross or martyrized at the stake? Shall its adherents, deluded though they are, be robbed of the hearing in the courts we give to every class of criminals? Shall their rights as citizens be determined by less solemn methods than your rights and mine? Shall a mere election board have power to ostracize, to disfranchise a citizen and their finding of the facts be conclusive on the courts? This may be done under this constitution, and——

Mr. STRUBLE. Is it within the recollection of the gentleman that any court in this land has ever held as to either of these societies or to any except the Mormon Church that it was a criminal organization?

Mr. CHIPMAN. No, sir; I do not remember anything of that kind. But I do not see the pertinency of the question.

Mr. STRUBLE. Is not the gentleman aware that one court in Utah and another in Idaho have held to that effect as to the Mormon Church?

Mr. CHIPMAN. Now, what else do you want to ask? Ask your question and then sit down.

Mr. STRUBLE. Are you not aware of such a decision having been rendered by judges of your own party?

Mr. CHIPMAN. Party! What do I care for party? [Applause.] We are discussing the rights of the people. We are discussing a grave question of elemental right; but the gentleman talks of party. It is party when you try to pension soldiers. It is party when you essay to give any laws to the people. It is party when we seek to protect the sanctity of the franchise. [Applause.] I think nothing of party. I care nothing for party in this discussion. I am making no attack on your party. I am making no attack on you, and you will please sit down and let me go on.

Mr. STRUBLE rose.

Mr. CHIPMAN. Take your seat.

But let us go another step, Mr. Speaker. What have these decisions to do with the controversy which is pending here? If the gentleman is no better lawyer than his question implies, if he has no more idea of the force of authority than his question illustrates, I feel very sorry for him indeed. [Laughter.]

What I am contending is not that the courts have not decided it, nor that polygamy is not a crime, but that the constitution you bring here silences the courts, the true refuge of all our rights and the only certain asylum against oppression and corruption. That is my contention.

But the gentleman answers me that somewhere in the country, somewhere else, the very thing has been done which I contend ought to be done under this instrument which you bring here and ask us to vote for. I suppose the answer will be that this clause of the constitution does not execute itself, that it can not execute itself. Although I am not entirely certain how far that is true, I am certain that in one sense it does execute itself. In one sense it prohibits the recourse to the courts.

It does that not only by what it says, but by what it does not say. It provides in what case you shall go the courts, and it makes provision by which a person having a certain belief or doing a certain act shall, without the intervention of a court, be disfranchised. In the case of guardianship, in the case of conviction of crime, other provisions apply. In those cases the courts are invoked; but in the case of insanity, which is a condition of body, and also in the case of Indians and Mongolians and of the Mormons, it expressly strikes at the interposition of the courts. I have looked at the provision of this constitution in regard to the jurisdiction of the supreme court, and in my judgment, unless a law is passed very carefully guarded, the entire decision of the facts will rest or may rest with boards of election officers, and so strip the courts of all real jurisdiction.

I believe the gentlemen say that this will not be done. But how do you know it will not be done? How do you know that the strong tide of passion which ingrafted on this constitution so dangerous a provision will not induce the people to pass laws to carry it out in the most severe and obnoxious manner possible? You say it will not be done. I say liberty, the rights of the citizens, public safety, demand that you shall confer no power, give no opportunity to inflict an oppressive rule upon the citizen.

Mr. BAKER. Will the gentleman yield for a suggestion in the shape of a question?

Mr. CHIPMAN. Yes, sir; with great pleasure.

Mr. BAKER. Has the gentleman overlooked the provision in the constitution which meets the point he makes?

Mr. CHIPMAN. What is it?

Mr. BAKER. That a person claiming a right to vote may purge himself of this disqualification by taking the oath.

Mr. SPRINGER. Where is it?

Mr. MANSUR. It is not in the constitution.

Mr. BAKER. The test oath.

Mr. CHIPMAN. I have not found it.

Mr. MANSUR. You can answer it by saying that it is not in the constitution.

Mr. CHIPMAN. I have not seen such a provision.

I have observed, though, I will state to the gentleman from New York [Mr. BAKER], in the majority report of the committee something which they roll as a sweet morsel under their tongue, and bearing about the same relation and potency as authority to the matter at issue as the question of the gentleman over there a short time ago, but which is cited by the committee as conclusive. In the case of a Mr. Davis against a sheriff, suit was brought in Idaho involving the legality of a test oath disclaiming connection with Mormonism, and the Supreme Court held that the oath was a proper and a constitutional requirement. I have no doubt of it; no one doubts it.

But how do we know that the Legislature of Idaho will prescribe a test oath in this case and so give an opportunity of purgation? You say that they probably will. I say that they ought to. But is there no doubt that they will do so? There is none that it should be done; but where is the authority that compels it? Where is the warrant; the surety? Where is the assurance that they will not leave this entire matter to the kind of men whom I will not undertake to characterize here; the men who may compose election boards; the low politicians; the hucksters of public life; the seekers for the little offices; the hangers-on of great men; the mean implements of base ambitions; the general doers of dirty work throughout the nation?

How do we know, I ask, that it will not be left entirely to these men? In vain is it to say it will not probably be left to them. It may be; and where there is an opportunity for corruption, where in the mad delirium and loose morals of politics there is an opportunity for oppression, you may be as sure that they will appear promptly at the time, when they can do the most good or the most harm that can be done, as that the sun will rise or set.

Now, Mr. Speaker, I am not an apologist for Mormonism; but it is very cheap, it is very easy to stand here and rail at it. There is, sir, a demagogy of virtue just as there is a hypocrisy of religion. The virtue which is performed vicariously is the sweetest in the world to a great many people. I know gentlemen whose virtue consists solely in condemning polygamy and who are sober only by trying to enact laws to keep the poor soldier from getting his beer. [Laughter and applause.]

The world is full of this kind of saints; and to stand here where we have no real potency over the subject, where we are not called upon to act—to stand here and hurl epithets at Mormonism seems to me to be a very mean piece of business. There is no risk, there is no bravery in this kind of talk; there are no votes to be lost by it, and so it is cheap and easy. I condemn Mormonism root and branch. I agree entirely with the framers of this constitution that persons guilty of bigamy and polygamy and of the practices set forth in section 3 of article 6 of the Idaho constitution ought to be disfranchised. But they are human beings, they are American citizens, and I contend for them and in their behalf that they should have the rights of all other citizens. No one of them ought to lose his right to vote unless he is duly convicted.

I contend for them, and not for them alone, but for all citizens, Protestant or Catholic, Jew or Gentile, for the black and the white, for every form of religion, for every form of political belief, that their rights should be judicially ascertained. I know that in the State of Illinois statutes have been passed for the first time in the history of this country making penal certain expressions of opinion. That law may be the outgrowth of a great necessity and be so well guarded that no harm can be done to free speech and legitimate political action, but I tell you gentlemen here to-day that it is a dangerous road to enter upon. It is the road followed by this constitution, and is doubly dangerous because it is in an organic law.

I know the answer will be that by this route you seek to attain certain good. But after all you set a precedent; and all the evil I have ever read of in history comes from evil precedents bent to good uses. It is the exigency of occasions which causes reason to be blind and desperate courses to be pursued. It is from high and holy purposes, often indeed for the preservation of the state itself, that an evil example is set and a rule established which ultimately baptizes the liberties of the people in blood or drowns them in despotism.

Strike Mormonism, if you please; strike it hard; but give it a fair trial. Let the courts condemn it; not irresponsible election officers. Let them condemn the man whose vote you seek to take from him, upon some charge of crime proved by lawful evidence. Let them solemnly by judgment and by record determine that he falls within the law and has committed an offense which takes from him, and ought to take from him, the right of the elective franchise. We can not afford, for the suppression of Mormonism, to introduce into this country a prece-

dent so dangerous. We can not afford to do this clear off in Idaho, even, for that is not so far away but that it may ripen in mischief and be cited in courts and in senates against the liberties of the people. I contend simply for the protection of the law through the judgment of the courts on the conduct of all men. Discrimination made in the very teeth of denials that the accused are subject to them can not fail to be most hurtful and most dangerous. I would blot out Mormonism if I could, but I would not, even to blot out Mormonism, take one step which might impair the freedom of the American people. [Applause on the Democratic side.]

Mr. DUBOIS. Will the gentleman allow me a question before he takes his seat?

Mr. CHIPMAN. Yes, sir.

Mr. DUBOIS. Do you approve of the Edmunds law?

Mr. CHIPMAN. Oh, my dear sir, we are not discussing the Edmunds law.

Mr. DUBOIS. The Edmunds law disfranchises them without proof.

Mr. CHIPMAN. I would be very glad to hear your views on the Edmunds law.

Mr. DUBOIS. Are you in favor of the Edmunds-Tucker law?

Mr. CHIPMAN. If the Speaker will permit I would like to hear the gentleman's views of the Edmunds law. It has nothing to do with this discussion; but I will not object.

Mr. MANSUR. Under the Edmunds law he is not disfranchised. If a man takes the oath he votes; but you do not permit him to take the oath and vote.

Mr. DUBOIS. We do. I beg your pardon. That case came to the supreme court, and on that issue the man took the oath and voted, and we then convicted him of perjury.

Mr. MANSUR. You misunderstood me. Now, under the constitution you do not permit him to take the oath.

Mr. DUBOIS. I beg your pardon. It is the same law that we have on the statute-books. Now, any man can take the oath and vote. Then we proceed against him for perjury.

Mr. MANSUR. Now, under the statutes you allow him to take the oath and then he votes. Under this constitution you do not grant him that privilege.

Mr. DUBOIS. I beg your pardon. It is identically the same with the statute.

Mr. SPRINGER. The Edmunds-Tucker act allows a man to vote. He must swear that he is not a polygamist or bigamist, and is not guilty of these crimes. Under your bill he must swear, in addition to that, that he does not believe in Mormonism.

Mr. DUBOIS. Why, certainly; but the Edmunds act does not require conviction, which you argue is necessary in every case.

Mr. SPRINGER. I will ask you if you will submit an amendment to allow the Edmunds act to operate in Utah? And if you will we will withdraw our amendment.

Mr. DUBOIS. We will not take that. We propose to extirpate Mormonism, while you propose we shall not.

Mr. SPRINGER. In Utah the Delegate could vote and in Idaho he could not.

Mr. PERKINS. Mr. Speaker, I regret that the attractions at Benning's are so great that we are compelled to talk to empty benches rather than to the intelligent members of this House who will be called upon to vote and determine by their votes whether or not the Territory of Idaho shall be admitted as a State. In the time that I consume I shall not enter upon a general discussion of the material resources of Idaho nor of the intelligence and patriotism of her people and their excellent qualifications for the duties and responsibilities of citizenship; nor shall I enter upon a general discussion of the policy that should be respected by Congress concerning the admission of new States into the sisterhood of States. Other members have done that and may do so in the discussion that is to follow. Nor shall I consume any considerable time in answering the criticisms of my friend from Arizona, who is disposed to complain because bills have not been reported by the Committee on Territories providing for the admission of Arizona and New Mexico. I would say to him, as I have said in committee and elsewhere, that I believe each one of these applications for admission should be considered carefully and dispassionately and that each applicant should stand upon its own merits, and, if upon full, fair, and intelligent investigation it was determined that it deserved and was entitled to statehood, it should be admitted. I do not believe now, and I did not believe at the last Congress, in uniting several Territories in one bill and attempting thereby to bring into the sisterhood of States by the strength of one or two Territories another Territory that should not be admitted and that did not possess the qualifications that entitled it to admission. In due time the application of Arizona will be considered; and it is but fair that I should say here, in answer to the criticism of my friend, that he knows, as every member of the Committee on Territories knows, that more than one-half of the gentlemen from Arizona who have appeared before our committee and talked upon the subject of Arizona have argued against its admission.

Mr. SMITH, of Arizona. If the gentleman will permit me, I will ask him how many Federal officers appeared before the committee with four-year terms before them.

Mr. PERKINS. I am not prepared to say how many of them did, but I am prepared to say that one was the present governor of the Territory of Arizona, who says to the Committee on Territories, as he says to the people of the United States, that, in consequence of the bonded debt of that Territory, in consequence of its involved financial condition, and because of the peculiar conditions that exist there, that Territory ought not to be admitted into the Union at this time.

Mr. SMITH, of Arizona. Will the gentleman allow me there?

Mr. PERKINS. And I can say, sir, that gentlemen who were not office-holders, as I know, but property-holders, leaders of the Territory of Arizona, without any interest except the best interests of that Territory and the best interests of her people, have said to our committee that that Territory ought not to be admitted into the Union as a State.

Mr. SMITH, of Arizona. Will you name him?

Mr. PERKINS. One, for instance, was Mr. Cameron.

Mr. SMITH, of Arizona. Ah, Mr. Cameron!

Mr. PERKINS. The gentleman exclaims "Mr. Cameron!" But that gentleman is a very bright, intelligent citizen of Arizona, who is not an office-holder and who is not concerned in any office in Arizona.

Mr. SMITH, of Arizona. Is he not? I know the gentleman from Kansas [Mr. PERKINS] does not want to make a misstatement.

Mr. PERKINS. Of course I do not.

Mr. SMITH, of Arizona. Mr. Cameron holds the most lucrative office in Arizona to-day.

Mr. PERKINS. What is it?

Mr. SMITH, of Arizona. Clerk of two courts—the district and the Federal court—under an appointment that he will lose the minute the Territory is admitted into the Union as a State, for he could not be elected constable of a precinct. [Laughter.]

Mr. PERKINS. It may do for the gentleman to talk in that way, but, as I said, I do not desire to consume time now in discussing the merits of Arizona. [Laughter on the Democratic side.]

Oh, we will do that, gentlemen, all in good time. We will meet you at the proper time, and you will probably have all the opportunity you desire of discussing these questions to your satisfaction and to the satisfaction of my friend from Arizona. I am only suggesting now that sufficient for the day is the evil thereof. When the bill for the admission of Arizona or the bill for the admission of New Mexico comes here it will be discussed, and discussed, I hope, fairly and dispassionately. I have said what I have said in answer to the criticisms and the fault-findings of my friend from Arizona [Mr. SMITH], because he knows, as I know, that there is a division of opinion among the American citizens of Arizona as to the propriety of its admission to statehood at this time, and he knows that our committee has been addressed by respectable gentlemen from that Territory who say that it ought not to be now admitted. It is no answer to those statements made to our committee for the gentleman [Mr. SMITH] to say that these gentlemen are Federal office-holders and that their tenure of office is involved. That is the only answer I have heard, but it is not a sufficient answer, and it will not be found a sufficient answer by this House.

Mr. SMITH, of Arizona. Will not the gentleman permit me, for my own justification, to interrupt him again for a moment?

Mr. PERKINS. I will yield to the gentleman.

Mr. SMITH, of Arizona. I know that the gentleman from Kansas has acted upon statements made by others; but I would say to my friend, for whom I entertain the very highest personal and official regard, that he knows that none of those gentlemen happened to represent Arizona. Every one of them came here of his own accord and for his own purposes. Some of the gentlemen to whom he alludes have confessed to me that they were mistaken in this matter; not Mr. Brewster Cameron, nor the governor of the Territory. One remark further, and then I will not again interrupt the gentleman. The Legislative Assembly passed an act calling for a legal constitutional convention. That was duly passed by a Legislature in which the council was Republican and the house Democratic, and I do not know that there was a dissenting vote. This same governor, who afterwards came before your committee and made his irresponsible statement, is the very man who violated the law and his sworn duty in failing to call a constitutional convention, as required by law.

Mr. PERKINS. I can not permit the gentleman to occupy my time in order to make a speech or that he may indulge in accusations against office-holders in that Territory who have no opportunity to defend themselves here. If he does that he must do it in his own time.

Mr. SMITH, of Arizona. The accusation is not made from a political standpoint. The Republican papers of the Territory unanimously denounced his action.

Mr. PERKINS. Mr. Speaker, I have been simply stating facts in answer to the gentleman from Arizona, and, as I have said, I will not attempt to enter in this connection upon any discussion of the merits or the demerits of the Territory of Arizona as a candidate for admission as a State of this Union.

Mr. SMITH, of Arizona. There is no division among the people of Arizona upon that point.

Mr. PERKINS. I desire, however, to call the attention of the House to the points of difference between the majority and the minority members of the Committee on Territories concerning the propriety of ad-

mitting Idaho into the sisterhood of States. They make an issue as distinct as it can possibly be made by the English language. No objection is made by the minority members of that committee to the admission of Idaho because it lacks intelligence, because it lacks wealth, because it lacks patriotism, because it has not the material resources which would entitle it to be admitted into the sisterhood of States.

No such objection is made, no such suggestion is made in the minority report. The only objection made is that, by the provisions of the constitution which was framed by the people of Idaho, polygamy and bigamy, or rather the men who believe in polygamous and bigamous practices, are disfranchised. The only reason the minority have offered for objecting to the admission of Idaho is that men who are guilty of these crimes, men who believe in these practices, men who believe in teaching these monstrous doctrines, are disfranchised by the constitution under which the Territory is asking admission.

Mr. SPRINGER. The gentleman does not mean to say that.

Mr. PERKINS. I will read from the minority report.

Mr. SPRINGER. You mean that we object to men being disfranchised until they are convicted of these things.

Mr. PERKINS. I will read from your report to show that the only point the minority make in opposition to the admission of Idaho is the one I have suggested. I read:

The minority find themselves unable to agree with the majority in relation to one of the provisions of the proposed constitution for Idaho.

The particular provision which is the subject of this disagreement—

And that is the only point of disagreement between the majority and the minority members, as stated by the minority themselves—

is the one relating to the right of suffrage, the right to hold office, and the right to serve on juries, to which reference will hereinafter be more specifically made.

The precise point of difference between the majority and the minority is this: That the majority assent to and approve of a provision which deprives a citizen of the right of suffrage, disqualifies him from holding office, and prevents him from serving on juries, for criminal conduct imputed to him when he has not been convicted of such conduct——

Mr. SPRINGER. That is it.

Mr. PERKINS—

while the minority insist that no citizen, being otherwise qualified should be deprived of these rights and privileges on account of alleged crime, unless he has been convicted of such crime by some court of competent jurisdiction, and where the penalty for such crime, or a part thereof, is such disqualification.

That is a clear statement of the difference between the majority and the minority of the committee. This House is called upon to determine by its vote whether Idaho should be admitted into the Union with a constitution which disfranchises persons who practice polygamy or whether before persons are disfranchised they shall be arraigned in court and convicted as common felons. That is the only distinction. The majority members of the committee have said, as Congress has heretofore said, that men who are guilty of these practices, these crimes against society, whether they have been convicted or not, shall not be permitted to exercise the right to vote.

It is the man who is guilty of these crimes who is disfranchised, and only he; it is the man who believes in these practices that is disfranchised, and only he. Men who believe in a church which teaches the monstrous doctrine that the church is superior to the Government of the United States and that supreme allegiance is due to the church, not to the Government, that when the edict of the church commands a man to do that which by the law of the land he is forbidden to do, he must obey the church and ignore the statutes of his Government—men who believe in this way are disfranchised by the provisions of this bill, whether they have been convicted or not, while our friends on the other side, who represent and speak for these polygamous practices, say that men should not be disfranchised until they have been arraigned and convicted in court. That is the difference and the only difference.

My friend from Missouri [Mr. MANSUR], whom I recognize as an able lawyer, labored most earnestly, and while listening to him I sympathized with him in his effort—knowing his excellent qualities as a man, knowing his qualifications as a lawyer, knowing his worth as a citizen, I really sympathized with him in the labored effort he made here to find some excuse for making a minority report in this case. He would have this House believe, if he could, that this bill is a new departure in American legislation; that legislation of this character, which has been upheld by the courts, would be a new departure in judicial proceedings.

Why, sir, is there a State in this Union—a single one—that does not prescribe the qualifications of citizenship and the qualifications of electors? In the State of Missouri, from which my friend comes, a man, in order to be a voter, must have been a resident of the State for at least twelve months; he must be a citizen of the United States; he must have been a resident of the county and precinct in which he offers to vote for at least thirty days prior to the election. When he tenders his ballot to the judges of the election, claiming the right to vote, an inquiry is at once entered upon, an investigation is at once begun, to ascertain whether that man, under the constitution and laws of Missouri, is a qualified voter or not.

If it is found that he is not a citizen of the United States he can not vote. If it is found that he has not been a resident of Missouri for twelve months prior to the election, he can not vote. If it is found that he has not been a resident of the county and precinct for thirty days prior to the election, he can not vote. These and other qualifications are imposed; and every one of these qualifications is inquired into by the judges of the election when the man tenders his ballot on election day and asks to be permitted to exercise the privileges of an elector.

So with this constitution of Idaho. The judges of the election sit there prepared to perform the duties imposed upon them under the law with the solemnity of an oath resting upon them. A man tenders to those judges his ballot, asking that he may be permitted as a citizen of Idaho to exercise the privileges of an elector. He is asked the question: "Are you a bigamist? Are you a polygamist? Do you believe in the doctrines of the Church of Latter-Day Saints? Do you believe that it is right to teach to the people of Idaho that their allegiance is to the church rather than to the Government of the United States? Do you believe that the people of this Territory should be taught that, if the church issues an edict commanding them to do that which is forbidden by the laws of the Government of the United States, it is their duty to obey the church and to trample upon the statutes of the Congress of the country?" These questions are put to the man who offers to vote. If he answers them in the negative, if he answers that he is not a polygamist, that he does not belong to a polygamist church, that he does not believe in the doctrines of that church, he is permitted to vote as other citizens are; there is nothing in this constitution to disqualify him.

The practice which would prevail in Idaho under this constitution is the practice which prevails in Missouri to-day, which prevails in Illinois, and every State of the Union, under the laws and constitutions of those States. This is not a new departure; it is such legislation as we have known as American citizens from the day when we cut loose from dependence on Great Britain and organized this Government of ours.

I could run over the constitutions of the several States showing how in some States men are disfranchised for one reason and in some for another. For instance, as suggested by my friend from Idaho, a man is disfranchised in Texas because he is poor, because he is a pauper. Yet my friend from Texas, who upholds a constitution which disfranchises a man because he is poor, comes here and argues against a constitution which disfranchises a man who is guilty of the monstrous crime of bigamy or polygamy. If he can explain his position satisfactorily to his constituents and to his State, it is his privilege to undertake to do so. But this shows the inconsistency of our friends on the other side; it shows the strait to which they are driven in order that they may find some foundation upon which to base a minority report in this case.

As I have said, Mr. Speaker, this is not new legislation. Already to-day the polygamists and bigamists of Utah and of Idaho are disfranchised. These men are disfranchised to-day by the laws of the United States in all the Territories of the Union. This constitution of Idaho simply continues the disfranchisement which now exists. Under the Edmunds law, which has been upheld by the Supreme Court of the United States, which met the sanction of an overwhelming vote upon the floor of this House in the Forty-seventh Congress—under the provisions of that law these men in Idaho, for whom our friends on the other side speak to-day, are disfranchised, are disqualified from voting.

Mr. SPRINGER. That act did not apply to Idaho. It applied to Utah only.

Mr. PERKINS. No; it was a general statute.

Mr. SPRINGER. I am speaking of the Tucker-Edmunds law.

Mr. PERKINS. The Edmunds law passed in the Forty-seventh Congress is a general statute, applying to all the Territories of the Union; and it disfranchises every Mormon, every man who believes in the polygamous practices of that church, whether he resides in Idaho or Utah or any other Territory.

Mr. OATES. I wish to inquire of the gentleman what would have been the difference in effect if this constitution, instead of the provision which it contains, had adopted the language of the test-oath of the Edmunds-Tucker law?

Mr. PERKINS. That law requires the man to prove that he is not guilty of these practices, does not believe in the doctrine of this church; and so it would be under this constitution. If Idaho should be admitted into the Union under this constitution and a man should tender his ballot to the election judges, claiming the privilege of an elector, the inquiries would be what I suggested a moment ago. If those inquiries should be answered in the negative, if the man could prove that he is not a bigamist, not a polygamist, that he does not believe in the doctrines of this Church of the Latter-Day Saints——

Mr. OATES. Does not the provision of this constitution go a great deal further than the test-oath of the Tucker-Edmunds act?

Mr. PERKINS. The provisions of this constitution and the provisions of the Edmunds act are much the same. It is barely possible the provisions of this constitution go a little further than those of the Edmunds act.

Mr. OATES. That is the point to which I wish to call your attention. I think I voted for the Edmunds act.

Mr. PERKINS. Yes, I think you did; and I will call upon some other friends upon the floor to reconcile their votes on that act with

their opposition here to-day to this constitution, because this constitution, against which gentlemen argue, is only a re-enactment, with perhaps a little enlargement, of the Edmunds act. It enlarges it only to the extent of including those who believe in the teaching and practices of the Mormon Church that the Mormon doctrines are superior to the laws of the land.

Mr. OATES. If it went no further than the Edmunds act I might be inclined to favor it, but it is my judgment this constitution goes a great deal further. The Edmunds act does not require them to swear they do not belong to the Mormon Church, but this constitution disfranchises them if they do belong to that church.

Mr. PERKINS. I have the act and will read it if necessary.

Mr. OATES. Many members of the Mormon Church disclaim polygamy and do not believe in it.

Mr. PERKINS. And they may disclaim it under the provisions of this constitution.

Mr. OATES. This excludes them if they belong to the church; that act, if they belong to it and uphold polygamy. This goes much further and disfranchises them if they belong to the Mormon Church.

Mr. PERKINS. If I had more time in this debate I would read with you every provision. My friend from Missouri [Mr. MANSUR], my friend from Alabama [Mr. OATES], as well as my friend the distinguished lawyer from Pennsylvania [Mr. BUCKALEW], know under the Edmunds act those men are disfranchised without being convicted of crime. It is not necessary under that act they should be convicted. Disfranchisement is carried by that act as it is by this constitution which the people of Idaho have formulated and brought to us for consideration and indorsement. Gentlemen who uphold the Edmunds act put themselves in a rather inconsistent position when they oppose a constitution which carries the same disqualification to this people.

It is now 5 o'clock; I do not know what is the disposition of the House, whether to continue or adjourn till the morning, when I can resume my remarks.

MEMBERS' PAY.

Mr. PAYSON. Mr. Speaker, I desire to ask unanimous consent to have printed in the RECORD the opinion delivered by Judge Davis, of the Court of Claims, in the case of the gentleman from Texas [Mr. CRAIN] involving the right of members to their November pay. The motion to reconsider the report of the select committee is a question of unfinished business to be brought up hereafter. It is a matter of interest to everybody. Therefore I ask it be printed in the RECORD.

There was no objection, and it was so ordered.

It is as follows:

Court of Claims. No. 16716. William H. Crain *vs.* The United States.

Davis, J., delivered the opinion of the court.

A member of the House of Representatives seeks in this action to recover salary for the month of November last, which has not been paid him because the money intended for that purpose was embezzled by a subordinate of the Sergeant-at-Arms. The incident which leads to the proceeding in this court has given rise to debate in the House of Representatives and has attracted the attention of the country, not only because of the personal financial loss suffered by the people's Representatives, but also because of the interesting historical and legal questions which have been developed in the endeavor to fix the responsibility for that loss.

Briefly the history of the transaction is this: According to statute and custom, the Sergeant-at-Arms and the Clerk of the Fiftieth Congress continued in the exercise of their duties after the 4th of March last, when that Congress ceased to exist. Members of the House of Representatives receive their salaries upon certificates, signed by the Speaker when the House is in session, by the Clerk during vacation, and it has been a long-continued and consistent custom for the members early in vacation to attach receipts to a number of blank certificates, which are deposited with the Sergeant-at-Arms.

These certificates are printed in blank upon a slip of paper in the following form:

No.——.

HOUSE OF REPRESENTATIVES OF THE UNITED STATES,
Washington, D. C., —— ——.

I certify that there is due to the Hon. —————— —— dollars as a member of the House of Representatives for the Fifty-first Congress.

—— ——.

Below the certificate are printed the words "Received payment;" below these two words the Member signs his name, and afterwards the date and amount are filled in, and across the end of the paper, upon its face, outside its margin, and at right angles to the lines thereof, is inserted the word "salary," preceded by the name of the appropriate month. This crossing of the certificate is done at the suggestion of the Treasurer's office and for the convenience of that office.

The Sergeant-at-Arms, towards the end of each month during vacation procures from the Clerk of the House his signature upon the appropriate blank certificate, to which the member has before attached his receipt; he then presents the certificate at the Treasury, receives the amount named therein, deposits it in his safe at the Capitol, credits the account of the member with the month's salary, and pays it over or retains it as he may be instructed by the member.

Following this custom, plaintiff (who had been a member of the Fiftieth Congress), before leaving Washington last March, signed in blank nine such receipts, one for each month during the vacation, and received his salary in due course except that for the Congressional month beginning the 4th of November and ending the 4th of December last.

Upon the 27th, 29th, and 30th of November (the 28th being Thanksgiving Day) one Silcott, who was then cashier in the office of the Sergeant-at-Arms, took to the Treasury many members' salary receipts accompanied by certificates filled out for the month of November, and was there given the money necessary to pay the receipted certificates. A large part of this money Silcott appropriated to his own use, and he is now a fugitive from justice. As a result of this crime, plaintiff and other members of the House have not received the salary which is their due.

It must be noted that this action relates only to the salary of a member of the House of Representatives for the month of November, 1889. We emphasize this, as it appears that some members had made private deposits with the Sergeant-at-Arms, treating him somewhat as a banker, and some members had not drawn salary for several months, but had allowed it to accumulate in that officer's hands. Any rights arising from these transactions are not now in issue.

The defaulting cashier, while paid by the Government, was the subordinate of the Sergeant-at-Arms; he was appointed by that officer, was responsible to him, was subject to his orders, and gave bond to him in the sum of $50,000 for the faithful performance of his duties as cashier. It is admitted that in drawing the money from the Treasury the cashier acted for the Sergeant-at-Arms and represented him in fact and in law. There is no complication in this regard, and the responsibility, whatever it may be, is to be ascertained from the relations of the Sergeant-at-Arms, the cashier's principal, to the House of Representatives, or to the Members and Delegates individually, or to the Government of the United States.

On one side it is contended that in collecting the money at the Treasury the Sergeant-at-Arms acted as a public agent, and that, therefore, the loss occasioned by the default of his subordinate should fall upon the Government. The defendants urge that the Sergeant-at-Arms, so far as the subject-matter of this action is concerned, was the private agent of the members, authorized by them individually, for convenience, to collect their salaries at the Treasury. This is the main point in the case, the point of most general interest and importance, and its discussion has involved an investigation of the fiscal system of the United States, a review of the practice which has prevailed since the foundation of the Government, both in the House of Representatives and in the Treasury Department, in relation to the payment of these salaries, and an analysis of the statutes claimed to have a bearing upon the issue.

A subsidiary argument is advanced by plaintiff in which it is contended that, as his November salary was only due December 4, payment by the Treasury to the Sergeant-at-Arms upon November 30 or at any time prior thereto was unauthorized and illegal; and also it is urged that the Clerk can by statute certify to salary account during vacation only; the certificate therefore for the November salary, which was in this case signed by the Clerk, was, it is alleged, void and of no effect, as the salary was not due until after the 2d of December, when the House organized and elected a Speaker, who thenceforward, and until the summer recess, alone could certify the members' salary accounts.

This position is controverted, and the arguments thereon will be considered by us after we have examined the first issue presented.

When the Sergeant-at-Arms presented to the Treasurer plaintiff's receipt for November salary, with the Clerk's certificate, and received the cash therefor, was he acting as a public agent or as plaintiff's personal agent?

There is no statute which in express terms makes the Sergeant-at-Arms a disbursing officer of the Government, nor is such a statute necessary. A Government servant may have the powers, duties, and responsibilities of a public agent without express antecedent statutory authority. As a rule, agency to bind the Government is created by statute, but there are many cases decided by this court and the Supreme Court where allegations of contract have been sustained, and the Government has been held bound by the acts of an officer performed within the general scope of his duties, but without specific statutory authority for the particular act or class of acts declared upon.

In cases of this nature which have been decided in this court or by the Supreme Court upon appeal, there has appeared a user by the Government or a benefit to it. The agent had not specific antecedent authority for his course; but not exceeding the general scope and intent of the authority given him, he took for the Government property of a citizen without disputing the individual ownership; then, as the Government had enjoyed the benefit and advantage of the act of the agent, compensation was allowed the citizen.

This proposition would probably not be controverted, while its application to the present case might be denied. Nor do we assert that our statement is more than illustrative of the principle, which we deem established, that a specific antecedent statutory authority is not necessary to invest a Government officer with power to bind the United States to compensation for loss to an individual benefiting the Government, occasioned by the officer in the rightful performance of his duties.

Executive officers are, properly, most careful to act within specific delegated powers given them, by statute or regulation, antecedent to action, and we have occasion constantly to see and commend the jealous regard these officers exhibit for the literal commands of statutes, and their great care in the protection of the revenue. The line of argument which this habit of thought engenders, while technical, is undoubtedly to be encouraged in all executive officers charged with the disbursement of public funds, and is perhaps largely due to their close construction of statutory grants of power that the fiscal system has been so successfully managed since its establishment in 1789.

The judiciary is, however, compelled to make a more philosophical examination of statutory provisions, and must interpret the law, which includes statutes, but is not made up of statutes, in accordance with recognized rules not within the proper jurisdiction of an executive officer to apply.

The Supreme Court has made this apparent in many cases, among them that of the United States against McDaniel (7 Peters, 1). In that case it appeared that defendant had been a salaried clerk in the Navy Department, and for some fifteen years had acted as a disbursing officer under the direction of the Secretary of the Navy. For this service he had been paid additional compensation. The Government denied the right to extra compensation, insisting that there was no law authorizing his appointment as a disbursing officer, and that usage, without law or against law, can never lay the foundation of a legal claim.

To this the court answered, in substance, that it is often necessary for a head of Department to exercise his discretion; he is limited in the exercise of his powers by the law, but it does not follow that he must show a statutory provision for everything he does. Whilst the great outlines of the movements of governmental machinery may be marked out and limitations imposed upon the exercise of power, there are numberless things which must be done that can neither be anticipated nor defined, and which are essential to the proper action of the Government. "Hence of necessity [say the court] usages have been established in every department of the Government which have become a common law, and regulate the rights and duties of those who act within their respective limits; and no change of such usage can have a retrospective effect, but must be limited to the future. Usage can not alter the law, but it is evidence of the construction given to it and must be considered binding on past transactions;" and the court held that, while there was no law authorizing the appointment of defendant as a disbursing officer, the duties were necessary, they were ordered by the Secretary, the charge for compensation was reasonable, and during fifteen years has been sanctioned by the Treasury, and has not been objected to by the committees of Congress, who annually inspected the Department books, and the judgment given below in plaintiff's favor was affirmed, the court saying, "It would be a novel principle to refuse payment to the subordinates of a Department because a chief, under whose direction they had faithfully served the public, had mistaken his own powers and had given an erroneous construction of the law." (See also United States *vs.* Fillebrown, 7 Peters, 42.)

In Wells *vs.* Nichols (104 U. S., 441) it was decided that while no act of Congress expressly authorized the Secretary of the Interior or other officer of the Land Department to appoint timber agents, the appropriation by Congress of money to pay them was a recognition of the validity of the appointment.

We may, therefore, assume that antecedent express statutory authority is not always necessary to invest a Government officer with right to compensation for services rendered or with power to bind the United States for his acts; of course there must be prior authority or there must be subsequent acts which amount

to ratification of what has been done, and we at this point simply find that the authority is not of necessity antecedent to the agent's act, nor is it necessarily conferred by the express terms of a statute.

So much weight is attached in this case to the custom which has prevailed in the payment of the salaries of members of the House of Representatives, and that custom is so necessary to an understanding of the statutes which we shall hereafter cite, that some examination of the history of disbursements of this nature becomes important.

Prior to the adoption of the Constitution the finances of the Government were managed by Congress through committees and commissioners, who directed a force of comptrollers and auditors, a treasurer, and the necessary clerks and accountants, all of whom held office immediately under the Congress. Demands upon the Treasury at that time were examined by the Legislature, either directly through a submission to the Congress or indirectly through the appropriate committee. After approval in one or the other form, the accounts were passed as public accounts and paid by the Treasurer. The whole fiscal administration, whatever its details of management, was in the hands of the Legislature.

By an act approved September 2, 1789, the Treasury Department was established, and thus the fiscal administration under the new Government was transferred from the Legislature to the executive branch (1 Stat. L., 65). Twenty days later (section 6, act September 22, 1789, 1 Stat. L., 71) it was enacted that the compensation of officers of the House of Representatives should be certified by the Speaker and passed as public accounts, and paid out of the public Treasury. This rule was several times re-enacted and now appears in the Revised Statutes. The date of this act is important, in view of the subsequent practice under it, and it can not fail to be noted that it was the work of the same Congress which established the Treasury Department, and that it was approved only twenty days after the new fiscal administration had been authorized. In this act provision was made for the compensation of officers of the House, and in section 5 there was allowed "to the Sergeant-at-Arms, during the sessions and while employed in the business of the House, $4 per day."

During this, the First, Congress warrants for members' salaries were drawn at the Treasury, in favor of the Speaker, and this practice was followed until the Twenty-sixth Congress. In the Twenty-sixth Congress some warrants were drawn in favor of the Speaker, others in favor either of the Treasurer or of certain individual members or of certain assignees of members.

After the Twenty-sixth Congress, to and including the Thirty-second Congress, all warrants were drawn either in favor of the Speaker or upon his order, when in favor of others. As it was impracticable for the Speaker in person to supervise the payment of members' salaries, he early called to his aid the Sergeant-at-Arms, who performed the clerical and administrative labor incident to this duty.

During the Twenty-fifth Congress the Committee of Accounts of the House of Representatives was instructed, among other things, to inquire in relation to the subordinate officers of the House, with a view to a definition of their respective duties.

At that time the Sergeant-at-Arms was not recognized in the rules as a disbursing officer, and the duties of that nature imposed upon him he discharged only as an agent of the Speaker. The committee made a report dated March 31, 1838 (Twenty-fifth Congress, second session, H. R. Doc. 750), in which they stated, in substance, that early in the history of the House an unofficial arrangement had been made by the Speaker and the Secretary of the Treasury by which the money appropriated for the pay of members was advanced to the Speaker, who paid the members, taking their individual receipts, which, with the Speaker's accounts for the whole transaction, were, at the termination of the session, transmitted to the Treasury Department, there to be passed upon by the accounting officers.

This, the committee said, "was deemed a compliance with the spirit of the law." Adverting to the "voluntary and gratuitous" work of the Speaker in this regard and of the Sergeant-at-Arms in assisting him, they stated that the practice contributed to public convenience and the dispatch of public business; it had so long prevailed that there was scarcely a member who did not suppose it a part of the official duty of these officers "not only to settle and audit the accounts of the members, but actually obtain the money and place it in their hands." The committee commended the practice and recommended its continuance, suggesting only that it receive legislative sanction, as a measure of such "high responsibility and importance" "should not rest alone upon custom or antiquity" for its sanction or authority. They then reported certain resolutions, which were adopted by the House (April 4, 1838), but which never took the form of a statute.

These resolutions were three in number. The first required the Speaker at the commencement of Congress to designate to the Secretary of the Treasury some suitable depository wherein he should place the money for the compensation of members, "subject to be drawn out by the check of the Speaker, indorsed by the member of the House entitled to mileage and per diem pay." The second, as more important, we quote literally:

"*Resolved*, That it shall be the duty of the Sergeant-at-Arms to keep the accounts for pay and mileage of the members, to prepare checks for members, and, if required to do so, to draw the money on said checks for the members; the same being previously signed by the Speaker and indorsed by the member in whose favor the same may be drawn, and pay over the same to the member entitled thereto."

The third resolution directed the Sergeant-at-Arms to give bond "to the United States" conditioned "faithfully to account for the money coming into his hands for the pay of the members of the House," and for his increased duties and liabilities he was allowed extra compensation, to be paid out of the contingent fund of the House.

These resolutions approved a practice already existing and recommended its continuance as contributing to the public convenience and to the dispatch of the public business, and while the committee thought legislative sanction advisable they apparently were of the opinion that a rule of the House constituted sufficient sanction and an act of Congress was unnecessary.

While the Sergeant-at-Arms was thus directed to keep the accounts of members, to prepare checks for them, and, if required to do so, to draw the money on the checks, the Treasury Department continued to advance moneys to the Speaker until the close of the Thirty-second Congress. From the first session of the Thirty-third Congress, beginning December 5, 1853, to the present time warrants to pay the compensation and mileage of the members have been drawn in favor of the Treasurer of the United States, the moneys advanced have been charged against him on the Treasury books, and the accounts have been settled in the name of the Treasurer.

The Treasurer has regularly advanced to the Sergeant-at-Arms the compensation of members of the House in return for certificates signed, during the session by the Speaker and during vacation by the Clerk, when accompanied by the members' receipts, and, by order of the Secretary of the Treasury, made in 1870, the Treasurer's accounts have since that time been balanced afterwards by an "accountable" warrant issued in the Treasurer's favor for the gross sum so advanced, instead of by warrants issued from time to time, as was done prior to June, 1870.

It is interesting to note in this connection that, March 12, 1853, President Pierce issued an order in accordance with the act of January 31, 1823 (3 Stat. L., 723), now section 3648 of the Revised Statutes, directing advances to be made to certain officers called in the act "disbursing officers" of the Government, and at the head of a long list appear, first, "the Speaker of the House of Representatives of the United States;" second, "the Clerk of said House." As the Clerk controls the contingent fund out of which are paid all expenses of the House except the salary and mileage of members, it is evident that the advance of public moneys to the Speaker, contemplated by this order, was to enable him to pay to the Representatives and Delegates their compensation, although the Speaker's authority in this regard was never conferred by express statute.

Since 1843 the Sergeant-at-Arms has given bond, approved by the Speaker, to the United States for the faithful disbursement of money in his hands, and these bonds have regularly and without objection or comment been received and filed in the Treasury Department. The only public money which comes into the hands of this officer is that intended for the salary and mileage of members; all other money, including that which pays the Sergeant-at-Arms his own salary and the salaries of his subordinates, is under the control of the Clerk of the House.

The duties of the Sergeant-at-Arms of the House of Representatives of the Fiftieth Congress were prescribed by the fourth rule, and besides those inherent in the office, such as maintaining order and serving process, we find him directed to "keep the accounts for the pay and mileage of Members and Delegates, and pay them as provided by law." This rule differs from the resolution of 1838 (*supra*) in that the rule directs the Sergeant-at-Arms absolutely to pay the Members and Delegates, whereas the resolution ordered him to pay only when "required to do so." This change in phraseology took place in 1880; the rule has since existed in this form and is still in force.

The rule further requires "the Sergeant-at-Arms to give a bond for the faithful disbursement of all moneys intrusted to him by virtue of his office and the proper discharge of the duties thereof." It has been shown that the bond given by the Sergeant-at-Arms of the Fiftieth Congress is not drawn in this form, but is conditioned only that he "shall well and faithfully account for all money coming into his hands for the pay of members of the House of Representatives of the Fiftieth Congress." As the bond is to the United States and no Government money comes into the Sergeant-at-Arms's control except that intended to pay the salary and mileage of Members and Delegates, and as the word "pay" may perhaps be held to include mileage as well as salary (although as to this we express no opinion), the difference in phraseology between the bond and the rule may not perhaps be important so far as the Fiftieth Congress was concerned. It will, however, be immediately noticed that the bond is no protection to the Fifty-first Congress.

Still the main fact important to this issue remains that by the rule and by the bond it appears that the Sergeant-at-Arms was intended and understood by the House to control the funds necessary to pay Members' and Delegates' salary and mileage, and his responsibility for honest administration of moneys coming into his hands for that purpose is pledged, not to the House of Representatives, not to the members individually, but to the United States. This bond, like those preceding it, was received and filed at the Treasury without comment or criticism.

Finally we find that the Sergeant-at-Arms is allowed, as salaried subordinates, a cashier, a teller, a book-keeper, and a messenger; that he has a large and expensive safe; that his office is fitted in a manner similar to the arrangement of an establishment where moneys are received and paid out.

The custom, then, is consistent and long continued. The Congress which created the fiscal system retained the executive control of the members' compensation, first leaving it in the Speaker's hands, who, as the House grew in numbers, called to his aid the Sergeant-at-Arms, who, later, was ordered by the House to act as its disbursing officer for this one purpose.

The argument thus far shows that while no express statute conferred upon the Sergeant-at-Arms the duty of a disbursing agent, he is an officer chosen by the House under their constitutional right; that so far as in their power the House has assigned to him the duties of a disbursing officer in regard to one subject, and that for many years he has performed these duties.

The House of Representatives evidently believed that a rule was sufficient legislative sanction for this course. In this we do not agree. But it is further urged on behalf of plaintiff that even if the rule have not the force contended for and if there be not sufficient statutory authority to authorize the course hitherto pursued in this regard, plaintiff may invoke the doctrine *Communis error facit jus;* and he cites in support of this contention two cases where it was allowed to override express statutory provision. (Clay *vs.* Sudgrave, 1 Salk., 32; Maher *vs.* The State, 1 Porter, 265.)

We do not think there is necessity in this case to examine the doctrine or to decide whether it here applies.

Having defined the custom, we turn now to the statutes. They provide that one of the officers of the House shall be a Sergeant-at-Arms; and while the appropriation acts each year recognize the existence of the office, nowhere do we find its duties definitely marked out by statute. The necessary and proper inference is that the duties were to be those prescribed by the House if consistent with the Constitution and with law.

It is true that where a statute creates an office previously known to the common law, without defining its powers and duties, it must be assumed that the powers and duties were those legally performed by the officer prior to the statutory recognition (Kirksey *vs.* Bates, 7 Porter, 529; Kennedy *vs.* Brunst, 26 Wis., 414); but this doctrine might well be held not to warrant the inference that these acts recognized as legal the discharge by the Sergeant-at-Arms of the duties of a disbursing officer, duties usually expressly prescribed by a statute even when required by the rules; but there are other provisions in the acts which admit of no sensible interpretation unless the Sergeant-at-Arms be in fact a disbursing officer.

There are provisions for a cashier with a salary of $3,000, a book-keeper with a salary of $1,800, and a paying teller with a salary of $2,000. Unless the Sergeant-at-Arms is to disburse the salaries of members (and no other public moneys come into his hands) no duties exist for these officers to perform and their salaries are a useless charge upon the public Treasury. To assume that Congress intended this would be unreasonable, and the natural inference is that these officers were to perform duties of the nature indicated by their titles—that is, duties of a financial nature in relation to the only public funds in the Sergeant-at-Arms' hands, those intended to pay members. Neither a paying teller nor a book-keeper could be of service to an officer required only to maintain order and to serve the process of the House.

The provision for a cashier has particular significance, for it has a definition affixed to it by the Supreme Court (Merchants' Bank *vs.* State Bank, 10 Wall., 604):

"The cashier is the executive officer through whom the whole financial operations of the bank are conducted. He receives and pays out its moneys, collects and pays its debts, and receives and transfers its commercial securities. Tellers and other subordinate officers may be appointed, but they are under his direction, and are, as it were, the arms by which designated portions of his various functions are discharged."

When Congress assigned to the Sergeant-at-Arms a "cashier" it intended to give to the former the aid of a financial officer, one who would receive and pay out money coming into his superior's hands; this money was that, and that only, destined to pay Members of the House and Delegates. No other reasonable construction can be given to these provisions of the law. As we have already stated, money has been provided by statute and applied to the fitting up of the office of Sergeant-at-Arms in the manner usual in financial establishments. Money has been appropriated by statute to provide for him a large safe, books of account, and other paraphernalia of an office where money is handled. Here again Congress recognized the financial duties of the officer.

Further legislative sanction for the custom is found in other statutes. Section

40 of the Revised Statutes requires the Secretary of the Senate and the Sergeant-at-Arms of the House to deduct from the monthly payment of Senators and Members the salary for each day's absence except in case of sickness.

The Secretary of the Senate is by express terms of statute made a disbursing agent, and the linking of these two officers in the same section of the law with direction to perform the same duty indicates the legislative understanding that their responsibilities in regard to compensation of members of the Senate or of the House were similar. What reason could there be for directing the Sergeant-at-Arms to make this deduction unless he was recognized as having the funds under his control out of which these payments were to be made.

Section 45 speaks again of a disbursing officer of the House who is to pay mileage and accounts; it does not name him, but when that statute was passed the Sergeant-at-Arms had for many years been acting as a disbursing officer in charge of these accounts.

In January, 1880, the Treasurer of the United States addressed a letter to the Select Committee on Rules of the House of Representatives calling attention to the practice which had prevailed in regard to the payment of members' salaries and recommending that "one of the officers of the House of Representatives be designated as a disbursing officer, giving such bond as may be required, in the same manner as the Secretary of the Senate is now charged with the disbursement and mileage of Senators."

The matter was very fully explained to the House and legislation was suggested as necessary to effect the desired end. No statute was passed on the subject, however, but the discussion was followed by the rule which we have already cited, and which contained a most important modification in this: that it specially charged the Sergeant-at-Arms with the duty of paying the salaries, and that not when "required to do so" by the members, as before, but charged him to "pay them as provided by law;" so, since 1880, the Sergeant-at-Arms pays the salaries under express direction of the rule, whereas, prior to this change, he had paid only when required to do so by the members.

June 16, 1882 (first session, Forty-seventh Congress), a bill was passed in the House of Representatives, by unanimous consent, which made the Sergeant-at-Arms a disbursing officer for the compensation and mileage of Representatives and Delegates; but this bill did not become a law; it was referred to the Committee on Appropriations of the Senate, and we do not find that they took any action upon it. An explanation of this is, perhaps, to be found in the fact that June 22, 1882, six days after the last-mentioned bill passed the House, the following act of Congress was approved by the President:

"Whenever any appropriation made for the payment of the salaries of Senators, Members, and Delegates in Congress, or the officers and employés of both or either of the Houses thereof, or for the expenses of the same, or any committee thereof, can not be lawfully disbursed by or through the officers specially charged with such disbursements, such disbursements may be made for the purpose named in said appropriation by the Treasurer of the United States, who shall take proper vouchers therefor, and charge such disbursements against such appropriations, and the accounts therefor shall be audited and passed or rejected, as the law may require, in the same manner that similar accounts are or may be required by law to be audited and passed or rejected."

In this statute it is assumed that there existed in the House of Representatives some "officer specially charged" with the disbursement of moneys paid by the Government for the salaries of Members and Delegates. It is the statutory recognition of the existence of an officer in the House charged with duties in relation to members' pay.

The phraseology of the statute immediately attracts attention, for it does not speak of disbursing officers. The Clerk of the House and the Secretary of the Senate are both disbursing officers; and if the statute had intended simply to refer to them, what more natural than to use this familiar title to which is attached a fixed legal significance? The statute relates not only to the funds controlled by the Secretary of the Senate and to those controlled by the Clerk of the House, but also to those intended for the compensation of the Representatives and Delegates in the House of Representatives, which, under the House rule, were in the charge of the Sergeant-at-Arms.

At the time this statute was under consideration there was pending a bill which had passed the House intended in express terms to make the Sergeant-at-Arms a disbursing officer for these funds, and a debate upon the subject had just taken place in the House which, coupled with the debates of 1838 and of 1880, had shown that there existed some doubt as to the powers of the Sergeant-at-Arms in this regard. The pending bill specifically making the Sergeant-at-Arms a disbursing officer did not become a law, while the other bill was passed and approved. It speaks not of disbursing officers of the Senate and House, but of "officers specially charged" with certain disbursments, and the Sergeant-at-Arms was by the rules of the House, and with full understanding of the position by Congress at that time, as before, "specially charged" with the disbursement of Members' and Delegates' salaries and mileage.

There is no reason to suppose that this statute of 1882 was passed under any misunderstanding of the law or facts, Congress was familiar with the custom which for many years had prevailed in the House of Representatives and which was the subject of debate; they knew the House rules and the law. It is much more reasonable to infer that, recognizing the existing facts, they deem the course theretofore pursued to have been in accordance with law, and that the statute of June, 1882, cured any doubt, than to assume that a mistake was made in a matter so immediately within the personal knowledge and direct observation of members of Congress.

Even if it be assumed that the Congress had shut their eyes to what was occurring in their midst and had failed to examine the law or to correctly construe it, still it does not necessarily follow that the statute is without effect. In Postmaster-General *vs.* Early (12 Wheaton, 136) the court was required to construe an act giving certain jurisdiction to the district and State courts. This jurisdiction was to be exercised concurrent with the circuit courts, and there was no grant in this act of power to the circuit courts, Congress erroneously supposing that these courts already possessed this jurisdiction.

Nevertheless the Supreme Court held that the grant to the district and State courts of a jurisdiction which was to be exercised "concurrent with" the circuit courts conferred jurisdiction upon those courts. The words "concurrent with," said the Supreme Court, speaking by Chief-Justice Marshall, "perhaps manifest the opinion of the Legislature that the jurisdiction was in the circuit courts, but ought, we think, to be construed to give it, if it did not previously exist. * * * It is true that the language of the section indicates the opinion that jurisdiction existed in the circuit courts rather than an intention to give it, and a mistaken opinion of the Legislature concerning the law does not make law, but this mistake is manifested in words competent to make the law in the future. We know of no principle which can deny them this effect. The Legislature may pass a declaratory act which though inoperative in the past may act in the future. This law expresses the sense of the Legislature on the existing law as plainly as a declaratory act, and expresses it in terms capable of conferring the jurisdiction."

Courts endeavor to uphold statutes, and, if possible, to give them effect. This statute of 1882 refers to some officer not named, but recognized as in existence and as having power to disburse the money appropriated for members' salaries; that officer did in fact then exist in the person of the Sergeant-at-Arms. Whether he, at the outset, was legally authorized to perform the duties in fact imposed upon him becomes now unimportant, as the statute of 1882, interpreted by the rule of 1880 and the situation when the statute was passed, contains a legislative declaration of the power assumed by Congress then to exist in this officer, a declaration sufficient to operate upon him in the future, and to constitute him thenceforward in law what he had long been in fact (if not in law), a public agent, charged with the duty of paying to Members and Delegates their salaries.

It was argued in the very excellent brief filed by the defense, and it was pressed in the discussion, that the Treasurer of the United States is the disbursing agent charged with the financial duty performed by the Sergeant-at-Arms. There is no statute which in terms makes the Treasurer a disbursing officer of the House of Representatives, but the defendants rely upon his general power. The practice would seem to negative this contention, although it is not without considerable force, and has given rise to much discussion. It may have been understood in the Treasury that the course pursued did not technically involve an advance of money to the Sergeant-at-Arms, perhaps because the accounts have been kept in the name of the Treasurer.

On the other hand, the Sergeant-at-Arms, upon presenting members' receipts and the Speaker's and Clerk's certificates, in fact has been regularly paid in advance the salaries due Members and Delegates, a practice which is forbidden by law unless the Sergeant be a public officer with right to disburse Government funds. The position is also negatived by the statute of 1882 (*supra*), which, in specifying a time when the Treasurer shall pay, may well be held to forbid him from paying at other times. The course of the Treasury in this matter is subject for argument, but we do find that Department receiving the Sergeant-at-Arms's bond, and advancing him money, in fact, through the Treasurer, whose accounts were not balanced until after the entire transaction for each month was closed, and the money was in the hands of the Sergeant-at-Arms.

If the Sergeant-at-Arms was a private agent, then the Treasurer violated section 305 (Revised Statutes), which directs him to disburse upon warrants drawn by the Secretary, countersigned by the Comptroller, and recorded by the Register; instead of this, trusting to subsequent ratification of his acts, he disbursed upon the certificates of the Speaker or Clerk and the receipts of the members prior to the issue of any warrant, and this practice was ordered by the Secretary and sanctioned by the Comptroller. Further, section 3648 forbids an advance of public money; yet these moneys were regularly advanced.

The arrangement with the Treasury was made many years ago. It has since been followed consistently; it was specifically recognized and ratified in 1870, when the Secretary directed the warrant in settlement of the Treasurer's accounts for this money to issue for a sum in gross after the whole amount had been paid. The course is certainly irregular, but it has the support of convenience and long-continued custom, and aids in the dispatch of public business; it has been assented to by the Legislature and the Executive since the foundation of the Government, and was the continuation of the system which had existed prior to the act of 1789.

The Treasury Department has been most carefully administered since its organization, and the only criticisms made upon its officers are based upon allegations of an overstrained care in the protection of the interests of the Government against those of an individual creditor, criticisms which those officers can well afford to incur when courts are open to rectify any errors of theirs which may lead to injustice to a citizen. It can not be supposed that these officers have for many years violated the specific provisions of familiar statutes, statutes which it is part of their daily duty to apply. Is it not more reasonable to assume that they find authority for their course in the law as interpreted by rules and custom?

In any event the fact that the Sergeant-at-Arms, or the Treasurer, or the Comptroller, or the Secretary of the Treasury followed a practice not in harmony with the statutes or regulations which govern disbursing officers can not operate to the injury of an individual, whether a member of the House of Representatives or a private citizen. What rights (if any there be) the Government may have against the Sergeant-at-Arms or the fiscal agents of the Executive is not for us to examine into or to decide upon, but it is apparent that if they in the administration of their duties failed to comply with the statute or regulation in the manner of performance, while not exceeding their powers in the thing done, no responsibility falls upon a third person ignorant of the illegal manner in which a legal act was done. If the Sergeant-at-Arms was a public agent, authorized by law to pay these salaries, a failure on his part, or on the part of the Treasury officers, to comply with the forms prescribed by law for drawing from the Treasury the money necessary for this purpose, can not affect the innocent Member or Delegate.

In the view we take of this case it seems unnecessary to more than advert *arguendo* to the second main point advanced by plaintiff.

It is undoubtedly a general rule, as argued upon his behalf, that where an agent is empowered to collect a debt at a given time payment made to that agent prior to that time is at the peril of the one who pays, or, as Lord Ellenborough tersely stated it, "Every person who pays money beforehand pays it at his own risk." (Parnther *vs.* Gaitskill, 13 East, 432.) It is no less true that, as plaintiff's salary was not due until December 4, the Speaker's certificate should have been demanded at the Treasury, as the Clerk, who in fact did sign, was powerless to certify to such an account after December 2, when the Fifty-first Congress convened and elected a Speaker.

On the other hand, it is contended with force that plaintiff was familiar with the custom of advance payments, which had so long prevailed, and that if by his receipt attached to a blank certificate he did make the Sergeant-at-Arms his private agent, he is charged with notice of the manner in which such power had been customarily exercised, and must be presumed to have foreseen that the money as heretofore would be paid at the Treasury to the Sergeant-at-Arms prior to the date when in law due; and as the agent had in fact received the money in accordance with notorious custom, then his principal can not disavow his act and fall back upon him who paid.

The rule of the House did not attempt to create in the Sergeant-at-Arms personal agency; this no rule could do unless passed by the consent of every Member and Delegate. No personal relations, therefore, were created by the rule as between this plaintiff and the incumbent of the office. The personal agency, then, if there were one, arose from the transaction, not from the official position of the Sergeant-at-Arms, and that transaction consisted in the signing of a receipt in blank, understood to cover a month's salary, the particular month not being specified, and its deposit with the Sergeant-at-Arms. There remained, as a legal statutory prerequisite to payment of this salary, a certificate made by the proper officer; without such a certificate no payment could be legally made.

The certificate in this case was not signed by the proper officer, but was on its face illegal, because signed by the Clerk when it covered salary due not in vacation, but due after the House had convened and organized, when only the Speaker could sign. Yet, in view of this irregular certificate, to say nothing of the general law of agency as to payments before date, the Government advanced the Sergeant-at-Arms the money.

We can not assume that trained and trusted officers would have made this advance to the private agent of an individual; and the fact that payment was made in this way, and has for so many years been made in this way, without dissent or criticism, is another argument, drawn from long executive construction, tending to confirm the result we reach that the Sergeant-at-Arms acted as a public officer.

Since the organization of the Government, the House of Representatives has retained control of the payment of the salaries of Members and Delegates. The Congress which established the Treasury Department intended to reserve to the House the power previously exercised by it, and this power was exercised always thereafter by officers of the House; first, by the Speaker directly; then

by the Speaker acting through the Sergeant-at-Arms as his subordinate; then by the Sergeant-at-Arms acting under direction of the House as expressed in the rules.

No change has been made in the practice except in its details of administration; it was public, uniform, long continued, expressly sanctioned by the House, and was not objected to by the Treasury, which recognized it and acted in harmony with it. Usage can be appealed to for the interpretation of statutes, and we find the only reasonable construction of the statutes relating to this subject is the one which harmonizes with the usage. We all agree that judgment shall be entered in plaintiff's favor in the sum of $365.

HUDSON RIVER BRIDGE.

Mr. BAKER. I ask by unanimous consent that leave be granted to print remarks on the Hudson River Bridge bill passed this morning.

Mr. SPRINGER. And on the Idaho bill.

Mr. KERR, of Iowa. I object.

ORDER OF BUSINESS.

Mr. PERKINS. Mr. Speaker, I believe I have thirty minutes' time remaining and am entirely willing to consult the temper of the House as to whether I shall proceed this evening or allow the debate to go over until to-morrow.

Mr. BUCKALEW. If the gentleman will yield to me I will make a motion to adjourn.

Mr. DORSEY. I hope the gentleman from Kansas will exercise his own pleasure.

Mr. PERKINS. I would prefer not to go on to-night.

Mr. DORSEY. Then I hope the gentleman from Pennsylvania will not press the motion to adjourn now, as there are several matters that gentlemen want to present for unanimous consent.

Mr. BUCKALEW. I will not press the motion.

NATIONAL ARMORY, SPRINGFIELD, MASS.

Mr. ROCKWELL. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill (H. R. 445) for the erection of a shop at the National Armory, Springfield, Mass., and put the same upon its passage.

The SPEAKER. The bill will be read, subject to objection.

The bill was read, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized and directed to cause to be erected at the National Armory, Springfield, Mass., a fire-proof building for machine-shop, finishing shops, etc., including steam-engine, boilers, shop fixtures, heating, lighting, grading, etc. The plans, specifications, and full estimates for said building shall be previously made and approved according to law, and shall not exceed for said building complete the sum of $211,639.54.

SEC. 2. That for the purpose of this act the sum of $211,639.54 is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the same to be expended under the direction of the Secretary of War.

The committee recommend the adoption of the following amendment:

Strike out the second section of the bill.

Mr. ROCKWELL. This is the appropriating clause of the bill.

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

Mr. BRECKINRIDGE, of Kentucky. Let me ask, Mr. Speaker, if the order we are operating under to-day is not an exclusive order, that the time of the House shall be occupied in doing a certain thing.

The SPEAKER. That is the order, but of course the House can dispense with it by unanimous consent. This is a request for unanimous consent. Is there objection to the present consideration of the bill?

There was no objection.

Mr. ROCKWELL. The clause proposed to be stricken out by the amendment is the appropriation clause.

The amendment was adopted.

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

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

The latter motion was agreed to.

NATIONAL CEMETERY AT STAUNTON, VA.

Mr. TUCKER. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill (S. 1612) to construct a road from the city of Staunton to the national cemetery in the county of Augusta, in the State of Virginia, and put the same upon its passage.

The SPEAKER. The bill will be read subject to objection.

The bill is as follows:

Be it enacted, etc., That the sum of $11,000 be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of constructing a macadamized road from the city of Staunton, in the State of Virginia, to the national cemetery, in the county of Augusta, in said State, to be expended under the direction of the Secretary of War, or so much of the above-named sum as may be necessary for said purpose.

SEC. 2. That the Secretary of War is hereby directed to advertise and let the contract for the construction of said road to the lowest bidder, taking bond with good security from the contractor for the completion of said road.

There being no objection, the bill was considered and ordered to a third reading; and being read the third time, was passed.

Mr. TUCKER 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.

The SPEAKER. Without objection, the bill (H. R. 924) covering the same subject-matter will be laid upon the table.

There was no objection, and it was so ordered.

CLAIMS OF SCHUYLKILL COUNTY, PENNSYLVANIA.

Mr. REILLY. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from the further consideration of the bill (H. R. 5601) to authorize the proper accounting officers of the Treasury to audit and pay the claim of the county of Schuylkill, in the State of Pennsylvania, for money advanced by it under allotments made by soldiers from said county during the late rebellion, by virtue of section 12 of the act of Congress entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and put it upon its passage.

The SPEAKER. The bill will be read, subject to objection.

The bill was read, as follows:

Whereas the county of Schuylkill, in the State of Pennsylvania, during the late rebellion advanced money upon allotments made by soldiers from the said county then in the service of the United States to the families of said soldiers and to others, under and by virtue of section 12 of the act of Congress entitled "An act to authorize the employment of volunteers to aid in enforcing the laws and protecting public property," approved July 22, 1861, and the orders and regulations of the Secretary of War made in pursuance of said section of said act of Congress; and

Whereas the said county claims that the whole sum so advanced by it has not heretofore been refunded to it by the United States: Therefore,

Be it enacted, etc., That the proper accounting officers of the Treasury be, and are hereby, authorized and directed to audit the claim of the said county of Schuylkill, and when audited to pay, out of any money in the Treasury not otherwise appropriated, to the said county such portion of the sum advanced upon allotments as aforesaid by the said county which the accounting officers aforesaid may thereby ascertain has not heretofore been refunded to said county by the United States: *Provided*, That no sum shall be so refunded when it shall appear to said accounting officers that the soldier making such particular allotment or allotments shall have been also paid by the United States, unless it shall also appear that such double payment was not through any negligence in reference thereto on the part of the officers of said county charged with the duty of making such advances.

Mr. REILLY. I ask unanimous consent to consider this bill now. This morning a similar request was objected to by the gentleman from Texas, who has withdrawn his objection.

The SPEAKER. The Chair is informed that the gentleman from Texas, who is not now present, has withdrawn his objection.

Is there further objection?

There being no objection the bill was considered, and ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. REILLY 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.

ADDITIONAL LAND DISTRICTS IN WYOMING.

Mr. CAREY. Mr. Speaker, I ask unanimous consent to discharge the Committee of the Whole House on the state of the Union from further consideration of the bill (H. R. 7498) to establish three new land districts in the Territory of Wyoming.

The bill was read, as follows:

Be it enacted, etc., That all the public lands in the Territory of Wyoming bounded and described as follows, beginning at a point on the eastern boundary of the said Territory where the tenth standard parallel north intersects the same; thence running west along said tenth standard parallel north to the southeast corner of township 41 north, range 75 west; thence north on the line between ranges 74 and 75 west to the northern boundary line of the said Territory; thence east along said northern boundary line to the northeast corner of the said Territory; thence south along the said eastern boundary line of the said Territory to the place of beginning, shall constitute a new land district, and the land office of the said district shall be located at such place in said district as the President may direct.

SEC. 2. That all the public lands of the Territory of Wyoming bounded and described as follows, beginning at a point on the northern boundary of the said Territory where the twelfth guide meridian will, when extended, intersect with the same; thence south along said guide meridian to the eleventh standard parallel north; thence east along said parallel to the eleventh auxiliary meridian; thence south along said meridian, when extended, to the seventh standard parallel north; thence west along said seventh standard parallel to the southwest corner of township 29 north, range 104 west, of the sixth principal meridian; thence north along said line between ranges 104 and 105 west to the ninth standard parallel north, when extended; thence along said parallel, when extended, to the western boundary of the said Territory; thence north along said western boundary to the northern boundary of the said Territory; thence east along said northern boundary to the place of beginning, shall constitute a new land district, and the land office of the said district shall be located at such place in the said district as the President may direct.

SEC. 3. That all the public land in the Territory of Wyoming bounded and described as follows: Beginning at a point on the eastern boundary of the said Territory where the tenth standard parallel north intersects the same; thence running west along the said tenth standard parallel north to the eleventh auxiliary meridian; thence south along said meridian when extended to the seventh standard parallel north; thence east along the said seventh standard parallel to the southeast corner of township 29 north, range 71 west; thence north on the line between ranges 70 and 71 west to the southeast corner of township 31 north, range 71 west; thence east along the line between townships 30 and 31 north to the eastern boundary-line of the said Territory to the place of beginning, shall constitute a new land district, and the land office of the said district shall be located at such place in said district as the President may direct.

SEC. 4. That the President be, and is hereby, authorized to appoint, by and

with the advice and consent of the Senate, or during the recess thereof and until the next session after such appointment, a register and receiver for each of said districts, who shall be required to reside in the town in their respective districts as may be designated for the location of the land office, and they shall be subject to the same laws and be entitled to the same compensation as is or may be provided by law in relation to the existing land offices and officers in said Territory.

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

Mr. BLOUNT. I would like to know if this is recommended by the committee unanimously or if there is a division of opinion in regard to it?

Mr. CAREY. The Committee on Public Lands recommend the bill unanimously; the Commissioner of the General Land Office has also approved the bill, which is for the convenience of the people of that Territory.

There being no objection, the bill was considered, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time, and passed.

Mr. DORSEY moved to reconsider to 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.

INCREASED PAY TO LETTER-CARRIERS.

Mr. QUINN, by unanimous consent, obtained leave to print in the RECORD the following memorial of the National Association of Letter-Carriers, with resolutions urging an increase of salary:

[Chicago Branch of the National Association of Letter-Carriers. T. L. Hartigan, president; J. F. Walsh, secretary; J. J. Redmond, treasurer; Joseph Field, corresponding secretary; J. J. Gallivan, financial secretary; vice-presidents: R. H. Sampson, T. Cairns, L. Berg, H. Putz, J. Campion, A. McLeod, T. W. Wittler, R. H. Andrews, A. Lammey, C. J. Bormann, E. Hale, H. F. Gates, J. Anderson.]

To Hon. JOHN QUINN:

At a meeting of the Chicago Branch of the National Association of Letter-Carriers, held in this city March 8, 1890, the following reasons why letter-carriers should receive an increase of salary were unanimously ordered printed:

First. Because the present pay of the carriers is not sufficient compensation for the services rendered.

Second. Because the carrier service of to-day requires intelligence, zeal, and fidelity for its faithful performance.

Third. Because of the responsibilities of the position and its exacting nature.

Fourth. When a carrier is first appointed he serves as a substitute, on an average for about one year, during which time his pay amounts to less than $15 per month, nearly all of which is paid by the regular carriers who, on account of sickness or other causes, are compelled to absent themselves. After appointment as a regular carrier, the salary is $600 for the first year, $800 for the second, and $1,000 for the third, which is the maximum pay possible at present. The carrier, after having faithfully served the Government four years, has received a sum not exceeding $1.75 per day.

Fifth. Because the carriers are required to purchase their own uniforms and this, with the great cost of living in large cities, makes it practically impossible for a carrier with a family to meet his current expenses.

Sixth. Because no allowance is made by the Government for loss of time, occasioned by sickness, which in nearly all cases is contracted in the line of duty and from which very few carriers escape during the year.

We believe these reasons are sufficient to show that the present compensation of carriers is not commensurate with the services rendered.

In submitting them we respectfully ask you to give them a careful consideration, and to give your assistance in the passage of House bill No. 3863, now in the hands of the Committee on the Post-Office and Post-Roads.

A true copy from the minutes of said meeting.

J. F. WALSH, *Secretary.*

RESOLUTIONS.

At a meeting of the San Francisco post-office clerks, held March 24, the following resolutions were unanimously adopted:

Whereas it has come to the knowledge of the San Francisco post-office clerks that an organized effort is being made by postal clerks throughout the Union to better the condition of the service and of the employés of the postal department: Therefore,

Resolved, That we hereby express our sentiments and our wishes concerning Congressional legislation having that end in view.

We desire the passage of House bill 6449, which provides that eight hours' labor shall constitute a day's work.

We most earnestly desire the passage of House bill 6448, which provides for a period of rest or vacation for post-office clerks, of fifteen days annually; for the reason that it is the custom and practice with commercial houses and with Governments the world over, who recognize the fact that their employés do better work and more of it when endowed with the renewed vitality which such a recreation gives.

The principle involved has been recognized by Congress in granting to carriers such a vacation, and we ask the extension of that privilege to ourselves, on the ground that our work is unhealthy and confining, and that a periodical rest is a necessity to men who work every Sunday in the year, and who know that holidays are being celebrated only through reading the newspapers.

The last Congress recognized, and the President approved of, the principle for which postal clerks have fought so long and so well, that of classification; but the application of the principle is unsatisfactory.

A lump sum was appropriated to pay salaries, and as it was insufficient the pay of clerks was ruthlessly cut down or increased by a ridiculously small sum.

In the business world a faithful employé is considered to become more efficient and his services more valuable in proportion to his additional years of service.

It seems to us that the application of that idea would be a solution of the vexed question of what should be the test of a clerk's worth.

We indorse the proposed amendment in the classification bill, which provides that probationary clerks shall be paid at the rate of $600 per annum, and for the first year thereafter they shall be paid $700, and that for each succeeding year they shall be paid an additional $100 until they are in receipt of $1,200 per annum; and that 20 per cent. of the clerks in each office shall be paid $1,300 per annum, and that 10 per cent. shall receive $1,400 per annum. Also, that the words "money-order and registry clerks" shall be inserted after the words "stamp clerks" in House bill 12490.

The general public, and even many of our Senators and Representatives, have only a faint conception of the duties and of the trials and hardships of a post-office clerk.

Many overworked people complain that their hours of labor are such that they can not cultivate social ties, nor the physical and mental qualities with which they have been endowed by nature. Happily, this is something of which postal clerks can not complain. They have no social ties; they live and breathe only for the post-office.

Throughout the livelong weary day and into the silent watches of the night the postal clerk labors at any and at all hours, sacrificing his sight in dimly lighted rooms, sacrificing his health breathing the polluted atmosphere of overcrowded and overheated rooms, exhausting his nervous energy by the efforts necessary to keep pace with the never-ceasing rush and worry, till at last as the years go by he is, because of impaired eyesight and shattered health, unable to earn a living for himself or for those who depend on him.

Is it not just that men who make these sacrifices, who resist temptations which are well nigh irresistible, to whose care is committed the social, political, and commercial correspondence and literature, which is the great artery conveying the rich blood of knowledge and civilization, throughout the world, that these men should receive a compensation which will enable them to live and to save sufficient to provide against want, when the day comes that the failing memory no longer retains its impressions and the nerveless hand refuses to respond to the command of the clouded brain?

Resolved, That these resolutions be ordered printed, and that a copy be sent to the Postmaster-General, and to his assistants, to each Senator and Representative in Congress, to the National Convention of Post-Office Clerks, to each association of post-office clerks throughout the Union, and to each of the San Francisco daily papers.

LEAVE TO PRINT.

Mr. KERR, of Iowa. I made objection to printing remarks on a measure, because it had not been discussed in the House. I now withdraw the objection.

The SPEAKER. Unanimous consent is asked for leave to print remarks upon the Hudson River bridge bill, passed to-day, and also upon the pending bill for the admission of Idaho. Is there objection? [After a pause.] The Chair hears none.

ORDER OF BUSINESS.

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

The SPEAKER. Pending that, the Chair will lay before the House the following personal requests of members.

LEAVE OF ABSENCE.

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

To Mr. SPINOLA, until Monday next.

To Mr. SNIDER, for two days, on account of important business.

To Mr. DUNNELL, indefinitely, on account of death in his family.

SUFFERERS IN THE MISSISSIPPI VALLEY.

Mr. MOORE, of New Hampshire, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution (H. Res. 136) for the relief of sufferers in the Mississippi Valley; when the Speaker signed the same.

CHANGE OF COMMITTEE SERVICE.

The SPEAKER. The gentleman from Michigan [Mr. BURROWS] desires to be excused from further service on the Committee on Manufactures. Without objection this request will be granted.

There was no objection.

The SPEAKER. The Chair also desires to announce the following appointments on committees, which the Clerk will read.

The Clerk read as follows:

On the Committee on the District of Columbia, Mr. MUDD.

On the Committee on Manufactures, Mr. BUCHANAN, of New Jersey, chairman, and Mr. SMITH, of West Virginia.

The motion of Mr. DORSEY was then agreed to; and accordingly (at 5 o'clock and 17 minutes p. m.) the House adjourned until 11 o'clock a. m. to-morrow.

EXECUTIVE AND OTHER COMMUNICATIONS.

Under clause 2 of Rule XXIV, the following communications were taken from the Speaker's table and referred as follows:

PUBLIC BUILDING AT WINONA, MINN.

Letter from the Secretary of the Treasury, calling attention to the necessity for an additional appropriation to complete the public building at Winona, Minn., as authorized by law—to the Committee on Appropriations.

MEMORIALS AND RESOLUTIONS OF STATE LEGISLATURES.

Under clause 3 of Rule XXII, the following memorials and resolutions were introduced and referred as follows:

By Mr. CAREY: Memorial of the Eleventh Legislative Assembly of Wyoming Territory, praying that a funding bill be passed for the relief of the Union Pacific Railroad Company—to the Committee on the Pacific Railroads.

RESOLUTIONS.

Under clause 3 of Rule XXII, the following resolutions were introduced and referred as follows:

By Mr. FUNSTON:

Resolved, That Tuesday and Wednesday, April 15 and 16, after sixty minutes of the morning hour have expired, be fixed for the consideration, in committee and in the House, of such bills as may be indicated by the Committee on Agriculture of the bills reported by that committee; not to interfere with revenue or general appropriation bills or prior orders or reports privileged under Rule XI;

to the Committee on Rules.

By Mr. GEST:

Whereas Washington, Montana, North Dakota, and South Dakota are now States of the Union and entitled to full recognition as such; and

Whereas there are no stars to represent them on the flag that hangs above the Speaker:

Resolved, That the Sergeant-at-Arms be directed to procure and put in place, without delay, a flag with forty-two stars, that every State in the Union may have a star in the flag that hangs in the nation's House, and that the same be paid for out of the contingent fund of the House;

to the Committee on Accounts.

REPORTS OF COMMITTEES.

Under clause 2 of Rule XIII, reports of committees were delivered to the Clerk and disposed of as follows:

Mr. LACEY, from the Committee on Elections, to which was referred the contested-election case of Edmund Waddell, jr., *vs.* George D. Wise, from the Third Congressional district of the State of Virginia, submitted a report, accompanied by the following resolutions:

Resolved, That George D. Wise was not elected as a member of the Fifty-first Congress from the Third district of Virginia, and is not entitled to a seat therein.

Resolved, That Edmund Waddell, jr., was elected as a member of Congress from the Third district of Virginia, and is entitled to a seat therein.

Mr. DOLLIVER, from the Committee on War Claims, reported with amendment the bill of the House (H. R. 4174) for the relief of D. W. Boutwell—to the Committee of the Whole House.

He also, from the same committee, reported favorably the following bills of the House; which were severally referred to the Committee of the Whole House:

A bill (H. R. 7784) for the relief of Agnes and Maria De Leon; and

A bill (H. R. 2182) for the relief of the Madison Female Institute, located at Richmond, Ky.

Mr. STONE, of Kentucky, from the Committee on War Claims, reported favorably the following bills of the House; which were severally referred to the Committee of the Whole House:

A bill (H. R. 4366) for the relief of A. B. Carter;

A bill (H. R. 2620) for the relief of Alexander Moffitt;

A bill (H. R. 3182) for the relief of the heirs of Dr. Nathan Fletcher; and

A bill (H. R. 3191) to refer the claim against the United States of the Florence Masonic Lodge, of Florence, Ala., to the Court of Claims.

Mr. STONE, of Kentucky, also, from the Committee on War Claims, reported with amendment the following bills of the House; which were severally referred to the Committee of the Whole House:

A bill (H. R. 4446) for the relief of William Large; and

A bill (H. R. 3723) for the relief of Stephen Duncan Marshall and George M. Miller, executors of the will of Levi R. Marshall, deceased.

Mr. MAISH, from the Committee on War Claims, reported favorably the following bills of the House; which were severally referred to the Committee of the Whole House:

A bill (H. R. 3552) for the relief of O. P. Phillips;

A bill (H. R. 4419) for the relief of the heirs of Asa O. Gallup;

A bill (H. R. 7748) for the relief of the legal representatives of Henry W. Archer, deceased; and

A bill (H. R. 7934) for the relief of Henry W. Freedley, late captain, Third Infantry, and assistant quartermaster United States Army.

Mr. CULBERTSON, of Pennsylvania, from the Committee on War Claims, reported favorably the following bills of the Senate; which were severally referred to the Committee of the Whole House:

A bill (S. 230) for the relief of the heirs of Charles B. Smith, deceased;

A bill (S. 2622) for the relief of John S. Neet, jr.;

A bill (S. 2412) for the relief of Joseph W. Carmack; and

A bill (S. 231) for the relief of Robert H. Montgomery;

Mr. CULBERTSON, of Pennsylvania, also, from the Committee on War Claims, reported favorably the bill of the House (H. R. 876) directing the Secretary of the Treasury to examine and settle the accounts of certain States and the city of Baltimore, growing out of moneys expended by said States and the city of Baltimore for military purposes during the war of 1812—to the Committee of the Whole House on the state of the Union.

Mr. RAY, from the Committee on Claims, reported favorably the following bills of the House; which were severally referred to the Committee of the Whole House:

A bill (H. R. 7949) for the relief of the heirs of John Howard Payne; and

A bill (H. R. 4155) for the relief of P. B. Sinnott, late Indian agent at Grande Ronde agency, State of Oregon.

Mr. STOCKBRIDGE, from the Committee on Commerce, reported with amendment the bill of the Senate (S. 1739) providing for a steam-vessel for the use of the civil government of Alaska—to the Committee of the Whole House on the state of the Union.

Mr. SWENEY, from the Committee on Commerce, reported with amendment the bill of the House (H. R. 7622) to authorize the construction of a ponton bridge across the Mississippi River at or near Davenport, Iowa—to the House Calendar.

Mr. PEEL, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 5713) to pay Bluford West for saline salt-work in Cherokee Nation, reported as a substitute therefor, a bill (H. R. 8947) providing for compensation to the estate of Bluford West, deceased, for property taken by the Cherokee Nation; which was read twice, and referred to the Committee of the Whole House.

Mr. MCCORD, from the Committee on Indian Affairs, to which was referred the bill of the House (H. R. 4647) to authorize the sale of timber on certain lands reserved for the use of the Menomonee tribe of Indians, in the State of Wisconsin, reported as a substitute therefor, a bill (H. R. 8948) to authorize the sale of timber on certain lands reserved for the use of the Menomonee tribe of Indians in the State of Wisconsin; which was read twice, and referred to the House Calendar.

Mr. CARLTON, from the Committee on Claims, reported favorably the bill of the House (H. R. 6994) for the relief of Albert Blaisdell—to the Committee of the Whole House.

Mr. ROBERTSON, from the Committee on Military Affairs, reported with amendment the bill of the House (H. R. 637) to provide for the construction of a macadamized road to the national cemetery near Wilmington, N. C., and for other purposes—to the Committee of the Whole House on the state of the Union.

Mr. LANSING, from the Committee on Private Land Claims, reported with amendment the bill of the House (H. R. 2717) to confirm to the heirs of Mrs. Courtney Ann Claiborne the title to a certain tract of land in the State of Louisiana—to the Committee of the Whole House.

Mr. FARQUHAR, from the Committee on Merchant Marine and Fisheries, reported with amendment the bill of the House (H. R. 4663) to place the American merchant marine engaged in the foreign trade upon an equality with that of other nations—to the Committee of the Whole House on the state of the Union.

Mr. FITHIAN and Mr. WHEELER, of Alabama, in behalf of the minority of said Committee on Merchant Marine and Fisheries, submitted their views in writing thereon; which were ordered to be printed.

Mr. BOUTELLE, from the Committee on Naval Affairs, reported with amendment the joint resolution of the Senate (S. R. 46) authorizing the Secretary of the Navy to remove the naval magazine from Ellis Island, in New York Harbor, and to purchase a site and erect a naval magazine at some other point, and for other purposes—to the Committee of the Whole House on the state of the Union.

BILLS AND JOINT RESOLUTIONS.

Under clause 3 of Rule XXII, bills and joint resolutions of the following titles were introduced, severally read twice, and referred as follows:

By Mr. ROGERS: A bill (H. R. 8938) to define and regulate the jurisdiction of the courts of the United States—to the Committee on the Judiciary.

By Mr. MORROW: A bill (H. R. 8939) to provide for an American register for the steamer Australia, owned by a corporation of the State of California—to the Committee on Merchant Marine and Fisheries.

By Mr. FINLEY: A bill (H. R. 8940) to construct a macadamized road from the town of Somerset, Pulaski County, Kentucky, to the national cemetery at Logan's Cross-Roads—to the Committee on Military Affairs.

By Mr. BLAND: A bill (H. R. 8941) relating to the fractional silver coins of the United States and their legal-tender character, and to repeal the act of June 9, 1889, making such coins a legal tender for only $10—to the Committee on Coinage, Weights, and Measures.

By Mr. CRAIN: A bill (H. R. 8942) for the improvement of Aransas Pass, Texas—to the Committee on Rivers and Harbors.

By Mr. POST: A bill (H. R. 8943) to provide for the establishment of a port of delivery at Peoria, Ill.—to the Committee on Commerce.

By Mr. HATCH (by request): A bill (H. R. 8944) to pension licensed pilots who have lost a leg or an arm, or received other permanent disability, while in the discharge of their duties—to the Committee on Commerce.

By Mr. PICKLER: A bill (H. R. 8945) granting right of way to the Omaha and South Dakota Railway Company through the Crow-Creek Indian reservation—to the Committee on Indian Affairs.

By Mr. WASHINGTON: A bill (H. R. 8946) to refund the direct tax, and for other purposes—to the Committee on the Judiciary.

By Mr. CUTCHEON: A bill (H. R. 8949) to reorganize certain staff corps of the Army and to reduce the expense thereof—to the Committee on Military Affairs.

By Mr. SAYERS: A bill (H. R. 8950) to authorize the Haines' Brackett, Fort Clark and Rio Grande Railroad Company to construct and operate a railway through the Fort Clark military reservation in Texas, and for other purposes—to the Committee on Military Affairs.

By Mr. CONNELL: A bill (H. R. 8951) to amend an act entitled "An act for the relief of settlers on railroad lands," approved June 22, 1874—to the Committee on the Public Lands.

Also, a bill (H. R. 8952) providing for the construction of a military store-house and offices for army purposes at the Omaha military depot, Nebraska, and for other purposes—to the Committee on Military Affairs.

Also, a bill (H. R. 8953) for the erection of a public building at Lincoln, in the State of Nebraska—to the Committee on Public Buildings and Grounds.

PRIVATE BILLS, ETC.

Under clause 1 of Rule XXII, private bills of the following titles were presented and referred as indicated below:

By Mr. BRECKINRIDGE, of Kentucky: A bill (H. R. 8954) to adjust the accounts of Maj. Green Clay Goodloe, paymaster of the United States Marine Corps—to the Committee on Naval Affairs.

Also, a bill (H. R. 8955) for the relief of James Miller, of Bourbon County, Kentucky—to the Committee on War Claims.

Also, a bill (H. R. 8956) to pension Mrs. Millie Ritchey, widow of Greenberry Ritchey—to the Committee on Invalid Pensions.

By Mr. CONNELL: A bill (H. R. 8957) authorizing and directing the Secretary of the Treasury to pay to Robert W. Furnas the sum of $400, for trees furnished and planted on the public square owned by the Government of the United States at Lincoln, Nebr.—to the Committee on Claims.

Also, a bill (H. R. 8958) granting a pension to Mrs. E. M. Fisher—to the Committee on Invalid Pensions.

Also, a bill (H. R. 8959) granting a pension to Amos D. Hewell—to the Committee on Invalid Pensions.

Also, a bill (H. R. 8960) restoring Robert L. May to the Navy retired-list—to the Committee on Naval Affairs.

Also, a bill (H. R. 8961) to remove the charge of desertion from the military record of Joseph McGraw—to the Committee on Military Affairs.

Also, a bill (H. R. 8962) authorizing and directing the Secretary of the Treasury to pay to Frank Rother $225 due him for services as route agent—to the Committee on Claims.

Also, a bill (H. R. 8963) granting a pension to William A. Whitaker—to the Committee on Invalid Pensions.

By Mr. DORSEY: A bill (H. R. 8964) for the relief of Daniel Donovan—to the Committee on Claims.

By Mr. O'DONNELL: A bill (H. R. 8965) granting a pension to Mattie E. Anson—to the Committee on Invalid Pensions.

Also, a bill (H. R. 8966) increasing the pension of Charles F. Sumner—to the Committee on Invalid Pensions.

By Mr. OSBORNE: A bill (H. R. 8967) for the relief of Mathias Kindt, late private of Company H, One hundred and seventy-eighth Regiment Pennsylvania Volunteers—to the Committee on Invalid Pensions.

By Mr. REILLY: A bill (H. R. 8968) granting a pension to Susan Stout, widow of William R. Stout, late of Company D, Seventh Regiment Pennsylvania Cavalry Volunteers—to the Committee on Invalid Pensions.

By Mr. STOCKBRIDGE: A bill (H. R. 8969) granting a pension to Edward Johannes—to the Committee on Pensions.

By Mr. TOWNSEND, of Colorado: A bill (H. R. 8970) for the relief of James Brown—to the Committee on Military Affairs.

By Mr. TRACEY: A bill (H. R. 8971) granting a pension to Victoria Douglass—to the Committee on Invalid Pensions.

Also, a bill (H. R. 8972) to pension Mary A. Ring—to the Committee on Invalid Pensions.

By Mr. WILLIAMS, of Illinois: A bill (H. R. 8973) granting a pension to Daniel M. Banks—to the Committee on Invalid Pensions.

CHANGE OF REFERENCE.

Under clause 2 of Rule XXII, the following changes of reference were made:

A bill (H. R. 313) to prohibit the formation of interstate trusts and trade conspiracies—Committee on Manufactures discharged, and referred to the Committee on the Judiciary.

A bill (H. R. 7275) to increase the pension of James H. Wright—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 4791) granting a pension to Mrs. Lydia Avery Pierce—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 5215) granting an increase of pension to Joseph D. Tate—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 7272) granting a pension to Mary S. Carr—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 7274) granting a pension to Loretta Strutton—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 7271) granting a pension to Bridget Turley—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 7273) granting a pension to Julius M. Bates—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 7270) granting a pension to Louis A. Bright—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 4792) granting a pension to Mrs. Abagail Richards—Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 5587) for the relief of James A. Rice—Committee on Invalid Pensions discharged, and referred to the Committee on Military Affairs.

PETITIONS, ETC.

Under clause 1 of Rule XXII, the following petitions and papers were laid on the Clerk's desk and referred as follows:

By Mr. ANDREW: Remonstrance of William H. Sayword and 21 others, against increasing the duty on lime—to the Committee on Ways and Means.

By Mr. BLAND: Petition of Richard W. Isbell, for pension—to the Committee on Invalid Pensions.

By Mr. CANDLER, of Massachusetts: Protest of the New England Shoe and Leather Association, against a duty on hides—to the Committee on Ways and Means.

By Mr. CASWELL: Petition of D. B. Lovejoy and 190 others, citizens of Evansville, Wis., praying for the erection of a public building in that city—to the Committee on Public Buildings and Grounds.

By Mr. COVERT: Petition of James S. Wright and others, citizens of Queens County, New York, for an increase of duty on farm products—to the Committee on Ways and Means.

Also, petition of Amelia A. Chichester and others, for the suppression of the liquor traffic in military and naval stations—to the Select Committee on the Alcoholic Liquor Traffic.

By Mr. DALZELL: Petition of certain merchants of Pittsburgh and Allegheny, Pa., relative to proposed duties on linens, etc.—to the Committee on Ways and Means.

Also, resolution of Encampment No. 6, Union Veteran League, in favor of passage of bill amending homestead laws—to the Committee on the Public Lands.

By Mr. DINGLEY: Resolutions of American Sabbath Union, favoring an amendment of the Constitution of the United States changing the day of inauguration of the President—to the Committee on the Judiciary.

By Mr. DORSEY: Resolution of Board of Trade of Omaha, relative to world's fair—to the Select Committee on the World's Fair.

By Mr. ENLOE: Petition of the Bricklayers and Masons' International Union of Memphis, Tenn., in favor of the amendment of the laws so that only American citizens shall be employed on Government works—to the Committee on Labor.

By Mr. FRANK: Memorial for improvement of Missouri River—to the Committee on Rivers and Harbors.

By Mr. GEISSENHAINER: Petition of citizens of Elizabeth, N. J., to secure to citizens of the United States the right to labor on United States works in preference to aliens—to the Committee on Labor.

By Mr. HENDERSON, of North Carolina: Petition of the Holly Springs Monthly Meeting of Friends of Randolph County, North Carolina, against large expenditures for the Navy and coast defenses—to the Committee on Naval Affairs.

By Mr. HOOKER: Memorial and resolution favoring the subtreasury plan—to the Committee on Ways and Means.

By Mr. KELLEY: Petition of George Graham Post, Grand Army of the Republic, of Seneca, Kans., asking for the passage of a service-pension bill, and representing that the bondholders have hitherto banded together to make party platforms and to control legislation affecting the financial policy of the Government, and asking for an increase of the circulating greenbacks by the hundred millions to correspond with the increase of our population and business—to the Committee on Invalid Pensions.

Also, petition of 470 farmers of Butler County, Kansas, against the passage of a bill said to have been recommended by the Committee on Banking and Currency, providing for the issuing of $2,300,000 of bonds to perpetuate the present banking system, which they consider, if made a law, will work great evil to the country—to the Committee on Banking and Currency.

By Mr. KETCHAM: Remonstrance of the Stanford Society of Friends (68), against the enlargement of the Navy—to the Committee on Naval Affairs.

Also, memorial of John H. Evers, Christian Körner, and 109 others, prominent business men of New York, to the Fifty-first Congress, to authorize the Secretary of War to contract with Charles Stoughton and associates for the entire work of building the Harlem Canal—to the Committee on Rivers and Harbors.

By Mr. LACEY: Petition of A. Donyard and others, citizens of Ottumwa, Iowa, against the passage of legislation restricting immigration—to the Select Committee on Immigration and Naturalization.

Also, resolution of Board of Trade of Burlington, Iowa, indorsing the Torrey bankrupt bill—to the Committee on the Judiciary.

By Mr. LANE: Petition of citizens of Illinois, favoring Cullom bill—to the Committee on Banking and Currency.

By Mr. LAWS: Petition from Farmers' Alliance of Nebraska, urging passage of House bill 5353, being the Butterworth bill—to the Committee on Agriculture.

By Mr. MORRILL: Petition of E. N. Hutchins and 46 others, citizens

of Jefferson County, Kansas, asking that Mexican ore be admitted free—to the Committee on Ways and Means.

Also, memorial of the County Farmers' Alliance of Kansas, in representative convention, through B. H. Clover, president, and S. M. Dalton, secretary, upon the same subject—to the Committee on Ways and Means.

By Mr. OSBORNE: Resolutions of San Francisco Post-Office Clerks' Association, favoring the passage of House bill 6447—to the Committee on the Post-Office and Post-Roads.

By Mr. PERKINS: Petition of C. S. Wicks and 50 others, ex-Union soldiers of the late war, and residents of Fredonia, Kans., asking for the passage of the service-pension bill recommended by the last two national encampments of the Grand Army of the Republic—to the Committee on Invalid Pensions.

By Mr. REILLY: Petition of Susan Stout, Pottsville, Pa., to accompany House bill—to the Committee on Invalid Pensions.

By Mr. SHERMAN: Petition of Ware Clark and others, citizens of Lewis County, New York, asking for increased duty on certain farm products—to the Committee on Ways and Means.

By Mr. STOCKBRIDGE: Petition of Bricklayers' Union No. 1, of Baltimore, Md., for the employment of none but American mechanics on Government works—to the Committee on Labor.

By Mr. STRUBLE: Resolutions from ex-soldiers and citizens of Smithland, Woodbury County, Iowa, requesting the passage of the service-pension bill and army nurse bill, etc.—to the Committee on Invalid Pensions.

By Mr. WALKER, of Massachusetts: Petition of Maria S. Whiting, praying for pension as mother of John Whiting, deceased, late of the United States Navy—to the Committee on Invalid Pensions.

Also, petition of Martha A. Hale, for pension as widow of Herbert L. Hale—to the Committee on Invalid Pensions.

By Mr. WATSON: Petition of about 200 citizens of Warren County, favoring passage of service-pension bill—to the Committee on Invalid Pensions.

SENATE.

THURSDAY, *April* 3, 1890.

Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

The Journal of yesterday's proceedings was read.

Mr. JONES, of Arkansas. I think it is important that there should be a quorum present, and as it is evident there is not one here now I ask for a call of the Senate.

The VICE-PRESIDENT. The roll will be called.

The Secretary called the roll, and the following Senators answered to their names:

Allen,	Cullom,	McMillan,	Sherman,
Allison,	Davis,	Manderson,	Stewart,
Barbour,	Dawes,	Mitchell,	Stockbridge,
Bate,	Edmunds,	Morrill,	Teller,
Berry,	Evarts,	Paddock,	Turpie,
Blackburn,	Farwell,	Pasco,	Vance,
Blair,	Faulkner,	Payne,	Voorhees,
Blodgett,	Harris,	Pettigrew,	Walthall,
Casey,	Hawley,	Platt,	Wilson, of Iowa,
Chandler,	Hoar,	Plumb,	Wolcott.
Cockrell,	Jones, of Arkansas,	Pugh,	
Colquitt,	Kenna,	Reagan,	

Mr. BLACKBURN. I desire to state that my colleague [Mr. BECK] is detained from the Senate by reason of sickness.

The VICE-PRESIDENT. Forty-six Senators have answered to their names. A quorum is present. The Journal will stand approved as read, if there be no objection.

ADJOURNMENT FOR GOOD FRIDAY.

Mr. EDMUNDS. I rise to make a privileged motion, that, to-morrow being Good Friday, when the Senate adjourn to-day it be to meet on Saturday.

The VICE-PRESIDENT. The question is on agreeing to the motion made by the Senator from Vermont.

The motion was agreed to.

COMMITTEE SERVICE.

The VICE-PRESIDENT. As authorized by the Senate, the Chair appoints the Senator from South Dakota [Mr. PETTIGREW] as a member of the Committee on Public Lands in place of the Senator from New Hampshire [Mr. BLAIR], who has been excused from service on that committee.

NATIONAL ZOOLOGICAL PARK.

The VICE-PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 2284) for the organization, improvement, and maintenance of the National Zoological Park.

The amendments of the House of Representatives were in section 1, line 1, after the first word "that," to strike out the words "there be, and hereby is, appropriated, out of any money in the Treasury not otherwise appropriated," and to insert "the one half of the following sums named, respectively, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia," and in line 11, after the word "Institution," to strike out the words "the following sums of money" and to insert "and to be drawn on their requisition and disbursed by the disbursing officer for said Institution;" so as to read:

That the one half of the following sums named, respectively, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, and the other half out of the revenues of the District of Columbia, for the organization, improvement, and maintenance of the National Zoological Park, to be expended under the direction of the Regents of the Smithsonian Institution, and to be drawn on their requisition and disbursed by the disbursing officer for said Institution.

Mr. MORRILL. I ask for present action upon the bill.

The VICE-PRESIDENT. The Senator from Vermont asks for present consideration of the bill. The Chair hears no objection, and the question is on concurring in the amendments of the House of Representatives.

Mr. MORRILL. I desire to say a single word in relation to the matter. It is very desirable that there should be an opportunity given to put up the structures and fences that are necessary to be placed upon the park for the keeping of the animals they have already obtained, and such as may be hereafter obtained. It should be done at an early moment; and while the first amendment of the House is one which I think ought not to have been made, because the park is a national park or it is nothing; it as much concerns the States of California and Maine or Texas and New York as it does the city of Washington, and therefore the whole expense should be borne by the nation——

Mr. CULLOM. I hope the Senator is going to ask for a conference in preference to concurring in the House amendments.

Mr. MORRILL. No, I do not propose to ask for a conference, because I understand it would be some time before it would be reached, and it is doubtful at the present time whether or not a delay might not be very inconvenient in getting the park into working order.

Mr. HARRIS. If the Senator from Vermont will allow me, I desire to make a suggestion to him.

Mr. EDMUNDS. We can not hear the debate, Mr. President.

The VICE-PRESIDENT. The Senate will be in order.

Mr. HARRIS. Agreeing, as I do, with the opinion expressed by the Senator from Vermont, I beg to suggest to him that a conference upon the House amendments will not necessarily involve more than a day or two, and I would prefer that he should move to insist upon a non-concurrence and ask for a conference upon the disagreeing votes. I shall quite agree with him after such a conference in doing whatever may be necessary to accomplish this object, but I think we ought at least to make the effort by a conference with the other House upon the disagreeing votes before we agree to the amendments proposed by the House of Representatives.

Mr. SHERMAN. I feel it a matter of justice to the people of this District to protest against this effort to throw upon them a mere governmental matter. This Zoological Garden is no more a part of the District of Columbia or to be provided for by the money of the people of the District of Columbia than the Coast Survey or any other scientific object fostered by the Government of the United States.

I think there is a disposition in Congress now to throw upon the people of this District, who are heavily taxed at best, a great many objects of expenditure which belong to the Government of the United States; for instance, such as the great tunnel that was put through here, and which has been for the time abandoned. It is a cruel thing to compel the people of this District to pay for that. They have no part or lot in it. So it is with this matter; and I fear that if we shall agree now to this proposition to throw the half of this expenditure upon the people of this District it will be a precedent the effect of which it will be difficult to avoid. It is better, I think, to let it be understood that this Zoological Garden belongs to the people of the United States. The District government has nothing to do with it, and the people of this District have no other interest in it than as citizens of the United States. If we once set the precedent of making the District government bear one-half the expenditures for this rather expensive toy at best, it will probably be continued year after year. I think, therefore, it is better to disagree to the amendments and request a conference.

Mr. MORRILL. I yield to the general expression of Senators, and will ask that the amendments be disagreed to and a conference requested.

The VICE-PRESIDENT. The Senator from Vermont moves that the Senate disagree to the amendments made by the House of Representatives and request a conference on the disagreeing votes of the two Houses.

Mr. CULLOM. I desire to say a few words which I should like to have said a few moments ago, but I did not desire to come in conflict with the Senator from Vermont. It seems to me that, if the Government is going to have a Zoological Park, to be of any account it ought to be cared for entirely by the Government of the United States, and we should not divide responsibilities with the District of Columbia or any one else. It was for that reason that I inquired whether the Senator was going to ask for a conference or simply move to agree to the amendments of the other House. It seems to me that we ought to insist upon our original proposition.