INDEX

TO THE

MISCELLANEOUS DOCUMENTS

OF THE

SENATE OF THE UNITED STATES

FOR THE

FIRST SESSION OF THE FORTY-SECOND CONGRESS

AND THE

SPECIAL SESSION OF THE SENATE

1871.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1871.

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TO

THE MISCELLANEOUS DOCUMENTS

OF THE

SENATE OF THE UNITED STATES

FOR THE

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FOR THE

SPECIAL SESSION OF THE FORTY-SECOND CONGRESS,

1871.

No. 1 to No. 3, inclusive.

MEMORIAL

OF

JOSEPH C. ABBOTT,

CLAIMING

A seat in the Senate, from the State of North Carolina, for the term of six years, commencing March 4, 1871.

MARCH 7, 1871.—Ordered to lie on the table and be printed.

To the honorable the Senate of the United States:

Your memorialist, Joseph C. Abbott, of North Carolina, member-elect of the Senate of the United States for the term of six years, commencing the 4th day of March, instant, respectfully begs leave briefly to inform the honorable the Senate of the facts and principles of law upon which his claim to a seat in your honorable body is founded.

The legislature of the State of North Carolina, on the second Tuesday of its session, in November, 1870, the majority of the members thereof (the constitutional quorum of each branch of the legislature) being present, by a majority of the legal votes cast at an election duly held in obedience to the requirements of the laws of Congress in that behalf, elected your memorialist Senator in Congress from that State for the term of six years from March 4, 1871, in the manner following, that is to say:

A vote being had in the senate, a quorum being present, Zebulon B. Vance had thirty-two of the votes given, Joseph C. Abbott, your memorialist, eleven votes, and five votes were thrown for others receiving one vote each, making forty-eight persons present taking part in the election.

In the house of representatives of the said legislature, on the same day, Zebulon B. Vance received sixty-three of the votes given, Joseph C. Abbott thirty-two votes, ten votes being thrown for six other persons, making one hundred and five persons present taking part in the election. On the day following, both branches of the legislature met in convention, and there, in the usual form, it was announced that Zebulon B. Vance, having received a majority of all the votes, was duly elected United States Senator for six years from the 4th of March, 1871, instead of the declaration being made, as of right it ought to have been, that your memorialist, having received a majority of the votes legally cast, was so elected.

Your memorialist freely admits that if the votes for Zebulon B. Vance were of any validity or effect under the facts hereinafter set forth, said announcement of his election was legal and proper. But because of the reasons following, your memorialist claims that the votes given to Mr. Vance were void and of none effect; ought not to have been received,

counted, or declared as votes; and that the only legal effect which ought to be given to said votes is the evidence they furnish of the presence of a quorum of the members of each branch of the legislature at said election.

Mr. Vance was a member of the House of Representatives of the United States previous to the war of the rebellion, and as such member had taken an oath to support the Constitution of the United States. Mr. Vance, during the rebellion, accepted and held the office of colonel in the service of the so-called Confederate States, and took an oath of allegiance to the Confederate States; and also held the office of governor of North Carolina, as one of the Confederate States, from August, 1862, to April, 1865, when the State of North Carolina was occupied by the military forces of the United States and the civil government under the confederacy therein was ended. The military and civil official positions held by Mr. Vance, as well under the United States as the confederacy, were matters of common history and entire notoriety in the State of North Carolina, and were well known as well to the senators and representatives who gave their votes for him as by their constituents who, at the several elections, voted for and elected the representatives and senators who gave their votes for Mr. Vance in each house of the legislature. This fact, if denied, your memorialist begs leave to prove before a committee of your honorable body, not only by the oaths of each of the members voting for Mr. Vance, if necessary, but also by the fact that the caucus of the members of both branches of the legislature called to consider the nomination of a candidate for Senator, in which the disqualifications of Mr. Vance, because of these facts, were fully discussed, formally determined by the unanimous voice of the members of the legislature present that their votes should be cast regardless of the disqualifications of the person voted for to hold any official position under the Constitution and laws of the United States.

Your memorialist claims that Mr. Vance, being clearly ineligible under the Constitution of the United States, is not entitled to be voted for to take a seat in the Senate, and that such has been the universal determination of the Senate in all contested elections where the member elect was found disqualified under the Constitution. But your memorialist further claims that, as the votes given for Mr. Vance were willfully and knowingly cast for him by the several senators and representatives of the legislature of North Carolina, they knowing him to be disqualified and unable, under the Constitution, to take or hold his seat in the Senate, such votes were a nullity, void, and of none effect, save to show the fact of the presence of the members of the legislature who cast them.

Your memorialist freely admits that in a case where the legislature should vote for a person under disqualification without knowledge of the fact, while the votes would be void in so far as to give no title to the place to the individual voted for, yet the uniform legislative rule, and in consonance with justice, is to remit the case to the body laboring under the misapprehension for a new election; as, for example, in the case of an election by a legislature of a State of a citizen of twenty-nine years of age under the belief that he had the required age.

But your memorialist submits that it has been the uniform rule of decision in legislative assemblies, both in this country and in England, from the earliest times, whenever the question has arisen, as well as the uniform current of judicial decision in cases involving like questions, that votes knowingly cast for an ineligible candidate are not only void as to him, but are to be treated as blank votes, not affecting the result of any election. And your memorialist submits, by way of illustration of this

rule, the case of members of the legislature of a State voting for a child of tender years, then present, as Senator of the United States. The knowledge of the disability and the voting willfully for an ineligible person being thus incontestably shown, in such case the votes should be simply treated as blank votes, or cast for a fictitious person, and of no effect whatever upon the election.

In support of this imperative rule of law your memorialist begs leave to refer to Cushing, Law and Practice of Legislative Assemblies, pp. 66 and 67, and to the authorities there collected.

It may be suggested, in answer to the position of your memorialist, that the members of the legislature might have well hoped that the disabilities of Mr. Vance would be removed by an act of Congress in that behalf, under the provisions of the Constitution, and it may well be admitted that if such act of Congress were passed it might relate back and make valid the election. But it is respectfully submitted, that the electors in this case, in voting willfully and knowingly for a disqualified person, took the risk upon themselves of having their ballots treated as nullities in case of the non-enactment of such law by Congress.

It is further submitted that if such a rule of legislative action is admitted, then there can be no disqualification which would be sufficient to render any election under the Constitution a nullity, because an alteration of the Constitution (upon which the members of the legislature might speculate) would render eligible any person, however disqualified or ineligible at the time of casting the vote.

Your memorialist deems himself fortunate in being able to present this grave question of his constitutional rights to a Senate so constituted that his admission to his seat or his rejection cannot change or alter any party majority, even one of two-thirds or three-fourths, so that, without the possibility of partisan feeling, his claim may be considered as a judicial question.

Wherefore your memorialist, having received a clear majority of all the legal votes cast in the two branches of the legislature of North Carolina, on a day when an election for Senator of the United States was held in pursuance of law, and a constitutional quorum being present, claims the seat to which he is entitled, being so duly elected; and prays leave to maintain that claim in such manner as the Senate may order.

All of which is respectfully submitted.

JOSEPH C. ABBOTT.

WASHINGTON, D. C., *March* 4, 1871.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 2.

MEMORIAL

OF THE

LEGISLATURE OF MINNESOTA,

IN FAVOR OF

The establishment of a National Bureau of Immigration.

MARCH 7, 1871.—Ordered to lie on the table and be printed.

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

The memorial of the legislature of the State of Minnesota respectfully represents:

That the subject of immigration has now assumed a national importance, and it is fitting and necessary that it should be cared for and regulated by the National Government.

That many abuses exist, from which the immigrants to this country suffer, and which could be greatly abated or altogether abolished by such intervention and care on the part of the Government.

That a convention was called in October last by the governors of several States, to meet at Indianapolis, and to consider the best means by which immigration to the United States could be promoted and protected.

The said convention was attended by delegates from a number of States, and after a full and thorough consideration of the subject, resolved to memorialize Congress in favor of the establishment, by the General Government, of a National Bureau of Immigration, charged with full power to protect immigrants en route to this country and after their arrival, and that said memorial was duly transmitted, and is now before your honorable body.

Wherefore, your memorialists pray that the said memorial may be duly considered and its suggestions adopted; and we also beg leave to protest against the passage of a bill now before Congress which in its provisions disregards the suggestions of said convention, and places the care and supervision of immigration in the hands of the collectors of the ports, which your memorialists believe will not tend to abate but rather increase the evils under which immigrants now suffer.

And further, that this State is vitally interested in this matter, as it expends a large sum annually in inviting, protecting, and aiding immigrants, and that we believe the plan suggested by the convention at Indianapolis will best aid this State and the country at large in protecting immigration and securing the best results to be gained from it.

WILLIAM H. YALE,
President of the Senate.
JOHN L. MERRIAM,
Speaker of the House of Representatives.

Approved February fourteenth, eighteen hundred and seventy-one.

HORACE AUSTIN,
Governor.

STATE OF MINNESOTA,
Office of the Secretary of State.

I certify the foregoing to be a true and correct copy of the original on file in this office.

Witness my hand and the great seal of state, this 25th day of February, A. D. 1871.

[SEAL.]

H. MATTSON,
Secretary of State.

O

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 3.

MEMORIAL

OF THE

LEGISLATURE OF MINNESOTA,

IN FAVOR OF

The payment of bounty to the First Regiment of Minnesota Mounted Rangers.

MARCH 7, 1871.—Ordered to lie on the table and be printed.

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

Your memorialists, the legislature of the State of Minnesota, would respectfully ask your honorable body to make an appropriation for the purpose of paying a bounty to the First Regiment of Minnesota Mounted Rangers, who were mustered into the service of the United States, and honorably mustered out upon the expiration of their term of enlistment.

JOHN L. MERRIAM,
Speaker of the House of Representatives.
WILLIAM H. YALE,
President of the Senate.

Approved February 11, 1871.

HORACE AUSTIN,
Governor.

STATE OF MINNESOTA,
Office of the Secretary of State.

I certify the foregoing to be a true and correct copy of the original on file in this office.

Witness my hand and the great seal of State this 24th day of February, A. D. 1871.

[SEAL.]

H. MATTSON,
Secretary of State.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 4.

MEMORIAL

OF THE

LEGISLATURE OF MINNESOTA,

IN FAVOR OF

Making the port of Duluth a port of entry.

MARCH 7, 1871.—Ordered to lie on the table and be printed.

To the President and Congress of the United States:

Your memorialists, the legislature of the State of Minnesota, respectfully represent that the most direct and convenient route of transit between the Canadian Provinces upon the St. Lawrence, and the territory formerly possessed by the Hudson Bay Company, is by water to Duluth, in this State, and thence by rail via the Lake Superior and St. Paul and Pacific Railroads and connecting lines; and that in consequence of which, large quantities of foreign goods must pass through the port of Duluth in bond.

That Duluth is not a port of entry, and that in consequence goods so passing cannot be bonded (as we are informed) except at Marquette and other distant ports, which involves the delay and expense of taking such goods out of a direct line of transit, and also of discharging a large part of the cargo in order to enable the customs officers to discharge their duties. That in addition to the commerce of the British Possessions, the port of Duluth is one of great and increasing commercial importance; and that the public interests require that it should be made a port of entry as well as a port of delivery.

Wherefore, your memorialists ask that the port of Duluth, in this State, may be made a port of entry, and invoke the immediate action of Congress in the premises.

WILLIAM H. YALE,
President of the Senate.
JOHN L. MERRIAM,
Speaker of the House of Representatives.

Approved February 11, 1871.

HORACE AUSTIN,
Governor.

STATE OF MINNESOTA,
Office of the Secretary of State.

I certify the foregoing to be a true and correct copy of the original on file in this office.

Witness my hand and the great seal of State this 25th day of February, A. D. 1871.

[SEAL.]

H. MATTSON,
Secretary of State.

42D CONGRESS, 1st Session. SENATE. MIS. DOC. No. 5.

PETITION

OF THE

OTTAWA INDIANS OF THE UNITED BANDS OF BLANCHARD'S FORK AND ROCHE DE BOEUF,

PRAYING

An investigation of the disposition made of lands granted them by treaty of June 24, 1862, for the education of their children.

MARCH 7, 1871.—Ordered to lie on the table and be printed.

The Ottawa Indians of the United Bands of Blanchard's Fork and Roche de Boeuf, represented by the undersigned, the chief councilmen and other members of said bands, would respectfully state that in the year 1862, while they were residing in Franklin County, Kansas, not then contemplating removal from that locality, but presuming it would be their permanent home, they made provision in a treaty concluded on the 24th of June, 1862, (Stat. at Large, vol. 12, p. 1237, art. 6,) for setting apart twenty thousand six hundred and forty acres of land for the purpose of educating their children; one section for the school site, five thousand acres to be sold and the proceeds used in the erection of buildings, the residue to be sold and the proceeds invested as provided in said treaty, the interest to be applied for the support of said school.

Your petitioners would further represent that soon after the ratification of the treaty, certain white men took possession of this property, and that ever since it has been under the supervision and control of white men, who have disposed of the same in a manner not authorized by the treaty, as far as your petitioners are advised; but that there has been no accountability to any one, and your petitioners are unable to say what disposition has been made of the proceeds, except that it is apparent that a large amount has been expended in the construction of a costly stone building, and in other improvements.

We have never received any benefits from the lands so set apart in any manner whatsoever.

By the treaty of 1867, (Stat. at Large, vol. 15, p. 517,) a new home was purchased for our tribe, in Indian Territory, and we have removed here, and have been residing here for more than two years past; have built houses and made other improvements for a permanent home, and have, from our present limited means, erected a school-house, and, as far as we are able, are supporting a school for the benefit of our children.

We understand that the parties in charge have had a school in operation at Ottawa, in Kansas, on the land set apart by us for the education of our children, some of the time since we left, but no member of our

tribe has ever had any benefit from the same, for while we were located in Kansas there was no school conducted there, and while living here it is impracticable for us to avail ourselves of the benefits of said school if the privilege should be extended to us.

This land, set apart by us for the education of our children, has become very valuable, and we are satisfied that there is now in Franklin County, Kansas, property of the value of over two hundred thousand dollars, which belongs to us, being land and the avails of land set apart by us for educational purposes.

By the treaty of 1867, the provisions of the treaty of 1862 relative to schools were continued in force.

We have heretofore requested and urged that this property be disposed of and the proceeds invested, in order that the interest may be used in the support of schools at our present home. The whole subject has been before the Department for two years past, and we cannot learn that anything has been definitely determined; and we are informed that the Department has not been able to obtain, or at least has not obtained, control of said property, but that it is, and has been, in the possession and under the control and management of irresponsible parties, who decline to render account to any one, and who assert that they have in some manner obtained a right of ownership of which they cannot be dispossessed.

This we are unable to understand. The property is ours, the same being our land or the proceeds thereof. We have, by agreement with the Government in the form of treaty, created all the authority there has been for disposing of or controlling the same, and we think that the power to control the same still rests with us and the Government. We have expected that the Secretary of the Interior would, in accordance with our request, take possession of this property as our guardian, and control and dispose of the same in our interest; but as he has not done this, we presume it must be because he does not consider that existing treaties confer power for definite action.

If this be the case, we respectfully ask that Congress will by law give the Secretary of the Interior power to take possession of this property, to cause a full investigation to be made, to compel an accountability from those who have been in possession, and to dispose of the same by sale in the manner deemed most advisable, and after the payment of the expenses of the investigation, sale, &c., have the remainder of the proceeds invested in United States bonds, the interest to be expended for our benefit.

We understand that it is claimed that donations have been made to aid the school provided to be established by the treaty of 1862. In regard to this we know nothing; but we are willing any such donation may be refunded, as we desire only what is lawfully, legitimately, and equitably our own. In this connection we desire, however, to say that we totally and wholly repudiate and protest against the claim of any parties to dictate to us what shall be done with our school property, simply because they have possession of it. Its disposition is a matter to be left entirely with the Government, our lawful guardian, and ourselves, and our desire in this respect we have hereinbefore indicated.

We are a comparatively uneducated and helpless people, without remedy in the courts, and we earnestly ask that attention may be given to this matter, which has been so long delayed.

We feel satisfied that the Department will not permit this property to be longer withheld from us, and that an intelligent and just Congress

will extend definite power to the Department to enable our full protection so soon as they understand the case.

OTTAWA RESERVE, INDIAN TERRITORY, *January*, 1871.

JAMES WIND, *Sole Chief.*
his
ESQUIRE + GEORGE.
mark.
his
NANKESIS. +
mark.
his
HENRY + NANKESIS.
mark.
his
HENRY + CLAY.
mark.
his
DAVID + BARNETT.
mark.
his
PETER + DRAGOON.
mark.
his
RICHARD + CLARK.
mark.
his
EDWARD + BOWEN.
mark.
WILLIAM HURR.

We do hereby certify that the foregoing petition was fully explained to the Indians, and signed in our presence.

GEO. MITCHELL,
S. Indian Agent.
WILLIAM HURR,
United States Interpreter.

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RESOLUTION

OF

THE LEGISLATURE OF NEVADA,

ASKING

That the provisions of the act granting swamp and overflowed lands to the State of Arkansas and other States of the Union be extended to that State.

MARCH 7, 1871.—Ordered to lie on the table and be printed.

Whereas there is within the State of Nevada a large quantity of swamp and overflowed lands; and whereas the Congress of the United States, on the 28th day of September, 1850, and at various times since, granted such lands to various States of the Union wherein situated; and whereas the benefits conferred by said acts of Congress have not been extended to the State of Nevada; therefore,

Resolved by the senate and the assembly of the State of Nevada, conjointly, That the Congress of the United States be, and is hereby, most respectfully requested and urged to extend, by appropriate legislation, to the State of Nevada the benefits of an act of Congress approved September 28, 1850, granting swamp and overflowed lands to the State of Arkansas and to other States of the Union.

Resolved, That his excellency the governor be, and he is hereby, requested to transmit a certified copy of this preamble and resolution to each of the Senators and the Representative of this State in Congress, and to Messrs. Britton and Gray, the attorneys of this State in Washington City, D. C.

Passed February 18, 1871.

STATE OF NEVADA, *Secretary's Office, ss:*

I, J. D. Minor, secretary of state of the State of Nevada, do hereby certify that the annexed and foregoing is a true, full, and correct copy of the original enrolled resolution entitled "senate joint resolution relative to swamp and overflowed lands," passed February 18, 1871, now on file in my office.

In witness whereof, I have hereunto set my hand and affixed the great seal of state; done at office in Carson City, Nevada, this 25th day of February, A. D. 1871.

[SEAL.]

J. D. MINOR,
Secretary of State.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 7.

IN THE SENATE OF THE UNITED STATES.

MARCH 9, 1871.—Ordered to be printed.

Mr. NYE submitted the following

RESOLUTION:

Resolved, That the Secretary of the Interior be, and he is hereby, requested to prepare, and furnish to the Senate at his earliest convenience, his opinion of the expediency of providing for the appointment of a competent practical person, who, from personal observation, &c., shall prepare a report relative to each of the land States and Territories, showing the general character of the topography of each, its climate, summer and winter temperatures, rain and snow falls, soil and products, grasses, timber, and prairie; the coal, iron, lead, copper, and precious metals; workable area, and development of same; the amount of Government and railroad land for sale; their prices; the general land market; the number of miles of railroad, and navigable streams; the distance and cost of travel from the principal seaports to the capital of each State and Territory; the amount and kinds of manufactures and commerce; the school system, and branches of education taught; the cost of fences and dwelling-houses of three, four, five, and six rooms for settlers; of breaking, clearing, and fencing new lands, and the cost of labor; the facilities for transporting the products to market, its cost, with the location, distance, and extent of markets; and a compilation of the homestead, preemption, and other laws relative to the acquirement of public lands, and other valuable facts; forming the whole into a complete hand-book for the information, guidance, and direction of emigrants from Europe who desire to settle on the public lands, as well as emigrants from the Eastern States; and for providing for the translation of this report into several of the languages of Europe, and of distributing them throughout our country and Europe for general information.

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LETTER

OF

THE SECRETARY OF THE INTERIOR,

ADDRESSED TO

THE CHAIRMAN OF THE COMMITTEE ON INDIAN AFFAIRS,

CALLING

Attention to the condition of the Black Bob band of Shawnee Indians in Kansas.

MARCH 9, 1871.—Ordered to lie on the table and be printed.

DEPARTMENT OF THE INTERIOR,
Washington, D. C., March 8, 1871.

SIR: I have the honor to transmit herewith a report dated the 7th instant, from the Acting Commissioner of Indian Affairs, calling my attention to Senate Mis. Doc. No. 61, Forty-first Congress, in relation to the condition of "Black Bob" band of Shawnee Indians in Kansas, and recommending, for reasons therein stated, that the subject be brought to the attention of the present Congress.

The recommendations contained in the communication are therefore respectfully submitted for such consideration by Congress as that body may deem proper.

I am, sir, very respectfully, your obedient servant,

C. DELANO,
Secretary.

HON. JAMES HARLAN,
Of the Committee on Indian Affairs,
Senate of the United States.

DEPARTMENT OF THE INTERIOR, OFFICE OF INDIAN AFFAIRS,
Washington, D. C., March 7, 1871.

SIR: I have the honor to call attention to Senate Mis. Doc. No. 61, Forty-first Congress, third session, being a "letter of the Secretary of the Interior, addressed to the chairman of the Committee on Indian Affairs, communicating information in relation to the Black Bob band of Indians (Shawnees) in Kansas."

As the last session of Congress adjourned by limitation of law, without affording the requisite aid by legislation to these Indians, I am again compelled to ask that the subject of their condition be brought to the attention of both Houses of the present Congress, in order that the remedy may be applied by appropriate legislation.

It is deemed of the utmost importance to the present and future condition of the Black Bob band, that the suspension of the issue of patents for their allotments under the treaty of 1854, and the disposition by them of said allotments under the rules of the Department, should be removed. The act imposing such suspension is in direct violation of treaty stipulations, and with the intercourse act of 1834, and has had the effect not only to impoverish the members of that band, but has kept them from locating and making improvements upon their homes in the Indian Territory, where they could provide for their future wants, and has rendered necessary extra expenditures to keep them from actual starvation.

Very respectfully, your obedient servant,

H. R. CLUM,
Acting Commissioner.

Hon. C. DELANO,
Secretary of the Interior.

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RESOLUTION

OF

THE LEGISLATURE OF MICHIGAN,

IN FAVOR OF

The extension of the operation of the extradition treaty between the United States and Great Britain.

MARCH 13, 1871.—Referred to the Committee on Foreign Relations and ordered to be printed.

Resolved, (*the senate concurring*,) That our Senators in Congress be instructed, and our Representatives be requested, to use their influence to secure such action as will extend the operation of the extradition treaty now existing between the British and United States governments, so that it may include a much greater variety of criminal offenses against the laws of both governments than are found to be now provided for by the provisions of the Ashburton treaty.

Resolved, That the governor be, and he hereby is, requested to forward copies of the foregoing resolution to each of our Senators and Representatives in Congress.

MORGAN BATES,
President of the Senate.
J. J. WOODMAN,
Speaker of the House of Representatives.

EXECUTIVE OFFICE, *Lansing, Michigan.*

Approved February 14, 1871.

HENRY P. BALDWIN.

LIST OF COMMITTEES

OF

THE SENATE OF THE UNITED STATES

FOR THE

FIRST SESSION OF THE FORTY-SECOND CONGRESS.

MARCH 10, 1871.

STANDING COMMITTEES.

On Privileges and Elections.

Mr. , chairman.
Stewart.
Morton.
Rice.
Hamlin.
Hill.
Thurman.

On Foreign Relations.

Mr. Cameron, chairman.
Harlan.
Morton.
Patterson.
Schurz.
Hamlin.
Casserly.

On Finance.

Mr. Sherman, chairman.
Morrill, of Vermont.
Fenton.
Scott.
Ames.
Wright.
Bayard.

On Appropriations.

Mr. Cole, chairman.
Sprague.
Sawyer.
Edmunds.
Windom.
West.
Stevenson.

On Commerce.

Mr. Chandler, chairman.
Corbett.
Kellogg.
Spencer.
Buckingham.
Conkling.
Vickers.

On Manufactures.

Mr. Hamlin, chairman.
Robertson.
Boreman.
Gilbert.
Blair.

On Agriculture.

Mr. Morton, chairman.
Cameron.
Robertson.
Tipton.
Davis, of West Virginia.

On Military Affairs.

Mr. Wilson, chairman.
Cameron.
Morton.
Ames.
Logan.
West.
Blair.

On Naval Affairs.

Mr. Cragin, chairman.
Anthony.
Nye.
Osborn.
Caldwell.
Ferry, of Michigan.
Stockton.

On the Judiciary.

Mr. Trumbull, chairman.
Edmunds.
Conkling.
Carpenter.
Frelinghuysen.
Pool.
Thurman.

On Post Offices and Post Roads.

Mr. Ramsey, chairman.
Pomeroy.
Gilbert.
Cole.
Flanagan.
Ferry, of Michigan.
Kelly.

On Public Lands.

Mr. Pomeroy, chairman.
Tipton.
Osborn.
Sprague.
Windom.
Logan.
Casserly.

On Private Land Claims.

Mr. Davis, of Kentucky, chairman.
Ferry, of Connecticut.
Sawyer.
Bayard.
Cooper.

On Indian Affairs.

Mr. Harlan, chairman.
Corbett.
Buckingham.
Stewart.
Frelinghuysen.
Hill.
Davis, of Kentucky.

On Pensions.

Mr. Edmunds, chairman.
Tipton.
Pratt.
Brownlow.
Ferry, of Michigan.
West.
Saulsbury.

On Revolutionary Claims.

Mr. Pool, chairman.
Brownlow.
Corbett.
Cragin.
Davis, of West Virginia.

On Claims.

Mr. Howe, chairman.
Scott.
Sprague.
Pratt.
Boreman.
Wright.
Davis, of West Virginia.

On the District of Columbia.

Mr. Patterson, chairman.
Sumner.
Lewis.
Spencer.
Caldwell.
Hitchcock.
Vickers.

On Patents.

Mr. Ferry, of Conn., chairman.
Carpenter.
Morrill, of Maine.
Windom.
Hamilton.

On Public Buildings and Grounds.

Mr. Morrill, of Vermont, chairman.
Trumbull.
Cole.
Stockton.
Hamilton.

On Territories.

Mr. Nye, chairman.
Cragin.
Schurz.
Boreman.
Hill.
Hitchcock.
Cooper.

On the Pacific Railroad.

Mr. Stewart, chairman.
Ramsey.
Wilson.
Harlan.
Rice.
Fenton.
Scott.
Kellogg.
Hitchcock.
Blair.
Kelly.

On Mines and Mining.

Mr. Rice, chairman.
Chandler.
Flanagan.
Lewis.
Logan.
Caldwell.
Saulsbury.

On the Revision of the Laws of the United States.

Mr. Conkling, chairman.
Carpenter.
Pool.
Pratt.
Hamilton.

On Education and Labor.

Mr. Sawyer, chairman.
Morrill, of Vermont.
Flanagan.
Patterson.
Blair.

To Audit and Control the Contingent Expenses of the Senate.

Mr. Fenton, chairman.
Windom.
Saulsbury.

On Printing.

Mr. Anthony, chairman.
Howe.
Casserly.

On the Library.

Mr. Morrill, of Maine, chairman.
Howe.
Sherman.

On Engrossed Bills.

Mr. Buckingham, chairman.
Ames.
Davis, of West Virginia.

On Enrolled Bills.

Mr. Carpenter, chairman.
Lewis.
Kelly.

SELECT COMMITTEES.

On the Revision of the Rules.

Mr. Pomeroy, chairman.
Edmunds.
Bayard.

On the Removal of Political Disabilities.

Mr. Robertson, chairman.
Boreman.
Ames.
Gilbert.
Vickers.
Stevenson.

On the Levees of the Mississippi River.

Mr. Kellogg, chairman.
Trumbull.
Schurz.
Spencer.
Blair.

On Alleged Outrages in Southern States.

Mr. Scott, chairman.
Wilson.
Chandler.
Rice.
Nye.
Bayard.
Blair.

RESOLUTION

OF

THE LEGISLATURE OF KENTUCKY,

IN FAVOR OF

The removal of the political disabilities of all persons engaged in the late civil war.

MARCH 10, 1871.—Ordered to lie on the table and be printed.

RESOLUTION in relation to removal of political disabilities.

Whereas we believe that the restoration of civil and political privileges, at this time, to all those now resting under them by reason of any laws or constitutions whatsoever, can bring no detriment to the Federal Government nor injury to the people. Therefore,

Be it resolved by the general assembly of the Commonwealth of Kentucky, That we respectfully request the Congress of the United States to pass a law of general amnesty, removing from all those engaged in the late civil war in opposition to the General Government all civil and political disabilities under which they may rest by reason of any oath, laws, or constitutions, whatsoever.

Resolved, That the secretary of state be requested to forward a copy of this resolution to the Speaker of both houses of Congress to be read before that body.

J. B. McCREARY,
Pro tem. Speaker of the House of Representatives.
G. A. C. HOLT,
Speaker of the Senate.

Approved February 23, 1871.

P. H. LESLIE.

By the governor:
SAM'L B. CHURCHILL,
Secretary of State.

COMMONWEALTH OF KENTUCKY,
Office of Secretary of State, sct:

I, Samuel B. Churchill, secretary of state do hereby certify that the foregoing resolution is truly copied from the original on file in the office of secretary of state.

Witness my hand and seal of State at my office in the city of Frankfort, Kentucky, this 24th day of February, A. D. 1871,

[SEAL.] SAM'L B. CHURCHILL,
Secretary of State.

42D CONGRESS, 1st Session. SENATE. MIS. DOC. No. 12.

LETTER

OF THE

COMMISSIONER OF THE GENERAL LAND OFFICE,

ADDRESSED TO HON. J. F. CHAVES,

COMMUNICATING

A copy of the instructions issued to the surveyor general of New Mexico August 21, 1854.

MARCH 13, 1871.—Ordered to lie on the table and be printed.

DEPARTMENT OF THE INTERIOR,
General Land Office, March 2, 1871.

SIR: Pursuant to your application of 28th instant, received yesterday, I transmit herewith a copy of instructions issued August 21, 1854, to the surveyor general of New Mexico, under section 8 of the act of 22d July, 1854, creating the office of surveyor general of New Mexico.

Very respectfully,

WILLIS DRUMMOND,
Commissioner.

Hon. J. F. CHAVES,
House of Representatives.

GENERAL LAND OFFICE,
August 21, 1854.

SIR: The 8th section of the act approved 22d July last, for the establishment of the office of surveyor general in New Mexico, declares as follows:

SECTION 8. *And be it further enacted,* That it shall be the duty of the surveyor general, under such instructions as may be given by the Secretary of the Interior, to ascertain the origin, nature, character, and extent of all claims to lands under the laws, usages, and customs of Spain and Mexico, and for this purpose may issue notices, summons witnesses, administer oaths, and do and perform all other necessary acts in the premises. He shall make a full report on all such claims as originated before the cession of the territory to the United States by the treaty of Guadalupe Hidalgo, of eighteen hundred and forty-eight, denoting the various grades of title, with his decision as to the validity or invalidity of each of the same under the laws, usages, and customs of the country before its cession to the United States; and shall also make a report in regard to all pueblos existing in the Territory, showing the extent and locality of each, stating the number of inhabitants in the said pueblos, respectively, and the nature of their titles to the land. Such report to be made according to the form which may be prescribed by the Secretary of the Interior, which report shall be laid before Congress for such action thereon as may be deemed just and proper, with a view to confirm *bona fide* grants, and give full effect to the treaty of eighteen hundred and forty-eight between the United States and Mexico; and, until the final action of Congress on such claims, all lands shall be reserved from sale or other disposal by the Government, and shall not be subject to the donations granted by the previous provisions of this act.

The duty which this enactment devolves upon the surveyor general is highly important and responsible. He has it in charge to prepare a faithful report of all the land titles in New Mexico which had their origin before the United States succeeded to the sovereignty of the country; and the law contemplates such a report as will enable Congress to make a just and proper discrimination between such as are *bona fide* and should be confirmed, and such as are fraudulent, or otherwise destitute of merit, and ought to be rejected.

The treaty of 1848, between the United States and Mexico, (United States Statutes at Large, volume 9, page 922,) expressly stipulates in the 8th and 9th articles for the security and protection of private property. The terms there employed in this respect are the same in substance as those used in the treaty of 1803, by which the French republic ceded the ancient province of Louisiana to the United States, and consequently, in the examination of foreign titles in New Mexico, you will have the aid of the enlightened decisions, and the principles therein developed, of the Supreme Court of the United States upon the titles that were based upon the treaty of cession, and the laws of Congress upon the subject.

The security to private property for which the treaty of Guadalupe Hidalgo stipulates, is in accordance with the principles of public law, as universally acknowledged by civilized nations.

The people change their allegiance; their relation to their ancient sovereign is dissolved, but their relations to each other, and their rights of property, remain undisturbed. (United States *vs.* Percheman, 7 Peters's Reports.)

In the case of the United States *vs.* Arredondo and others, 6th Peters's Reports, the Supreme Court declare that Congress "have adopted, as the basis of all their acts, the principle that the law of the province in which the land is situated is the law which gives efficacy to the grant, and by which it is to be tested whether it was property at the time the treaties took effect."

Upon the same basis, Congress has proceeded in the present act of legislation, which requires the surveyor general, under instructions from the Secretary of the Interior, to ascertain the origin, nature, character, and extent of all claims to land "under the laws, usages, and customs of Spain and Mexico," and arms the surveyor general with power for the purpose, by authorizing him to "issue notices, summon witnesses, administer oaths, and do and perform all other necessary acts in the premises."

The private land titles in New Mexico are derived from the authorities of old Spain, as well as of Mexico.

Among the "necessary acts" contemplated by the law, and required of you, is, that you shall, 1st, acquaint yourself with the land system of Spain as applied to her ultramarine possessions, the general features of which are found modified, of course, by local requirements and usages in the former provinces and dependencies of that monarchy on this continent. For this purpose you must examine the laws of Spain, the royal ordinances, decrees, and regulations, as collected in White's Recopilacion, 2 volumes. By the acts of Congress, approved 26th May, 1824, 23d May, 1828, and 17th June, 1844, (United States Statutes at Large, vol. 4, page 51, chap. 173, page 284, chap. 70, and vol. 5, page 676, chap. 95,) the United States district courts were opened for the examination and adjudication of foreign titles; numerous cases on appeal under these laws, and other cases on writs of error, in which actions on ejectment in the courts below had been instituted, were brought before the Supreme Court of the United States, where the rights of property

under inceptive and imperfect titles which originated under the Spanish system have been thoroughly examined and discussed with eminent ability.

For these decisions I refer you to Peters's and Howard's Report of the Decisions of the Supreme Court of the United States. It is important you should carefully examine them in connection with the Spanish law, and the legislation of Congress on the subject, in order that you may understand and be able to apply the principles of the Spanish system as understood and expounded by the authorities of our Government.

2d. Upon your arrival at Santa Fé, you will make application to the governor of the Territory for such of the archives as relate to grants of land by the former authorities of the country.

You will see that they are kept in a place of security from fire or other accidents, and that access is allowed only to land owners who may find it necessary to refer to their title records, and such references must be made under your eye, or that of a sworn employé of the Government.

You will proceed at once to arrange and classify the papers in the order of date, and have them properly and substantially bound. You will then have schedules (marked No. 1) of them made out in duplicate, and will prepare abstracts, (No. 2,) also in duplicate, of all the grants found in the records, showing the names of grantees, date, area, locality, by whom conceded, and under what authority.

You will prepare in duplicate, from the archives or other authoritative sources, a document (No. 3) exhibiting the names of all the officers of the Territory who held the power of distributing lands from the earliest settlement of the Territory until the change of government, indicating the several periods of their incumbency—the nature and extent of their powers conceding lands—whether, and to what extent and under what conditions and limitations, authority existed in the governors or political chiefs to distribute (repartir) the public domain; whether in any class of cases they had the power to make an absolute grant, and if so, for what maximum in area, or whether subject to the affirmance of the departmental or supreme government; whether the Spanish surveying system was in operation, and since what period in the country, and under what organization; also with verified copies in the original, and translations of the laws and decrees of the Mexican Republic and regulations which may have been adopted by the general government of that republic, for the disposal of the public lands in New Mexico. Herewith you will receive a table of land measures adopted by the Mexican government, translated from the "Ordenanzas de Tierras y aguas," by Marianas Galvan, edition of 1844, as printed in Ex. Doc. No. 17, 1st session 31st Congress, H. Reps, containing much valuable information on the subject of California and New Mexico, and of which document I would invite your special and careful examination.

In a report of the 14th November, 1851, from the surveyor general of California, it is stated that all the grants, &c., of lots or lands in California, made either by the Spanish government or that of Mexico, refer to the "vara" of Mexico as the measure of length; that by common consent in California, that measure is considered as exactly equivalent to thirty-three American inches. That officer then inclosed to us "copy of a document he had obtained as being an extract of a treaty made by the Mexican government," from which it would seem that another length is given to the "vara," and by J. H. Alexander's (of Baltimore) Dictionary of Weights and Measures, the Mexican vara is stated to be equal to 92.741 of the American yard.

This office, however, has sanctioned the recognition in California of the Mexican vara as being equivalent to thirty-three American inches.

You will carefully compare the data furnished in the table herewith and in the foregoing with the Spanish measurements in use in New Mexico, and will report whether they are identical, or, if varied in any respect by law or usage, you will make a report of all the particulars. You should also add to document No. 3, the forms used under the former governments to obtain grants, beginning with the initiatory proceeding, viz, the petition, and indicating the several successive acts until the title was completed. A copy of the "schedule, abstract, and document" required of you in the foregoing, duly authenticated by you, should constitute a part of the permanent files of the surveyor general's office, and duplicates of them should be sent as soon as practicable to the Department of the Interior.

The knowledge and experience you will acquire in arranging the archives, collecting materials, and making out the documents called for by these instructions, will enable you to enter understandingly upon the work of receiving, examining the testimony which may be presented to you by land claimants, and prepare your report thereon for the action of Congress.

In the first instance you will provide yourself with a journal, consisting of substantially bound volume or volumes, which is to constitute a complete record of your official proceedings in regard to land titles, and with a suitable docket for the entry therein of claims in the order of their presentation, and so arranged as to indicate at a glance a brief statement of each case, its number, name of original and present claimant, area, locality, from what authority derived, nature of title, whether complete or incomplete, and your decision thereon.

Your first session should be held at Santa Fé, and your subsequent sessions at such places and periods as public convenience may suggest, of which you will give timely notice to the Department.

You will commence your session by giving proper public notice of the same in a newspaper of the largest circulation in the English and Spanish languages, and will make known your readiness to receive notices and testimony in support of the land claims of individuals, derived before the change of government. You will require claimants in every case, and give public notice to that effect, to file a written notice setting forth the name of "present claimant," name of "original claimant," nature of claim, whether inchoate or perfect, its date, from what authority the original title was derived, with a reference to the evidence of the power and authority under which the granting officer may have acted, quantity claimed, locality, notice and extent of conflicting claims, if any; with a reference to the documentary evidence and testimony relied upon to establish the claim and to show a transfer of right from the "original grantee" to "present claimant."

You will also require of every claimant an authenticated plat of survey, if a survey has been executed, or other evidence, showing the precise locality and extent of the tract claimed. This is indispensable in order to avoid any doubt hereafter in reserving from sale, as contemplated by law, the particular tract or parcel of land for which a claim may be duly filed, or in consummating the title to the same hereafter, in the event of a final confirmation.

The effect of this will be not only to save claimants from embarrassments and difficulties inseparable from the presentation and adjudication of claims with indefinite limits, but will promote the welfare of the country generally, by furnishing the surveyor general with evidence of

what is claimed as private property, under treaty and the act of 22d July, 1854, thus enabling him to ascertain what is undisputed public land, and to proceed with the public surveys accordingly, without awaiting the final action of Congress upon the subject.

You will take care to guard the public against fraudulent or ante-dated claims, and will bring the title papers to the test of the genuine signatures, which you should collect of the granting officers, as well as to the test of official registers or abstracts which may exist of the titles issued by the granting officers. In all cases, of course, the original title papers are to be produced or loss accounted for, and where copies are presented they must be authenticated, and your report should also state the precise character of the papers acted upon by you, whether originals or otherwise. Where the claim may be presented by a party as "present claimant" in right of another, you must be satisfied that the deraignment of title is complete, otherwise the entry and your decision should be in favor of the "legal representatives" of the original grantee.

Your journal should be prefaced by a record of the law under which you are required to act, and of your commission and oath of office, and should contain a full record of the notice and evidence in support of each claim, and of your decision, setting forth as succinctly and concisely as possible all the leading facts, particulars, and the principles applicable to the case, and upon which such decision may be founded. All the original papers should, of course, be carefully numbered, filed, and preserved, and upon each should be indorsed the volume, page of the record in which they are entered, and such reference should be made on the journal and docket as will properly connect them with each other.

Your docket should be a condensed exhibit of every case and of your decision. The claims, both as to grade and dignity, may be classified by numerals or alphabetically, accompanied by explanatory notes, in such a manner that it will show every case confirmed and every one rejected by you.

In the case of any town lot, farm lot, or pasture lots, held under a grant from any corporation or town, to which lands may be granted for the establishment of a town by the Spanish or Mexican government, or the lawful authorities thereof, or in the case of any city, town, or village lot, which city, town, or village existed at the time possession was taken of New Mexico by the authorities of the United States, the claim to the same may be presented to the corporate authorities, or where the land on which the said city, town, or village was originally granted to an individual, the claim may be presented by or in the name of such individual, and the fact being proved to you of the existence of such city, town, or village at the period when the United States took possession, may be considered by you as *prima facie* evidence of a grant to such corporation, or to the individuals under whom the lot-holders claim; and where any city, town, or village shall be in existence at the passage of the act of 22d July, 1854, the claim for the land embraced within the limits of the same may be made and proved up before you by the corporate authority of the said city, town, or village. Such is the principle sanctioned by the act of 3d March, 1851, for the adjudication of Spanish and Mexican claims in California, and I think its application to and adoption proper in regard to claims in New Mexico.

In the month of March, 1849, there was published in the Atlantic States an extract of a letter dated December 12, 1848, at Santa Fé, New Mexico, purporting to be from a young officer of the Army, in which it was stated that "the prefect at El Paso del Norte has for the last few months been very active in disposing (for his own benefit) of all lands

in that vicinity that are valuable, antedating the title to said purchasers;" that "these land titles" would "be made a source of profitable litigation," &c. It will be your duty to subject all papers under suspicion of fraud to the severest scrutiny and test, in order to settle the question of their genuineness. You will also collect information from authentic sources in reference to the laws of the country, respecting minerals, and ascertain what conditions were attached to grants embracing mines—whether or not the laws and policy of the former governments conferred absolute title in granting lands of this class in New Mexico.

It is proper also, and you are instructed, in the case of every claim that may be filed, to ascertain from the parties, and require testimony as to whether the tracts claimed are mineral or agricultural, and you will be careful to make necessary discrimination in the record of your proceedings, and in your docket.

Your report should be divided into two parts. Part 1st should embrace individual claims, and should be prepared in the manner contemplated by law, and in accordance with the requirements in the foregoing instructions.

The law further requires you also to "make a report in regard to all pueblos existing in the Territory, showing the extent and locality of each, stating the number of inhabitants in the said pueblos respectively, and the nature of their titles to the land."

Part 2d of your report should be devoted to this branch of your duty.

It will be your business to collect data from the records and other authentic sources relative to the pueblos, so that you will enable Congress to understand the matter fully and legislate in such a manner as will do justice to all concerned.

In a report, dated July 29, 1849, in camp near Santa Fé, from the Indian agent, James S. Calhoun, to the Commissioner of Indian Affairs, he says: "The Pueblo Indians, it is believed, are entitled to the early and especial consideration of the Government of the United States. They are the only tribe in perfect amity with the Government, and are an industrious, agricultural, and pastoral people, living principally in villages, ranging north and west of Taos south, on both sides of the Rio Grande, more than 250 miles;" that "by a Mexican statute these people," as he had been informed by Judge Houghton, of Santa Fé, "were constituted citizens of the republic of Mexico, granting to all of mature age, who could read and write, the privilege of voting," but "this statute has no practical operation;" that since the occupancy of the Territory by the Government of the United States, the territorial legislature of 1847 passed the following act, which, at the date of the Indian agent's report, was in force:

Be it enacted by the general assembly of the Territory of New Mexico: SECTION 1. That the inhabitants within the Territory of New Mexico known by the name of Pueblo Indians, and living in towns or villages built on lands granted to such Indians by the laws of Spain or Mexico, and conceding to such inhabitants certain land and privileges to be used for the common benefit, are severally hereby created and constituted bodies politic and corporate, and shall be known in law by the name of the "Pueblo," &c., (naming it,) and by that name they and their successors shall have perpetual succession; sue and be sued.

In a subsequent report, viz, of the 14th October, 1349, the same officer reported from Santa Fé, that the pueblos or civilized towns of Indians of the Territory of New Mexico are the following:

In the county of Taos—Taos, Picoris, 283 inhabitants.

In the county of Rio Arriba—San Juan, Santa Clara, 500 inhabitants.

In the county of Santa Fé—San Ildefonso, Namba, Pojoaque, Temque, 590 inhabitants.

In the county of Santa Ana—Cochite, Santa Domingo, San Felipe, Santa Ana, Zia Jemez, 1,918 inhabitants.
In the county of Bernalillo—Sandia, Gleta, 883 inhabitants.
In the county of Valencia—Leguna, Acoma, Turnica, 1,800 inhabitants.
Opposite El Paso—Socro, Islettas, 600 inhabitants.

Recapitulation—Pueblos of New Mexico.

County of Taos, over 5 years of age	283
Rio Arriba, over 5 years of age	500
Santa Fé, over 5 years of age	590
Santa Ana, over 5 years of age	1,918
Bernalillo, over 5 years of age	833
Valencia, over 5 years of age	1,800
District of Tontero, opposite El Paso del Norte, over 5 years of age	600
	6,524

The above enumeration, it is stated by the officers mentioned, "was taken from census ordered by the legislature of New Mexico, convened December, 1847, which includes only those of five years of age and upward;" and further, that "these pueblos" are located from ten to near a hundred miles apart, commencing north at Taos, and running south to near El Paso some four hundred miles or more, and running east and west two hundred miles;" this statement having no reference to pueblos west of Zunia.

In another dispatch, dated the 15th October, 1849, at Santa Fé, the same agent reports that "these pueblos are built with direct reference to defense, and their houses are from one to six stories high," &c.; that "the general character of their houses is superior to those of Santa Fe;" they "have rich valleys to cultivate," &c., and they "are a valuable and available people, and as firmly fixed in their homes as any one can be in the United States;" that "their lands are held by Spanish and Mexican grants, to what extent is unknown;" that Santa Ana, as Major Weightman had informed the agent, "decreed in 1843 that one born in Mexico was a Mexican citizen, and as such is a voter, and therefore all the Pueblo Indians are voters," but "that the exercise of this privilege was not known prior to what is termed an election, the last one in this Territory," &c. It is obligatory on the Government of the United States to deal with the private land titles and the "Pueblos" precisely as Mexico would have done had the sovereignty not changed. We are bound to recognize all titles, as she would have done, to go that far, and no further. This is the principle which you will bear in mind in acting upon these important concerns.

You will append to your report on the Pueblos the best map of the country that can be procured on a large scale, and will indicate thereon the localities and extent of the several pueblos as illustrative of that report, which you are desired to prepare and transmit to the Department at as early a period as the nature of the duty will allow.

Very respectfully, your obedient servant,

JOHN WILSON,
Commissioner.

WILLIAM PELHAM, Esq.,
United States Surveyor General of New Mexico.

DEPARTMENT OF THE INTERIOR,
August 25, 1854.

The foregoing instructions are hereby approved.

R. McCLELLAND,
Secretary.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 13.

RESOLUTION

OF

THE LEGISLATURE OF MICHIGAN,

ASKING

Congress for an appropriation to construct a light-house and fog-bells at the mouth of Little Traverse Bay in the State of Michigan.

MARCH 13, 1871.—Referred to the Committee on Commerce and ordered to be printed.

Whereas the great and constantly increasing commerce of our inland lakes require a corresponding increase of harbors of refuge, where vessels and steamers can anchor with safety during the severe storms so prevalent in the early spring and fall; and whereas Little Traverse Bay is a fine and convenient harbor for vessels and steamers windbound on Lake Michigan; and whereas said harbor is at present without a light-house, fog-bell, or other means to enable captains or owners of vessels to enter the same in the night-time: Therefore,

Resolved by the senate and house of representatives of the State of Michigan, That our Senators and Representatives in Congress be requested to use all honorable means to procure the necessary appropriation for the construction of a light-house and fog-bells at the mouth of said bay, under the superintendence of the Light-House Board.

Resolved, That his excellency the governor be requested to transmit copies of the foregoing preamble and resolutions to each of our Representatives in Congress.

A. B. WOOD,
President pro tem. of the Senate.

J. J. WOODMAN,
Speaker of the House of Representatives.

EXECUTIVE OFFICE,
Lansing, Michigan.

Approved, February 27, 1871.

HENRY P. BALDWIN.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 14.

RESOLUTION

OF

THE LEGISLATURE OF NEVADA,

IN FAVOR OF

Listing over the lands belonging to the Central Pacific Railroad in that State.

MARCH 14, 1871.—Referred to the Committee on the Pacific Railroad and ordered to be printed.

Resolved by the assembly, (the senate concurring,) That we most earnestly and respectfully urge upon our Senators and Representative in Congress to use such means and employ such efforts as to them shall seem necessary in order to secure the listing over, by the proper authorities of the Government, of all lands accruing to the Central Pacific Railroad Company, in the State of Nevada, as soon as the plats of the surveys covering such lands are returned to the office of the United States Land Commissioner in Washington.

[Passed February 20, 1871.]

STATE OF NEVADA, *Secretary's Office, ss ;*

I, J. D. Minor, secretary of state of the State of Nevada, do hereby certify that the annexed and foregoing is a true, full, and correct copy of the original enrolled resolution entitled "Assembly concurrent resolution relative to instructing Representatives in Congress to use their influence to induce the Government to list over the lands belonging to the Central Pacific Railroad in this State," passed February 20, 1871, on file in my office.

In witness whereof, I have hereunto set my hand and affixed the great seal of State. Done at office in Carson City, Nevada, this 24th day of February, A. D. 1871.

[SEAL.]

J. D. MINOR,
Secretary of State.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 15.

MEMORIAL

OF

WILLIAM McGARRAHAN,

PRAYING

A patent for the tract of land known as the Panoche Grande Rancho.

MARCH 13, 1871.—Referred to the Committee on Public Lands and ordered to be printed.

To the Senate and House of Representatives of the Congress of the United States.

As the assignee of Vicente P. Gomez, I, William McGarrahan, respectfully solicit your honorable bodies to cause to be completed and delivered to me the patent which was executed and caused to be recorded by the President, Abraham Lincoln, on the 14th day of March, 1863.

The documents in support of my claim have been twice before the Judiciary Committee of the House, and as often before the Committee on Private Land Claims in the Senate.

From these various documents already in evidence, it will be seen that, on the 13th day of March, 1844, the governor of California, under the colonization laws of Mexico, conceded to Vicente P. Gomez, by proper paper title, the land for which I ask a patent; that this grant was "*property*," which is protected by the eighth article of the treaty of Guadalupe Hidalgo; that, under the act of 1851, Gomez presented archive evidence, the genuineness of which no one now denies, which proved the existence of his grant, and oral evidence of the loss of one paper only, constituting his title; that the commissioners appointed under the act of 1851 found that he had given satisfactory proof of the existence and loss of the grant; but that they decided against his application because he had not improved, occupied, or cultivated the land; that from this erroneous judgment upon the law, as applied to the facts specially found by the commissioners, Gomez appealed to the United States district court for the southern district of California, which court, upon the proofs made and the facts found by the commissioners, applied the law as decided in Frémont's and Yorbo's cases, reversed the judgment of the board of commissioners, and confirmed the grant to Gomez, on the 5th day of June, 1857; that upon the faith of the grant, the finding of the commissioners, and the decree of the court, I, on the 22d day of December, 1857, purchased the land of Gomez in good faith, paying therefor all that it was then known to be worth, and concerning which consideration Gomez has never complained; that on the 15th day of March, 1858, the United States appealed from the judgment and decree of confirmation; that the United States, not having prosecuted the appeal,

with the knowledge and consent of the Attorney General, after full argument between himself and my counsel, General Sickles and General Meagher, the case was docketed in the Supreme Court of the United States, and dismissed 31st January, 1859; that the mandate of that court was sent to the court below, and regularly filed and recorded; that no attempt at a second appeal was made by the United States until the 25th day of August, 1862, and that the appeal was denied by the court having exclusive jurisdiction of the subject-matter; that the survey was regularly made in accordance with the statute in such case made and provided; that the Secretary of the Interior, in the exercise of his proper jurisdiction, on the 29th day of December, 1862, determined that the Mexican title has been satisfactorily proved, that the district court had regularly confirmed the grant, that that judgment had been sanctioned by the Supreme Court, that the time for a second appeal had elapsed, that the second appeal had been denied, and that "these several decrees and orders constitute a confirmation, by the court, of the grant of the claimant, and entitle him to a patent;" and "that the decree of the district court for the southern district of California, confirming the grant, has become final; the United States has no longer any interest in the controversy; no claim of third parties has been interposed; the suggestions of fraud in the grant or in the manner of procuring its confirmation are *res adjudicata;* and I am unable to discover any reasons why a patent should not be issued in conformity with the decree of the court and the survey."

Your honorable bodies will also see that, on the 4th day of March, 1863, the successor of Mr. Smith, Secretary Usher, considered the several statutes regulating surveys of this class of grants, determined that the survey was properly made, and that I had paid the surveying fees, and directed that a patent should issue.

The fact that a patent was executed and recorded was concealed from me, as it was from the committees of Congress when called for. It was only discovered and communicated to Congress on the 6th day of July last.

No one now disputes the facts that the patent was ordered, engrossed, and recorded. The record proves itself, and is not subject to contradiction. A disgraceful effort has been made to show that the record is not true, and to destroy it. Concerning that I refer you to the report of the minority of the Judiciary Committee of the House of Representatives of the Forty-first Congress, which report was adopted by that body, as also a joint resolution in the following words:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he hereby is, directed to cause the record on pages three hundred and twelve to three hundred and twenty-one inclusive, in volume four of "California Land Claims," of the patent of a tract of land known as the "Panoche Grande," as set forth therein, to be transcribed into the records as the same stood on the record book of the General Land Office at the time it was examined, without any mutilation or erasure whatever, so that the legal effect of the record so transcribed shall be the same as if the original record had never been interfered with or mutilated; and when such record shall have been so made, as herein provided, it shall be marked *examined*, as it was originally marked. And the President of the United States is hereby authorized and required to do in the premises whatever may, in his judgment, be just and equitable, without regard to any action or proceeding had subsequent to the 14th day of March, 1863, the date of the patent recorded.

This resolution only failed to pass the Senate for want of time. I have every assurance that there it would have received a more decided majority than in the House. You will note the fact that this is the second time the House has passed a bill for my relief.

Fidelity to the public records of the country requires that no one

shall be permitted to perpetrate spoliations with impunity. And where records have been destroyed to serve the interests of a soulless corporation, justice demands that they shall be restored. The acts of the Secretaries of the Interior of 29th December, 1862, and the 4th of March, 1863, were had under the immediate direction of President Lincoln, as stated by General Sickles in the following letter, published in the recent speech of General Butler upon the subject:

WASHINGTON, *January* 22, 1867.

SIR: I have the honor to state that in the spring of 1863, as one of the parties interested in the grant known as the "Panoche Grande," situated in California, and claimed by William McGarrahan and his associates, I applied to the President of the United States for an order directing the issue of a patent for the same to the said William McGarrahan; and that after hearing the Attorney General, the Secretary of the Interior, and myself, the President ordered that the said patent issue; that it was thereupon engrossed and signed, ready for delivery, but was not delivered, although furnished to me on a day named; and I am confirmed in this my recollection of the facts by the verbal assurance of Hon. Mr. Usher, (then Secretary of the Interior,) with whom I have recently conversed on the subject in the city of Washington.

I am, sir, very respectfully,

D. E. SICKLES.

Hon. JAMES F. WILSON,
Chairman Judiciary Committee, House of Representatives.

In a speech of the honorable T. J. Coffey, Ex-Assistant Attorney General, before the Committee of the Senate on Private Land Claims, he admitted that he was present at this discussion before President Lincoln, and that the order was given; but, as counsel for the New Idria Company, he denied the force of the order, because it was not shown to be in writing. But no order from the President to a cabinet officer needs to be in writing, particularly where the order is shown to have been acted upon, as it was in this case.

This statement of Sickles and Coffey is fully sustained by the testimony of William O. Stoddard, President Lincoln's private secretary to sign land patents.

This action of the Executive Department was the exercise of constitutional and legal power, and it was conclusive upon the United States. Indeed, it operates as an *estoppel* upon the Government.

There was no appeal from that action; and as to its finality, I call your attention to the following extracts found on the eighteenth page of Judge Bingham's report:

We submit that when a matter within his jurisdiction was passed upon by the head of the Department, as in this case, and also by the President, no order short of the President himself, who made it, could authorize any such interference in the premises. Chief Justice Taney, as Attorney General, vol. 2, Opinions of Attorneys General, p. 463, says:

"Unless claims finally decided by the proper Department shall, in general, be considered *res judicata*, every change in the officers thereof will produce a new hearing of the same, and the accounts of the Government will remain open and undecided."

The Attorney General further says in this opinion, that from the decision of the head of the Department, "the party may carry his appeal to the President, who may affirm or reverse the decision;" and from his decision, he adds, an appeal may be had to Congress.

And in the United States *vs.* Arredondo *et al.*, 6 Peters, 729, the Supreme Court of the United States says:

"If any jurisdiction is given, and not limited, all acts done in its exercise are legal and valid; if there is a discretion conferred, its abuse is a matter between the governor and his government, &c. (King *vs.* Picton, late governor of Trinidad, 30 St. Tr., 868–871.)

"It is a universal principle that where power or jurisdiction is delegated to any public officer or tribunal over a subject-matter, and its exercise is confided to his or their discretion, the acts so done are binding and valid, as to the subject-matter; and individual rights will not be disturbed collaterally for anything done in the exercise of that discretion within the authority and power conferred. The only questions

which can arise between an individual claiming a right under the acts done and the public, or any person denying its validity, are, power in the officer and fraud in the party. All other questions are settled by the decision made or act done by the tribunal or officer, whether executive, (1 Cranch, 170, 191,) legislative, (4 Wheat., 423; 2 Pet., 412; 4 Pet., 562,) judicial, (11 Mass., 227; 11 S. & R., 429, adopted in 2 Pet., 167, 168,) or special, (20 J. R., 739, 740; 2 Dow. P. Cas., 521, &c.,) unless an appeal is provided for, or other revision, by some appellate or supervisory tribunal, is prescribed by law."

To this I add the following extract from a later opinion of Chief Justice Marshall:

Before we proceed to inquire whether the land in question falls within the scope of any one of these prohibitions, it is necessary to examine a preliminary objection which was urged at the bar, which, if sustainable, would render that inquiry wholly unavailing. It is this, that the acts of Congress have given to the registers and receivers of the land offices the power of deciding upon claims to the right of preëmption; that upon these questions they act judicially; that, no appeal having been given from their decision, it follows as a consequence that it is conclusive and irreversible. This proposition is true in relation to every tribunal acting judicially, whilst acting within the sphere of their jurisdiction, where no appellate tribunal is created; and even when there is such an appellate power, the judgment is conclusive when it only comes collaterally into question, so long as it is unreversed. But directly the reverse of this is true in relation to the judgment of any court acting beyond the pale of its authority. The principle upon this subject is concisely and accurately stated by this court in the case of Elliott *et al. vs.* Peirsol *et al.*, (1 Pet., 340,) in these words: "Where a court has jurisdiction, it has a right to decide every question which occurs in the cause; and whether its decision be correct or otherwise, its judgment, until reversed, is regarded as binding in every other court. But if it act without authority, its judgments and orders are regarded as nullities. They are not voidable, but simply void." (Wilcox *vs.* Jackson, 13 Pet., 510, 511.)

The same principle, as to the conclusiveness of executive action, was ruled in Kendall *vs.* Stokes, 3 How., 99; United States *vs.* Jones, 8 Pet., 387, and in 5 Opinions Attorneys General, p. 285; Chorpenning *vs.* The United States, 3 Court of Claims Reports, 147; Riley *vs.* The United States, 1 Court of Claims Reports, 299. The principle in all these cases is applicable to this. The executive Department was required to act specially and *quasi* judicially. And the facts and law thus determined were conclusive.

You will please bear in mind that these decisions of the Secretaries of the Interior have never been reversed. All that is claimed is, that Judge Otto suspended the delivery of my patent; not that he reversed, or assumed to reverse, the decrees of his superiors determining this right. But an order to suspend the delivery of the patent gave no authority to destroy that, or the record of it. The judgments of Smith and Usher still remain. Even Secretary Cox did not assume to reverse them. He was met by the uniform principle, that he could not reverse the acts of his predecessors. So he undertook to assume that the action was not consummated by the complete execution of the patent. To establish this an effort was made to prove, by oral evidence, the impossible fact that there had been no original to support the record found in the proper volume of records. But with all the aid of erasures by the attorney of the New Idria Company, of the purloining of letters, and the false statements of the existence of a custom, when no other precedent can be shown, the effort to prove against a record failed, as in law it was obliged to fail, for oral evidence cannot destroy a record. That evidence, so impossible, (and which for the credit of the witnesses ought to be disbelieved, because the truth would be more criminal than perjury,) signally failed to disprove the record.

I do not attempt to conceal that it is claimed by the New Idria Company, which alone has opposed me, that the Supreme Court of the United States, three years after the solemn decision of the executive,

assumed to take jurisdiction of an appeal, and to reverse the judgment of confirmation by the district court of California. But the House of Representatives, following the views of those able chairmen of the Judiciary Committees, Hon. James F. Wilson and Hon. John A. Bingham, has acted upon the well-established facts that the Supreme Court had no jurisdiction, because there was no appeal order in existence to give it color of jurisdiction; because the time for appeal had elapsed before any effort was made for a second appeal; because there was no citation of appeal or notice thereof; and because the Supreme Court was imposed upon by false, stuffed, and garbled records, and by fraudulent representations, and therefore its action was void, since the question of jurisdiction is always open.

And even if these facts, so destructive of jurisdiction, did not exist, yet the judgment could not collaterally affect the solemn adjudications of the President, acting through the proper Department, upon a question purely within executive cognizance.

The orders for the patent, and the patent itself, still remain in full force, and must so remain until Congress, by proper enactment, shall authorize some proceeding to give effect to these acts.

I need not enter into a narrative of the wrongs and hardships which I have had to endure, and which have heretofore defeated a full consummation of my rights. These have been sufficiently proved before the Judiciary Committee of the House. They are now a part of the history of the country, and, whatever may be the fate of my application, it is a painful history, which can never be changed. The discovery of valuable quicksilver mines upon my property awakened the cupidity of lawless men, and caused them to forcibly seize it, the large revenues of which have enabled them to purchase influences which have corrupted the very fountains of justice.

The attorneys employed by Gomez to prosecute his right were purchased and suborned; the clerk of the court where the judgment was rendered was induced to make a false oath in reference to the record, to omit a material part of the record, and to insert papers which in no manner appertained to it.

The Supreme Court was thus induced, by fraud and perjury and false suggestions, to assume that when the appeal was docketed and dismissed that court had no jurisdiction for want of an appeal order, when there was a veritable appeal order, upon which the Attorney General and the Supreme Court had acted, and upon which other rights rest; and also to assume that there was a motion pending for a new trial, when there was no such motion. And thus, a year after its mandate was issued, that court was induced to transcend its powers, and to order its mandate recalled. This decision was procured by fraud and perjury, and was the exercise of original jurisdiction by a court which has none. And this action has been falsely assumed to be a decision against the Gomez grant, when no question of merit was before the court. (23 Howard, 326.)

The case next came before the court on a false record, certified by a district attorney out of his district, by the inducement of a bribe of $300 in gold coin, paid by E. L. Goold. As has been said, it was a pretended appeal by the United States, when there was no appeal order in existence, no citation, (which is a necessary jurisdictional fact,) no motion, and no pretext that any appeal had been paid for until the five years had elapsed, during which a second appeal might have been prayed. Counsel for Gomez moved to dismiss this pretended appeal, and, because of the false state of the record and entire misapprehension of the facts,

the motion was overruled in the face of a hundred precedents to the contrary, made by the same court before and since. This action upon a mere motion to dismiss has been falsely represented to be a second decision upon the merits of the case. (1 Wallace, 690.)

The next decision was upon precisely such a motion, and a still more false record, and nothing else. A page is devoted to the mode of obtaining the judgment in the district court, which was purely a matter of original and not of appellate jurisdiction. The single paragraph "upon the merits" was without jurisdiction, and without regard to the facts of the record. And it was procured, not by or in the interest of the United States, but by the fraud and subornation of the New Idria Mining Company. And yet this monstrous perversion of justice has been called a "third decision" against the title of Gomez, when it was not and could not have been legally before that court. (3 Wallace, 752.)

The fourth time the case only involved the question whether a *mandamus* would lie against the Secretary of the Interior to compel a patent. The grant was not in the record, nor thought of by the parties. The decision was that the court had no such jurisdiction; and yet this judgment has been falsely called a judgment pronouncing the Gomez grant "fraudulent and void." (9 Wallace, 298.)

With such fallacies and deceptions have many good men been deceived; whereas the only adjudications ever had upon the validity of the grant were in my favor. No others can stand in the way of a decision by Congress.

Thus all the clamor about the Supreme Court of the United States having "four times decided against this title" falls to the ground. There is no decent pretext that it was ever before that tribunal, save the time when, upon the record and all that ever judicially belonged to the record, the case was docketed and dismissed for want of prosecuting an appeal, which the Attorney General, upon due consideration, had abandoned.

It is often objected that the judgment of confirmation was had while Pacificus Ord was district attorney; that he had been the attorney of the claimant before the commissioners, and for the Government before the district court, and that he was interested in the grant. To this it may be replied, that the record showed his relations as attorney; that he had no new evidence to offer; and that, with all the aids of perjury and subornation of perjury, no new fact has been discovered which could have changed the finding of the commissioners and the judgment of the district court. The fact still remains undisputed, that Gomez proved by the archives, duly certified by the surveyor general of California, and since sworn to by Hopkins, the keeper, that in 1844 Gomez petitioned for the land, describing it by natural and artificial objects, and by other grants which have since been confirmed upon far less evidence, and more clearly describing it by a map photographed by the New Idria Company, and everywhere admitted to be genuine, and which map or *diseño* operates as a survey, segregating and detaching the land which the governor conceded to the petitioner, which, by the colonization law, was the "date of the inviolable law of property;" that the concession was referred to the Secretary of State, who commissioned the judge to examine whether the land was vacant, and Gomez a proper party to be favored by the donation; that the report of the judge was favorable, Gomez having rendered military and civil services, for which he was never paid. These record facts still exist, unimpaired and undestroyed. The *testimonio* or copy containing the full grant was delivered to Gomez, acted upon by him, and this "second original" was proved to have been

destroyed by the officers and soldiers of the United States. No one of these facts has ever been disproved. Upon them the commissioners—men of the very highest character—found that the "proof was satisfactory."

The district court acted upon this proof and this finding, and confirmed the grant.

I submit, that the mere fact of interest in the district attorney would not even have been the ground for a new trial. It must have been shown that the Government had suffered by the *malfeasance* of its officer, and that the claimant had colluded with that officer.

But the Government has never complained. No officer of the Government ever asked a new trial. None ever moved in the matter, except as they were bribed thereto by the New Idria Mining Company. And then they moved, not in the interest of the United States, but purely and entirely for the purpose of giving the land to the conspirators, who were robbing your memorialist and the Government of the United States.

Through these agencies, and the lavish use of the treasures extracted from this mine, foreign and forged papers, bearing the very ear-marks of the counsel of the New Idria Company, have been interpolated into the records in the case in California; erasures, amounting to forgeries, have been perpetrated in that court; feigned orders, years after the judgment, have been interpolated; an appeal order, which had been set aside and annulled, has been foisted upon the Supreme Court; false affidavits, written by E. L. Goold, who was influenced thereto by enormous fees from the New Idria Mining Company, have been imposed upon that same tribunal by hired officials, claiming to be the "special counsel of the United States," but who were, in fact, under enormous pay by this corrupt corporation. A whole volume of the records of the Attorney General's office and the whole correspondence between two Ex-Attorneys General have been proved to have been purloined from that office. The letters of transmission of patents to the recorder of the Land Office, covering a period of six months, have been stolen. Another attorney of the New Idria Company confesses to have attempted the erasure of an "examined and recorded patent;" and the last act presents the disgusting spectacle of the cancellation of a solemn record of the Government, with a view to destroy the rights of your memorialist.

And the same unhallowed influences, which thus made instrumentalities of the different Departments of the Government, have so industriously employed the public press and hired advocates and witnesses, that the impression has been produced that my genuine title and confirmations are frauds and forgeries, and that I, who purchased in good faith, upon the faith of treaties, statutes, judgments, and solemn decrees, am a participant in a stupendous fraud.

But those who have taken the pains to examine, have always found my claim to be exceeding simple.

A government, in the exercise of lawful authority, made a grant to one of its own citizens. That government was conquered by this great nation. By the laws of war and of nations the conqueror was obliged to respect the private property of the conquered inhabitants. This general principle of nature and of nations was incorporated into the treaty of Guadalupe Hidalgo. The rich country of California was transferred to the United States, subject to every equitable claim conceded, by perfect or imperfect title, by the governments of Spain and Mexico.

This right was fully recognized by the following plain language in the act of 1852, providing a tribunal to examine those equities, in these words:

That the commissioners herein provided for, and the district and supreme courts, in

deciding on the validity of any claim brought before them under the provisions of this act, shall be governed by the treaty of Guadalupe Hidalgo, the *law of nations, the laws, usages,* and *customs* of the government from which the claim is derived, the principles of equity, and the *decisions of the Supreme Court of the United States,* so far as they are applicable.

By universal usage this means that the title should be confirmed, wherever there was reasonable evidence that the former government would have completed the title had there been no change of sovereignty.

One of the first things decided under this law was, that every class of title, perfect and imperfect, had to be submitted to this board. Thus speaks Chief Justice Taney:

It will be seen from the quotation we have made that the eighth section embraced not only *inchoate* or equitable titles, but legal titles also, and requires them all to undergo examination and be passed upon by the court. The object of this provision appears to be to place the title to lands in California upon a stable foundation, and to give the parties who possess them an opportunity of placing them on the records of the country in a manner and form that will prevent future controversy. In this respect it differs from the act of 1824, under which the claims in Louisiana and Florida were decided. The jurisdiction of the court in these cases was confined to inchoate equitable titles, which required some other act of the Government to vest in the party the legal title or full ownership. If he claimed to have obtained from either of the former governments a full and perfect title, he was left to assert it, in the ordinary forms of law, upon the documents under which he claimed. The court had no power to sanction or confirm it when proceeding under the act of 1824, or the subsequent laws extending its provisions. (Frémont *vs.* United States, 17 Howard, 553.)

This case, the New Almaden case, and almost every case where a grant has been confirmed, answers the objections about mineral lands, about want of possession, and about imperfect titles. All had to be submitted to the board. Many of every class have been confirmed. The grant under which I claim was submitted, and proven to the satisfaction of the commissioners. It was confirmed by the district court, and a mandate was issued by the Supreme Court to enforce that judgment of confirmation. After the lapse of five years, the survey made under the law was approved by the Secretary of the Interior, a patent ordered, executed by the President, and duly recorded.

In the name of the sacred law of nations, of a solemn treaty, and of all these judgments and decrees, I, who am an innocent purchaser, ask that the record be restored, that my patent be delivered, and my rights quieted, irrespective of any of the acts or transactions procured by frauds, bribery, perjury, and efforts at spoliation. I cannot believe that there is wrong in this petition, or that the treaty-making and treaty-enforcing power, or the Congress, whose duty it is to make all needful rules and regulations respecting the public lands of the United States, will decide that I am not entitled to this relief.

I hold myself ready to prove that no officer of the United States has ever acted against me, but upon the suggestion and in the interest of the trespassers who conspired to destroy me; that every movement against me in the courts, in the Attorney General's office, which always ought to have been the "Department of Justice," in the Interior Department, or elsewhere, has been made at the instance and in the interest of that company and their hired employés, with the intention of giving to these squatters the land which is mine by treaty, law, and solemn judgments.

I ask the early action of Congress.

WM. McGARRAHAN.

WASHINGTON, D. C., *March* 7, 1871.

IN THE SENATE OF THE UNITED STATES.

MARCH 16, 1871.—Ordered to be printed.

Mr. SHERMAN submitted the following

RESOLUTION.

Resolved, That as organized bands of desperate and lawless men, mainly composed of soldiers of the late rebel armies, armed, disciplined, and disguised, and bound by oaths and secret obligations, have, by force, terror, and violence, subverted all civil authority in large parts of the late insurrectionary States, thus utterly overthrowing the safety of person and property, and all those rights which are the primary basis and object of all civil government, and which are expressly guaranteed by the Constitution of the United States to all its citizens; and as the courts are rendered utterly powerless, by organized perjury, to punish crime, therefore the Judiciary Committee is instructed to report a bill or bills that will enable the President and the courts of the United States to execute the laws, punish such organized violence, and secure to all citizens the rights so guaranteed to them.

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42D CONGRESS, 1st Session. } SENATE. { MIS. DOC. No. 16. pt.2.

RESOLUTION

Proposed by Mr. SHERMAN as a substitute for the resolution submitted by him on the 16th instant.

MARCH 21, 1871.—Ordered to be printed.

Resolved, That as organized bands of lawless and desperate men, mainly composed of soldiers of the late rebel armies, armed, disciplined, and disguised, and bound by oaths and secret obligations, are proven to exist in the State of North Carolina, and have by force, terror, and violence, defied civil authority in that State, and by organized perjury have rendered the courts powerless to punish the crimes they have committed, thus overthrowing the safety of person and property, and the rights which are the primary basis of all civil government, and which are guaranteed by the Constitution of the United States to all its citizens; and as there is good reason to believe that similar organizations exist, and have produced similar results in many parts of the late insurrectionary States: Therefore, the Judiciary Committee is instructed to report a bill or bills to enable the President and the courts of the United States to execute the laws, punish and prevent such organized violence, and secure to all citizens the rights so guaranteed to them.

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MEMORIAL

OF

LEWIS WIESER,

PRAYING

The erection of a bureau in the Department of the Interior, in connection with the Patent Office, to be known as the Bureau of Industry.

MARCH 9, 1871.—Ordered to lie on the table.
MARCH 13, 1871.—Referred to the Committee on Patents.
MARCH 16, 1871.—Ordered to be printed.

To the Senate and House of Representatives of the United States of America:

Your memorialist respectfully asks such action on the part of your honorable bodies as will secure the erection of a bureau in the Department of the Interior, and connected with the Patent Office, to be known as the Industrial Bureau, which shall have for its object the education of our mechanics. Your memorialist has been induced to address to you this memorial, and ask your favorable action on the same, by the knowledge of the following facts:

I. The downward tendency of American industrial art, of the lack of such taste as is only to be cultivated by either contact with or study of the fine arts, as is evidenced by our own countrymen traveling in foreign countries, comparing foreign industry with our own, in a very discouraging light to the latter. So Mr. Hall, of the Hon. William H. Seward's expedition, says: "The semi-barbarous people of Mexico are far ahead of the United States in all pertaining to industrial art."

II. The far-advanced prices paid to foreign manufacture of the same articles over those of American manufacture.

III. The insufficiency of products of American hand-workers and artisans.

IV. The insufficiency in the number of Americans who follow industrial life.

V. The exclusive control by foreigners of all those branches which require a cultivated taste.

VI. The immense decrease of mechanics compared with the rapid increase of our population, which is to the greatest extent felt in some of our southern, western, and northwestern settlements, where, though containing thousands of inhabitants, not a single mechanic can be found.

VII. The insufficient education our mechanics are able to obtain to make them competent to compete with the perfectly educated European.

VIII. The non-existence of any governmental institution through which the American might be encouraged to acquire such knowledge as would enable him to compete with the thoroughly educated European.

IX. That our dependence on foreign influences in such products as our mechanics are unable to produce, and which, by the custom of society, have been introduced and made almost indispensable, is very objectionable to free institutions.

X. That mechanics working in Europe for the American market form that golden middle class there, enriching their respective governments, while we are impoverished thereby, receiving nothing from them in return, whereas we should employ this golden middle class at home to enrich ourselves.

XI. That home industry is the wealth of a nation, the soul of a people; that no great nation can prosper without it. The grandeur of a nation is only sustained by a sound industry, commerce, and a good administration, let the national wealth be what it may in mines and agricultural resources.

XII. The strong feeling among our mechanics themselves of the necessity of and desire by them for this education.

In connection with this subject, and in the illustration of the facts above set forth, I would respectfully beg leave to call your attention to the accompanying document, wherein I have fully elaborated and described the necessity for a bureau of industry, and suggested the means by which it may be inaugurated and carried to a successful conclusion.

Hoping this may receive your early and favorable consideration, I have the honor to be, very respectfully, your obedient servant,

L. WIESER.

TECHNICAL SCHOOLS.—BY LEWIS WIESER.

From time to time articles have appeared in the papers, commenting upon the lamentable downward tendency of American industrial art; of the lack of such taste as is only to be cultivated by either contact with or study of the fine arts. Even our own countrymen, traveling in foreign countries, compare foreign industry with our own in a very discouraging light to the latter. Mr. Hall, of Hon. Mr. Seward's expedition, says: "The semi-barbarous people of Mexico are far ahead of the United States in all pertaining to industrial art."

Every one has noticed in the shops and stores that the most expensive, most salable, most tasty articles are all of foreign manufacture. The United States make the machinery to manufacture nearly all the sewing machines made in the world, besides making outright three-fourths of all the sewing machines made. Yet the manufacturers employ foreign artists to decorate such machines with painted flowers, or to produce the drawing from which the whole machinery is constructed. Go into any of your nearest confectionery stores, among the sweets there displayed for sale you will find you can buy ten times the quantity of American candy for the same money than of French candy. In a toy store where toys of Swiss and German manufacture are sold, you get but very little wood and wire for one dollar. You have to pay two dollars or two and a half for a pair of French kid gloves made of rat skins, the rats having been caught in Minnesota. Millions of dollars are expended by our people for the waste-paper of Paris, because they know how, over there, to cut their waste-paper into patterns for wearing apparel. At last, everything we buy, especially articles of luxury, we have to pay all nations respectively the prices they please to charge us. The world possesses a monopoly over us in cultivated industry, and we must succumb to it, or educate our mechanics in the right way.

If we can get ten times as much American as French candy for the same amount of money, which is a fact that everybody knows, what is the cause? Is it perhaps that the French article is the sweeter or healthier of the two? Everybody knows the contrary. How often do we read of children being poisoned with the coloring of French candies; yet people still buy it in preference to American candy, and thousands of dollars are yearly sent out to France for these vile, poisonous compounds. Why do we buy it? Why do we buy toys in Germany, and waste-paper in France? Why is Paris the ruler of fashions, from which that city derives an annual income greater than can be scarcely imagined?

Is it not because these foreigners have studied to work their raw material into tasty forms, knowing that taste is well paid for, let it be expended upon whatever article it may? The American furnishes his candy in a lump, while the Frenchman puts his in little figures, tasty flowers, &c., which pays him five times the profit of our lump.

The same with toys, wearing apparel, house and other utensils; German, French, and English are preferred only for their designs. The design takes half of the price, regardless almost of quality. If we look about we will find that some of the articles, yes, all those which depend entirely upon design for their value, are rarely ever of American manufacture, such as wall-paper, carpets, lithographs, &c. Real and bogus jewelry take immense sums to Europe only for design. We can scarcely name a single branch of trade or manufacture in which the foreign-made article is not preferred on account of its design. The writer hereof was surprised to see the following advertisement: "The Bible, illustrated by Gustave Doré, American binding, $75; English binding, $100." A difference of $25 merely in the matter of binding. Some will say, "Oh, we manufacture everything in this country just as well." Such are poorly posted about American manufacture. They are in part right, but who manufactures? Is it not our foreign adopted citizens?

The foreigners are the ones who keep up these branches of our home industry somewhat yet, but as the population of this country increases very rapidly, the immigration of foreign mechanics and artists is not enough to keep manufacture up even to its present standard, much less to advance it. If it takes one policeman for a hundred people it will take ten for a thousand. Unfortunately we observe for the last six years rather a decrease of immigration of this class of foreigners, because they get the same price now for goods manufactured in their respective countries for the American market as they would in this country, accompanied by a great deal cheaper living; so I dare say we support hundreds of thousands of mechanics all over the world, pay them high prices, make them rich, without getting a cent from them in return. We are growing poorer from this all the time, because the mechanics and farmers form that golden middle class which makes the true wealth of a country. See for a moment what a large majority of our middle class are living in Europe; that is to say, the labor which should support a large portion of such a class with us, goes out to be done in Europe. *Home industry is the wealth of a nation—the soul of a people!* I can see no prosperity of a great people without it. The grandeur of a nation is only sustained by a sound industry, commerce, and a good administration, let the national wealth be what it may in mines and agricultural resources. We have all advantage, excepting only a properly directed industry.

Now, we must ask ourselves, where lies the mysterious cause of the difference between the French, German, English, and American? what makes the former so much more skillful in the industrial arts? We often hear people say it lies in the blood—it is a gift to the nation. If that were true we should be in advance of all nations, because we are made up of all nations of all bloods. I say the difference lies only in the early and perfect education. Men of other nations have their destiny chosen for them while they are still boys, and are brought up and educated, each one, in the special branch of industry in which he is to become useful and proficient. A boy who intends to follow industrial life receives an education which especially fits him for the work he intends to do in after life. He is taught mathematics, physics, and chemistry, but chiefly, and as the very foundation of technical industry, he is taught drawing. Drawing is the only remedy for our sick industry; drawing is what gives shape and form; drawing is what cultivates taste. The lack of any general knowledge of drawing in this country is what takes our money to Europe. So long as we have no industrial schools wherein drawing is taught and properly regarded, just so long will we have to hear from every side, in our journals, of the deplorable declension of American industry. The only education our hand-workers receive is for the most part an entirely mechanical discipline, the son attempting to imitate the father's work, and if the son attains to within one degree of his father's ability, both seem to be well satisfied, and why not? The son has no chance to surpass his father. He has not had the one kind of education which might inspire him to acquire something new in the profession; to put his manufacture in a more tasty and pleasing shape; to present his productions in a more artistic design. With a good theoretical education each workman can and will produce pieces of real art in his profession, which is, up to this time, the almost exclusive faculty of foreigners.

It is true that American productions received prizes at the Paris and London exhibitions; but who were the makers of these articles? Who were the makers of Steinway's and Knabe's pianos? a branch of business, by the by, which is exclusively in the hands of foreigners. Examine into almost any branch of hand-work and you will find either Europeans, or men who received their education in Europe, excelling therein.

That drawing is the only study which will elevate our taste for fine arts I imagine can be shown in a very clear light by comparing it with its associate, music. Music is a great deal more cultivated here, perhaps too much so, even so much so that it becomes a nuisance. The ears of men who are not quite cultivated enough to appreciate the music of accomplished performers are so tortured by the resoundings that often precious sleep is lost. Mothers, however, are quite convinced that their daughters have great talent for music, and are well satisfied that they have no talent for drawing. Now, were I called upon to make a selection whether my daughter should learn drawing or

music, did she not possess a very decided talent for music, I should certainly prefer that she should learn drawing; because, draw she never so badly, her work might be put out of sight, so that no one's taste should be shocked; not so with discordant sounds, which often steal over the fence, and are not to be kept out except by closed doors and windows. Our spring and summer promenades at evenings, after the day's fatiguing labor, would not be broken in upon by discordant sounds if the taste for drawing were cultivated instead of music. People will attend operas and pay $5 to $10 for admission to inferior performances. Only the other day one of the most able musical critics, in reply to the question why he did not write musical critiques any more, answered, "They are getting so bad as to be beneath criticism; they are getting below the Thau," (the last letter in the Hebrew alphabet.)

One who has received only a little instruction can appreciate music much the better for it; also one who has received only a little instruction in drawing can appreciate art much the better for it. A blind man is never asked for his opinion upon the merits of a picture; and a man may be regarded in a measure as blind who has received no art education; he is impervious to any great pleasure from the beautiful, and not receiving delight from perfection of form, is incapable of producing by design. Now, if we put our ears through a training for unprofitable music, why should we not train the eye to art, so that a profitable result in design might be reached; so that, appreciating beauty, we might be induced to surround ourselves with graceful objects and pleasant associations of color and form, to the end that we may eventually become a nation of designers and no longer remain the copyists that we are. If the eyes of our people were properly cultivated and the taste of our people thereby properly refined, we would no longer witness chromolithographs upon the walls of our wealthy men. If they could only appreciate art, in the least degree, many men who would be ashamed to have their wives and daughters detected in wearing one-dollar jewelry and glass imitation of diamonds, yet feel proud to hang up false diamonds upon their walls, in the bright light of their parlors, for chromos are but glass diamonds in art. We should not hear men say any more, while offering them the original paintings, "I can obtain the copy somewhat cheaper; it looks as well; I therefore take the copy." He would understand how to appreciate originals and how to put the copy in its right place.

The immense good a proper appreciation of art would do, but few understand. Let me give you an example. About forty years ago Munich was known all over Germany for its good lager beer, and its people for their love thereof; for nothing else. No artist would have dreamed of putting his work on exhibition there; the people were in a kind of stupefied vegetation; hardly knew their own existence; and in fact were dead, compared with the more enlightened cities in Germany. There came old King Ludwig, lover of fine arts, who built up the first drawing and painting schools; spent millions of dollars for objects of art. Pictures for which one of those old brewers would not have given a glass of his foaming nectar, he paid thousands of dollars for. The people grumbled about it at first to see their money flow out for such purposes, but soon Munich became one of the first cities of Europe in matters of art, and its material prosperity was thereby greatly enhanced. The citizens of Munich, after much growling, at length felt a curiosity to see King Ludwig's new-fangled art galleries, and eventually their taste became contact with works of art; they replaced their old monkish pictures with fine paintings, and in a short time it became fashionable to affect dilettanteism. The social standing of men was often measured by the pictures they possessed. Munich soared above the level of her beer vaults, and became an art center. Of course where the flour is, there will the mice be, as the old saying has it. Artists, finding a ready sale for their work, flocked to Munich. The fame of her exhibitions spread all over Europe, so that now, to-day, all nations pay their tribute, America not excepted. King Ludwig's investment was a paying one and returned a hundred-fold for every cent expended.

There seems to be an abundance of dormant talent in the United States, which only needs a proper art training. Give us drawing-schools to-day, and in less than ten years we will rank among the first in art and technical industry, otherwise we may come right soon to rank below the Hottentots in matters of design.

The question that stares us now in the face is, how to establish and sustain such technical industrial schools as we need, and how to get scholars for them after they are established.

Our Government has been exceedingly magnanimous in its treatment of original inventors. An immense Patent Office has been erected at an expense of several millions of dollars, a building which would do any nation honor, as well for its splendor as for its immense and wide-spread results. Our patent-laws, and the encouragement thereby given to inventors, has sent American devices for saving labor all over the world, and the United States has become renowned as a nation of inventors. The inventions which our people, through the encouragement of the Patent Office, have given to the world are countless, and have been material in the advancement of civilization. But, in as far as technical industry is concerned, and especially in such industry or art as pertains to design, the Patent Office has given little or no encouragement, and has

not attempted to be the means of education of any sort. Original design, it is true, may be the subject of patents, and in so far designers are encouraged. But such encouragement without education will never make an artist or a designer. A large number of utterly useless inventions, if they may be called inventions, are yearly patented, and the office fees arising from this source are sufficient to cause a large annual surplus in favor of the Patent Office, which makes it self-sustaining. Now, this sum comes from inventors, and mostly from technical men or hand-workers; why should not any surplus that there may be accrue again to the benefit of hand-workers, and mechanics, artisans, and technical industry in general? Let the surplus arising from Patent Office fees be appropriated as a nucleus around which may gather a fund for the ultimate establishment of such schools as may raise us up designers of taste and engineers, of both mathematical and mechanical skill. Technical schools are what we need as a nation. Such a fund might be greatly increased after such schools were established all over the country by making the professors or teachers exclusively the attorneys for inventors who apply for patents, and by abolishing the disreputable patent agencies in all our cities to let the fees thus swallowed up accrue to a good purpose, viz: the advancement of industrial education.

Technical schools would soon become self-supporting and would not long need governmental assistance. A class of men would be raised up who would be able to properly direct the energetic inventive genius of our people. Let the deserving scholars be chosen from the schools to supply vacancies in the Patent Office, and we will soon have a more efficient corps of employés in that Department, besides furnishing an incentive to the pupils. When we shall have established a sufficient number of the right kind of schools throughout the United States it will then be time enough to throw around American industry a protective tariff, as is looked to by bills recently introduced into Congress; now it seems to be only a protection for a thing which does not exist.

We now have an Educational Bureau, but as no substantial results have appeared since its establishment, I prefer to look rather to the Patent Office as being in itself more closely allied to technical matters, and therefore in every way better adapted to spread and promote the interests of technical education. If a proper spirit could be awakened in the people of the United States there would be no difficulty in obtaining scholars in number and character to fill such schools as might be established. The idea of sending a son to a school which has avowedly for its purpose to teach its pupils to become hand-workers is offensive to a great many of our people, as they look at things; this should not be so. If one class, however, will not send their children to these schools, certainly another class may be induced to do so.

Workingmen's unions and labor associations, which exist in our country in considerable number, might with propriety introduce into their constitutions a clause making it prerequisite for an apprentice to have studied in such an industrial school before admission to the privileges of a journeyman. They certainly might be better employed in making such resolutions than in resolving, as they do, that no negroes may be admitted to their associations, or that they will work only a certain number of hours, or demand a certain amount of pay whether they earn it or not. An understanding and determination upon the part of these associations that every apprentice, before becoming a journeyman, must have received a technical education and studied drawing, would furnish pupils for all the schools that might be started. These schools, after the manner of similar institutions in Europe, should have sessions both night and day, to accommodate those at night who could not attend during the day.

Something should be done and that speedily. It should no longer continue to be a disgraceful fact, that a large number of the best mechanics have been educated in penitentiaries; the only technical schools our country at present affords.

LEWIS WIESER.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 18.

JOINT RESOLUTION

OF

THE LEGISLATURE OF MICHIGAN,

ASKING

A grant of the United States arsenal and grounds at Dearborn, Michigan, for State arsenal and military purposes.

MARCH 18, 1871.—Referred to the Committee on Military Affairs and ordered to be printed.

Resolved by the senate and house of representatives of the State of Michigan, That our Senators be instructed, and our Representatives in Congress be requested, to use their influence to obtain from Congress a grant to this State of the United States arsenal and grounds at Dearborn, in the county of Wayne, in the State of Michigan, for the use of State arsenal and military purposes.

Resolved, That the governor be requested to transmit copies of the foregoing resolution to our Senators and Representatives in Congress, and urge the aforesaid grant for the purpose aforesaid.

A. B. WOOD,
President pro tem. of the Senate.
J. J. WOODMAN,
Speaker of the House of Representatives.

EXECUTIVE OFFICE, *Lansing, Michigan.*

Approved March 6, 1871.

HENRY P. BALDWIN.

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42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 19.

MEMORIAL

OF

THE LEGISLATURE OF NEBRASKA,

ASKING

An extension of time for payment by preëmptors for their lands.

MARCH 18, 1871.—Referred to the Committee on Public Lands and ordered to be printed.

Your memorialists, the senate and house of representatives of the State of Nebraska, would respectfully represent, that in view of the present depression in business, and the low prices of all farm products throughout the Western States, and the extreme difficulty to obtain money, even at the most exorbitant rates of interest, that immediate relief should be devised to aid preëmptors of the public domain to an extension of time for the payment of their lands.

By a recent decision of the Secretary of the Interior, a large number of the settlers of the State of Nebraska will be compelled to make payment on the 1st day of July next. This decision will work a great wrong and injustice, from the fact that while a large number must pay for their lands on the date above set forth, others, who by a month's delay in making their preëmptions, gain twenty months longer to perfect their claims.

Your memorialists further represent, that a uniform time to perfect each preëmption be enacted, instead of a given date for a large number, viz, the first day of July next, to make the payments for their lands; and still further, that the preëmption laws be so amended as to grant to preëmptors three years from date of filing to make payments therefor; said amendment not to extend to persons whose filings shall have been made three years prior to the first day of July, 1871.

Therefore, your memorialists ask that Congress will move speedily in the matter and grant the relief shown necessary by the above facts, inasmuch as a large number of worthy and industrious citizens will be dispossessed of their homes and preëmptions, unless an extension of time be granted them.

Resolved, That the secretary of state is hereby requested to forward a copy of this resolution to each of our Senators and Representatives in Congress.

G. W. COLLINS,
Speaker of the House of Representatives.
E. E. CUNNINGHAM,
President of the Senate.

F. MCDONAGH, *Chief Clerk House of Representatives.*

Approved March 4, 1871.

WM. H. JAMES,
Acting Governor.

STATE OF NEBRASKA,
SECRETARY'S DEPARTMENT.

I, William H. James, secretary of the State of Nebraska, do hereby certify that I have carefully compared the foregoing copy of a memorial and joint resolution, relative to preëmptors, passed by the legislative assembly of this State during the eighth session thereof, and approved by the acting governor the 4th day of March, 1871, with the original rolls on file in this office, and that the same is a true and perfect copy of said memorial and joint resolution.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Nebraska.

Done at Lincoln this 7th day of March, A. D. 1871.

[SEAL.] WM. H. JAMES,
Secretary of State.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 20.

RESOLUTION

OF

THE LEGISLATURE OF WEST VIRGINIA,

IN FAVOR OF

The removal of the political disabilities imposed by the fourteenth article of amendments to the Constitution.

MARCH 18, 1871.—Referred to the Select Committee on the Removal of Political Disabilities, and ordered to be printed.

Resolved by the legislature of West Virginia: First. That the Senators in the Congress of the United States from this State be instructed, and the Representatives thereof requested, to introduce, advocate, and vote for a bill to remove all disabilities imposed by the third section of the fourteenth amendment to the Constitution of the United States.

Second. That a copy of these resolutions be transmitted by his excellency, the governor of the State, to each of our Senators and Representatives, with a request that they be laid before the Senate and House of Representatives.

Adopted January 18, 1871.

I, W. T. Burdett, clerk of the house of delegates, and as such, keeper of the rolls, hereby certify that the foregoing is a true copy, as appears from the records of my office, of joint resolution No. 3, adopted January 18, 1871.

W. T. BURDETT,
Clerk House of Delegates, and Keeper of the Rolls.

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MEMORIAL

OF

THE LEGISLATURE OF NEBRASKA,

ASKING

The establishment of certain mail routes in that State.

MARCH 18, 1871.—Referred to the Committee on Post Offices and Post Roads and ordered to be printed.

To the Senate and House of Representatives of the United States:

Your memorialists, the legislature of the State of Nebraska, would respectfully represent that there are regular daily mails coming into Frémont, Nebraska, from three directions by railroad, and that there is now completed another railroad from Frémont up the Elkhorn Valley, about fifty miles, over which daily trains run, and which has never been made a mail route; that is, the Frémont, Elkhorn, and Missouri Valley Railroad.

Therefore your memorialists respectfully ask your honorable body to establish a mail route on said line of railroad from Frémont to Wisner, and from Wisner, via Fairfield and Santee City, to Niobrara; also from Hooper, on said railroad, via the valleys of Logan and Omaha Creeks, to Covington, all in Nebraska; and direct that daily service be put on said routes immediately.

Be it resolved by the legislature of the State of Nebraska, That our Senators and Representative in Congress be respectfully requested to press the objects of this memorial to an early and favorable decision by Congress, and the secretary of state furnish them with copies of this memorial.

G. W. COLLINS,
Speaker of the House of Representatives.
E. E. CUNNINGHAM,
President of the Senate.

Approved March 7, 1871.

WM. H. JAMES,
Acting Governor.

F. M. MCDONAGH,
Chief Clerk House of Representatives.

STATE OF NEBRASKA, *Secretary's Department:*

I, William H. James, secretary of the State of Nebraska, do hereby certify that I have carefully compared the foregoing copy of memorial and joint resolution relative to certain mail routes, passed by the legislative

assembly of this State during the eighth session thereof, and approved by the governor the 7th day of March, 1871, with the original rolls on file in this office, and that the same is a true and perfect copy of said memorial and joint resolution.

In testimony whereof, I have hereunto set my hand and affixed the great seal of the State of Nebraska.

Done at Lincoln this 9th day of March, A. D. 1871.

[SEAL.] WM. H. JAMES,
Secretary of State.

42D CONGRESS, 1st Session. SENATE. MIS. DOC. No. 22.

RESOLUTION

OF

THE LEGISLATURE OF MASSACHUSETTS

IN FAVOR OF

The repeal of the duties on coal.

MARCH 18, 1871.—Ordered to lie on the table and be printed.

COMMONWEALTH OF MASSACHUSETTS.—IN THE YEAR ONE THOUSAND EIGHT HUNDRED AND SEVENTY-ONE.

RESOLUTION in relation to the repeal of duties on coal.

Resolved, That the legislature of Massachusetts hereby request the Senators and Representatives in the Congress of the United States to take such measures as they may deem expedient for the repeal of the present laws by which a duty is laid on imported coal, and for the relief of the poorer portions of the community from the extortions of the various mining agencies of the country.

Resolved, That his excellency the governor be requested to forward a copy of the foregoing to each of the Senators and Representatives in Congress from this commonwealth.

SENATE, *February* 28, 1871.

Passed. Sent down for concurrence.

S. N. GIFFORD, *Clerk*.

HOUSE OF REPRESENTATIVES,
March 7, 1871.

Passed in concurrence.

W. S. ROBINSON, *Clerk*.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 23.

RESOLUTION

OF

THE LEGISLATURE OF PENNSYLVANIA,

IN FAVOR OF

Additional legislation for the protection of emigrants in this country.

March 18, 1871.—Referred to the Committee on Commerce and ordered to be printed.

Whereas the people of the United States have invited, and will cordially welcome, the people of other lands to come among them and join in the exercise of all the rights and privileges of American citizenship; and whereas, justice, patriotism, and philanthrophy demand the interposition of enlightened public sentiment and law for the protection of the rights and interests of all those who seek homes within our borders; and whereas, immigration is eminently a question of national concern, upon the proper protection care and culture of which largely depends our future progress and prosperity, and the fullest development of our national resources; therefore,

Be it resolved, That additional lesislation and a more rigid enforcement of existing laws on the subject of immigration are necessary to prevent abuses and frauds and protect the true interests of the immigrant while in transit to his destination, and to this end appropriate legislation is demanded of the Federal Government.

Resolved, That his excellency the governor be requested to transmit copies of the foregoing preamble and resolution to the Senators and Representatives of Pennsylvania in Congress, and that they be requested to aid in the enactment of such laws as will secure to the immigrant that protection, while in transit, which the Government provides for its own citizens.

JAMES H. WEBB,
Speaker of the House of Representatives.
WILLIAM A. WALLACE,
Speaker of the Senate.

Approved the fifteenth day of March, anno Domini one thousand eight hundred and seventy-one.

JNO. W. GEARY.

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42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 24.

BRIEF

OF

PROTESTANTS IN THE CASE OF FOSTER BLODGETT,

CLAIMING

To be a Senator-elect from the State of Georgia.

MARCH 20, 1871.—Ordered to be printed.

Since July, 1866, the States have been required to elect Senators in conformity with the following law of Congress:

The legislature of each State which shall be chosen next preceding the expiration of the time for which any Senator was elected to represent said State in Congress shall, on the second Tuesday after the meeting and organization thereof, proceed to elect a Senator in Congress in the place of such Senator so going out of office.—(Brightly's Digest, Laws of the United States, page 130.)

Mr. Foster Blodgett was not legally elected, because—

1. The election was not held in accordance with the law; in that, the legislature was not the body chosen next preceding the expiration of the time for which said Blodgett was elected to represent said State in Congress. The legislature that elected him was elected in 1868; and another legislature was chosen in December, 1870, both previous to the occurrence of the vacancy. Upon this last legislature under the law, devolves the duty of electing the Senator.

2. At the time said Blodgett was elected, the constitution of said State required that the legislature to be elected in the fall of 1870 should assemble on the second Wednesday in January, 1871, prior to the occurrence of the vacancy, but the day of meeting was wrongfully changed to November, 1871, with a view of creating a pretended necessity for an election of Senator by the old legislature. This change was not made until after the election of said Blodgett, thereby, by a mere trick, defeating an expression of the voice of the people in accordance with the laws of the United States.

3. Said Blodgett was not elected at the time required by law; in that he was not elected on the second Tuesday after the meeting and organization of the legislature chosen next preceding the 4th of March, 1871, the expiration of the time for which Hon. H. V. M. Miller was elected, whose successor said Blodgett claims to be.

4. The election is furthermore illegal in this: that at the time said Blodgett was elected, a quorum of the house of representatives of said general assembly was not present, as is shown by the journals of that body.

5. That the legislature which elected said Blodgett was not legally organized.

6. That he resorted to bribery to secure his election.

At the time the bill regulating the election of Senators was under consideration in the Senate, those Senators who discussed the question held that, if it became a law, a legislature would be compelled to elect a Senator in the mode prescribed.

Senator Sherman, of Ohio, said:

If we pass this bill a legislature could only elect a Senator in the mode prescribed, because this bill will be passed in pursuance of an express provision of the Constitution, and when we step in and prescribe the mode of electing a Senator, the legislature has no right to vary that mode. * * * (See Congressional Globe, 1st session, 39th Congress, part 4, page 3731.)

Senator Johnson, of Maryland, said:

They (the States) have, however, adopted no uniform rule, and we have seen, upon more than one occasion, the embarrassment consequent upon the absence of a uniform rule. It was illustrated in the recent case of the gentleman who supposed himself to be a Senator from the State of New Jersey. * * * The bill proposes to adopt a uniform rule; it places it out of the power of the States to adopt any other; and not only that, but it makes it the imperative duty of the States to elect according to the prescribed rule. * * * As has already been said, there can be no doubt about the authority to pass the bill before the Senate, and I have no doubt that the framers of the Constitution anticipated as very possible that the time would come when it would become necessary to interfere in this matter. They would not have made the provision except on account of an anticipation that the necessity for its exercise would subsequently arise. They therefore said in the Constitution, "The times, places, and manner of holding elections for Senators shall be prescribed in each State by the legislature thereof, but the Congress may at any time by law make or alter such regulations except as to the place of choosing Senators." * * *

Why put that provision in the Constitution? Is it not obvious that it was inserted for the purpose of accomplishing some uniform regulation? * * * (Congressional Globe, same as above, page 3732.)

Senator Guthrie, of Kentucky, said:

Mr. President. I believe the Constitution provides that we may pass such a law as this, in order to produce uniformity in the mode of electing Senators to this body; and, therefore, I can see no constitutional objection to the legislation proposed. (Congressional Globe, same as above, page 3730.)

The views expressed by these distinguished Senators were held by all who discussed the question. An election not held in conformity with this law is illegal and therefore void. It was so held by the Senate in the case of Mr. Hart, of Florida, claiming a seat in the Senate from the State of Florida for the term which commenced March 4, 1869. The Judiciary Committee reported that—

The object of the act of Congress was to insure the election of Senators by the proper legislature, and to fix a time when proceedings for that purpose should be commenced and continued till the elections were effected. (Senate Report No. 101, 41st Congress, 2d session.)

The legislature by which Mr. Blodgett was elected was not the one chosen next preceding the term which would commence on the 4th of March, 1871, and was not, therefore, the proper legislature to elect.

These facts are admitted by Mr. Blodgett. The legislature that elected him was chosen in April, 1868. He was elected on the 15th day of February, 1870. Subsequently, to wit, on the 20th, 21st, and 22d days of December, 1870, another legislature was elected, but the first session does not meet until the first Wednesday in November, 1871. It is claimed by Mr. Blodgett that, in contemplation of law, the legislature is not *chosen* until it *meets and organizes*. Webster and Worcester both define the word "choose" to mean the same as "to elect." Webster's definition is—

To elect, or designate to office by votes or suffrages. In the United States the people choose representatives by votes, usually by ballot.

The people of Georgia, by ballot, chose or elected a legislature in December last, and it is submitted that it is the legislature "*chosen*" or *elected* next preceding the time for which Mr. Blodgett was elected. The legislature is chosen when the people cast their ballots, and the meeting and organization has nothing to do with the *election* of the legislature. The election is the act of the people; the organization, the act of the representatives. The law itself clearly makes a distinction between the election and organization of a legislature.

The Constitution of the United States, article 1, section 1, provides that "the House of Representatives shall be composed of members *chosen* every second year by the people of the several States." It will not be denied that these Representatives are *chosen* when the people cast their ballots for them. Whenever the word "chosen" is used in the Constitution, it is synonymous with election, and refers to the action of the people in electing officers.

It is admitted that if the legislature elected in December last had met and organized prior to the 4th of March it would be the proper legislature to elect a Senator for the term commencing on that day. It is also admitted that when Mr. Blodgett was elected the constitution of Georgia provided that the legislature should meet on the second Wednesday in January, 1871; but that subsequent to his election, to wit, on the 25th day of October, 1870, the time for the annual meeting of the legislature was changed to the first Wednesday in November of each and every year, beginning with the year 1871. And it was provided that there should be no annual meeting, after the adjournment of the session of 1870, until November, 1871, thus preventing the legislature to be elected in December, 1870, from meeting until November, 1871, and thus preventing the legislature chosen in December, 1870, from electing a Senator for the term commencing on the 4th of March, 1871, until November next.

The meeting of the legislature was postponed from January, 1871, till November, 1871, for the purpose of excusing a previous election of a Senator by the old legislature. This was done through the influence of Foster Blodgett and his assistants, aided by the governor of the State, and the result was accomplished by force, fraud, and corruption. The legislature that elected Blodgett and afterward postponed the meeting of the legislature to be elected in December, 1870, was illegally organized by the friends of Blodgett. Under his direction they resorted to revolutionary means to accomplish their purposes. Legally elected members, who could take the required oath, were wrongfully prevented from doing so. Persons not elected by the people, and not entitled to seats, were permitted to act as members of the legislature. One of the objects sought to be accomplished by Blodgett and his confederates, by their revolutionary acts, was to secure his election to the United States Senate.

It will be remembered that members of the Georgia legislature protested against the illegal manner in which that body was reorganized under the act of December 22, 1869; and that the Judiciary Committee of the Senate was instructed to inquire and report to the Senate whether said legislature had been reorganized in accordance with said act. (See Senate Report No. 58, 41st Congress, 2d session.)

It will establish a dangerous precedent to decide in favor of the right of Blodgett to a seat in the Senate.

The Judiciary Committee in the case of Mr. Hart, of Florida, referred to above, say that "the object of the act of Congress was to *insure* the election of Senators by the proper legislature." If one legislature, by postponing the meeting of the first session of the legislature to be elected

immediately preceding the commencement of a senatorial term, may thus defeat the right of that legislature to elect a Senator, it follows that the act of Congress does not insure the election of a Senator by any particular legislature. If the Senate shall seat Mr. Blodgett, the legislature of New York, now democratic, may postpone the first session of the next legislature and elect a successor to Mr. Conkling. The legislatures of North Carolina, Alabama, Oregon, and Georgia, now democratic, may thus elect successors to the republican Senators now representing those States, although the republicans will probably control those States in 1872. In other words, if the sessions are held as now provided by law, the legislatures to be elected in 1872 will have the legal right to elect Senators to represent those States in Congress for the term commencing March 4, 1873; but if the time for the first meeting of the legislature to be elected in 1872 is changed, the present legislatures will have the right to elect the Senators for that term. Therefore, the law does not decide which is the proper legislature to elect; that depends upon the legislatures themselves. To state the proposition is to show its absurdity.

If the legislature of Georgia, elected in 1868, had the right to elect a Senator for the term commencing on the 4th of March, 1871, Mr. Blodgett is not entitled to the seat, for he was not elected at the time required by law.

In the case of Mr. Hart, already referred to, it was decided that the object of the act of Congress was "to fix a time when proceedings for the election of Senators should be commenced and continued till the elections were effected."

The legislature of Georgia which elected Mr. Blodgett was organized July 18, 1868. On the second Tuesday after the organization, Messrs. Hill and Miller were elected to represent the State in the United States Senate, the former for the term ending March 3, 1873, and the latter for the term ending March 3, 1871.

If that legislature had the right to elect a Senator for the term commencing March 4, 1871, he should have been elected at the time Messrs. Hill and Miller were elected. That question has been settled by the Senate. Blodgett was not elected until February, 1870.

If Blodgett was elected by the proper legislature, and at the session required by law, he was not elected on the second Tuesday after the organization of the legislature. The Georgia house of representatives completed its reorganization on Friday, January 28, 1870, and the senate on Monday, January 31st. Blodgett was elected on the 15th day of February, the *third* Tuesday after the organization of the legislature. (See Journal of Georgia House of Representatives, session 1870, pages 33, 34, 43, and 47.)

The constitution of Georgia provides that the house of representatives of that State shall consist of one hundred and seventy-five members, and the senate of forty-four members. It further provides that a majority of each house shall constitute a quorum to transact business. At the election in April, 1868, one hundred and seventy-three members of the house were elected. But eighty-six members were present in the house of representatives when Blodgett was elected. (See Journal of House, pages 90, 91.)

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42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 25.

LETTER

OF

THE GOVERNOR OF RHODE ISLAND,

PRESENTING

To Congress a statue of Roger Williams.

MARCH 20, 1871.—Referred to the Committee on Public Buildings and Grounds and ordered to be printed.

STATE OF RHODE ISLAND, EXECUTIVE DEPARTMENT,
Providence, March 3, 1871.

SIR: In compliance with a resolution of Congress, passed July 2, 1864, inviting each State to furnish, for the old hall of the House of Representatives, two full-length marble statues of "deceased persons who have been citizens thereof, and illustrious for their historic renown, from distinguished civic or military services, such as each State shall determine to be worthy of national commemoration," the State of Rhode Island, by a vote of its general assembly, has caused two statues to be made.

The first of these, a statue of Major General Greene, was put in the place assigned to it in January, 1870. The other, a statue of Roger Williams, the founder of the State, and the first promulgator of the doctrine of liberty of conscience in religious matter, has been finished and transmitted to Washington.

With high respect, I have the honor to remain your most obedient servant,

SETH PADELFORD,
Governor of the State of Rhode Island.

The PRESIDENT OF THE SENATE OF THE UNITED STATES,
Washington, D. C.

o

RESOLUTION.

OF

THE LEGISLATURE OF MINNESOTA,

ASKING

An amendment to the homestead act.

MARCH 20, 1871.—Referred to the Committee on Public Lands and ordered to be printed.

Whereas by the terms of the homestead act of the 20th of May, 1862, persons availing themselves of its benefits are required to appear personally before the register and the receiver of the land office, and file the affidavit required by the second section of that act, and are required thereafter to reside continuously on said land for five years, with the provision that upon an absence of six months therefrom the settler will forfeit his title thereto; and whereas as a matter of universal experience in this climate, the emigrant arriving in the spring or early summer can raise no crops for the first year, from the fact that the prairie sod must be broken in the months of June and July, and then must be allowed to lie through the winter and rot before it is in a condition to raise crops, and that consequently it generally happens that, from inability to break his land at the proper time the first year, the emigrant must wait two years or two years and a half before he can realize any returns from the soil, during all which time he must support his family from the little fund he brought with him; and whereas if the provisions of the homestead act were so modified that any person desirous of availing himself of its provisions might be permitted to make his affidavit in any court of record in the county where he resides, and to file it by an agent with the register and the receiver of the land office, and in lieu of personal residence on the land for the first year, if he were permitted, either in person or by an agent, to locate his homestead and prepare a certain quantity of land thereon ready for putting in his crops, and to build a house thereon for the reception of his family, this arrangement would do away with the great hardships, privations, and expenses which are now generally incurred by the unassisted pioneer in settling his homestead, and would at the same time greatly facilitate the settlement of the public lands and promote immigration and the development of the country: Now, therefore,

Be it resolved by the legislature of the State of Minnesota, That our Senators and Representatives be, and are hereby, requested to use their best endeavors to obtain such an amendment of the homestead act, as far as it applies to Minnesota and the Territories in the same latitude, as will allow of the making of the required affidavit in any court of record, and the location, cultivation, and improvement of homestead

lands without actual residence thereon for the first of the five years in which a continuous residence is required.

WILLIAM H. YALE,
President of the Senate.
JOHN L. MERRIAM,
Speaker of the House of Representatives.

Approved February 24, 1871.

HORACE AUSTIN,
Governor.

STATE OF MINNESOTA,
Office of the Secretary of State:

I certify the foregoing to be a true and correct copy of the original on file in this office.

Witness my hand and the great seal of state this the 16th day of March, A. D. 1871.

[SEAL.]

H. MATTSON,
Secretary of State.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 27.

MEMORIAL

OF

THE LEGISLATURE OF MINNESOTA,

IN FAVOR OF

The extension of the jurisdiction of the Light-House Board over the Mississippi, Missouri, and Ohio Rivers.

MARCH 20, 1871.—Referred to the Committee on Commerce and ordered to be printed.

Your memorialist, the legislature of the State of Minnesota, in view of the great and rapidly increasing commerce of the Mississippi, Missouri, and Ohio Rivers, and the great and pressing necessity of having placed thereon lights, buoys, channel marks, &c., for the safe navigation of said rivers, would respectfully pray the Congress of the United States to enact a law extending the jurisdiction of the Light-House Board so as to include the Mississippi River from St. Paul to its mouth, the Missouri River from Sioux City to its mouth, and the Ohio River from Pittsburg to its mouth, and requiring said board to take the proper means to supply these rivers with such lights, buoys, channel marks, and other aids to navigation as may be necessary for the security of commerce, and appropriate money to carry out the same.

WILLIAM H. YALE,
President of the Senate.
JOHN L. MERRIAM,
Speaker of the House of Representatives.

Approved March 1, 1871.

HORACE AUSTIN,
Governor.

STATE OF MINNESOTA,
Office of the Secretary of State:

I certify the foregoing to be a true and correct copy of the original on file in this office.

Witness my hand and the great seal of State this the 16th day of March, A.D. 1871.

[SEAL.]

H. MATTSON,
Secretary of State.

O

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 28.

MEMORIAL

OF

THE LEGISLATURE OF MINNESOTA,

IN FAVOR OF

Granting additional bounties to soldiers enlisted in 1861 and 1862 and discharged before serving two years.

MARCH 20, 1871.—Referred to the Committee on Military Affairs and ordered to be printed.

To the Senate and House of Representatives of the United States:

The legislature of the State of Minnesota respectfully represent to the Congress of the United States that, under existing laws, that class of soldiers who enlisted during the years 1861 and 1862, and were discharged for reasons other than wounds or injuries received while in the line of duty, before serving two years, are denied the benefits accruing under an act of Congress approved July 28, 1866, granting additional bounties to honorably discharged soldiers.

Your memorialists would further represent that this class of soldiers were among the first to respond to the call of the Government for volunteers, and were actuated by patriotic impulses alone to take up arms in the defense of the nation; that their enlistments occurred prior to the payment by local authorities and the General Government of high bounties; that many of them were discharged by reason of sickness contracted in the service, and that the law discriminates unjustly against them; that, on the whole, they deserve from the nation a just recognition of their services.

Your memorialists, therefore, especially urge such an amendment to the bounty law as will grant to this class of soldiers the same bounties as are granted under the additional bounty act to soldiers who have served two years.

WILLIAM H. YALE,
President of the Senate.
JOHN L. MERRIAM,
Speaker of the House of Representatives.

Approved February 25, 1871.

HORACE AUSTIN,
Governor.

STATE OF MINNESOTA,
Office of the Secretary of State:

I certify the foregoing to be a true and correct copy of the original on file in this office.

Witness my hand and the great seal of state this the 16th day of March, A. D. 1871.

[SEAL.]

H. MATTSON,
Secretary of State.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 29.

IN THE SENATE OF THE UNITED STATES.

MARCH 21, 1871. - Ordered to be printed.

RESOLUTION

FOR

The appointment of a joint committee to inquire into the condition of the late insurrectionary States.

IN THE SENATE OF THE UNITED STATES,
March 17, 1871.

Resolved by the Senate of the United States, (the House of Representatives concurring,) That a joint committee, consisting of seven Senators and nine Representatives, be appointed, whose duty it shall be to inquire into the condition of the late insurrectionary States so far as regards the execution of the laws and the safety of the lives and property of citizens of the United States, with leave to report at any time the result of their investigation to the two Houses of Congress, with such recommendations as they may deem expedient; that said committee be authorized to employ clerks and stenographers, to sit during the recess, to send for persons and papers, to take testimony, and to visit at their discretion, through sub-committees, any portions of said States during the recess of Congress, and to print and make public from time to time during the recess, the results of their investigations; and the expenses of said committee shall be paid out of the contingent funds of the two Houses of Congress.

Attest:

GEO. C. GORHAM, *Secretary*,
By W. J. MCDONALD, *Chief Clerk*.

IN THE HOUSE OF REPRESENTATIVES, U. S.,
March 20, 1871.

Resolved, That the House of Representatives agree to the foregoing resolution, with the following amendment:

Strike out all after the word "That," and insert as follows: "a joint committee consisting of seven Senators and fourteen Representatives be appointed, whose duty it shall be to inquire into the condition of the late insurrectionary States so far as regards the execution of the laws and the safety of the lives and property of the citizens of the United States, with leave to report, at any time during the next or any subsequent session of Congress, the result of their investigation to either or both Houses of Congress, with such recommendations as they may deem expedient; that said committee be authorized to employ

clerks and stenographers, to sit during the recess, to send for persons and papers, to administer oaths and take testimony, and to visit at their discretion, through sub-committees, any portions of said States during the recess of Congress; and the expenses of said committee shall be paid out of the contingent fund of the Senate, upon vouchers approved by the chairman of said committee."

Attest:

EDW. McPHERSON, *Clerk.*

AMENDMENT

Proposed by Mr. ANTHONY to the amendment of the House of Representatives.

After the word "Congress," where it last occurs in the amendment of the House, insert: *And to print and make public from time to time, during the recess, the results of their investigations.*

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MEMORIAL

OF

JOHN E. BRYANT,

PROTESTING

Against the admission of Foster Blodgett to a seat in the Senate.

MARCH 21, 1871.—Ordered to lie on the table and be printed.

To the honorable the Senate of the United States:

The undersigned, a citizen of the State of Georgia, and a member of the late general assembly of that State, begs leave respectfully to protest against the admission of Foster Blodgett, esq., to a seat in your honorable body, as a Senator from the State of Georgia, for the following reasons in addition to those given in a memorial signed by Milton A. Candler, esq., and other citizens of Georgia, which has been presented to the Senate:

1. Said Blodgett was not elected at the time required by law, in that he was not elected on the second Tuesday after the meeting and organization of the legislature chosen next preceding the commencement of the term for which he was elected; but he was elected on the third Tuesday after the reorganization of the legislature chosen in 1868, and at the third session of said legislature.

2. The legislature which elected said Blodgett was not legally organized, and it was composed, to a great extent, of men who were not elected by the people, but who secured seats in that body by force, fraud, and revolutionary means, of the most disgraceful character. This result was accomplished by one of the most infamous conspiracies ever organized in this country, and second only to the attempt to destroy the Government of the United States. One of the objects sought to be accomplished was, I believe, to elect said Foster Blodgett United States Senator, and it was well understood in Georgia that said Blodgett was the leader of the conspiracy. All of which I am, I believe, prepared to prove.

3. He resorted to bribery to secure his election.

4. His election being illegal, I further respectfully protest against h s being seated on account of his well-known bad character; believing that it would be a disgrace to the State of Georgia, and to the United States Senate, to allow him to occupy a seat in your honorable body.

I was present and witnessed the reorganization of the Georgia legislature under the act of Congress of December 22, 1869. I believe the means resorted to by Blodgett and his associates to reorganize that legislature in his interest were the most disgraceful ever before witnessed in a legislative body in this country.

At that time Blodgett was superintendent of the Western and

Atlantic Railroad, a road belonging to the State of Georgia, and at that time under the exclusive control of the governor, over whom Blodgett had a mysterious but powerful influence. A man named Harris, an officer on the "State road," was appointed by the governor, in violation of the act of Congress, to act as secretary *pro tem.* during the organization of the legislature. This man assumed arbitrary power. He dictated to members duly elected, both before and after they took the required oath, and prevented them from taking part in the organization except as he commanded. The object to be gained was evidently to prevent as many persons opposed to the schemes of said Blodgett as possible from taking the oath required by the act of Congress under which the legislature was reorganized, and put in their places the men having the next highest number of votes, most of whom were known to be friendly to said Blodgett. The legislature legally organized would contain a majority of republicans in each house; but it was known that many republicans would oppose the schemes of Blodgett, and it was necessary to turn out enough members who were opposed to him to overcome the votes of these republicans. That result could not be legally accomplished, and it was, therefore, necessary to resort to revolutionary means. The conspiracy was admirably planned and executed. It was all done in the name of loyalty. Harris was probably the best man Blodgett could have selected in the State to perform the part assigned him. The attorney general of the State, at the request of the governor, gave an opinion in regard to the eligibility of members of the legislature under the act of December, 1869, which was not considered a correct construction of the law by many of the ablest republican lawyers of the State. Many thought that the object of the attorney general was to aid Blodgett in preventing members who were entitled to take the required oath from doing so. This opinion was printed and copies placed on the desks of members previous to the meeting of the legislature, but on the same day; and a copy was sent to each member from the executive department before they took the required oath. It was the avowed intention of Blodgett and his associates to arrest for perjury any member who should take the oath, if, in the opinion of the attorney general of the State, he was ineligible; although it was well known that a majority of the judges of the supreme court of the State did not agree with the attorney general in his construction of the law. It was ascertained by the conspirators that most of the members, having consulted some of the ablest republican lawyers in the State, including two of the judges of the supreme court, would disregard the opinion of the attorney general, act upon the advice of these lawyers, and take the oath. An appeal was therefore made to the general commanding the military district to interfere in the organization of the legislature. He was asked by these conspirators to aid the loyal people of the State; and deceived by these bad men, he did, by military orders in violation of the act of Congress, interfere. He decided who were entitled to seats, and who should and who should not take the required oath, and act as members of the legislature. Aided by a general of the Union Army, these bold, bad men were victorious.

When the legislature met on the 10th of January, Harris, the "State road" official, not a member or officer of the legislature, but a tool of Blodgett, assumed the right to call the members to order. Some of the members protested against this usurpation of power, and disputed the right of this man thus to dictate to them in the organization of a body to which he did not belong. An attempt was

made by the members to elect a speaker *pro tem.*, but they were prevented from doing so by Harris and his associates, some of whom, not members or officers of the legislature, drew pistols and threatened to shoot duly elected members if they did not obey the commands of Harris. The most disgraceful means were resorted to by these usurpers to prevent men who were opposed to their schemes from taking the oath. As this attempt to organize the legislature by force and fraud was being made, Foster Blodgett sat near Harris, who held office on the State road under him, evidently controlling his actions, and himself directing the whole proceedings. At that moment Blodgett was under indictment for perjury in the United States court, and, perhaps, (?) for that reason he was anxious that other men should not be similarly situated.

The usurpers were victorious. The legislature was organized as they desired. Members were intimidated and prevented from taking their seats, and men, not elected by the people, seated in their places to give Blodgett and his friends control of the legislature. I refer you, respectfully, to the statements of M. J. Crawford, John C. Drake, and J. H. Penland, marked Exhibit A, bond C, respectively presented with this memorial. Mr. Crawford says that he believes he could take the required oath, but that he was told "one Blodgett had the papers in my case in his possession ready for me if I took the oath." Mr. Drake says that he was prevented from taking the oath by threats, but he was informed if he would vote for Foster Blodgett for United States Senator that everything would be made right, and he could retain his seat. These statements were made under oath.

The legislature, thus organized, elected said Blodgett United States Senator, and postponed the first session of the legislature to be elected in December, 1870.

As every provision of the law of Congress regulating the election of Senators was clearly violated in the election of said Blodgett as Senator; and as the facts can be established by undoubted proof that can be immediately presented to your honorable body, I further respectfully protest against his admission to a seat in the Senate, until his case has been investigated, because to seat him would be a disgrace to the State of Georgia, to the Senate, and to the Republic itself.

At the commencement of the late war Blodgett voluntarily raised a company called in honor (?) of himself the Blodgett Volunteers. He entered the rebel army as captain of that company. Soon after the close of the war, and before his disabilities were removed, he took the test oath to get an office, upon which oath was predicated an indictment for perjury in the United States district court. The indictment was found by a grand jury of Union men, all of whom took the test oath, and all, or nearly all, of whom were northern men and republicans.

He succeeded in various ways, and by excuses known to lawyers, in postponing a trial for several terms and until the man before whom the oath was taken was dead, and *some one had stolen the oath which had been on file in the Post Office Department.* Then he demanded a trial, and as the district attorney was unable to *prove* that he had taken the oath, although it was well known that he had done so, he was acquitted, *thus by a trick escaping the penitentiary.* By such means as are described above he has secured an election as United States Senator.

Your attention is respectfully called to the following affidavits made by citizens of Augusta, Georgia, who are known to be gentlemen of truth. The originals are on file in the office of the Commissioner of Internal Revenue:

STATE OF GEORGIA, *Richmond County:*

Personally appeared Alexander Phillip, who, being duly sworn, deposeth and saith that, on or about the 17th day of April, in the year 1861, he, as a justice of the peace, was requested by Foster Blodgett to preside at an election to be held for officers of a company styled the "Blodgett Volunteers," about entering the service of the Confederate States; that at said election he (Foster Blodgett) was elected captain; that said company left Augusta, in said county, on or about the 28th day of April in said year, with orders to organize with the Third Georgia Regiment in Virginia. At the election for officers of the said regiment said Foster Blodgett was a candidate for major, and used great energy to be elected, but was, however, defeated. He (the said Foster Blodgett) with his company remained with said regiment at Portsmouth, Virginia, until the latter part of August or beginning of September of said year, when his company was transferred and ordered to report at Richmond. I asked him the reason for desiring the transfer. He informed me that he "thought the colonel (A. R. Wright) was a coward, and would not be willing to go into a fight; that, for his part, he wished the war carried on vigorously, and the damned Yankees driven out of the South." I saw but little of Captain Blodgett after he left the regiment until his return to Augusta, Georgia, in 1865, he then being appointed postmaster. I entered the confederate service as second lieutenant in Company G of said Third Regiment, but was, upon the organization of the regiment, appointed quartermaster, and held that position in said regiment until about the 1st of September, 1864. We all entered the service *voluntarily*. There was no coercion used to get any one into the service at that time, for there were more volunteers offering than could be accepted.

ALEXANDER PHILLIP.

Sworn to and subscribed before me this 24th day of April, 1869.

W. MILO OLIN, *J. P.*

STATE OF GEORGIA, *Richmond County:*

Personally appeared J. L. Ells, who, after being duly sworn, deposeth and saith that in the year of our Lord 1861 he volunteered to serve in the Third Regiment of Georgia Volunteers; that he was first sergeant of Company G of the aforesaid regiment; that the regiment was thoroughly organized in Portsmouth, Virginia, early in the month of May, in the year aforesaid, by the election of field officers. At that election Foster Blodgett, then captain of Company I, otherwise called the "Blodgett Volunteers," was a candidate for major, but was defeated by A. H. Lee, captain of Company H. The said Foster Blodgett, with his company, continued to perform military duty in the said Third Regiment of Georgia Volunteers, until some time early in the month of August of the year aforesaid, at which time he and his command were transferred to another arm of the service. Deponent further says that the Third Georgia Regiment aforesaid was composed entirely of volunteers until subsequent to the 16th day of April, in the year of our Lord 1862. Deponent further testifies that he has made oath to substantially the same fact herein contained before a grand jury, in the United States court, in the city of Savannah, in the State of Georgia, in the latter part of the year of our Lord 1867, which grand jury returned a true bill of indictment against the said Foster Blodgett for perjury.

JOHN L. ELLS.

Sworn to and subscribed before me this 23d day of April, 1869.

W. MILO OLIN, *J. P.*

STATE OF GEORGIA, *Richmond County:*

Personally appeared James A. Bennett, who, after being duly sworn, deposeth and saith that in the year 1861, in the month of April, Foster Blodgett, John Harper, himself, and one or two others organized a volunteer company in the city of Augusta, county aforesaid; that said Foster Blodgett was very energetic in getting up the same—electioneered and was elected captain of the same, ("the Blodgett Volunteers;") that said company was mustered into the service of the Confederate States on the 27th of said month, and left for Virginia on the following day, with orders to organize with the Third Georgia Regiment at Portsmouth; said regiment was ordered to elect field officers, and that said Foster Blodgett opposed and ran against one A. H. Lee for the office of major of said regiment, and used his best endeavors to obtain his election, but was defeated; that at the expiration of the year for which said company went into service they reorganized, when said Foster Blodgett tried very hard to be reëlected captain, but on failing, returned home. Deponent says that said Foster Blodgett, in getting up said company, in running for major as aforesaid, and in running for captain again, did so freely and voluntarily, as there was no compulsion, coercion, or influence

to bear on him; that he persuaded most of the members to join said company, and that after arriving in Virginia he returned home, in Augusta, and obtained about thirty more recruits. Deponent further says that about the middle of April, in the year 1861, said Foster Blodgett had just been defeated by a very small majority for the office of mayor of said city; that he told deponent that he desired the office that he might be the first southern mayor to take a company into the service, or words to that effect.

JAMES A. BENNETT.

Sworn to and subscribed before me this 23d day of April, 1869.

W. MILO OLIN, *J. P.*

STATE OF GEORGIA, *Richmond County:*

Personally appeared William W. King, who, being duly sworn, deposeth and saith that shortly after Foster Blodgett's defeat by a small majority for a reëlection to the office of mayor of the city of Augusta, in said county, in the month of April, in the year 1861, said Foster Blodgett stated to him that he was very sorry deponent had not supported him; that he had desired to be the first southern mayor to take a company into service, or words to that effect.

WILLIAM W. KING.

Sworn to and subscribed before me this 23d day of April, 1869.

W. MILO OLIN, *J. P.*

STATE OF GEORGIA, *Richmond County:*

Personally appeared James P. Fleming and Daniel B. Thompson, who, after being duly sworn, deposeth and saith that in the year 1861, just before the commencement of hostilities between the Government of the United States and some of the Southern States, there was organized in the city of Augusta, in said county, a vigilance committee, for the declared and avowed purpose among themselves of ridding the community of all who were considered spies, or in any manner opposed to the action of the State of Georgia, then claiming to have been a separate government, and particularly those suspected of residing in said city whose sympathies were with the United States, and that Foster Blodgett, then mayor of the city, was among those (if not the very first man) who organized the same, presiding at and advising with their committees, and on resigning, gave as his reason that he had been advised, as he was mayor of the city, not to remain with said vigilance committee, but assured them that he thought the committee right, and heartily approved of its object; that said Foster Blodgett shortly afterward organized a large company, and went into the service of the Confederate States.

JAMES P. FLEMING.
D. B. THOMPSON.

Sworn to and subscribed before me this 22d day of April, 1869.

ALEX. PHILLIP, *J. P.*,
398th District G. M.

STATE OF GEORGIA, *Richmond County:*

Personally appeared John D. Butt, who, being duly sworn, deposeth and saith that in or about the month of March, 1866, Foster Blodgett, of this city, told him, voluntarily, that he, (the said Foster Blodgett,) who was then postmaster in this city, had never taken the test oath, but that his son (E. F. Blodgett) had taken it in his stead; and from the similarity of names they—meaning the authorities at Washington—did not know the difference; and that he would come out and deny ever having taken the test oath, but that his enemies would make use of it to turn him out of office.

JOHN D. BUTT.

Sworn to and subscribed before me this 23d day of April, 1869.

ALEX. PHILLIP, *J. P.*,
398th district G. M.

STATE OF GEORGIA, *Richmond County:*

Personally appeared before me, a notary public of said State and county, Ker Boyce, who, being duly sworn, deposes and says, on or about the 1st day of April, 1866, a short

time before the election for mayor of the city of Augusta, Mr. James T. Gardner and Mr. Foster Blodgett were candidates for that office; that deponent was frequently asked how he could support said Blodgett for said office, knowing, as he did, that Blodgett was a captain of a company in the Third Georgia Regiment, and, subsequent to the termination of the war, had taken the test oath, in order that he might be appointed postmaster of this place; deponent replied to these constant inquiries, that if it was proved that Blodgett had taken said oath, he would not support him. Deponent then called on said Blodgett, asking if such was the case, and stated that it was a public rumor that he (Blodgett) had taken said oath, and if it was true, deponent would not support him. Mr. Blodgett assured deponent that he had not taken said oath. Deponent then told Blodgett to come out in the daily papers and deny it—that such reports would injure him. Blodgett then said, "If I deny it I will lose my position as postmaster, which is worth more to me than the mayoralty." What Blodgett said satisfied me that he had not taken the test oath. Deponent then said he would support him. Deponent was not aware that he had taken the test oath until his appearance before the grand jury of the United States district court at Savannah, Georgia.

KER BOYCE.

Sworn to and subscribed before me this 24th day of April, 1869.

[SEAL.] ALEX. PHILLIP, *J. P.*,
Richmond County.

STATE OF GEORGIA, *Richmond County:*

Personally appeared George W. Summers, who, being duly sworn, deposeth and saith that in the year 1865, shortly after Foster Blodgett was appointed postmaster, in and for the city of Agusta, he called on said Foster Blodgett and tried to obtain, or rather to get him to sign, a petition to obtain an appointment for a young man by the name of "Moore," when said Blodgett remarked he could not do so if said Moore had ever been in the confederate service. I asked him how he came to occupy the position of postmaster. He replied that he had not taken the test oath.

GEO. W. SUMMERS.

Sworn to and subscribed before me this 23d day of April, 1869.

ALEX. PHILLIP, *J. P.*,
398th District G. M.

STATE OF GEORGIA, *Richmond County:*

I, Ellery M. Brayton, clerk of the superior court of said county, do certify that W. Milo Olin and Alexander Phillip, whose signatures are attached hereto, were, at the time of the signing of the same, justices of the peace, and that Alexander Phillip is now a notary public, duly authorized by law to administer oaths.

Given under my hand and the seal of the superior court this 27th day of April, 1869.

E. M. BRAYTON,
Per F. L. COOPER,
Deputy Clerk, S. C. R. C.

[Seal Sup. Court of R. C.]

STATE OF GEORGIA, *Richmond County, Clerk's Office, Superior Court:*

I, Frederick L. Cooper, deputy clerk of said court, in and for said county, do hereby certify that the foregoing is a true and correct copy of the above affidavits, as taken from the originals.

In testimony whereof I have hereunto set my hand and affixed the seal of said court this 27th day of April, 1869.

F. L. COOPER, *Deputy Clerk.*

[Seal Sup. Court of R. C.]

These affidavits prove that Blodgett, immediately after the commencement of the war, assisted to organize a vigilance committee to murder Union men, (see testimony of James P. Flemming and D. B. Thompson;) that he entered the rebel army voluntarily and joined the Third Georgia Regiment of Volunteers long before the conscription act was passed, and that he succeeded in having his company detached from

that regiment, giving as a reason that he "*thought the colonel (A. R. Wright) was a coward and would not fight; that for his part he wanted the war carried on vigorously and the damned Yankees driven out of the South.*" (See testimony of Alexander Phillip.) With this record still fresh in his mind he took the iron-clad oath.

In January, 1870, he was appointed by Governor Bullock superintendent of the Western and Atlantic Railroad, a road belonging to the State, which at that time was entirely under the control of the Governor. Colonel Hulbert, a distinguished republican, and an able railroad superintendent, was removed, and Mr. Blodgett appointed.

Under the administration of Colonel Hulbert, the road paid into the State treasury twenty-five thousand dollars per month, net earnings. When Blodgett took possession of the road he found in the treasury *one hundred and forty thousand dollars*, the net earnings of the road for September, October, November, and December, which, by direction of the governor, Colonel Hulbert had not paid into the treasury of the State, although by law he was required to do so. Blodgett had charge of the road until the latter part of December, 1870, nearly one year. During that time he paid into the treasury of the State but *forty-five thousand dollars*. In September he asked the general assembly to appropriate *five hundred thousand dollars* to put the road in repair. The real object was, undoubtedly, to pay the debts of the road contracted during his administration. The general assembly refused to make that appropriation, and passed a law requiring the governor to lease the road to a responsible company. The road has been leased to a company composed of distinguished gentlemen, among whom are Ex-Governor Brown of Georgia, for many years governor of that State, under whose management the "State road" was made to pay into the treasury of that State from twenty-five to forty thousand dollars per month, net earnings, and Senator Cameron, of your honorable body, a distinguished railroad man, of great wealth and intelligence. This company agree to pay to the State twenty-five thousand dollars per month for the use of the road twenty years. Blodgett not only paid but forty-five thousand dollars into the treasury in one year, but he run the road in debt to an immense amount, estimated from *five to seven hundred thousand dollars*. The amount is now being determined by a committee appointed by the governor for that purpose. Thus, under the administration of Blodgett, the State lost *one hundred and forty thousand dollars* in the treasury of the road when he took charge of it, *three hundred thousand dollars*, the amount that would have been paid into the treasury of the State if the road had been honestly managed, and *five hundred thousand dollars*, the estimated debt contracted under Blodgett's administration, making a total loss to the State of *nine hundred and forty thousand dollars* in one year. It is charged and believed that this money was *stolen* by Blodgett and his friends. It is charged and believed that some of this money was used to bribe members of the legislature to vote for Blodgett for United States Senator.

The truth of these charges can be substantiated by the public records of the State of Georgia, and confirmed by the testimony of intelligent citizens thereof.

With great reluctance I present this memorial to your honorable body. A sense of duty to my country and to my adopted State alone prompts me to do so

The excuse of the bad men who compose the Ku-Klux Klan in Georgia for the acts of violence which they commit, is, that Blodgett and his associates have violated the laws of the State, and of the United States

with impunity, and have plundered the State of a large amount of money, and that their only remedy is to get control of the State by using force. It is known to every intelligent citizen of Georgia by what means Blodgett secured his election. I believe that if he is now admitted it will be charged by very many persons in that State, and believed by a large majority of the white citizens, that the republican members of the United States Senate have willfully violated the law of Congress to admit a republican Senator, that they may keep control of the Government; that the republican party, when for its interest to do so, will not hesitate to violate any law. I believe that many citizens will be exasperated, and I fear for the result.

Senators: As a loyal citizen of Georgia, a republican, I beg that you will not admit Foster Blodgett to a seat in the Senate unless you are satisfied, after careful investigation, that he has been legally elected. The condition of the loyal people of Georgia is now almost intolerable. I beg that you will not add to our danger unless after careful inquiry you are satisfied that it is your duty to do so. Georgia, as well as other States in the South, is in an unsettled condition. The lives of republicans are in danger in many sections. I beg that you will not exasperate men already desperate by giving even a seeming recognition to the claims of a man so justly odious to all good citizens, by allowing him to occupy a seat in your honorable body even for a few months, when his election, clearly illegal and void, was procured by force, fraud, and bribery

The views expressed above I personally know are held by a large number of the ablest and most influential republican citizens of Georgia; but for various reason we did not desire to take a public position in this controversy. It was not until the report of your Committee on Privileges and Elections was made to the Senate that I decided to do so; therefore, I have not had an opportunity of securing the signatures of the many intelligent republicans who would cheerfully unite with me in this protest.

I am, very respectfully,

J. E. BRYANT,

Late Representative in Georgia Legislature from Richmond County.

WASHINGTON, D. C., *March* 21, 1871.

EXHIBIT A.

STATE OF GEORGIA, *Bartow County:*

Before the subscriber, in person, came M. J. Crawford, of said county and State, and, being duly sworn, deposeth and saith that he is the identical person named in the General Order No. 90, dated Headquarters Third Military District, Department of Georgia, Florida, and Alabama, Atlanta, Georgia, June 25, 1868, issued by order of Major General Meade, signed R. C. Drum, assistant adjutant general, and attested as official, the member elect of the house of representatives of the State of Georgia from said county; that I was qualified as a representative by taking the oath prescribed, and served as such member in the session of the Georgia legislature during the years 1868 and 1869; that I believe myself eligible as a member of the legislature, and fully entitled to my seat, and that opinion was strengthened by the concurring opinions of such eminent jurists as Chief Justice J. E. Brown, Judge Warner, and Judges Irwin, Pope, Parrott, Lockram, and others, lawyers of noted ability, all concurring that I was eligible; that I was deterred from taking the oath required of members by the published opinion of H. P. Farrow, the attorney general of the State, as well as the course pursued by General Terry in ordering those who had taken the oath before a military court. I was told often that I would be prosecuted if I did take the oath as prescribed by Congress, passed December 22, 1869; that one Blodgett had the papers in

my case in his possession ready for me if I took the oath. Also, I was told by a citizen of Atlanta, that he was in the clerk's office of the United States court, and heard the marshal tell the clerk to have the papers ready; that he, the marshal, would call for them that evening to arrest those members who took the oath, contrary to the opinion of Farrow, as published. I was a notary public before the war, and was in the Confederate States service during the war. According to my opinion and the better opinion of more learned men before mentioned, I could administer no general law, nor could I execute such a law.

M. J. CRAWFORD.

Sworn to and subscribed before me this March 7, 1870.

THOS. A. WORD,
Clerk Superior Court, Bartow County, Georgia.

GEORGIA, BARTOW COUNTY,
Office Clerk Superior Court.

Given under my hand and seal of office this 7th day of March, 1870.
[SEAL.]

THOS. A. WORD,
Clerk Superior Court, Bartow County, Georgia.

EXHIBIT B.

STATE OF GEORGIA, *County of Upson:*

Before the subscriber, in person appeared John C. Drake, of said county, and being duly sworn, deposeth and saith that he is the identical person named in the General Orders No. 90, dated Headquarters Third Military District, Department of Georgia, Florida, and Alabama, Atlanta, Georgia, June 25, 1868, issued by order of Major General Meade, signed R. C. Drum, assistant adjutant general, and attested as "Official, George Meade, aide-de-camp," as the member-elect to the house of representatives of the State of Georgia, from said county; that I was qualified as a representative by taking the oath prescribed, and served as such member in the sessions of the Georgia legislature during the years 1868 and 1869; that I had read the printed copy of a letter written by me to Hon. J. E. Bryant, dated Thomaston, Georgia, February 12, 1870, contained in the annexed pamphlet, entitled "The law of Congress violated by Governor Bullock, of Georgia," &c., said letter appearing on pages 45 and 46 of said pamphlet, and do swear that the statements in said printed letter contained are true; that I believe myself eligible as a member of the legislature, and fully entitled to my seat; that I was deterred from taking the oath required of members by the published opinion of Henry P. Farrow, the attorney general of the State, on the question of eligibility of members under the act of Congress of December 22, 1869, being unwilling to incur the annoyance of a prosecution, though feeling well assured of my innocence. I furthermore state that I was threatened with prosecution if I took the oath. It was further promised me that if I would sign a petition to Congress for relief, that Governor Bullock would indorse and recommend it, and that I would thereby get relief and retain my seat without any difficulty; that I did, and the petition was drawn by Judge D. B. Howall, and signed by me with a solemn promise to forward it to Washington immediately. Governor R. B. Bullock promised, personally, to have me released, and took down my name for that purpose. It was further said to me, if I would vote for Foster Blodgett for United States Senator that everything would be made right, and retain my seat.

It is also stated and fully believed that H. P. Farrow, the attorney general, wrote several letters to the minority candidate in this county, and who now holds my seat, urging him to come to Atlanta two weeks before the session of the legislature, saying that it was for his good; and he did go and remain.

JOHN C. DRAKE.

WM. A. COBB, *Ordinary.*

GEORGIA, UPSON COUNTY, *Ordinary's Office.*

Given under my hand and seal of office, as ordinary of said county, this 5th day of March, 1870.

WM. A. COBB, *Ordinary.*

EXHIBIT C.

ATLANTA, GEORGIA, *February* 14, 1870.

I beg leave to inform your excellency, and through you the house of representatives, that I was induced to sign an application for pardon through a mistake, and did not

mean thereby to admit that I labored under any disability to take the necessary oaths and resume my seat in the house, as a member from the county of Union. I now offer to take the oath, and respectfully ask that such direction be given the matter as may admit of my doing so, and participating in the proceedings of the house of representatives, as by law, I respectfully submit, I am entitled to do.

Proof of the circumstances under which I was led to defer taking the oath, and of the facts of the case, will be submitted as soon as the necessary affidavits can be prepared.

Will your excellency have the kindness to forward this communication to the house of representatives, should the matter have passed beyond your control, so that the house may have my case before them when they receive or act upon credentials presented by or upon behalf of my competitor.

I have the honor to be, governor, very respectfully, your obedient servant,

J. H. PENLAND.

His Excellency R. B. BULLOCK,
Governor of Georgia.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 31.

MEMORIAL

OF

MEMBERS OF THE FORTY-FIRST CONGRESS FROM THE STATE OF CALIFORNIA

PRAYING

A grant of land to aid in the construction of a canal from the mountain lakes of El Dorado and Amador Counties to Sacramento, in that State.

MARCH 21, 1871.—Referred to the Committee on Public Lands and ordered to be printed.

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

GENTLEMEN: We, the undersigned, members from the State of California in the Forty-first Congress, would most respectfully request that Congress take immediate and favorable action on a bill granting the right of way and lands to aid in the construction of a canal from the mountain lakes of Amador and El Dorado Counties, in the State of California, to Sacramento County, in said State.

The legislature of the State of California, by resolutions passed April 4, 1870, and presented to Congress at the last session, solicited the favorable consideration of Congress to a measure so essential to the development and future prosperity of a most important section of our State, and for the necessity of taking immediate and favorable action we beg leave to submit the following considerations.

J. B. AXTELL.
JAMES A. JOHNSON.
A. A. SARGENT.

During the wet season in the winter, spring, and early summer, as the snows melt on the Sierra Nevada Mountains, millions of inches of water flow to waste down the mountain streams, often causing great destruction to property. To retain a part of these waste waters by the construction of a system of reservoirs in the Sierra Nevada Mountains near the summit, and convey them in a canal down to the foot-hills and the valleys, is the object of the present company. To construct such reservoirs as will retain the water for summer use, when water is most needed for irrigating and other purposes, will require a very large expenditure of money. For more than ten years we have tried and failed to enlist private capital in the enterprise, and all that time the population of that section of the country has been constantly decreasing, until at last it threatens depopulation and bankruptcy to the foot-hill counties of our State. The proposed canal commences near the summit of the Sierra

Nevada Mountains, and extends westwardly by way of Placerville to Sacramento County. The lands that can be had under the grant are mostly in the Sierra Nevada Mountains, at an elevation ranging from 2,000 to 7,000 feet above the level of the sea, and are, to a large extent, covered with snow for five months of the year, ranging from 1 to 20 feet in depth. They are now almost valueless, and the opening up of the foot-hills for settlement and cultivation, by the construction of a canal that will give an abundance of cheap water for irrigating and other purposes, can alone make these lands of value and saleable.

The proposed canal will carry not less than 5,000 inches of water, miners' measure. The flow and delivery of one inch of water, miners' measure, is equal to about 20,000 gallons per day; the delivery of 5,000 inches, miners' measure, is equal to about 100,000,000 of gallons per day.

The following extracts are taken from the last annual report of the United States surveyor general for California, for the fiscal year ending June 30, 1870, showing clearly that the climate and soil of the foot-hills of the Sierra Nevada Mountains are well adapted to the successful cultivation of the tea tree, grape vines, and fruits of almost all varieties and kinds, but that cheap and abundant water for irrigation is essentially necessary to that end.

TEA CULTURE.

In view of the special instructions (July 15) of the Hon. Commissioner of the General Land Office, that I should open a correspondence with parties who have cultivated the tea plant in California, and forward specimens of the soil for analysis, I thought proper to visit personally the principal plantation devoted to that enterprise. It is situated in El Dorado County, about half a mile northeast of Gold Hill, a small mining town, and about half-way between the larger towns of Placerville and Coloma, places famous in the early history of the gold discovery. The foot-hills of the mining region rise in successive benches toward the foot of the higher Sierra, and that of Placerville, Diamond Springs, &c., is about 2,400 feet above the sea, about 600 or 700 feet above the American River at Coloma, and is just below the first heavily timbered belt of the Sierra Nevada. In a shallow basin near the summit of the general plateau is the tea plantation of J. H. Schnell. He has planted about 400,000 young tea plants which he brought with him from Japan. These he has planted in small hills or groups containing five plants each, which he intends to have grown up, as it were, into one bush. The particulars of distance of hills and rows and other details he has given so fully in a letter to the honorable Commissioner that I need not repeat them here. Many of Schnell's plants have apparently perished with the drouth, and from this circumstance some superficial observers have pronounced the experiment a failure. This is a hasty conclusion, not warranted by the facts. In California, many vines, orchards, trees, and small fruit bushes will thrive without irrigation after the second or third year, but if there is a long dry season, they need it during the first two or three years. Schnell has found some of his dried-up plants shooting up new sprouts from the roots, since he has applied irrigation to them, and he now thinks that out of his 400,000 plants he will save about 300,000. I think he may save about half. But if all his Japanese plants had perished, Schnell has made a most successful experiment with his seedlings from seed planted here. To these he applied irrigation, and also shaded them with pine boughs. They have grown to about six inches in height, and the leaves and stalks have a most healthy appearance. Of these he will have several hundred thousand. I brought away a few of the plants to be transplanted in Folsom and in Oakland. I look upon these seedlings of Schnell's as the basis of a most important experiment for this State, as they will enable him to furnish the means to other cultivators of testing the adaptability of a great variety of soils throughout the different counties. The South Fork Canal, one of the largest mining ditches, has a branch passing near or through the grounds, and water for irrigation can be had by paying the usual rates. He has also planted 175,000 mulberry plants; they are five years old. These are of *Morus japonica*, three varieties, and the *Morus papyrifera*, from the inner bark of which a soft paper is made. From his mulberry trees he is raising cocoons and producing silk-worm eggs.

He has also introduced *Bombyx tamamai*, a silk-worm which feeds on the leaves of a species of white oak, the summer oak or *Quercus pendiculata*. The worm may be fed in the field on the leaves, on trees themselves, or upon the leaves and twigs brought into the house. The cocoon is of a light gray color, and produces a strong thread, the silk being of a dull white, and has this peculiarity—that it will take no dye so far as

experiments have tested it. This quality makes it valuable for weaving fancy figures into fabrics of the other kind of silk, the latter taking their proper dye, and the former showing in relief a white silvery figure on the darker ground.

He has also introduced and put under cultivation the upland rice, which has headed out and will produce a good crop this year. He has planted it in rows, with a shallow run for irrigation by the side of the rows.

This is really a most valuable addition to our stock of grains. It is sown in April and ripens about the middle of September. A neighbor of his will also raise a small crop of it this year.

He has also introduced an oil-plant, called goma in Japan; in Latin, *Sesamen orientale*. It has a leaf like sage, bears a white flower something like larkspur, and produces a capsule filled with many small black seeds, having something the appearance of onion seed. This, when wasted, ground, and pressed, produces a fine, limpid oil, which may be eaten with salad and is useful for many other purposes. It is said to be the same as the oil known in Turkey as sesamen oil. The plant grows luxuriantly in the garden, resembling in appearance a bed of horse beans; when in bloom it is an excellent plant for bees. Another plant introduced by Schnell is the ara, a plant with a seed-bearing tassel like that of millet. The grain is a nourishing food when boiled soft like rice. He has also imported, but not yet cultivated, a quantity of bamboo plants of a choice variety; also a wax-plant. His efforts merit encouragement and protection from the Government, and what this office can do by a legal subdivision of the land, to enable him to procure a valid title, will be done as promptly as possible. The superiority of the climate in the mining foot-hills for the development of the saccharine element of the grapes, the opportunity for thorough drainage which the vine craves, the volcanic soil, and the facilities for irrigating, will, before long, make vine culture one of the leading industries of those counties.

In the same report there is a lengthy discussion of the necessity of irrigation and the construction of irrigating canals, not deemed necessary to quote here.

The following extract is taken from the last annual report of the California State Agricultural Society, September, A. D. 1870, also showing the adaptability of the foot-hills for the cultivation of the grape and fruits of all kinds, as well as the tea plant:

FRUITS IN THE MOUNTAINS.

The display of fruits at the last State fair from our mountain counties made one of the most valuable and interesting features of the exhibition. A comparison of the same varieties with those raised in the valleys illustrated very strikingly the superiority of the former, in many respects, over the latter. The mountain fruit is more highly flavored, more compact and finer grained, and more tart and juicy. The mountain fruit ripens much later, and is also much superior to that of the valleys in keeping qualities. The same varieties of apples, for instance, that ripen in the valleys in September, when raised in the mountains as high up as Placerville, will keep well until February or March, and even later, before becoming mellow, and good for eating purposes. This latter fact is one of immense value to our State as a fruit-growing country, and will in time drive the Oregon winter apples entirely out of our markets. It will enable us to enjoy a plentiful supply of green apples through the entire year. The imperfect means at the command of the board for collecting reliable statistics of many of our products, render it impossible for us to report even approximately as to the quantity or value of the fruit raised in the State. As an illustration of the adaptability of the foot-hills and mountains to this industry, and the proportions it is assuming in these districts, we are assured that during the months of August, September, and October last, from the orchards and vineyards within a radius of six miles about the city of Placerville, there was picked and marketed over $100,000 worth of fruits. The value of the dried and winter fruits produced within the same districts, it is said, will probably equal this amount. Add to this the value of the wines and brandy made in this same radius, and from grapes sold and shipped to Sacramento for manufacture, estimated at $50,000 more, and we have the sum of $250,000 as the value of the product of fruit culture in a small section of one of our mountain counties, which but a few years ago contained not a fruit tree or a vine, and was considered worthless except for the gold that could be mined from its soil. When we state that a very large proportion of the land embraced within this same section is still unoccupied and subject to be purchased at Government rates, and that not one out of twenty of the occupied places contains bearing orchards or vineyards, some idea of the vast agricultural and horticultural resources of the mountain districts of our State may be formed. It is a remarkable fact that the owners of nearly every one of the most valuable orchards and vineyards that have produced these astonishing results made their beginning in a smal

way, as doubtful experiments. The prices paid for grapes—from $20 to $25 per ton—are very satisfactory to the growers. Well cultivated vineyards of the California grape are made to yield in this way a net annual income of from $50 to $100 per acre. Good vineyards of choice table grapes yield much larger incomes. The Muscat of Alexandria have averaged for years as high as $270 net per acre; while the Black Hamburg, Black Malvoile, and Golden Chasselas have netted $450, and the Alexandria Muscat has paid a profit of $775 per acre.

There is in the several counties situated in the foot-hills of the Sierra Nevada Mountains not less than 3,000,000 acres of land as well adapted in soil and climate as any land situated in any portion of the habitable globe for the production of grape vines, fruit trees of all kinds, the mulberry tree, the food of the silk-worm, and the tea plant. Up to an elevation of 2,500 feet above the level of the sea, irrigation and labor are alone required to make every hill-side and valley productive. In El Dorado County there is more than 500,000 acres of land capable of cultivation. The assessor's returns of that county for the year 1870 show that but 15,000 acres were under cultivation. On that there were raised and produced 1,357,895 grape vines; of raspberries, strawberries, and gooseberries, 174,146; of fruit trees of different kinds, including apple, peach, fig, olive, and orange, 151,782. Besides the fruits produced from those trees and vines, there were raised of barley, wheat, potatoes, and corn, 16,935 bushels; of hay, 4,199 tons; of tea plants, 400,000; of different varieties of the mulberry tree, (the leaf of which is the food of the silk-worm,) 115,000; and all this off not to exceed three per cent. of the land capable of cultivation within the county of El Dorado, provided that water with which to irrigate could be had; and what is here said of El Dorado County might be said of all the foot-hill counties of the State of California.

In addition to the horticultural, vinicultural, and agricultural interests, which are entirely dependent on the supply of water, the mining interest of El Dorado County is still very important. At Coloma, in this county, gold was first discovered, and since that discovery to the present time, (now over twenty-two years,) the mines of the county have yielded more than $30,000,000 worth of gold—none of which, unfortunately, has been retained there, but has been scattered over the entire country, to enrich it and maintain the credit of the Government. The rich surface or placer mines that could be worked with a small supply of water, and at a high price, are worked out. The second-class mines are extensive, but would not pay water-money at the old rates charged for water, but with cheap and abundant water, will yet add untold millions to the wealth of the nation.

The only mode of furnishing the limited supply of water now used for the purposes of mining and irrigation is by means of the South Fork Canal and Eureka Canal. These canals were constructed in the years 1853 and 1854, at an expense of $1,200,000. They never afforded over 1,300 inches of water, and now, by reason of their dilapidated condition, do not afford over half that amount. Under a mistaken idea that a dug ditch would not convey the water for the distance required, wooden flumes were erected for that purpose. These flumes now have reached such a state of decay, that they are liable to give way at any time, and with the best of attention cannot be kept up but a few years longer. When they go down, the country will be left without water, and must be abandoned. The city of Placerville will not have enough water for drinking and culinary purposes, and as the country around it becomes depopulated, will, of course, be to a great extent abandoned. Indeed, the abandonment of this vast region, with its immense undeveloped resources, has already commenced, as may be seen by the census returns

and the vote of the county for years back. Fifteen years ago the county polled nearly 11,000 votes; the population was about 30,000. At the last general election there were but 2,822 votes polled, and the population, as shown by the late census returns, is but 10,500; and this decrease will continue unless water—cheap and abundant water—can be obtained for irrigating, mining, and other purposes. The contemplated canal will supply the want. Ten years of experience and trial have proven that it cannot be constructed without aid. The lands asked for are now valueless, and must remain so for many years to come if water cannot be had. With such a canal as is provided for in the act, besides settling up the waste lands, the tax, direct and indirect, on the increased productions, would, in less than ten years, more than repay the Government for the present value of the lands asked for in the act. The question is, will Congress give such aid as will insure the construction of this great work, which is absolutely necessary to develop the resources of a most important section of our State.

The following resolutions were unanimously passed by the legislature of the State of California, praying the favorable consideration of Congress of this most important subject.

STATE OF CALIFORNIA, DEPARTMENT OF STATE.

I, H. L. Nichols, secretary of state of the State of California, do hereby certify that the annexed is a true, full, and correct copy of assembly concurrent resolution, No. 69, of the 18th session of the legislature of said State, now on file in my office.

Witness my hand and the great seal of state, at office in Sacramento, California, the 18th day of May, A. D. 1870.

[SEAL.]

H. L. NICHOLS,
Secretary of State.
By LEW. B. HARRIS,
Deputy.

Resolved by the assembly, (the senate concurring,) That our Senators in Congress be instructed, and our Representatives requested, to use their influence to secure the passage of an act granting land in aid of the construction of a canal for mining and irrigating purposes from the mountain lakes in El Dorado County, via Placerville, to the city of Sacramento.

Resolved, That the governor be requested to transmit a copy of the foregoing resolution to each of our Senators and Representatives in Congress.

GEO. H. ROGERS,
Speaker of the Assembly.
S. J. LEWIS,
President of the Senate pro tem.

[Indorsed.]

Assembly concurrent resolution No. 69. Passed the assembly April 1, A. D. 1870.

JOSH. MOFFITT,
Assistant Clerk of the Assembly.

Passed the Senate April 4, A. D. 1870.

JOS. ROBERTS, JR.,
Secretary of the Senate.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 32.

IN THE SENATE OF THE UNITED STATES.

MARCH 22, 1871.—Ordered to be printed as agreed to.

RESOLUTION

PRESCRIBING

The legislative business of the Senate during the present session of Congress.

Resolved, That the Senate will consider, at the present session, no other legislative business than the deficiency appropriation bill, the concurrent resolution for a joint committee of investigation into the condition of the States lately in insurrection, and the resolution now pending instructing the Committee on the Judiciary to report a bill or bills that will enable the President and the courts of the United States to execute the laws in said States, and the report that may be made by the Committee on the Judiciary on that subject.

PETITION

OF

CITIZENS OF EASTERN NEVADA,

PRAYING

That a land grant be made to aid in constructing a railroad running south from the Central Pacific Railroad, and through the eastern portion of said State.

MARCH 22, 1871.—Referred to the Committee on Public Lands and ordered to be printed.

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

We, the undersigned, citizens of the State of Nevada, residents therein and owners of and being interested in mines and other property therein, show, that a company and corporation has been formed in said State for the purpose of building and maintaining a railroad from a point on the Central Pacific Railroad called Elko, to the place called Hamilton City, in White Pine County, in the State of Nevada, and in the immediate neighborhood of the mines on Treasure Hill; that the region of country through which said road is to be built is almost wholly unoccupied, and is to a great extent barren, yet at intervals there occur mines and ranges of pasture land, and a small quantity of land that may be used for agriculture.

This region is now occupied at a few points for mining purposes, and near the termination of the proposed road at Hamilton are the celebrated mines of White Pine.

The development of this country is greatly retarded by difficulty and cost of access, and much mining ground cannot now be worked which would be highly valuable with railroad communication, and the cultivable lands would all then be used to supply the miners in their neighborhood.

These results are only attainable by means of cheap transportation, and such cannot now be had without a generous aid from the owner of the soil, the United States, which by giving the proceeds of a portion of the public lands on each side of the road may stimulate and aid its completion, while the increased value of the lands retained by the Government will be to it and the people greater than the whole lands are now, in their wild and unapproachable state.

Wherefore, believing the public good will be subserved thereby, we petition and ask that the construction of said road be aided by a grant of lands on each side thereof to said company, in alternate sections, to to the amount of twenty sections a mile on each side of the road, or of the proceeds of sale of the same at double the minimum value

of public lands, be the same either agricultural or mineral, but the latter not to be sold for less than double the minimum value established for mineral lands.

We ask no monopoly but simply aid to open our country to approach and settlement.

J. G. MOTT.
W. J. FORBES.
W. HENDRIE.
HERRMANN SADLER.
D. T. ELMORE.
N. WESCOATT.
T. R. P. DIMOCK.
VOLNEY SPALDING.
D. R. ASHLEY.
J. B. FITCH.
I. D. TREAT.
L. WILSEY.
M. P. FREEMAN.

O

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 34.

RESOLUTION

OF

THE LEGISLATURE OF NEW JERSEY,

IN FAVOR OF

An appropriation for life-saving stations on the coast of that State.

MARCH 23, 1871.—Referred to the Committee on Commerce and ordered to be printed.

Whereas N. Broughton Devereux, chief of the revenue marine, in his report of December, one thousand eight hundred and seventy, to the honorable the Secretary of the Treasury, recommended additional appropriation to the life-saving stations, for the protection of life and property upon the New Jersey coast;

And whereas Henry W. Sawyer, superintendent of the stations, and the commissioners of pilotage have recommended additional stations, with crews at each station, and improved surf-boats, for the reason that the present boats are unsafe and worn out: Therefore,

Be it resolved by the senate and general assembly of the State of New Jersey, That our Senators and Representatives in Congress be urged to secure an appropriation of two hundred thousand dollars for the year one thousand eight hundred and seventy-one, for the purpose of more effectually securing life and property upon the New Jersey coast.

And be it resolved, That the governor be requested to furnish a copy of the foregoing preamble and resolution immediately to the members of Congress from New Jersey.

O

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 35.

IN THE SENATE OF THE UNITED STATES.

MARCH 24, 1871.—Ordered to be printed.

Mr. SUMNER submitted the following

RESOLUTIONS

REGARDING

The employment of the Navy of the United States on the coast of St. Domingo during the pendency of negotiations for the acquisition of part of that island.

Whereas any negotiation by one nation with a people inferior in population and power, having in view the acquisition of territory, should be above all suspicion of influence from superior force, and in testimony to this principle Spain boasted that the reincorporation of Dominica with her monarchy in 1861 was accomplished without the presence of a single Spanish ship on the coast, or a Spanish soldier on the land, all of which appears in official documents; and whereas the United States being a Republic, founded on the rights of man, cannot depart from such a principle and such a precedent without weakening the obligations of justice between nations, and inflicting a blow upon republican institutions: Therefore,

1. *Resolved*, That in obedience to correct principle, and that republican institutions may not suffer, the naval forces of the United States should be withdrawn from the coasts of St. Domingo during the pendency of negotiations for the acquisition of any part of that island.

2. *Resolved*, That every sentiment of justice is disturbed by the employment of foreign force in the maintenance of a ruler engaged in selling his country, and this moral repugnance is increased when it is known that the attempted sale is in violation of the constitution of the country to be sold; that, therefore, the employment of our Navy to maintain Baez in usurped power while attempting to sell his country to the United States, in open violation of the Dominican constitution, is morally wrong, and any transaction founded upon it must be null and void.

3. *Resolved*, That since the Equality of all Nations, without regard to population, size, or power, is an axiom of international law, as the equality of all men is an axiom of our Declaration of Independence, nothing can be done to a small or weak nation that would not be done to a large or powerful nation, or that we would not allow to be done to ourselves; and, therefore, any treatment of the Republic of Hayti by the Navy of the United States inconsistent with this principle is an infraction of international law in one of its great safeguards, and should be disavowed by the Government of the United States.

4. *Resolved*, That since certain naval officers of the United States, commanding large war ships, including the monitor Dictator and the frigate Severn, with powerful armaments, acting under instructions from the

Executive and without the authority of an act of Congress, have entered one or more ports of the Republic of Hayti, a friendly nation, and under the menace of open and instant war have coerced and restrained that Republic in its sovereignty and independence under international law; therefore, in justice to the Republic of Hayti, also in recognition of its equal rights in the family of nations, and in deference to the fundamental principles of our institutions, these hostile acts should be disavowed by the Government of the United States.

5. *Resolved*, That under the Constitution of the United States the power to declare war is placed under the safeguard of an act of Congress; that the President alone cannot declare war; that this is a peculiar principle of our Government by which it is distinguished from monarchical governments, where power to declare war, as also the treaty-making power, is in the Executive alone; that, in pursuance of this principle, the President cannot, by any act of his own, as by an unratified treaty, obtain any such power, and thus divest Congress of its control; and that therefore the employment of the Navy without the authority of Congress in acts of hostility against a friendly foreign nation, or in belligerent intervention in the affairs of a foreign nation, is an infraction of the Constitution of the United States and a usurpation of power not conferred upon the President.

6. *Resolved*, That while the President, without any previous declaration of war by act of Congress, may defend the country against invasion by foreign enemies, he is not justified in exercising the same power in an outlying foreign island, which has not yet become part of the United States; that a title under an unratified treaty is at most inchoate and contingent, while it is created by the President alone, in which respect it differs from any such title created by act of Congress; and since it is created by the President alone, without the support of law, whether in legislation or a ratified treaty, the employment of the Navy in the maintenance of the Government there is without any excuse of national defense, as also without any excuse of a previous declaration of war by Congress.

7. *Resolved*, That in any proceedings for the acquisition of part of the island of St. Domingo, whatever may be its temptations of soil, climate, and productions, there must be no exercise of influence by superior force, nor any violation of public law, whether international or constitutional; and, therefore, the present proceedings, which have been conducted at great cost of money, under the constant shadow of superior force, and through the belligerent intervention of our Navy, acting in violation of international law, and initiating war without an act of Congress, must be abandoned, to the end that justice may be maintained, and that proceedings so adverse to correct principles may not become an example for the future.

8. *Resolved*, That instead of seeking to acquire part of the island of St. Domingo by belligerent intervention, without the authority of an act of Congress, it would have been in better accord with the principles of our Republic, and its mission of peace and beneficence, had our Government, in the spirit of good neighborhood and by friendly appeal, instead of belligerent intervention, striven for the establishment of tranquillity throughout the whole island, so that the internal dissensions of Dominica and its disturbed relations with Hayti might be brought to a close, thus obtaining that security which is the first condition of prosperity, all of which, being in the nature of good offices, would have been without any violation of international law, and without any usurpation of war powers under the Constitution of the United States.

IN THE SENATE OF THE UNITED STATES.

MARCH 27, 1871.—Ordered to be printed as modified.

Mr. SUMNER submitted the following

RESOLUTIONS

REGARDING

The employment of the Navy of the United States on the coast of St. Domingo during the pendency of negotiations for the acquisition of part of that island.

Whereas any negotiation by one nation with a people inferior in population and power, having in view the acquisition of territory, should be above all suspicion of influence from superior force, and in testimony to this principle Spain boasted that the reincorporation of Dominica with her monarchy in 1861 was accomplished without the presence of a single Spanish ship on the coast, or a Spanish soldier on the land, all of which appears in official documents; and whereas the United States, being a Republic, founded on the rights of man, cannot depart from such a principle and such a precedent without weakening the obligations of justice between nations, and inflicting a blow upon republican institutions: Therefore,

1. *Resolved*, That in obedience to correct principle, and that republican institutions may not suffer, the naval forces of the United States should be withdrawn from the coasts of St. Domingo during the pendency of negotiations for the acquisition of any part of that island.

2. *Resolved*, That every sentiment of justice is disturbed by the employment of foreign force in the maintenance of a ruler engaged in selling his country, and this moral repugnance is increased when it is known that the attempted sale is in violation of the constitution of the country to be sold; that, therefore, the employment of our Navy to maintain Baez in usurped power while attempting to sell his country to the United States, in open violation of the Dominican constitution, is morally wrong, and any transaction founded upon it must be null and void.

3. *Resolved*, That since the Equality of all Nations, without regard to population, size, or power, is an axiom of international law, as the equality of all men is an axiom of our Declaration of Independence, nothing can be done to a small or weak nation that would not be done to a large or powerful nation, or that we would not allow to be done to ourselves; and, therefore, any treatment of the Republic of Hayti by the Navy of the United States inconsistent with this principle is an infraction of international law in one of its great safeguards, and should be disavowed by the Government of the United States.

4. *Resolved*, That since certain naval officers of the United States, commanding large war ships, including the monitor Dictator and the frigate Severn, with powerful armaments, acting under instructions from the

Executive and without the authority of an act of Congress, have entered one or more ports of the Republic of Hayti, a friendly nation, and under the menace of open and instant war have coerced and restrained that Republic in its sovereignty and independence under international law; therefore, in justice to the Republic of Hayti, also in recognition of its equal rights in the family of nations, and in deference to the fundamental principles of our institutions, these hostile acts should be disavowed by the Government of the United States.

5. *Resolved*, That under the Constitution of the United States the power to declare war is placed under the safeguard of an act of Congress; that the President alone cannot declare war; that this is a peculiar principle of our Government by which it is distinguished from monarchical governments, where power to declare war, as also the treaty-making power, is in the Executive alone; that, in pursuance of this principle, the President cannot, by any act of his own, as by an unratified treaty, obtain any such power, and thus divest Congress of its control; and that therefore the employment of the Navy without the authority of Congress in acts of hostility against a friendly foreign nation, or in belligerent intervention in the affairs of a foreign nation, is an infraction of the Constitution of the United States and a usurpation of power not conferred upon the President.

6. *Resolved*, That while the President, without any previous declaration of war by act of Congress, may defend the country against invasion by foreign enemies, he is not justified in exercising the same power in an outlying foreign island, which has not yet become part of the United States; that a title under an unratified treaty is at most inchoate and contingent, while it is created by the President alone, in which respect it differs from any such title created by act of Congress; and since it is created by the President alone, without the support of law, whether in legislation or a ratified treaty, the employment of the Navy in the maintenance of the Government there is without any excuse of national defense, as also without any excuse of a previous declaration of war by Congress.

7. *Resolved*, That whatever may be the title to territory under an unratified treaty, it is positive that, after the failure of the treaty in the Senate, all pretext of title ceases, so that our Government is in all respects a stranger to the territory, without excuse or apology for any interference against its enemies, foreign or domestic, and therefore any belligerent intervention or act of war on the coasts of St. Domingo, after the failure of the Dominican treaty in the Senate, is unauthorized violence, utterly without support in law or reason, and proceeding directly from that kingly prerogative which is disowned by the Constitution of the United States.

8. *Resolved*, That in any proceedings for the acquisition of part of the island of St. Domingo, whatever may be its temptations of soil, climate, and productions, there must be no exercise of influence by superior force, nor any violation of public law, whether international or constitutional; and, therefore, the present proceedings, which have been conducted at great cost of money, under the constant shadow of superior force, and through the belligerent intervention of our Navy, acting in violation of international law, and initiating war without an act of Congress, must be abandoned, to the end that justice may be maintained, and that proceedings so adverse to correct principles may not become an example for the future.

9. *Resolved*, That instead of seeking to acquire part of the island of St. Domingo by belligerent intervention, without the authority of an act of

Congress, it would have been in better accord with the principles of our Republic, and its mission of peace and beneficence, had our Government, in the spirit of good neighborhood and by friendly appeal, instead of belligerent intervention, striven for the establishment of tranquillity throughout the whole island, so that the internal dissensions of Dominica and its disturbed relations with Hayti might be brought to a close, thus obtaining that security which is the first condition of prosperity, all of which, being in the nature of good offices, would have been without any violation of international law, and without any usurpation of war powers under the Constitution of the United States.

RESOLUTION

OF

THE LEGISLATURE OF VIRGINIA,

ASKING

The payment of the balance due that State for advances to the United States during the war of 1812.

MARCH 28, 1871.—Ordered to lie on the table and be printed.

Whereas the United States, in the adjustment of the claims of Virginia for advances made and sums loaned during the war of 1812, proceeded upon a principle erroneous in law, which deprived this State of a large portion of the sum justly due to her: Therefore,

Resolved by the general assembly, That the Senators and Representatives in Congress from this State be requested to urge the passage by Congress of a law providing for the speedy ascertainment and payment of the balance due the State.

Resolved, That the governor be requested to communicate a copy of this resolution to each of the Senators and Representatives in Congress from the State of Virginia.

A copy:

J. BELL BIGGER,
Clerk of the House of Delegates and Keeper of the Rolls of Virginia.

MARCH 25, 1871.

○

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 37.

RESOLUTION

OF

THE LEGISLATURE OF TEXAS,

ASKING

The appointment of a joint committee to inquire into and report upon the outrages committed in that State during the past five years by bands of Indians living within the United States, and harbored within the republic of Mexico.

MARCH 28, 1871.—Ordered to lie on the table and be printed.

Whereas by the terms of the joint resolution of the Congress of the United States of December 29, 1845, admitting Texas into the Union as one of the States thereof, it was declared that the State of Texas was "admitted into the Union on an equal footing with the original States in all respects whatever;" and whereas section 4 of article 4 of the Constitution of the United States provides, among other things, that the United States shall protect each of the States "against invasion;" and whereas during the last five years the State of Texas has been invaded constantly by bands of Indians living within the boundaries of the United States, and with some of which bands the Government of the United States has at different times made treaties of peace, and some of which bands have been fed and clothed by the Government of the United States; and whereas said Indians during the last five years have murdered several hundreds of the citizens of Texas, have stolen and destroyed property to the amount of millions of dollars in value, have not only retarded the settlement of the frontier counties of the State, but have almost depopulated several of the counties thereof most exposed to their invasions, and are at present actively engaged in their hellish work of murder, outrage and plunder; and whereas during the last five years bands of Indians, known as the "Kickapoos" and "Lipans," have found a safe asylum within the territory of the republic of Mexico contiguous to the western frontier of Texas, from which territory they have made repeated invasions each year into the western counties of Texas, murdering and carrying into captivity many citizens of Texas, and returning to Mexico laden with property captured from the people of Texas, with the full knowledge of the Mexican authorities, and without any opposition thereto having been offered by the Mexican authorities up to the present time; and it is fully believed that not less than one hundred of the citizens of Texas have been murdered and carried into captivity by said Indians during the last five years, while the work of murder and plunder was never more actively carried on by said Indians than at the present time; and whereas during the last five years the Government of the United States has failed to make good its guarantee to protect the State of Texas "against invasion," and the State of Texas

is not allowed to make war upon the savages who are under the protection of the United States, and ravage our frontiers and murder our citizens, nor to make war upon the Indians who find a safe asylum in Mexico, from whence they invade our western counties, and the people of Texas are thus placed at the mercy of these savages without the means of retaliation; and whereas the appeals of the people of Texas to the Government of the United States for the relief and protection to which they are justly entitled have been unheeded, and it has been asserted in the Congress of the United States that the statements of Indian outrages in Texas are greatly exaggerated, and in the main have been fabricated by interested parties desiring contracts, &c.; and whereas the Congress of the United States has at different times sent committees into the different parts of the Union to inquire into and report upon the murder of numbers of its citizens: Therefore,

Be it resolved by the legislature of the State of Texas, That the Congress of the United States is hereby earnestly petitioned to send a joint committee from both Houses to the frontiers of Texas to inquire into and report upon the facts set forth in the preamble to this resolution, to the end that the State of Texas may be protected by the United States against further invasion.

Be it further resolved, That our Senators are hereby instructed to do all in their power to secure the appointment of a joint committee for the purpose stated in the foregoing resolution.

Be it further resolved, That copies of this preamble and resolution be forwarded as soon as possible to the President of the United States, the President of the Senate, and Speaker of the House of Representatives of the Congress of the United States, and to each one of our Senators.

Approved March 15, 1871.

STATE DEPARTMENT, *Austin, Texas:*

I, James P. Newcomb, secretary of state for the State of Texas, do hereby certify that the foregoing is a true and correct copy of the original joint resolution of the legislature of this State on file in my office.

Witness my hand and official seal, at office, in the city of Austin, this 16th day of March, A. D. 1871, and of the independence of the United States the ninety-fifth and of Texas the thirty-sixth.

[SEAL.]

JAS. P. NEWCOMB,
Secretary of State.
Per J. E. OLDRIGHT,
Acting Secretary of State.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 38.

IN THE SENATE OF THE UNITED STATES.

MARCH 30, 1871. Ordered to be printed.

Mr. DAVIS submitted the following

RESOLUTION:

Resolved, That the Secretaries of the Treasury, of War, and the Navy do report to the Senate, at its next session, by appropriate schedules, all property by classes, with its estimated value, which has been seized or taken possession of since January 1, 1861, by the orders, authority, or in the name of their Departments, respectively; what disposition was made of said property; what portions of it were sold, with the several sums; what became of the money arising from those sales; what sums thereof were paid into the Treasury, and what to individuals, with their names and the amount to each; and what portion of said property, with its kind and estimated value, was delivered to or retained by individuals, with their names.

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42D CONGRESS, 1st Session. SENATE. MIS. DOC. No. 39.

RESOLUTIONS

OF

THE LEGISLATURE OF KANSAS,

IN FAVOR OF

The payment of certain officers of colored troops in that State in 1862.

MARCH 30, 1871.—Ordered to lie on the table and be printed.

Whereas a considerable number of the citizens of the State of Kansas did, in the latter part of the year A. D. 1862, recruit, organize, and drill several hundred colored men with a view to their muster into the military service of the United States; and whereas said organization of colored soldiers, including both officers and men, did perform military duty, and were subject to orders from the commanding officer of the post of Fort Scott, Kansas, and other officers of the United States, from August, 1862, till their muster into the military service of the United States in the spring of 1863, and said enlisted men did afterward receive full pay for their services from date of their enlistment in August, 1862; and whereas two classes of officers who recruited and commanded said enlisted men *were never paid for said services*, viz: First, those who had no recruiting commissions, and no other authority to recruit than verbal orders from Hon. J. H. Lane, recruiting commissioner for the district of Kansas; second, those who by reason of their color were denied the right to muster-in as officers in the military service of the United States; and whereas said citizens of the State of Kansas did perform said valuable service for the Government of the United States, maintaining company and regimental organization for several months, awaiting orders from the War Department for muster into service, being thus delayed, and finally denied pay (through no fault of their own) for services performed in good faith: Therefore, be it

Resolved by the senate of the State of Kansas, (the house of representatives concurring therein :) First, that the Congress of the United States be, and it is hereby, most respectfully requested to enact a *special law* which will enable said recruiting officers, without regard to the authority under which they recruited, and without any unjust discrimination of color, to present and prove their claims and receive their just pay for said services.

Second, that our Senators and Representatives in Congress be, and they are hereby, requested to use their *utmost endeavors* to secure the passage of such a law.

Third, that the secretary of state is hereby instructed to forward a copy of these concurrent resolutions to the President of the United States, one to the President of the Senate, the Speaker of the House of Representatives, and one to each of our Senators and Representative in Congress.

Adopted in the senate February 8, 1870.

GEO. C. CROWTHER,
Secretary.

Concurred in by the house of representatives February 10, 1870.

HENRY C. OLNEY,
Chief Clerk.

I, W. H. Smallwood, secretary State of Kansas, do hereby certify that the foregoing is a true and correct copy of the original resolution now on file in my office.

In testimony whereof, I have hereunto set my hand and caused to be affixed the great seal of the State, at Topeka, this 24th day of March, A. D. 1871.

[SEAL.]

W. H. SMALLWOOD,
Secretary of State.

42D CONGRESS, 1st Session. } SENATE. { MIS. DOC. No. 40.

MEMORIAL

OF

D. LITTLE AND OTHERS, OF CASTINE, MAINE,

PRAYING

Indemnity for French spoliations prior to 1800.

MARCH 31, 1871.—Ordered to lie on the table and be printed.

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

The memorial and petition of the subscribers, merchants of Castine, respectfully showeth, that among the multiplied injuries inflicted by the belligerents on the commerce of the United States in the course of the long and desolating war in which several nations of Europe were engaged between and during the years 1793 and 1800, the depredations committed by the public and private armed vessels of France were to your memorialists peculiarly injurious.

The claims of your memorialists on France for ample remuneration were the stronger in these cases, as the seizure and condemnation of their property had been by the express authority of the French government, contrary to the plainest principles of the law of nations, and in direct violation of existing treaties.

The United States having a great political and national object in view, to wit, to obtain the abrogation of the treaties with France and a discharge from the liabilities under them, and particularly under the article of mutual guarantee, yielded up the claim of her citizens for these great public advantages, in the convention of 1800; but whilst your memorialists applaud the wisdom of the measure, they must dissent from the principle of sacrificing private interests for the public good without indemnifying the sufferers; because it violates the plainest dictates of common justice, as well as the spirit and the letter of the Constitution.

The government of France, up to the date of the "renunciation of indemnities mutually due or claimed," always considered the recognition of these claims as due to her honor, and attached them as a charge upon her national character. The United States has in like manner, and in many solemn acts, declared the claims to be fair and just; and upon this ground, as her duty dictated, volunteered her agency for the recovery from France.

Your memorialists believe that the United States did receive a full and entire satisfaction and equivalent for their claims; and they therefore pray that your honorable body will take their case into consideration, and make provision for the payment thereof.

And, as in duty bound, your memorialists will ever pray.

D. LITTLE.
MARK HATCH.
JAMES CRAWFORD.
DAVID COFFIN.
OTIS LITTLE.

CASTINE, *January* 4, 1832.

RESOLUTION

OF

THE LEGISLATURE OF MICHIGAN,

ASKING

Legislation to authorize settlers upon homesteads to make proof of settlement before county clerks of the counties where the lands are situated.

MARCH 31, 1871.—Ordered to lie on the table and be printed.

Whereas Government lands located during years past, and that may be in the future, average a long distance from the land offices of this State; and whereas settlers securing lands under the homestead laws are at large expense in going to the land offices and in taking their witnesses before the proper officers thereof, for the purpose of making the affidavits and proofs required by the homestead act; and whereas said settlers are generally poor and needy; and whereas the expense of locating lands under said act should be reduced as far as practicable: Therefore,

Resolved by the senate and house of representatives of the State of Michigan, That our Senators and Representatives in Congress be requested to use all proper efforts for the passage of a law permitting persons locating lands under the homestead act to make all necessary affidavits and proof of settlement and cultivation required by said act before the county clerk of the county in which the lands applied for are situated.

Resolved, That his excellency the governor be requested to transmit copies of the foregoing preamble and resolution to each of our Senators and Representatives in Congress.

A. B. WOOD,
President pro tem. of the Senate.
J. J. WOODMAN,
Speaker of the House of Representatives.

EXECUTIVE OFFICE, *Lansing, Michigan.*

Approved March 18, 1871.

HENRY P. BALDWIN.

O

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 42.

MEMORIAL

OF THE

CITY COUNCIL OF FERNANDINA, FLA.,

ASKING

A grant of certain unsurveyed beach and swamp lands within the jurisdiction of that city.

APRIL 3, 1871.—Referred to the Committee on Public Lands and ordered to be printed.

FERNANDINA, FLORIDA, *March* 29, 1871.

To the honorable Forty-second Congress of the United States:

Whereas there are certain beach, overflowed and submerged lands on the Atlantic Ocean and Amelia River, within the jurisdiction of the city of Fernandina, which have not been designated in any of the Government surveys, and which as yet belong to the United States; and which lands are deemed useful in the police, harbor, and quarantine regulations of the city: The said city council of Fernandina, on the 29th instant, passed a resolution requesting to lay this memorial before your honorable body, and to ask for a grant of all such unsurveyed beach, swamp, and submerged lands which have not been conveyed or confirmed to either the State of Florida or to any individuals, and which are lying and being on the Atlantic Ocean and Amelia River, within the jurisdiction of the city of Fernandina in the State of Florida, and yet belonging to the Government of the United States; that the same may become vested in the city of Fernandina for its sole use and benefit forever: *Provided*, that the grant is not to extend or include any of the beach, swamp or submerged lands belonging to the Government reservation of Fort Clinch; and provided further that the right of the Florida Railroad Company to lay its road-bed across any of such lands and extend the same to the channel of Amelia River, to admit of the passage of sea steamers in compliance of its charter from the State of Florida, and as now occupied by said company, shall also not be included in this grant.

And your memorialists will ever pray.

[SEAL.] P. N. FREEMAN,
Mayor of Fernandina.

J. J. ACOSTA, *Clerk.*

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 43.

RESOLUTION

OF

THE LEGISLATURE OF NEVADA,

FOR THE

Establishment of a tri-weekly mail between the towns of Elko and Tuscarora, in that State.

APRIL 5, 1871.—Ordered to lie on the table and be printed.

Whereas the citizens of the town of Tuscarora, Independence Valley, Elko County, Nevada, are wholly and entirely dependent upon individual and private enterprise for mail facilities; and whereas such means of intercourse, or mail facilities, are not only burdensome, but irregular and uncertain, particularly during the inclement season of the year, arising from the peculiar character of the country and its surroundings: Therefore,

Be it resolved by the assembly, (the senate concurring,) That our Senators be instructed, and our Representative in Congress be requested, to use all honorable means within their power with the proper department at Washington to procure, at as early a day as practicable, a weekly mail service from Elko, Nevada, to said town of Tuscarora, Nevada.

Resolved, That the governor be requested to forward a copy hereof to each of our Senators and Representative in Congress.

Passed March 2, 1871.

STATE OF NEVADA, *Secretary's Office, ss:*

I, J. D. Minor, secretary of state of the State of Nevada, do hereby certify that the annexed and foregoing is a true, full, and correct copy of the original enrolled resolution entitled "Assembly concurrent resolution in relation to the establishment of a weekly mail service between the towns of Elko and Tuscarora, Nevada," passed March 2, 1871, now on file in my office.

In witness whereof I have hereunto set my hand and affixed the great seal of State. Done at office in Carson City, Nevada, this 25th day of March, A.D. 1871.

[SEAL.]

J. D. MINOR,
Secretary of State.

RESOLUTION

OF

THE LEGISLATURE OF NEVADA,

ASKING THE

Establishment of weekly mail service from Wadsworth in that State to Fort Independence, California.

APRIL 5, 1871.—Ordered to lie on the table and be printed.

Whereas the rapid increase of population, and extensive developments of mineral and agricultural resources, and the rapid increase of business in the southern portion of our State, embracing Metallic District, Columbus, Silver Peak, Palmetto, and Fish Lake Valley; and whereas the amount of the capital invested, the enterprise and industry of the population, and their isolated condition from any direct mail communication, render a weekly mail service of the utmost importance to the business public of that section: Therefore,

Be it resolved by the assembly, (the senate concurring,) That our Senators be instructed, and our Representative in Congress be requested, to use all honorable means within their power with the proper department at Washington to procure, at as early a day as practicable, a weekly mail service from Wadsworth, Washoe County, Nevada, via Walker River, Metallic District, Road's Salt Marsh, Columbus, Silver Peak, Palmetto, and Fish Lake Valley, Esmeralda County, Nevada, to Fort Independence, Inyo County, California; and for the establishment of two additional post offices on said route: one office at Metallic District, Esmeralda County, Nevada, and one office at Fish Lake Valley, Esmeralda County, Nevada.

Resolved, That the governor be requested to forward a copy hereof to each of our United States Senators and Representative in Congress.

Passed February 25, 1871.

STATE OF NEVADA, *Secretary's Office, ss:*

I, J. D. Minor, secretary of state of the State of Nevada, do hereby certify that the annexed and foregoing is a true, full, and correct copy of the original enrolled resolution entitled "Assembly concurrent resolution relating to mail service from Wadsworth, Nevada, to Fort Independence, California," passed February 25, 1871, remaining on file in my office.

In witness whereof I have hereunto set my hand and affixed the great seal of State. Done at office in Carson City, Nevada, this 25th day of March, A. D. 1871.

[SEAL.]

J. D. MINOR,
Secretary of State.

RESOLUTION

OF

THE LEGISLATURE OF NEVADA,

ASKING

The establishment of a tri-weekly mail service from Pine Grove to Rockland, in that State.

APRIL 5, 1871.—Ordered to lie on the table and be printed.

Whereas mineral resources have been rapidly and extensively developed, and population has rapidly increased, in the town of Rockland and vicinity, in Esmeralda County, Nevada; and whereas the immense amount of capital invested, and the industry and enterprise of the population, and their isolated condition from mail communication, render a tri-weekly mail service from Pine Grove to Rockland, and the establishment of a post office at Rockland, of the utmost importance to the business public of the above-named section: Therefore,

Be it resolved by the assembly, (*the senate concurring*,) That our Senators be instructed, and our Representative in Congress be requested, to use all means and honorable endeavors within their power with the Post Office Department at Washington, to procure, at as early a time as practicable, a tri-weekly mail service from Pine Grove, Esmeralda County, Nevada, to Rockland, Esmeralda County, Nevada; and for the establishment of a post office at Rockland, Esmeralda County, Nevada.

Resolved, That the governor be requested to forward a copy hereof to each of our United States Senators and our Representative in Congress.

Passed February 21, 1871.

STATE OF NEVADA, *Secretary's Office, ss:*

I, J. D. Minor, secretary of state of the State of Nevada, do hereby certify that the annexed and foregoing is a true, full, and correct copy of the original enrolled resolution, entitled "Assembly concurrent resolution relating to mail service from Pine Grove to Rockland, Nevada," passed February 21, 1871, now on file in my office.

In witness whereof, I have hereunto set my hand and affixed the great seal of State. Done at office in Carson City, Nevada, this 25th day of March, A. D. 1871.

J. D. MINOR,
Secretary of State.

42D CONGRESS, 1st Session. } SENATE. { MIS. DOC. No. 46.

RESOLUTION

OF

THE LEGISLATURE OF VIRGINIA,

ASKING

An appropriation for the establishment of the American Printing House for the Blind and the American University for the Blind in the District of Columbia.

APRIL 7, 1871.—Ordered to lie on the table and be printed.

Whereas the central board of trustees of the American Printing House for the Blind and the American University for the Blind has been incorporated and organized in the District of Columbia, under the name of the board of regents of the American Printing House for the Blind and the American University for the Blind; and whereas the objects of said institution are to provide for the blind facilities of instruction not heretofore enjoyed or attainable by them, that is to say, a series of text books, works of general literature, and illustrative apparatus addressed to the sense of touch, with all other methods conducive to the acquisition of thorough and liberal education; and whereas the respective State boards of trustees of said printing house, or of said university, are entitled to representation in said board of regents; and whereas it is for the benefit of the blind of the nation, in which those of this State are equally interested, and are recipients of said facilities of education; and whereas there is a bill in Congress to make appropriation to said printing house and said university for the blind: Now, therefore, be it

Resolved by the legislature of the State of Virginia, That our Senators and Representatives in Congress be requested to favor the granting of aid by an appropriation of money to said institution, and that his excellency the governor be requested to forward a copy of this memorial to our Representatives in Congress.

A copy from the rolls—teste:

J. BELL BIGGER,
Clerk House of Delegates and Keeper of the Rolls of Virginia.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 47.

MEMORIAL

OF

THE LEGISLATURE OF ARKANSAS,

ASKING

The confirmation of title to lands purchased under the act of Congress known as the graduation act.

APRIL 10, 1871.—Referred to the Committee on Public Lands and ordered to be printed.

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

Your memorialists, the senate and house of representatives of the State of Arkansas, respectfully represent that whereas the Congress of the United States provided by an act known as the graduation act for the sale of public lands to actual settlers; and whereas under the provisions of the said act many citizens of this State purchased lands during the period intervening between 1857 and 1861, but did not, on account of the war, live upon the said lands long enough to perfect their title under the said law; and whereas by reason of the said war many of the said purchasers sold the said lands to obtain means to remove themselves and their families within the Union lines, but not having perfect titles themselves, gave bonds for deeds to the purchasers, and by the casualties of war never returned to the localities where the said lands are located, and up to this time the said purchasers have not been able to obtain a perfect title to the said lands, although they or their heirs have, in many instances, been living upon the said lands since that time, and have made improvements thereon, and as many of the said lands in the northern part of the State are mountain lands and of very small value. we therefore respectfully ask your honorable body to provide by legislation for the perfection of the titles of said lands by confirming the same in the original purchaser's name.

J. M. JOHNSON,
President of the Senate.
CHAS. W. TANKERLEY,
Speaker of the House.

Approved this 10th day of March, A. D. 1871.

POWELL CLAYTON,
Governor.

STATE OF ARKANSAS, *Office Secretary of State:*

I certify that the above and foregoing is a true and correct copy of the original memorial as enrolled and now deposited in my office.

Witness my hand and seal of office, at Little Rock, this 17th day of March, A. D. 1871.

[SEAL.]

J. M. JOHNSON,
Secretary of State.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 48.

IN THE SENATE OF THE UNITED STATES.

APRIL 11, 1871.—Ordered to be printed.

Mr. SHERMAN submitted the following

RESOLUTION:

Resolved, That the Committee on Finance is hereby instructed, during the recess of Congress, to carefully examine the existing system of taxation by the United States, with a view to propose such amendments to the bills of the House of Representatives, repealing certain taxes, now pending in the Senate, as will simplify, revise, and reduce both the internal taxes and the duties on imported goods now in force; and so that the aggregate of such taxes shall not exceed the sums required to execute the laws relating to the public debt, and to pay the current expenditures of the Government, administered with the strictest economy; and so that such taxes may be distributed so as to impose the least possible burden upon the people.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 49.

MEMORIAL

OF

A COMMITTEE APPOINTED AT A MEETING OF COLORED CITIZENS OF FRANKFORT, KY., AND VICINITY,

PRAYING

The enactment of laws for the better protection of life.

APRIL 11, 1871.—Ordered to lie on the table and be printed.

To the Senate and House of Representatives in Congress assembled:

We, the colored citizens of Frankfort and vicinity, do this day memorialize your honorable bodies upon the condition of affairs now existing in the State of Kentucky. We would respectfully state that life, liberty, and property are unprotected among the colored race of this State. Organized bands of desperate and lawless men, mainly composed of soldiers of the late rebel armies, armed, disciplined, and disguised, and bound by oath and secret obligations, have, by force, terror, and violence, subverted all civil society among colored people; thus utterly rendering insecure the safety of persons and property, overthrowing all those rights which are the primary basis and objects of the Government, which are expressly guaranteed to us by the Constitution of the United States as amended. We believe you are not familiar with the description of the Ku-Klux Klans riding nightly over the country, going from county to county, and in the county towns, spreading terror wherever they go by robbing, whipping, ravishing, and killing our people without provocation, compelling colored people to break the ice and bathe in the chilly waters of the Kentucky River.

The legislature has adjourned. They refused to enact any laws to suppress Ku-Klux disorder. We regard them as now being licensed to continue their dark and bloody deeds under cover of the dark night. They refuse to allow us to testify in the State courts where a white man is concerned. We find their deeds are perpetrated only upon colored men and white republicans. We also find that for our services to the Government and our race we have become the special object of hatred and persecution at the hands of the democratic party. Our people are driven from their homes in great numbers, having no redress only the United States court, which is in many cases unable to reach them.

We would state that we have been law-abiding citizens, pay our taxes, and in many parts of the State our people have been driven from the polls, refused the right to vote; many have been slaughtered while attempting to vote. We ask, how long is this state of things to last?

We appeal to you as law-abiding citizens to enact some laws that will

protect us, and that will enable us to exercise the rights of citizens. We see that the Senator from this State denies there being organized bands of desperadoes in the State; for information, we lay before you a number of violent acts, occurred during his administration. Although he, Stevenson, says half a dozen instances of violence did occur, these are not more than one-half the acts that have occurred. The democratic party has here a political organization composed only of democrats; not a single republican can join them. Where many of these acts have been committed, it has been proven that they were the men, done with arms from the State arsenal. We pray you will take some steps to remedy these evils.

Done by a committee of grievances appointed at a meeting of all the colored citizens of Frankfort and vicinity.

HENRY MARRS,
Teacher Colored School,
HENRY LYNN,
Livery Stable Keeper,
H. H. TRUMBO, *Grocer,*
SAMUEL DEMSEY,
B. SMITH,
B. J. CRAMPTON, *Barber,*
Committee.

MARCH 25, 1871.

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1. A mob visited Harrodsburg, in Mercer County, to take from jail a man named Robertson, November 14, 1867.
2. Smith attacked and whipped by regulators in Nelson County, November, 1867.
3. Colored school-house burned by incendiaries in Breckinridge, December 24, 1867.
4. A negro, Tim Machlin, taken from jail in Frankfort and hung by mob, January 28, 1868.
5. Sam Davis hung by mob at Harrodsburg, May 23, 1868.
6. William Pierce hung by a mob in Christian, July 12, 1868.
7. George Rogers hung by a mob at Bradfordsville, Marion County, July 11, 1868.
8. Colored school exhibition at Midway attacked by a mob, July 31, 1868.
9. Seven persons ordered to leave their homes at Stanford. Kentucky, August 7, 1868.
10. Silas Woodford, aged 60, badly beaten by disguised mob; Mary Smith Curtis and Margaret Mosby also badly beaten near Keene, Jessamine County, August, 1868.
11. Cabe Fields shot and killed by disguised men near Keene, Jassemine County, August 3, 1868.
12. James Gaines expelled from Anderson by Ku-Klux, August, 1868.
13. James Parker killed by Ku-Klux, Pulaski, August, 1868.
14. Noah Blankenship whipped by a mob in Pulaski County, August, 1868.
15. Negroes attacked, robbed, and driven from Summerville, in Greene County, August 21, 1868.
16. William Gibson and John Gibson hung by a mob in Washington County, August, 1868.
17. J. A. Montford hung by a mob near Coger's Landing in Jessamine County, —— 28, 1868.
18. William Glasgow killed by a mob in Warren County, September 5, 1868.
19. Negro hung by a mob, September, 1868.
20. Two negroes beaten by Ku-Klux in Anderson County, September 11, 1868.
21. Mob attacked house of Oliver Stone in Fayette County, September 11, 1868.
22. Mob attacked Cumins's house in Pulaski County; Cumins, his daughter, and a man named Adams killed in the attack, September 18, 1868.
23. United States Marshal Meriwether attacked, captured, and threatened with death in Larue county by mob, September, 1868.
24. Richardson's house attacked in Cornishville by mob, and Crasbaw killed, September 28, 1868.

25. Mob attacks negro cabin at Hanging Forks, in Lincoln county; John Masteran killed, and Cash and Coffey killed, September, 1869.
26. Jerry Laws and James Ryan hung by mob at Nicholasville, October 26, 1868.
27. Attack on negro cabin in Spencer County; a woman outraged, December, 1868.
28. Two negroes shot by Ku-Klux at Sulphur Springs, in Union County, December, 1868.
29. Negro shot at Morganfield, Union County, December, 1868.
30. Mob visited Edmund Burns's house in Mercer County, January, 1869.
31. William Parker whipped by Ku-Klux in Lincoln County, January 20, 1869.
32. Mob attacked and fired into house of Jesse Davis's, in Lincoln county, January 20, 1868.
33. Spears taken from his room at Harrodsburg by disguised men, January 19, 1869.
34. Albert Bradford killed by disguised men in Scott County, January 20, 1869.
35. Ku-Klux whipped Bayatt at Stanford, March 12, 1869.
36. Mob attacked Frank Boumes's house in Jessamine County; Roberts killed, March, 1869.
37. George Bratcher hung by mob on Sugar Creek, in Garrard County, March 30, 1869.
38. John Penny hung by a mob at Nevada, Mercer County, May 29, 1869.
39. Ku-Klux whipped Lucien Green in Lincoln County, June, 1869.
40. Miller whipped by Ku-Klux in Madison County, July 2, 1869.
41. Charles Handerson shot and his wife killed by mob on Silver Creek, Madison County, July, 1869.
42. Mob decoy from Harrodsburg and hang George Bolling, July 17, 1869.
43. Disguised band visited home of I. C. Vanarsdall and T. J. Vanarsdall, in Mercer County, July 18, 1869.
44. Mob attack Rousey's house in Casey County; three men and one woman killed, July, 1869.
45. James Crowders hung by mob near Lebanon, Marion County, August 9, 1869.
46. Mob tar and feather a citizen of Cynthiana, in Harrison County, August, 1869.
47. Mob whipped and bruised a negro in Davis County, September, 1869.
48. Ku-Klux burn colored meeting-house in Carroll County, September, 1869.
49. Ku-Klux whipped a negro at John Carnmon's farms, in Fayette County, September, 1869.
50. Wiley Gevens killed by Ku-Klux at Dixon, Webster County, October, 1869.
51. George Rose killed by Ku-Klux near Kirkville, in Madison County, October 18, 1869.
52. Ku-Klux ordered Wallace Sinthorn to leave his home near Parkville, Boyle County, October, 1869.
53. Man named Shepherd shot by mob near Parksville, October, 1869.
54. Regulator killed George Tankesley, in Lincoln County, November 2, 1869.
55. Ku-Klux attacked Frank Searcy's house in Madison County; one man shot, November, 1869.
56. Searcy hung by mob at Richmond, Madison County, November 4, 1869.
57. Ku-Klux killed Robert Mershon; daughter shot, November, 1869.
58. Mob whipped Pope, Hall, and Willet, in Washington County, November, 1869.
59. Regulators whipped Cooper, in Pulaski County, November, 1869.
60. Ku-Klux ruffians outraged negroes in Hickman County, November 20, 1869.
61. Mob take two negroes from jail, Richmond, Madison County; one hung; one whipped, December 12, 1869.
62. Two negroes killed by mob while in civil custody, near Mayfield, Graves County, December, 1869.
63. Allen Cooper killed by Ku-Klux in Adair County, December 24, 1869.
64. Negroes whipped while on Scott's farm, in Franklin County, December, 1869.
65. Mob hung Charles Fields in Fayette County, January 20, 1870.
66. Mob take two men from Springfield jail and hang them, January 31, 1870.
67. Ku-Klux whipped two negroes in Madison County, February, 1870.
68. Simms hung by mob near Kingston, Madison County, February, 1870.
69. Mob hung up, then whipped, Douglass Rodes, near Kingston, Madison County, February, 1870.
70. Mob takes Fielding Waller from jail at Winchester, February 19, 1870.
71. R. L. Byrom hung by mob at Richmond, February 18, 1870.
72. Perry hung by mob near Lancaster, Garrard County, April 5, 1870.
73. Negro hung by mob at Crab Orchard, Lincoln County, April 6, 1870.
74. Mob rescues prisoner from Somerset jail, April 5, 1870.
75. Mob attacked A. Owen's house, in Lincoln county; Hyatt killed and Saunders shot, April, 1870.
76. Mob releases five prisoners from Federal officers in Bullitt County, April 11, 1870.
77. Sam Lambert shot and hung by mob in Mercer County, April 11, 1870.
78. Mob attacked William Palmer's house, in Clark County; William Hart killed, April, 1870.
79. Three men hung by mob near Glasgow, Warren County, May, 1870.

80. John Redman killed by Ku-Klux in Adair County, May, 1870.
81. William Sheldon, Pleasonton Parker, Daniel Parker, Willis Parker, hung by mob in Laurel County, May 14, 1870.
82. Ku-Klux visited negro cabins at Peak's Mill, Franklin County; robbed and maltreated inmates, May 14, 1870.
83. Negro school-house burned by incendiaries in Christian County, May, 1870.
84. Negro hung by mob at Greenville, Muhlenburg County, May, 1870.
85. Colored school-house on Glen Creek, in Woodford County, burned by incendiaries, June 4, 1870.
86. Ku-Klux visited negro cabin, robbing and maltreating inmates, on Sand Riffle, in Henry County, June 10, 1870.
87. Mob attacked jail in Whitley County; two men shot, June, 1870.
88. Election riot at Harrodsburg; four persons killed, August 4, 1870.
89. Property burned by incendiaries in Woodford County, August 8, 1870.
90. Turpin and Parker killed by mob at Versailles, August 10, 1870.
91. Richard Brown's house attacked by Ku-Klux, in Henry County, August, 1870.
92. Simpson Grubbs killed by a band of men in Montgomery County, August, 1870.
93. Jacob See rescued from Mt. Sterling jail by mob, September, 1870.
94. Frank Timberlake hung by a mob at Flemingburg, Fleming County, September, 1870.
95. John Simes shot and his wife murdered by Ku-Klux, in Henry County, September, 1870.
96. Oliver Williams hung by Ku-Klux, in Madison County, September, 1870.
97. Ku-Klux visited cabins of colored people, robbed and maltreated inmates, at Havey Mill, Franklin County, ———.
98. A mob abducted Hicks from Lancaster, October, 1870.
99. Howard Gilbert shot by Ku-Klux, in Madison County, October 9, 1870.
100. Ku-Klux drive colored people, Bald Knob, Franklin County, October, 1870.
101. Two negroes shot on Harrison Blanton's farm, near Frankfort, December 6, 1870.
102. Two negroes killed in Fayette County, while in civil custody, December 18, 1870.
103. Howard Million murdered by Ku-Klux, in Fayette County, December, 1870.
104. John Dickerson driven from his home in Henry County, and his daughter ravished, December 12, 1870.
105. A negro named George hung by a mob at Cynthiana, Harrison County, December, 1870.
106. Negro killed by Ku-Klux near Ashland, Fayette County, January 7, 1871.
107. A man named Hall whipped and shot, near Shelbyville, Shelby County, January 17, 1871.
108. Ku-Klux visited negro cabin at Stamping Ground, in Scott County; forces (white) and Ku-klux killed two negroes; negroes killed in self-defense, ——
109. Negro killed by Ku-Klux in Henry County, January 14, 1871.
110. Negro church and school-house in Scott County, January 13, 1871.
111. Ku-Klux maltreated Demar, his two sons, and Joseph Allen in Franklin, January, 1871.
112. Dr. Johnson whipped by Ku-Klux in Magoffin County, December, 1871.
113. Property burned by incendiaries in Fayette County, January 21, 1871.
114. Attack on mail agent, North Benson, January 26, 1871.
115. Winstone Hawkins's fence burned, and notice over his door, "Not come home any more," April 2, 1871.
116. Ku-Klux, to the number of 200, in February, came into Frankfort and rescued from jail one Scroggins that was in civil custody for shooting and killing one colored man named Strader Trumbo.

42D CONGRESS, 1st Session. } SENATE. { MIS. DOC. No. 50.

RESOLUTION

OF

THE LEGISLATURE OF MICHIGAN,

RELATIVE TO

Indian Reservations in that State.

APRIL 12, 1871.—Ordered to lie on the table and be printed.

Whereas, under a treaty made and concluded in 1855 between the United States and the Ottawa and Chippewa Indians of Michigan, a large quantity of public lands in the counties of Leelanaw, Emmet, Cheboygan, Mackinac, Chippewa, Oceana, Muskegon and Mason, in the State of Michigan, were withdrawn from sale for the benefit of said Indians, and the said Indians were allowed until 1866 to select, and also to purchase, such descriptions of said lands as they were entitled to by the terms of said treaty; and whereas more than four years have elapsed since the expiration of the time granted to the said Indians as aforesaid, and the said Indians having made their selections and purchases under the said treaty, still the United States have neglected to patent the lands so selected and purchased, and restore the balance of said lands to market; and whereas by this neglect a large body of this land, unselected and not purchased by said Indians, is kept out of market, the Indians deprived of their rights in the lands so selected and purchased by them, the settlement of the counties greatly retarded, nearly half of the counties remaining unsettled and untaxable, to the great injury of the citizens of said counties: Therefore,

Resolved by the Senate and House of Representatives of the State of Michigan, That the Senators and Representatives of the State of Michigan in Congress be requested to use their influence for the immediate adoption of such measures as will speedily secure the patenting of the lands so selected and sold, and the remainder of said lands be immediately restored to market.

Resolved, That the governor be requested to transmit copies of the foregoing preamble and resolutions to our Senators and Representatives in Congress, and urge their action thereon.

A. B. WOOD,
President pro tem. of the Senate.
J. J. WOODMAN,
Speaker of the House of Representatives.

EXECUTIVE OFFICE, *Lansing, Michigan.*

Approved March 29, 1871.

HENRY P. BALDWIN.

RESOLUTION

OF

THE LEGISLATURE OF NEBRASKA,

ASKING

A grant of land for the endowment of normal schools in that State.

APRIL 15, 1871.—Ordered to lie on the table and be printed.

To the honorable the Senate and House of Representatives of the United States:

Your memorialists, the legislature of the State of Nebraska, would respectfully represent to your honorable body that our young State is being rapidly settled with a vigorous and enterprising population, whose means are limited and who have to rely for support for themselves and families upon the brawny arms and hardened muscles with which a bountiful God has blessed them, and are consequently driven to seek homes in remote settlements where facilities for the education of their children do not in many instances exist, or are grossly inadequate.

Your memorialists further state that while we feel duly grateful to the General Government for her munificent donations of lands for common-school purposes, a very large proportion of said lands are, in a portion of our State, yet unsettled, or sparsely populated, and will in consequence remain unsalable for many years; that lands donated to us by the General Government for works of internal improvement have been applied to relieve our most pressing wants, to wit, the erection of bridges and the construction of thoroughfares, essential to our interests as a stock-growing and agricultural people; that our people, hailing as they do from every portion of the United States, and indeed of the world, take a deep interest in the cause of education; that the legislature has to that end, at a heavy expense, established one normal school and supports the same at the cost of an onerous tax upon the people for the purpose of educating teachers, and though said normal school is now rendering highly gratifying evidence of its success, fully up to the advanced system of instruction now recommended by the best educators of the country, it falls far short of supplying the great and growing demands of our vigorous young State. We would therefore, in order to relieve ourselves to some extent from our present burdens, ask Congress to donate to the State for the endowment of the present normal school thirteen thousand acres of the public domain, and to the endowment of three other normal schools, to be hereafter established, seventy-five thousand acres, on such terms and conditions as they may deem proper: Therefore,

Resolved, That our Senators in Congress be instructed, and our Representative therein requested, to use all honorable means to obtain from the General Government about or near one hundred thousand acres of

the public lands for the endowment of the present State normal school, and of three additional normal schools to be hereafter established as the legislature may direct.

Resolved, That the secretary of state be ordered to transmit certified copies of this memorial and resolution to each of our Senators and to our Representative in the Congress of the United States.

G. W. COLLINS,
Speaker of the House of Representatives.
E. E. CUNNINGHAM,
President of the Senate.

Approved March 29, A. D. 1871.

WILLIAM H. JAMES,
Acting Governor.

L. E. CROPSEY,
Assistant Clerk House of Representatives.

STATE OF NEBRASKA, *Secretary's Department:*

I, William H. James, secretary of the State of Nebraska, do hereby certify that I have carefully compared the foregoing copy of joint resolution in relation to endowment of normal schools, passed by the legislative assembly of this State during the eighth session thereof and approved by the governor the 29th day of March, 1871, with the original rolls on file in this office, and that the same is a true and perfect copy of said resolution.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Nebraska. Done at Lincoln this 8th day of April, in the year of our Lord one thousand eight hundred and seventy-one, of the independence of the United States the ninety-fifth, and of this State the fifth.

[SEAL.]

WM. H. JAMES,
Secretary of State,
Per WHITEHEAD.

42D CONGRESS, 1st Session. | SENATE. | MIS. DOC. No. 52.

RESOLUTION

OF

THE LEGISLATURE OF NEBRASKA,

ASKING

Relief for Captain James Murrie.

APRIL 15, 1871.—Ordered to lie on the table and be printed.

To the honorable Senate and House of Representatives of the United States:

Whereas in the month of August, 1867, Captain James Murrie, commanding Company A, Pawnee Scouts, consisting of forty-eight men, engaged and routed one hundred and fifty men belonging to the Cheyenne Indians, under Turkey-Foot, their chief. Captain James Murrie and his men killed fifteen and captured two Indians, one being the son of Turkey-Foot; these two prisoners were saved from instant death by the bravery and courage of the said Captain James Murrie, he desiring to hold them as hostages for the exchange of some white prisoners held by the Cheyennes. A council of the Indians was subsequently held at North Platte, at which council Lieutenant General W. T. Sherman was present.

Whereas it appears that said council was successful in exchanging the two Indians (captured by Captain James Murrie) for six white women that had been captured from the settlements on the Platte River, and were restored to their respective families. The excessive scouting and exposure incurred all through this campaign very seriously impaired the health of said James Murrie, captain of Pawnee Scouts, Company A. Said Captain Murrie was again called out on the first day of April, 1869, and on the first day of July of the same year received what was supposed to be sun-stroke, but which proved to be insanity, superinduced by the exposure of the several Indian campaigns through which Captain Murrie had passed.

Whereas said Captain Murrie has been and now is an inmate of the insane asylum, having a wife and three small children totally unprovided for, and as no provision is made under any of the military regulations, whereby a pension or half-pay can be claimed for service in the Indian campaigns on the Western frontier for any person or officer belonging to companies composed of Indians: Therefore,

Be it resolved by the legislature of the State of Nebraska, That in view of the distressed condition of the family of said Captain James Murrie, and his total incapacity to support them, we do most earnestly request our Senators and Representative in Congress to use their influence to obtain such relief as they may deem just and proper for the family of the said Captain James Murrie, Company A, Pawnee Scouts, and that

a certified copy of this resolution be sent to our Senators and Representative in Congress.

G. W. COLLINS,
Speaker of the House of Representatives.
E. E. CUNNINGHAM,
President of the Senate.

Approved March 24, A. D. 1871.

WILLIAM H. JAMES,
Acting Governor.

L. E. CROPSEY,
Assistant Clerk House of Representatives.

STATE OF NEBRASKA, *Secretary's Department:*

I, William H. James, secretary of the State of Nebraska, do hereby certify that I have carefully compared the foregoing copy of memorial and joint resolution for the relief of Captain James Murrie, passed by the legislative assembly of this State, during the eighth session thereof, and approved by the governor the 24th day of March, 1871, with the original rolls on file in this office, and that the same is a true and perfect copy of said memorial and joint resolution.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Nebraska. Done at Lincoln this 8th day of April, in the year of our Lord one thousand eight hundred and seventy-one, of the independence of the United States the ninety-fifth, and of this State the fifth.

[SEAL.]

WM. H. JAMES,
Secretary of State.

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LETTER

OF THE

TREASURER OF WASHINGTON CITY SAVINGS BANK,

TRANSMITTING

Annual statement for the year ending April 1, 1871.

APRIL 17, 1871.—Referred to the Committee on the District of Columbia and ordered to be printed.

WASHINGTON CITY SAVINGS BANK,
Washington, D. C., April 15, 1871.

DEAR SIR: I have the honor to inclose herewith the annual statement of our bank, in compliance with section 8 of the charter.

Yours, very respectfully,

J. A. RUFF, *Treasurer.*

Hon. SCHUYLER COLFAX,
President United States Senate, Washington, D. C.

Annual statement of the Washington City Savings Bank for the year ending April 1, 1871.

RESOURCES.		LIABILITIES.	
Loans and discounts	$132,632 98	Due depositors, numbering 1,027, including interest to date	$266,031 65
United States bonds	17,300 00	Certificates of deposit outstanding	6,991 22
Union Pacific Railroad first mortgage bonds, $9,000 value	7,470 00		
St. Louis City bond, $1,000 value	878 84		
Corporation stock, $5,030 value	4,024 00		
Orange & Alexandria Railroad, $1,000	765 50		
Young Men's Christian Association, 24 shares	450 00		
Corporation 3 year 7-30s, $20,650 value	19,617 50		
Corporation 5 year 7-30s, $2,700 value	2,538 00		
Corporation 10 year bonds, $15,000	12,300 00		
Land warrants	17,072 95		
North Pacific Railroad bond	5,600 00		
Due from banks and bankers	14,838 42		
Revenue stamps	1,858 77		
Cash	35,675 91		
Total	273,022 87	Total	273,022 87

LOSS.		GAIN.	
Interest paid and credited up to depositors during year	9,156 20	Profit and loss	27,609 77
Expenses	18,453 57		
Total	27,609 77	Total	27,609 77

GEO C. HENNING,
Z. JONES,
WM. T. BRYAN,
T. J. GARDNER,
GEO. R. RUFF,
J. A. RUFF,
Directors.

DISTRICT OF COLUMBIA, *County of Washington, ss:*

Sworn to and subscribed before me on this 13th day of April, 1871.

W. E. HOWARD,
Notary Public.

IN THE SENATE OF THE UNITED STATES.

MAY 18, 1871.—Ordered to be printed.

Mr. SUMNER submitted the following

RESOLUTION:

Resolved, That the following rule be adopted by the Senate, viz:

All treaties with foreign powers shall be considered in public and open session of the Senate, unless when communicated in special confidence by the President, or when ordered otherwise by special vote of the Senate.

AMENDMENT

Intended to be proposed by Mr. Conkling to the amendment proposed by Mr. Sumner to the Rules of the Senate, when the same shall come up for consideration, viz:

After the words "foreign powers" insert the words, *and all other matter heretofore known as executive matter.*

○

TABLES

PREPARED BY

GEORGE S. WAGNER,

SHOWING

The commencement, duration, and termination of each session of Congress, and of each special session of the Senate, from 1789 *to* 1871.

MAY 23, 1871.—Ordered to be printed.

SENATE LIBRARY, *May* 22, 1871.

SIR: I have the honor to submit to you two tables, showing the commencement, termination, and duration of each session of Congress, and of each special session of the Senate, from the beginning of the Government, 1789, to the present time, 1871.

I have the honor to be your obedient servant,

GEO. S. WAGNER.

Hon. S. C. POMEROY,
United States Senate.

TABLE NO. 1.—*Exhibiting the commencement, termination, and number of days of each session of Congress from* 1789 *to* 1871.

Congress.	Session.	Commencement of session.	Termination of session.	No. of days of each session.
1	1	March 4, 1789	September 29, 1789	210
1	2	January 4, 1790	August 12, 1790	221
1	3	December 6, 1790	March 3, 1791	88
2	1	October 24, 1791	May 8, 1792	198
2	2	November 5, 1792	March 2, 1793	118
3	1	December 2, 1793	June 9, 1794	190
3	2	November 3, 1794	March 3, 1795	121
4	1	December 7, 1795	June 1, 1796	178
4	2	December 5, 1796	March 3, 1797	89
5	1	May 15, 1797	July 10, 1797	57
5	2	November 13, 1797	July 16, 1798	246
5	3	December 3, 1798	March 3, 1799	91
6	1	December 2, 1799	May 14, 1800	165
6	2	November 17, 1800	March 3, 1801	107
7	1	December 7, 1801	May 3, 1802	148
7	2	December 6, 1802	March 3, 1803	88
8	1	October 17, 1803	March 27, 1804	163
8	2	November 5, 1804	March 3, 1805	119
9	1	December 2, 1805	April 21, 1806	141
9	2	December 1, 1806	March 3, 1807	93
10	1	October 26, 1807	April 25, 1808	183
10	2	November 7, 1808	March 3, 1809	117

TABLE No. 1.—*Exhibiting the commencement, termination, number of days, &c.*—Continued.

Congress.	Session.	Commencement of session.	Termination of session.	No. of days of each session.
11	1	May 22, 1809	June 28, 1809	38
11	2	November 27, 1809	May 1, 1810	156
11	3	December 3, 1810	March 3, 1811	91
12	1	November 4, 1811	July 6, 1812	245
12	2	November 2, 1812	March 3, 1813	122
13	1	May 24, 1813	August 2, 1813	71
13	2	December 6, 1813	April 18, 1814	134
13	3	September 19, 1814	March 2, 1815	166
14	1	December 4, 1815	April 30, 1816	149
14	2	December 2, 1816	March 3, 1817	92
15	1	December 1, 1817	April 20, 1818	141
15	2	November 16, 1818	March 3, 1819	108
16	1	December 6, 1819	May 15, 1820	162
16	2	November 13, 1820	March 3, 1821	111
17	1	December 3, 1821	May 8, 1822	157
17	2	December 2, 1822	March 3, 1823	92
18	1	December 1, 1823	May 27, 1824	179
18	2	December 6, 1824	March 3, 1825	88
19	1	December 5, 1825	May 22, 1826	169
19	2	December 4, 1826	March 3, 1827	90
20	1	December 3, 1827	May 26, 1828	176
20	2	December 1, 1828	March 3, 1829	93
21	1	December 7, 1829	May 31, 1830	176
21	2	December 6, 1830	March 3, 1831	88
22	1	December 5, 1831	July 16, 1832	225
22	2	December 3, 1832	March 2, 1833	90
23	1	December 2, 1833	June 30, 1834	211
23	2	December 1, 1834	March 3, 1835	93
24	1	December 7, 1835	July 4, 1836	211
24	2	December 5, 1836	March 3, 1837	89
25	1	September 4, 1837	October 16, 1837	44
25	2	December 4, 1837	July 9, 1838	218
25	3	December 3, 1838	March 3, 1839	91
26	1	December 2, 1839	July 21, 1840	233
26	2	December 7, 1840	March 3, 1841	87
27	1	May 31, 1841	September 13, 1841	106
27	2	December 6, 1841	August 31, 1842	269
27	3	December 5, 1842	March 3, 1843	89
28	1	December 4, 1843	June 17, 1844	197
28	2	December 2, 1844	March 3, 1845	92
29	1	December 1, 1845	August 10, 1846	253
29	2	December 7, 1846	March 3, 1847	87
30	1	December 6, 1847	August 14, 1848	253
30	2	December 4, 1848	March 3, 1849	90
31	1	December 3, 1849	September 30, 1850	302
31	2	December 2, 1850	March 3, 1851	92
32	1	December 1, 1851	August 31, 1852	275
32	2	December 6, 1852	March 3, 1853	88
33	1	December 5, 1853	August 7, 1854	276
33	2	December 4, 1854	March 3, 1855	89
34	1	December 3, 1855	August 18, 1856	289
34	2	August 21, 1856	August 30, 1856	10
34	3	December 1, 1856	March 3, 1857	92
35	1	December 7, 1857	June 14, 1858	189
35	2	December 6, 1858	March 3, 1859	88
36	1	December 5, 1859	June 25, 1860	202
36	2	December 3, 1860	March 3, 1861	90
37	1	July 4, 1861	August 6, 1861	33
37	2	December 2, 1861	July 17, 1862	227
37	3	December 1, 1862	March 3, 1863	92
38	1	December 7, 1863	July 4, 1864	209
38	2	December 5, 1864	March 3, 1865	88
39	1	December 4, 1865	July 28, 1866	236
39	2	December 3, 1866	March 3, 1867	90
40	1	March 4, 1867	March 30, 1867	27
		July 3, 1867	July 20, 1867	18
		November 21, 1867	December 2, 1867	11
40	2	December 2, 1867	July 27, 1868	237
		September 21, 1868	September 21, 1868	1
		October 16, 1868	October 16, 1868	1
		November 10, 1868	November 10, 1868	1
40	3	December 7, 1868	March 3, 1869	86
41	1	March 4, 1869	April 10, 1869	37
41	2	December 6, 1869	July 15, 1870	221
41	3	December 5, 1870	March 3, 1871	88
42	1	March 4, 1871	April 20, 1871	47

TABLE NO. 2.—*Exhibiting the commencement, termination, and number of days of each special session of the Senate from* 1789 *to* 1871.

Number.	Commencement.	Termination.	No. of days of each session.
1	March 4, 1791	March 4, 1791	1
2	March 4, 1793	March 4, 1793	1
3	June 8, 1795	June 26, 1795	19
4	March 4, 1797	March 4, 1797	1
5	July 17, 1798	July 19, 1798	3
6	March 4, 1801	March 5, 1801	2
7	March 4, 1809	March 7, 1809	4
8	March 4, 1817	March 6, 1817	3
9	March 4, 1825	March 9, 1825	6
10	March 4, 1829	March 17, 1829	14
11	March 4, 1837	March 10, 1837	7
12	March 4, 1841	March 15, 1841	12
13	March 4, 1845	March 19, 1845	17
14	March 5, 1849	March 23, 1849	19
15	March 4, 1853	April 11, 1853	8
16	March 4, 1857	March 14, 1857	11
17	June 15, 1858	June 16, 1858	2
18	March 4, 1859	March 10, 1859	7
19	June 26, 1860	June 28, 1860	3
20	March 4, 1861	March 28, 1861	25
21	March 4, 1863	March 14, 1863	11
22	March 4, 1865	March 11, 1865	8
23	April 1, 1867	April 20, 1867	20
24	April 12, 1869	April 22, 1869	11
25	May 10, 1871	May 27, 1871	18

LETTER

OF THE

CHIEF OF ENGINEERS OF THE ARMY,

IN RELATION TO

The levee system of the Mississippi River.

MARCH 13, 1871.—Referred to the Select Committee on the Levees of the Mississippi River.

MAY 26, 1871.—Ordered to be printed.

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D. C., March 3, 1871.

SIR: I have to acknowledge the receipt of your letter of the 18th ultimo, inclosing for my examination copies of five bills referred by the Senate to the Select Committee on the Levees of the Mississippi River, of which you are chairman, and asking such suggestions and alterations as in my opinion would best promote the object in view.

I have already had occasion to suggest some modifications to bill S. 769, in a letter to the Secretary of War of April 28, 1870, a copy of which is herewith inclosed, together with the bill itself with the modifications interlined thereon.

This letter, which contains some general views upon the whole subject, will be found printed in my annual report of 1870 to the Secretary of War, pages 405 and 406. (See Ex. Doc. No. 1, part 2, Forty-first Congress, second session.)

In bill 935 I would suggest that, owing to the diminution in the height of the levees requisite for protection at and below the mouth of Red River, the amount of bonds per mile of finished levee be diminished accordingly, and that there be inserted after the word "received," in line 16, section 2, the following: "Lying above the mouth of Red River, and to the extent and amount of $7,000 for each mile of levee so constructed and received lying below the mouth of Red River, or on that river, and its tributaries and debouches."

A report upon the subject of bill S. 101 will be found printed in Ex. Doc. No. 166, Fortieth Congress, second session. Bonds to the amount of $15,000 per mile, instead of $25,000, would be better, if such aid is to be afforded, and some provision should be made for the expense attending the performance of the duties required by the bill of the Chief of Engineers.

As regards bill S. 1136, estimating the land at $1 per acre, the whole grant and appropriation would amount to $7,000,000. As the length of levee on the Yazoo front is three hundred and sixty-four miles, the aid is therefore $20,000 per mile. The proposed aid in bill S. 935 is $15,000.

No provision is made for securing the application of the proceeds of sale of the land granted to the construction of the levees.

It is not perceived that the enactment of bill S. 310 would accomplish anything not already accomplished by the charters of the States named. Is it intended that the United States shall authorize the company to tax lands and property protected, and their products; that is, does the bill adopt on the part of the United States the charter granted by each State?

I would refer you to the postscript of the accompanying copy of the letter to the Secretary of War for a list of such printed documents as contain reports upon the subjects embraced in this communication. You will find in them the views I have had as to the general system upon which the protection of the Mississippi alluvion from overflow should be based.

From the great magnitude and difficulty of the work to be accomplished, and the vast area of fertile soil its successful execution will bring under cultivation, it must be regarded as one of national importance. The alluvion extends along the bank of the river for more than a thousand miles, passing through the territory of several States, but from the very nature of the protection sought some power should exercise a general supervision and control over the works to be erected and maintained since great areas of lands in one State may be flooded by the overflows of an adjoining State. This general control devolves upon the United States, since no State can exercise it, and it might therefore be expected that the General Government would lend some aid to the accomplishment of so great a task. Yet the work should be left chiefly to private enterprise that will find its reward directly or indirectly in the fertile soil secured from annual inundation. While the interests of the planter should be secured by local laws against the rapacity of chartered companies, sufficient inducement should be held out to such companies to undertake the difficult and costly work of leveeing the banks securely and maintaining them in that condition.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,
Brigadier General and Chief of Engineers.

Hon. W. P. KELLOGG,
United States Senate.

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D. C., April 28, 1870.

SIR: Respecting the "bill to secure a uniform and permanent system of levees for the reclamation and protection of the alluvial lands of the Mississippi Valley from overflow," I have to remark that previous reports from this office have indicated the extent and cost of such a system. By reference to them it will be perceived that the estimated cost of bringing the existing levees to the condition necessary for security against floods is $36,000,000, to which should be added, eventually, $6,000,000 for levees on the chief tributaries of the Mississippi in the alluvial region.

To what extent the existing levees may be used I have not the data to determine with exactitude. Should new levees be built throughout the alluvial region, their cost on the Mississippi River is estimated at $52,000,000, to which should be added the cost of levees on the chief tributaries in the alluvial region; that is, $6,000,000.

As a large part of the old levees, especially below the mouth of the Red River, may be used, the cost of the system may be put at a sum between the two named for perfecting the old and for building entirely new levees.

The undertaking is one of great magnitude, and the grant of land proposed in the bill may be considered comparatively moderate.

The commission to locate and determine the dimensions, &c., of the levees, constituted in the manner proposed in the bill, modified as suggested by me, in sections 1, 2, 3, and 4, will have such an organization as will tend to secure proper location, dimensions, mode of construction, and materials for the levees, due consideration being had for the general or national interests, for the State or planting interests, and for the interests of the levee company, which insures the planter against overflow. If to this provision there could be added one conferring the power to revise the action of the commission and of the levee company on some high functionary of the United States Government, and making it obligatory upon the levee company to extend the system throughout the Mississippi alluvion, the great interests involved would have such security as their importance entitles them to.

The incorporating acts of the several States, it is presumed, impose such obligations upon the levee company as to guard carefully the interests of the planters, and at the same time offer sufficient inducement to capitalists to undertake a work of such great magnitude and cost, and which, if judiciously managed, must confer such great benefits upon local, State, and national interests.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,
Brigadier General and Chief of Engineers.

Hon. W. W. BELKNAP,
Secretary of War.

P. S.—The reports referred to in the first part of this communication will be found in "Report on physics and hydraulics of the Mississippi River, upon the protection of the alluvial region against overflow, and upon the deepening of the mouths," &c., and in abridged copy of same, printed in accordance with the resolution of the House of Representatives, July 20, 1867; also in Ex. Doc. No. 8, Fortieth Congress, first session, Senate; Ex. Doc. No. 166, H. R., Fortieth Congress, second session; and Mis. Doc. No. 8, Forty-first Congress, first session.

The letter of the Hon. Willard Warner and inclosed bill (with modifications) are respectfully returned.

OFFICE OF THE CHIEF OF ENGINEERS,
Washington, D. C., March 9, 1871.

DEAR SIR: Respecting a general levee system for the Mississippi River, you will observe that in my letter of April 28, 1870, to the Secretary of War, a copy of which was sent you on the 3d instant, it was suggested that the power of general supervision over the system should be vested in some high functionary of the United States Government. That power, it seems to me, should be confided to the Secretary of War; and, in general terms, if the United States should aid in the construction and maintenance of the levees by gifts of land, or by lending its credit or the services of its officers, or by giving its sanction in any way to the acts of a levee company, the conditions imposed upon such levee company, or other similar corporation, should be such as to secure the proper location of the levees, and their proper construction as to materials, dimensions, (height and thickness,) form and mode of building, and the order of time of construction.

Merely having an officer of the Corps of Engineers a member of a commission of three (the other two being appointed by State and corporate authority) to determine such matters as the above, would not secure a proper system; neither would a board of five members, three of which were officers of the Corps of Engineers, secure that end. In addition to such a provision as the last named, the Secretary of War should have the supervision and control of the decisions and proceedings of such a board or commission, just as he has of the plans of all the river and harbor works, fortifications, surveys, &c. Without such authority in the Secretary of War the Government will not exercise the control which the aid it lends to the enterprise would entitle it to, nor fulfill the obligation it would assume in granting aid; that is, there would be no adequate security that its aid would be properly applied.

In general terms, any bill to secure a uniform and permanent system of levees for the protection of the Mississippi alluvion should make it obligatory upon the levee company to conform their levees in location, dimensions, material, and mode of construction to the requirements of the Secretary of War, or to the principles established in the report upon the survey of the Mississippi River, made under the several acts of Congress for the purpose of establishing such a system. Such a company should report the location of their levees, their plan, the specifications of work, with maps, diagrams, &c., explanatory of the same, for the action of the Secretary of War; and no work of construction should be deemed authorized without his approval.

Upon the completion of the levees in accordance with the approved plans and to the satisfaction of the Secretary of War, in sections of specified lengths, the aid, whether in lands, credit, or otherwise, should be received by the company.

The construction of the levees in accordance with a proper system having been once attained, their maintenance might probably be sufficiently secured through the pecuniary interest the company would have in maintaining them permanently; but perhaps it would be better to make the matter doubly sure by a provision in the bill for the inspection of the levees by the Secretary of War whenever he might think it necessary, and then, by some tangible security upon the means of the company, enforce the permanence of the levees.

The expense attending the action of the Secretary of War should be borne by the appropriations for surveys in connection with river and harbor works.

You will perceive from this expression of views that it is not only unnecessary for any officer of United States Engineers to be a member of a commission composed of State or corporate engineers, but that it would be best that no provision should be made for such a mixed board. Whatever is done by or for the United States should be done independently of State or corporate action and officers, and in supervision of them. This principle has been adhered to always by the United States.

The approval by the War Department of the levee company's plans and operations would bring to it the confidence of the planters and others interested in the work, and of the public. This sanction should therefore be obtained in the manner just indicated independently of State or corporation.

Very respectfully, your obedient servant,

A. A. HUMPHREYS,
Brigadier General and Chief of Engineers.

Hon. W. P. KELLOGG,
United States Senate.