notes for national-bank notes, to the Committee on Banking and Currency.

By Mr. HOUSE: The petition of William Stennett and George Mealer, to have the charge of desertion against them removed, to the Committee on Military Affairs.

Also, the petition of William Mann, for compensation for property taken by the United States Army, to the Committee on War Claims.

Also, the petition of Willie Alsobrooks, for compensation for property taken by the United States authorities, to the same committee.

Also, the petition of William H. Johnson, of similar import, to the same commi ee.

By Mr. LAPHAM: Resolutions of the New York State Association, for an extension of the time in which applications for pensions may be filed, to the Committee on Invalid Pensions.

By Mr. MORRISON: The petition of sugar-refiners, that no law giving force and validity to the so-called reciprocity treaty with the Hawaiian Islands be passed, to the Committee of Ways and Means.

By Mr. O'NEILL: The petition of Jules C. Landnire, for a pension, to the Committee on Invalid Pensions.

By Mr. POWELL: The petition of Zebulon Vincent, for a pension, and a balance of bounty-money due him, to the Committee on Invalid Pensions.

By Mr. SHEAKLEY: The petition of citizens of West Middlesex, Mercer County, Pennsylvania, that a homestead and $200 in money be granted the soldiers of the late war, to the Committee on Invalid Pensions.

By Mr. VANCE, of North Carolina: A paper relating to a mail-route from Lenoir to Collettsville, North Carolina, to the Committee on the Post-Office and Post-Roads.

Also, the petition of William P. Payne, for a pension, to the Committee on Invalid Pensions.

By Mr. WELLS, of Mississippi: The petition of M. W. Young, for the reconsideration of his claim disallowed by the southern claims commission under act of March 3, 1871, to the Committee on War Claims.

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## IN SENATE.

### MONDAY, *March* 20, 1876.

Prayer by Rev. H. E. NILES, of York, Pennsylvania.

The Journal of the proceedings of Thursday last was read and approved.

#### EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, in response to a resolution of the Senate instructing the Secretary of the Treasury "to inquire and report how much more land on Fifteenth street will be required when the east front of the Treasury building is completed, and what will be the probable cost of the same, whether obtained at private sale or by condemnation for public use," transmitting a report of the Supervising Architect of the Treasury; which, on motion of Mr. MORRILL, of Vermont, was referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

He also laid before the Senate a letter from the Secretary of the Treasury, transmitting, in compliance with the resolution of the Senate of the 15th instant, the report of William G. Morris, special agent of the Treasury Department, on the Territory of Alaska and the collection of the customs revenues therein; which was referred to the Committee on Finance, and ordered to be printed.

He also laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of Feburary 3, 1876, a copy of the report of Major William P. Craighill, Corps of Engineers, upon the present condition as respects safety and permanency of the Aqueduct bridge over the Potomac River at Georgetown, District of Columbia; which was referred to the Committee on the District of Columbia, and ordered to be printed.

He also presented a communication from the Commissioner of Agriculture, transmitting additional information on the subject of "sea-island cotton;" which was referred to the Committee on Agriculture, and ordered to be printed.

#### POST-ROUTE BILL.

Mr. HAMLIN. I move that the Senate take up House bill No. 2262 establishing post-roads. I make the motion simply for the purpose of recommitting it to the Committee on Post-Offices and Post-Roads, because I find upon investigation that several Senators who had certain suggestions to make and certain amendments to offer failed to present them, and I find by the rules at the present time that all such amendments must go to the committee before they can be considered. After the bill is taken up I will move to recommit it to the committee.

The PRESIDENT *pro tempore*. The Senator from Maine moves to take up the bill and have it recommitted to the Committee on Post-Offices and Post-Roads. The Chair hears no objection, and it is so ordered.

#### PERSONAL EXPLANATION.

Mr. WRIGHT. I rise this morning to do what I thought I never should do, and indeed what I have resolved very often that I never would do, and that is to notice a matter in reference to my official conduct stated in the papers of the country. The circumstances, however, in this case are peculiar, and perhaps I am justified for that reason in making a departure from the rule which I had determined to observe.

On Thursday last, when I was confined in my house by indisposition, the Senator from Pennsylvania, [Mr. CAMERON,] the Senator from Louisiana, [Mr. WEST,] and perhaps one or two other Senators, referred to an article which charged them in connection with me with having as their private secretaries persons who were employed in the several Departments. My colleague [Mr. ALLISON] at the time was kind enough, and for that I thank him, to make an emphatic denial of it so far as I was concerned. The matter having been thus referred to, it is perhaps due to myself, for the first time since I have been in the Senate, that I should say one word on the subject.

In the first place, I believe I have not been in the Indian Bureau for three years. As far as I know there is no person employed in any way in that Bureau whom I ever recommended. There is no person in the employ of that Department who does any work whatever for me. There is no person there who is my private secretary. I have no private secretary now and never have had since I have been a member of the Senate; therefore I give to the statement an emphatic and unqualified denial. There could be nothing more false, more untrue, or more defamatory. The only person in the employ of the Government in any way connected with me is the clerk of the Committee on Claims, and how faithfully he discharges his duties I can appeal to every member of that committee without distinction of party. That is all I have to say on this subject so far as that statement is concerned.

I perhaps ought to notice another thing. There is a little paper, I believe, published in this city, which on the morning that these statements were made contained this article:

> The New York Mercury charges that Senator WRIGHT, of Iowa, has a young man as his private secretary who is borne on the rolls of the Indian Bureau as clerk, but who performs no duty for Government except to draw his pay.

Why my friends who were charged in the other article were not included in this I do not know. I suppose possibly it was because it was thought I was the only guilty one. I cannot very well imagine what else would have caused it. Whatever may be the motive, and I do not stop to inquire into it, I denounce it, whether in a paper of general or limited circulation in Washington City or elsewhere, as unqualifiedly false. As to the motive that may have inspired this article, I have none other than feelings of pity. I can only say, in common with other Senators on this subject, that if this malevolent, devilish, false, lying course is to be kept up, there is no safety for any man in this country so far as character is concerned, and the press becomes a disgrace to the country, to the age, and to our civilization.

#### PETITIONS AND MEMORIALS.

Mr. THURMAN. I present a petition very numerously signed by the inmates of the Soldiers' Home at Hampton, Virginia, praying that Congress may adopt such measures as may seem best to procure the release of Edward O'Meagher Condon, who is under sentence of imprisonment for life in a British prison. I explained the facts in this case when I presented a petition a few days ago on the same subject. I move the reference of the petition to the Committee on Foreign Relations.

The motion was agreed to.

Mr. DAWES presented a petition of the Boston Society of the Medical Sciences, praying that, after some date to be fixed several years in advance, the metric standards in the office of weights and measures at Washington shall be the sole authorized public standards of weights and measures; which was referred to the Committee on Finance.

He also presented a petition of merchants and business men in the city of Boston, praying that the bankrupt law may not be repealed, and asking an amendment of the same; which was referred to the Committee on the Judiciary.

Mr. BAYARD presented the petition of Joseph H. Glatts and 192 other citizens of Delaware, praying for the continuance of the present law providing for the payment of pensions; which was referred to the Committee on Pensions.

Mr. BOGY presented the memorial of John A. Scudder and other steamboat men of Saint Louis, Missouri, remonstrating against the passage of the bill (S. No. 373) to promote the efficiency of the light-house service; which was referred to the Committee on Commerce.

Mr. KERNAN presented a petition of citizens of Flatbush, Long Island, praying for a reduction of the third-class mail matter to one cent for every two ounces; which was referred to the Committee on Post-Offices and Post-Roads.

Mr. WINDOM presented a joint resolution of the Legislature of Minnesota, in favor of Congress taking the steps necessary to obtain from the United States Government permission to make indemnity selections from lands known as salt-spring lands in that State; which was referred to the Committee on Public Lands.

Mr. ALLISON presented five petitions, signed by 493 citizens of Iowa, praying for an appropriation to complete the Fox River improvement and for the construction of a canal along the Wisconsin River from Portage City to Prairie du Chien, Wisconsin, in accord-

ance with the third plan recommended by General Warren; which was referred to the Committee on Commerce.

He also presented a petition of the Board of Trade of the City of Dubuque, Iowa, praying for the repeal of the bankrupt law; which was referred to the Committee on the Judiciary.

Mr. MITCHELL presented a petition of citizens of Oregon, praying for the establishment of a mail-route from Grant's Pass to Galice Creek, in that State; which was referred to the Committee on the Post-Office and Post-Roads.

He also presented a petition of citizens of Oregon, praying for the establishment of a mail-route from McMinnville, Yam Hill County, to Grand Ronde, Polk County, in that State; which was referred to the Committee on the Post-Office and Post-Roads.

Mr. WHYTE presented the petition of William H. Shock and other chief engineers of the United States Navy who were fleet-engineers during the late war, praying to be awarded the same proportion of prize-money allowed to fleet-captains; which was referred to the Committee on Naval Affairs.

Mr. PADDOCK. I present a petition of numerous citizens of Nebraska, praying for the repeal of the law providing for the resumption of specie payments. I desire to state that I do not indorse the sentiment of the petition. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. BOOTH presented resolutions of the Legislature of California, in favor of an appropriation for the improvement of the harbor at Oakland, in the Bay of San Francisco; which were referred to the Committee on Commerce.

He also presented a resolution of the Legislature of California, in favor of an appropriation by Congress for the purpose of erecting a light-house and fog-bell in the Straits of Carquinez, at or near Benicia or Martinez; which was referred to the Committee on Commerce.

He also presented the petition of Henry A. Frink, late major of the Eleventh Regiment Pennsylvania Volunteers, praying that he may be granted arrears of pension from August 15, 1865, the time of his discharge from service, to September 1, 1873; which was referred to the Committee on Pensions.

Mr. ENGLISH presented the petition of the heirs of S. S. Hartshorn, praying for the extension of his letters-patent for an improvement in buckles; which was referred to the Committee on Patents.

The PRESIDENT *pro tempore* presented a memorial of the Legislature of Wisconsin, in favor of the establishment of a tri-weekly mail-route from Waupaca, in the county of Waupaca, to Plainfield, in the county of Waushara; which was referred to the Committee on Post-Offices and Post-Roads.

He also presented a resolution of the Legislature of Wisconsin, in favor of a consolidated official centennial directory of the general and several State governments of the United States of America; which was referred to the Committee on Appropriations.

Mr. CAMERON, of Pennsylvania, presented a letter from the Secretary of State, addressed to the chairman of the Committee on Foreign Relations, inclosing amendments to sections 91 and 168 of the regulations of consular courts in Japan, proposed by Hon. John A. Bingham, the United States minister at Tokei; which was referred to the Committee on Foreign Relations.

He also presented a protest of Messrs. W. H. Parsons and J. C. Chew, United States Centennial commissioners from Texas, remonstrating against the passage of House bill No. 1749, proposing to supersede them and appoint others in their stead; which was referred to the Committee on Foreign Relations.

### RELIEF OF SIOUX INDIANS.

Mr. WITHERS. I am instructed by the Committee on Appropriations, to whom was referred the bill (H. R. No. 2589) to supply a deficiency in the appropriations for certain Indians, to report it with an amendment; and I am also instructed by the committee to ask for its present consideration.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill. It appropriates $100,000 for the purpose of supplying the "Sioux Indians of different tribes, including the Santee Sioux of Nebraska," with necessary subsistence, namely, beef, bacon, flour, and corn, and for the necessary transportation thereof.

The bill was reported from the Committee on Appropriations with an amendment in line 7 after the word "hundred" and before "thousand" to insert the words "and fifty," so as to make the appropriation $150,000.

The amendment was agreed to.

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

It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time, and passed.

### REPORTS OF COMMITTEES.

Mr. WINDOM, from the Committee on Appropriations, to whom was referred the bill (H. R. No. 823) to correct an error of enrollment, asked to be discharged from its further consideration and that it be referred to the Committee on Finance; which was agreed to.

Mr. DORSEY, from the Committee on Appropriations, to whom was referred the resolution of the council of the city of New Orleans, asking that the mint in that city be placed in operation or restored to the original owner, asked to be discharged from its further consideration, and that it be referred to the Committee on Finance; which was agreed to.

He also, from the same committee, to whom was referred the memorial of the common council of Fredericksburgh, Virginia, in response to the action of the city of Boston requesting the erection of a monument at Yorktown, Virginia, commemorative of the closing battle of the war of the Revolution, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Buildings and Grounds; which was agreed to.

He also, from the same committee, to whom was referred the petition of Martinette Hardin McKee, widow of Alexander R. McKee, deceased, praying an appropriation by Congress sufficient to convey the remains of her late husband from Panama to Frankfort, Kentucky, to be interred in the cemetery at that place, asked to be discharged from its further consideration, and that it be referred to the Committee on Foreign Relations; which was agreed to.

Mr. DAVIS, from the Committee on Appropriations, to whom was referred the bill (S. No. 361) to provide for the payment of claims for Indian depredations, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. WINDOM, from the Committee on Patents, to whom was referred the petition of Harvey Lull, praying for an extension of his letters-patent for a self-locking shutter-hinge, submitted a report thereon accompanied by a bill (S. No. 608) to enable Harvey Lull, of Hoboken, New Jersey, to make application to the Commissioner of Patents for extension of letters-patent for a self-locking shutter-hinge.

The bill was read and passed to the second reading, and the report was ordered to be printed.

Mr. COCKRELL, from the Committee on Military Affairs, to whom was referred the petition of Patrick J. Kennedy, late of Company D, Fourteenth Kansas Cavalry Volunteers, praying for the removal of the charge of desertion against him, submitted an adverse report thereon; which was agreed to, and ordered to be printed.

He also, from the same committee, to whom was referred the bill (S. No. 378) for the relief of Sindey S. McLane, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the Committee on Claims, to whom was referred the bill (S. No. 393) for the relief of William J. Anderson, of Pickensville, Alabama, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

Mr. MERRIMON subsequently said: The Committee on Claims reported the claim of William J. Anderson this morning adversely, and the bill was indefinitely postponed. I move to reconsider the vote by which it was indefinitely postponed, and that the bill be placed on the Calendar.

The motion to reconsider was agreed to.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The bill will be placed on the Calendar with the adverse report of the committee.

Mr. COCKRELL. I am also directed by the Committee on Claims, to whom was referred the petition of Henry M. Naglee, of California, praying to be remunerated for unused tax stamps destroyed by fire, to report it adversely and ask to be discharged from its further consideration. I invite the attention of the Senator from California [Mr. SARGENT] to this case.

Mr. SARGENT. I suppose the case cannot go on the Calendar, as there is not a bill, but I am very sorry the committee have made an adverse report. I believe there are numerous precedents for such relief as this petitioner prays for. I would like to ask if the committee have considered the fact that this person being compelled by law to pay in advance for the stamps on the brandy, the stamps were unused, he proving that they were destroyed, and whether the Government ought not in that case to make reparation, and give him relief? I ask if the committee have considered that point fully?

Mr. COCKRELL. I think the subject was fully considered, and the precedents all hunted up. I have no objection, if the Senator desires, that the report be placed on the table.

Mr. SARGENT. If the Senator will not object, I ask that the petition be re-referred. I think I can hand some precedents to the committee that will cover the case.

Mr. WRIGHT. I suggest to the Senator from California to let the report go on the table and he can then examine it; and if he thinks there is any necessity for moving a re-reference to the committee, he can then do so.

Mr. SARGENT. Very well; I will let it take that course.

Mr. CAMERON, of Pennsylvania. I desire to say in regard to the petition of General Naglee that I wish it may not be disposed of by being laid on the table.

The PRESIDENT *pro tempore*. It will not be disposed of finally by that course. The report will be printed and lie on the table for consideration. The Senator from California desires to consider it.

Mr. CAMERON, of Pennsylvania. I know something about that case. I think it is a most meritorious one, and I think it is one which before being decided against should have every consideration.

The PRESIDENT *pro tempore*. The Senator can call it up at any time.

Mr. STEVENSON, from the Committee on Revolutionary Claims, to whom was referred the petition of the representatives of James Monroe, late President of the United States, praying compensation for services rendered by him during the war of the Revolution, asked to be discharged from its further consideration; which was agreed to.

Mr. HOWE, from the Committee on the Judiciary, to whom was referred the bill (H. R. No. 1343) to relieve S. J. Gholson, of Mississippi, of political disabilities imposed by the fourteenth amendment of the Constitution, reported it without amendment.

Mr. McDONALD, from the Committee on Pensions, to whom was referred the bill (H. R. No. 1809) granting a pension to John A. Stewart, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

He also, from the same committee, to whom was referred the petition of Samuel Mills, of Baltimore, Maryland, praying to be allowed a pension for services rendered during the war of 1812, submitted an adverse report thereon; which was agreed to, and ordered to be printed.

He also, from the same committee, to whom was referred the bill (H. R. No. 1347) granting a pension to Hattie D. McKain, submitted an adverse report thereon; which was ordered to be printed, and the bill was postponed indefinitely.

### BILL RECOMMITTED.

On motion of Mr. WALLACE, it was

*Ordered*, That the bill (S. No. 111) for the relief of John Montgomery and Thomas E. Williams be recommitted to the Committee on Claims.

### BILLS INTRODUCED.

Mr. THURMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 609) to amend the act entitled "An act to amend and supplement an act entitled 'An act to establish a uniform system of bankruptcy throughout the United States;'" which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. BOGY (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 610) to repeal section 14 of an act making appropriations for sundry civil expenses of the Government of the United States for the year ending June 30, 1871; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. SARGENT (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 611) relating to the equitable and legal rights of parties in possession of certain lands and improvements thereon in California, and to provide jurisdiction to determine those rights; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. HAMILTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 612) for the relief of Ella P. Murphy; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. WRIGHT (by request) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 613) to equalize promotion among the lieutenants in the line of the Army; which was read twice by its title, referred to the Committee on Military Affairs, and ordered to be printed.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 614) to authorize the Secretary of the Interior to deposit certain funds in the United States Treasury in lieu of investment; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. FRELINGHUYSEN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 615) for the relief of General Eli Long, United States Army; which was read twice by its title, and, with the accompanying papers, referred to the Committee on Military Affairs.

Mr. WITHERS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 616) for the relief of Thomas Oxley, sr., a soldier of the war of 1812; which was read twice by its title, and, with the accompanying petition, referred to the Committee on Pensions.

Mr. MITCHELL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 617) to establish certai post-routes in Oregon; which was read twice by its title, referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. BOOTH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 618) to establish a post-route in California; which was read twice by its title, referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. INGALLS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 619) to carry out in part the provisions of the act entitled "An act to abolish the tribal relations of the Miami Indians, and for other purposes," approved March 3, 1873; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. COOPER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 620) to remove the political disabilities of James Argyle Smith, of Mississippi; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

### PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. BOGY, it was

*Ordered*, That John M. and James Scott and John Belsha have leave to withdraw their petition and papers from the files of the Senate.

On motion of Mr. JOHNSTON, it was

*Ordered*, That Samuel L. Gouverneur, administrator of James Monroe, deceased, have leave to withdraw from the files of the Senate his memorial and accompanying papers.

### ALABAMA SENATORIAL INVESTIGATION.

Mr. MORTON submitted the following resolution; which was considered by unanimous consent, and agreed to:

*Resolved*, That the Committee on Privileges and Elections have leave to sit during the sessions of the Senate while engaged in the investigation of the circumstances attending the election of Hon. GEORGE E. SPENCER to a seat in this body by the Legislature of Alabama.

### TRANSPORTATION OF BONDED MERCHANDISE.

Mr. SHERMAN. I move that the Senate proceed to the consideration of Senate bill No. 591.

The motion was agreed to; and the bill (S. No. 591) to regulate the transportation of bonded merchandise withdrawn from warehouse, was read the second time, and considered as in Committee of the Whole. It proposes to amend section 3000 of the Revised Statutes of the United States so as to embrace all merchandise withdrawn from bonded warehouse at one port for transportation without payment of duties to another port by land or water, including all merchandise mentioned in the Revised Statutes of the United States from sections 2816 to 2831, inclusive. All such merchandise is to be delivered to and transported by common carriers, to be designated for this purpose by the Secretary of the Treasury, and to or by none others; and such carriers are to be responsible to the United States as common carriers for the safe delivery of such merchandise to the collector or other chief officer of the customs at the port of its destination; and before any such carriers shall be permitted to transport any such merchandise they shall become bound to the United States in bonds of such form and amount, and with such conditions not inconsistent with law, and such security as the Secretary of the Treasury shall require. The Secretary of the Treasury is authorized to establish such rules and regulations not inconsistent with law for the due execution of the section of the Revised Statutes amended by the act as he may deem to be expedient and necessary; and no demand shall be made of the United States by reason of any loss incurred in the transportation of such goods.

Mr. MORRILL, of Maine. I would like to have the Senator from Ohio explain the bill.

Mr. SHERMAN. In explanation I will read the following letter from the Secretary of the Treasury:

TREASURY DEPARTMENT, *February* 5, 1876.

SIR: I have the honor to submit herewith for your consideration a draught of a bill to amend section 3000 of the Revised Statutes, so that merchandise may be transported thereunder over bonded routes from one port to another designated by law, as well as from district to district.

By section 9 of the act of March 28, 1854, the Secretary of the Treasury was authorized to establish such rules and regulations not inconsistent with law for the due execution of the act as he might deem to be expedient.

Under the authority so granted this Department, in its instructions of May 9, 1871, issued regulations providing that all transportation of dutiable merchandise in bond from one port to another port or *place* in the United States must be made *either by sea-going vessels registered or enrolled, entitled to the privileges of the coasting trade*, or by common carriers designated for this purpose by the Secretary of the Treasury, over duly constituted bonded lines and routes as provided for in said instructions. This section of the act of 1854, however, was omitted from the Revised Statutes; and it is therefore deemed necessary that there shall be additional legislation upon the subject, as suggested in the draught of the bill above referred to, which requires that measures shall be taken in regard to the bonding of routes similar to those provided for in case of the transportation of unappraised merchandise under section 2990 of the Revised Statutes, it being considered advisable that the regulations in regard to transportation in bond of appraised and unappraised merchandise should allow the transportation of both classes over routes bonded for either purpose.

The passage of the bill will aid in making uniform the transportation of dutiable merchandise in bond as well from port to port as from district to district, and for that and the other reasons stated it is recommended.

The inclosed copies of letters relating to the subject from the collectors of customs at Boston, Portland, New York, Philadelphia, Baltimore, Savannah, Mobile, Cedar Keys, Galveston, and New Orleans are forwarded for your information.

I have the honor to be, very respectfully,

B. H. BRISTOW,
*Secretary.*

Hon. JOHN SHERMAN,
*Chairman Committee on Finance, United States Senate, Capitol.*

The Committee on Finance have examined the matter fully, and find it is not only desirable for the Department to pass the bill, but that there can be no reasonable objection to it.

Mr. MORRILL, of Maine. Will the Senator allow me to inquire whether this bill relates to goods imported in bond transferred from one port to another within the limits of the United States exclusively?

Mr. SHERMAN. Exclusively so. Not only that, but as a matter of course goods must be taken from one port to another port in the United States; and one object of the bill is to enable the Government to carry from one port to another in the same district; for instance, to transfer from New York to Albany.

Mr. MORRILL, of Maine. The bill has no relation to goods imported through the United States for export to another country.

Mr. SHERMAN. Not the slightest. An inquiry was sent to the Sec-

retary of the Treasury by me, and his letters are published in the report, one of which I have just read, in which the subject is stated distinctly. The committee recommended to strike out the proviso, which we thought was rather indefinite, and gave rather too large a power, dispensing with the bond required by law in certain cases. We thought on the whole we had better omit the proviso in the copy of the bill reported. I do not know whether the Secretary read the proviso which the committee recommend to be striken out.

Mr. CONKLING. There is no proviso in the copy of the bill reported.

Mr. SHERMAN. Then the committee reported it without the proviso. The bill as framed in the Treasury Department had a proviso, which the committee struck out.

Mr. EDMUNDS. Was the bill reported to-day?

The PRESIDENT *pro tempore*. It was taken from the Calendar on motion.

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

SIOUX RESERVATION.

Mr. ALLISON. I move to take up Senate bill No. 590 providing for an agreement with the Sioux Nation in regard to a portion of their reservation, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported from the Committee on Indian Affairs with amendments.

The first amendment was in line 4 of section 1 to strike out "three" and insert "five" before "persons;" and in line 6 to insert after "brigadier-general" the words "who shall be detailed for this service;" so as to read:

That the President is authorized to appoint a commission consisting of five persons, one of whom shall be an officer of the Army not of a lower rank than brigadier-general, who shall be detailed for this service.

The amendment was agreed to.

The next amendment was in line 5 of section 2 to strike out "6" and insert "7" after "70;" so as to read:

And after July 1, 1877, no money shall be expended for the subsistence of the Sioux Nation unless upon said conditions.

Mr. HITCHCOCK. I would like to hear some explanation of the necessity of that amendment.

Mr. ALLISON. The committee thought that it would be too soon to provide these conditions in an appropriation made for the current year beginning the 1st of July next, and therefore it would be better to postpone the time one year, or at least leave that discretionary. I think myself it would hardly be possible to bring about this condition by the 1st of July next, and the committee thought the time had better be postponed until the following fiscal year.

Mr. HITCHCOCK. So far as I am informed of the temper of these Indians, so far as any restriction of that kind is advisable at all, and so far as the necessity for any such restriction exists or is likely to exist, I am sure that it will occur during the coming summer if it ever occurs. The object of the restriction in the bill originally was to induce the Indians by the information that unless they yielded to what was an absolute necessity the appropriation which they have received, and which they have received in large amounts from the General Government, (receiving in the past few years between three and four millions of dollars over and above what was stipulated in their treaty,) would not be made. I am thoroughly satisfied that as a peace measure there is no better and stronger and surer policy to adopt; and I am as well satisfied that there is no occasion for any provision such as is proposed by the committee. There is no occasion of course for any stipulation in any bill in regard to an appropriation to be made next year, because we do not know that any such necessity may then exist; and if it does exist, the appropriation bill for that year will be the proper place, and that will be ample time for such a restriction. If there is any need of any restriction at all, it should apply to the coming summer, and I certainly see no reason for postponing the restriction.

Mr. BOGY. Mr. President, only one word. This subject was very carefully considered by the Committee on Indian Affairs. The plan is, as stated by the Senator from Nebraska, to send a commission into that country to negotiate with those Indians for a portion of their reservation, that portion which is generally called the Black Hills country. By the treaty of 1868 we agreed to clothe and to feed the Sioux Indians. The provision for clothing has not yet expired, but that for feeding has expired. Nevertheless we have gone on as a matter of necessity and have fed them for a year or two, although there was no treaty stipulation binding us to do it.

We thought in the Committee on Indian Affairs that, as there was a large population pouring into that country which would come in conflict with those Indians very soon, it was expedient, if possible, to avoid that conflict, and we thought by sending a commission there, headed by an officer of the Army of not lower grade than brigadier-general, with proper civilians, one of whom at least shall speak the Sioux language, so as to prevent their being imposed on by their interpreters, who are generally a pretty hard set of fellows, an arrangement could be made; but to effect that arrangement would be a slow proceeding, for the reason that the commission of last year, although well organized and well prosecuted, failed. While it is going on we thought it would be wiser to feed those Indians this summer, as has been the case heretofore, but to let them know that unless some arrangement be made they will not be fed for this year, but while this negotiation is going on it will be expedient to provide them with provisions.

I am satisfied myself that if we could annually avoid war with these Indian tribes by an expenditure of from $50,000 to $75,000, or even $100,000 say, it would be the best expenditure Congress could make, because a war with these Indians of a very few days would cost a great deal more money. We therefore thought in the committee that it was better not to refuse to feed them now and to feed them for this summer, and let the Indians know that unless some arrangement be made with them the feeding will not be continued hereafter.

It is very important, indeed, that some arrangement should be made. The Indians are now in the right; that is, the Black Hills country belongs to them by treaty stipulation, and the whites have no right to go there; yet they are going there in very large numbers, and it will inevitably lead to a conflict and to a war, and to very large expenditures on the part of the Government unless this be prevented. I am satisfied that it can be prevented by sending a commission there early, as soon as possible, and remaining there during the summer. I believe that portion of their country known as the Black Hills can be secured from them. It is, in point of fact, but a small proportion of that vast reservation; and to make that a success we thought, and I think also, that while the thing is going on the Indians should receive their rations, as they are now doing, although the treaty negotiated in 1868 has now expired, and it expired more than a year ago as far as the feeding is concerned. I therefore hope that the amendment will be adopted. It was well considered by the Committee on Indian Affairs, well discussed. We obtained all the information from outsiders that we could get—men of reputation, men of character, men familiar with Indian affairs, and they all concur in this. I not only hope the amendment will be adopted, but I hope that the bill will pass as the only way to avoid a conflict with these Indians.

Mr. EDMUNDS. How many square miles of territory are embraced in this provision to be given up by the Indians?

Mr. BOGY. The Indian reservation itself is a very extensive one; large enough for a State—very large. The country which we propose to take is that portion lying between the North Fork and the South Fork of the Cheyenne River, which form the main Cheyenne when they join together. It is but a small portion of their reservation, perhaps not one-fifth.

Mr. EDMUNDS. How many square miles?

Mr. BOGY. I am not able to answer definitely, but the proportion is small. The reservation is very extensive, and the proportion to be taken is not very large.

Mr. ALLISON. I think the amount to be taken is about a thousand square miles.

Mr. HITCHCOCK. I hardly suppose there is much encouragement for opposing this bill in its main features or for attempting to amend it. So far as my experience has gone in the Senate during the last five years, there has been a readiness to vote the largest sums or the smallest amounts and with the least consideration for anything connected remotely or directly with Indian matters; and therefore I expect that this Senate will vote any appropriation or any measure of this kind appropriating the largest sum which the committee has been able to suggest, and with the slighest restrictions or amendments. Still, Mr. President, representing as I do the people of the State more directly interested in preserving the peace with these Sioux Indians—more so than any other State certainly of this Union, if not any Territory—believing as I do that the present condition of affairs out there imperils the peace of the Northwest, and believing as I do that appropriations of the most extravagant character have been made and are proposed now to be made, and believing further that this bill should be amended in some minor particulars, I propose to ask for amendments such as I have suggested, and to get a vote of the Senate specifically and definitely on those amendments.

So far as concerns the policy, the wisdom of sending another commission to the Sioux Indians, the honorable chairman of the Committee on Indian Affairs who has reported this bill has not vouchsafed any information specifically. Certainly the experience of the past summer in regard to commissions, if we are to govern ourselves by the light of experience, does not encourage us in the hope that any new commission will be any more successful. Two commissions, large and expensive, and costing I presume more than $100,000, were dispatched to these same Sioux people last summer, and we know the result. We know that the last commission were glad to be able to retire in good order, retire unharmed, from the last peace council with that tribe.

Mr. BOGY. There was only one commission sent.

Mr. HITCHCOCK. Two commissions.

Mr. BOGY. One to investigate and one to negotiate.

Mr. HITCHCOCK. But neither of them was sent without the money of the people of this country, and a good deal of it, if the honorable Senator will undertake to count the cost. The honorable Senator says to-day that he thinks $50,000 or $100,000 is well spent if it preserves the peace. That is very true; but $50,000 or $100,000 is the veriest trifle compared with the millions past Congresses have appropriated to support these Indians. The very preamble of this bill, which has been struck out by the committee, states distinctly that $3,300,000 have been appropriated for these Sioux over and above the

amounts which were stipulated by the treaty which this bill is designed to supplement.

We have this morning, within an hour, appropriated $150,000 to feed those same Sioux Indians; and I think before this Congress is called upon to appropriate $70,000 more to send certain gentlemen who desire probably—because there are gentlemen who are very anxious to undertake this mission—to make a trip into this Sioux country, we should inquire into the necessity for this appropriation and into the policy and probability of such an appropriation accomplishing the purpose which is sought.

Mr. President, there is a man on the ground in the neighborhood to-day of these Sioux Indians better calculated, in my judgment, to make a treaty with them than any man or any set of men likely to be appointed by the President or by anybody else to make a treaty. I mean General George H. Crook, who commands that department, a man who by his success in obtaining peace in Arizona several years ago deserves the confidence of the people of this country as an Indian peace-maker. He is there upon the ground to-day, there in the immediate vicinity of these Indians, and a simple resolution of this Congress would be quite sufficient to enable him to say everything to those Sioux Indians that it is necessary for this country to say, everything which will procure peace on their part if anything in mere words will procure peace. I believe that General Crook is the man who should be designated by resolution of this Congress as a commissioner, if you please, to make peace with these Sioux and to notify them that hereafter, not in 1877, not at some future time, which the Indians do not understand or will not understand or care for, but on the 1st day of next July, unless they will agree to these stipulations, the immense appropriations which Congress has made will cease. That I believe would be a proper peace measure; but I believe this is an expensive, useless, and extravagant waste of the people's money.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the committee to strike out "six" and insert "seven."

Mr. HITCHCOCK. I call for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 33, nays 10; as follows:

YEAS—Messrs. Allison, Anthony, Bogy, Booth, Boutwell, Cameron of Wisconsin, Caperton, Christiancy, Cooper, Davis, Dennis, Dorsey, Ferry, Frelinghuysen, Gordon, Ingalls, Johnston, Kernan, McCreery, McMillan, Maxey, Mitchell, Morrill of Maine, Morrill of Vermont, Patterson, Randolph, Ransom, Sargent, Sherman, Spencer, Stevenson, Windom, and Withers—33.

NAYS—Messrs. Burnside, Cameron of Pennsylvania, Cockrell, Hamilton, Hitchcock, Key, Merrimon, Paddock, Robertson, and Whyte—10.

ABSENT—Messrs. Alcorn, Bayard, Bruce, Clayton, Conkling, Conover, Cragin, Dawes, Eaton, Edmunds, English, Goldthwaite, Hamlin, Harvey, Howe, Jones of Florida, Jones of Nevada, Kelly, Logan, McDonald, Morton, Norwood, Oglesby, Saulsbury, Sharon, Thurman, Wadleigh, Wallace, West, and Wright—30.

So the amendment was agreed to.

The next amendment of the Committee on Indian Affairs was to unite sections 4 and 5 as one section and modify the language, so as to read:

SEC. 4. That such commissioners shall each receive $10 per day for their services while actually employed, and shall immediately enter upon their duties, and shall be authorized to employ a secretary, who shall be a stenographer, and also an interpreter, at a compensation not exceeding $7 per day each, and shall make full report to the President at as early a day as practicable, which report, together with any agreement made with said Indian Nation, shall be submitted to Congress for its approval; and such agreement, when so approved, and not before, shall be binding upon the United States and Sioux Nation.

Mr. DAVIS. I ask the attention of the Senator from Iowa. As I heard the reading there is no limit to the time this commission may last.

Mr. ALLISON. There is no limit. It is not supposed they will occupy any longer time than will be absolutely necessary to perform the duties. I do not think any gentleman who will be appointed or who ought to be appointed on this commission will be anxious to remain there any longer than is actually necessary.

Mr. DAVIS. Nevertheless it may last for years, as I understand. I would suggest to the Senator who has the bill in charge that we ought to limit it to some time, he knows best what time; if it is to this Congress, say so.

Mr. ALLISON. There is no objection to a limitation in point of time.

Mr. EDMUNDS. I should like to ask the chairman of the committee whether it is the purpose of the committee to make this compensation, which is now under consideration, additional to the compensation that the persons who may be selected may already be receiving in the service of the United States?

Mr. ALLISON. No, sir; it is intended that any person now in the service of the United States shall receive no compensation.

Mr. EDMUNDS. That is not the construction that will be put on this act, I suspect.

Mr. ALLISON. There is a law now, I believe—I cannot turn to it—which provides that no officer of the United States shall receive additional compensation for any service imposed on him, particularly a military officer.

Mr. EDMUNDS. That is perfectly true; but, that being the law, when we pass a fresh one, which reads as this does, that you may select an officer of the Army, for instance by name, and that he shall receive $10 a day for his services under this act, it might raise a pretty serious question whether the new law does not mean what it says.

Mr. ALLISON. If the Senator will suggest an amendment embodying that idea, there will be no objection. It was the intention of the committee that the military officer employed should receive no other compensation in addition to his pay as brigadier-general. After "military officer" say "who shall receive only his Army pay."

Mr. EDMUNDS. Then suppose the President appoints the Secretary of the Interior for one. You want to have it apply to all officers in the service of the United States.

Mr. WINDOM. A proviso will answer the purpose.

Mr. ALLISON. Any amendment the Senator from Vermont suggests on that point will be gladly accepted by the committee, I am sure.

Mr. EDMUNDS. I will suggest such an amendment presently. I will not stop the progress of the bill at this moment.

The PRESIDENT *pro tempore*. The question is on agreeing to the amendment of the committee, which has been stated.

The amendment was agreed to.

The next amendment was in line 4 of section [6] 5 to strike out "10" and insert "20," and at the end of the section to insert:

and the further sum of $50,000 is hereby appropriated to make suitable provision to aid the said commission in the discharge of the duties required by this act, and said sums shall be expended under the direction of the Secretary of the Interior.

So as to make the section read:

That the Secretary of War be required to furnish transportation, subsistence, and protection to the said commissioners during the discharge of their duties; and the sum of $20,000, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury not otherwise appropriated, as compensation for said commissioners, secretary, and interpreter herein provided for and the incidental expenses thereof; and the further sum of $50,000 is hereby appropriated to make suitable provision to aid the said commission in the discharge of the duties required by this act, and said sums shall be expended under the direction of the Secretary of the Interior.

Mr. HAMILTON. I would ask the Senator from Iowa if that is a corruption fund?

Mr. ALLISON. No, sir; it is not so intended.

Mr. HAMILTON. What is it for?

Mr. ALLISON. The Senator from Texas will readily see that when this commission goes out to treat with these Indians they will very likely reply, "You are already occupying our territory; there are three or four or five or ten thousand white people now in the Black Hills in violation of treaty provision. Now, if you want to make an agreement with us for the future, what have you to offer to us for this trespass on our territory in the past?" The intention was to enable the commission to be able to say something to these Indians with reference to the present occupation of this Black Hills country by the whites.

Mr. HAMILTON. From the way it was worded I supposed it was intended to bribe the chiefs by presents, &c. I would suggest to the Senator from Iowa that we have done enough already, pretty nearly, to destroy all confidence on the part of the Indians in anything that we may promise, seeing that they are now being trampled upon by, as the Senator says, three or four or five or ten thousand men whom he told us the other day the Government was not able to remove from the Black Hills. I want to know what confidence the Indians will have in another treaty that the Government of the United States may propose to them. They had some experience last summer; we sent out two commissions, I believe, and spent a good deal of money, right in the face, too, of the knowledge that the Indians would not listen to them, for they stated before they left the city of Washington that they would not consent to make the cession; but notwithstanding the Government made the experiment.

I suppose the object now is to try to conciliate the principal chiefs, to make another treaty under duress; to put the Indians under threats. I do not think it is a proper thing for the United States to do. Although these Indians are small compared with the United States; although they are contemptible in one sense of the word, yet they are human beings, and they have made solemn treaties with the United States. They have relied hitherto upon the candor and integrity of the United States. I think this whole bill as much as anything else says to them, "You cannot rely upon the Government of the United States in anything it says." Why, sir, look at it. On the face of it they are threatened, if they do not make this treaty under protest, that they shall be starved out; and we are occupying all the valuable territory that they possess, pretty nearly the only territory out of which they can make a support at all. If the Senator from Iowa will say that this $50,000 is intended to enable the United States to remove our people from the Black Hills, I will vote for it; for that is exactly what the Government of the United States ought to do, and it ought to do it without any ceremony, before it undertakes to treat with the Indians.

Mr. ALLISON. I desire to correct a misapprehension of the Senator from Texas as well as of one other Senator, and that is in reference to the conduct of the Government last year. There was but one commission sent out last year to treat with or make an agreement with these Sioux; and so far as the Government is concerned I can say to Senators that no money thus far has been expended for that purpose. The gentlemen who went out there paid their own expenses, and they are told that no portion of those expenses can be re-imbursed until Congress passes a law authorizing it. Therefore it is within the province of the Senate to say whether or not any sum shall be expended for that commission that went out there last year; and so far as I am personally concerned, I am utterly indifferent as to what they say.

Now with reference to our obligations to these Sioux Indians, it is not proposed by this bill to interfere in the slightest degree with our treaty obligations except in so far as the public circumstances compel us to do so. It is impossible for the Government, except at a very large expense, to remove from the Black Hills the people who are going in there now by the thousand. Why? Because of the character of the country and because of the ease with which persons go in there with their teams and wagons. This bill contemplates that, instead of attempting to do that, we attempt to make a new bargain with these Indians in reference to that country. It is true we say to them in terms by the second section of the bill that if they do not agree to a reasonable bargain we will cease to support them from the Treasury of the United States, which we now do outside of and beyond any treaty stipulation that we have with them. We obligated ourselves under the treaty of 1868 to subsist these Indians for four years. That term expired in 1873. We are under no obligation now to subsist them that I know of by any treaty; but every Senator who has investigated the question knows perfectly well that these Indians cannot become self-supporting where they now are in any reasonable time; and therefore the alternative is presented to Congress either to subsist them or to starve them or to compel them by force of circumstances to raid upon the border settlements and to subsist themselves in that way.

This is the best adjustment that your Committee on Indian Affairs could make in reference to this subject. I agree with the Senator from Texas that if it was practicable it would be better to remove the people who are now in the Black Hills from this reservation. They are there without authority of law, and in violation of law actually. They have no authority there. We solemnly set apart this region of country, including the Black Hills, for these Indians by the treaty of 1868; but people have gone in there, and it is a question of public policy with us whether or not we shall use the whole Army of the United States against our own citizens for the purpose of recovering this country because gold has been discovered there.

Mr. MAXEY. I would ask the Senator from Iowa if he has any definite information as to the number of white people now in the Black Hills country?

Mr. ALLISON. I have no other information except what is derived from public statements; but from the best data I can reach I think there must be some three or four thousand people now there in the hills or going into the hills. Of course that number will be largely swelled as the spring opens.

Mr. MAXEY. I then ask the Senator whether any steps were taken by the United States Government, by its military authorities or otherwise, to prevent these men going and settling within the Black Hills country?

Mr. ALLISON. I understand that an order was issued last year——

Mr. MAXEY. I am not speaking of any order; but was any physical force used to prevent it?

Mr. ALLISON. A portion of the Army was sent into the hills last year, and men were driven out or taken out, as the case might be; but what is the use of employing an army for that purpose when there is a region of twelve hundred miles in extent over which it is perfectly possible to drive a wagon?

Mr. MAXEY. The purpose of this bill is, then, to negotiate whether these men are there rightfully or wrongfully, in view of the fact that three thousand or four thousand people are there; and the question is whether it is policy to negotiate for the purchase of the country from the Indians in order to make their settlement there a legal settlement.

Mr. ALLISON. That is the object of the bill, and it has no other object so far as I know.

Mr. EDMUNDS. The statement of the Senator from Iowa certainly presents a very extraordinary condition of things. Here is a reservation the property of these Indians and which the United States by treaty has guaranteed that they should possess without the intrusion of the whites into it; and our own citizens have been suffered to make an invasion to the extent of three thousand to four thousand it is said. I doubt very much whether there is half the number there, but the number up to five thousand or ten thousand would not be very material. Now, our citizens having against law and in known violation of the rights of these Indians invaded that country, and holding it, we are to step forward and in the face of that occupation tell these Indians, by a statute which ties up the authority of these commissioners to a particular form of treaty, that they must take that or take the consequences.

Now, Mr. President, is not that a very extraordinary attitude for the Government of the United States to assume? Is it not a confession that we either have not the power or have not the will to compel our own citizens to refrain from invading the rights of these savage and ignorant people that we have guaranteed they shall enjoy in safety and in peace? Is it not the first confession of the kind that we have undertaken to make by a solemn statute of the United States? Or, if not, is it not the last one that we ought to ever undertake to make? What becomes of what we call national honor, if that is not an obsolete term? What becomes of those provisions of the Constitution which require the Government of the United States to faithfully execute the laws, which include treaties? What becomes of the respect which these Indians or any others or any other nation can have for us if we calmly stand up and say in the face of the civilized world that, these being Indians and being within our power and not having the physical force to resist our invasions, we will with our eyes open allow our citizens to invade their country, and then tell them that we will do nothing about enforcing their rights and repressing our own citizens unless they will give us the very land that we have invaded and seized?

Mr. HOWE. Does the bill say that?

Mr. EDMUNDS. Yes, sir; it says that in substance and in effect.

Mr. HOWE. Where?

Mr. EDMUNDS. In every word of it from the beginning of the whereases to the end of the corruption amendment, as the Senator from Texas has very properly styled it. It is the whole spirit of the bill. The Indian Committee have not recommended anything else, and they have had it under consideration. They do not propose to recommend anything else. Some influence undoubtedly has been brought to bear on the executive department of the Government to persuade that to hold up the exercise of its duty in excluding invasions into that country until we resort to pressure to get possession of the property.

Mr. CONKLING. Will the Senator allow me a moment?

Mr. EDMUNDS. Certainly.

Mr. CONKLING. I was under the impression at first, as the Senator seems to be, and yet I could hardly think that impression was well founded, that the second section of this bill threatened to cut off appropriations which we are now bound to make, unless the Indians consented to the first section. If the Senator from Vermont knows how that is, I wish he would state. I can hardly suppose that that was the design of the committee, to say to these Indians that appropriations which by treaty the United States is bound to make and continue are to be cut off and refused unless they consent to what some Senator has called a new bargain. If the Senator from Vermont knows how that is, I wish he would enlighten me although other Senators may know exactly how it is.

Mr. EDMUNDS. I have replied to the Senator from New York in replying to the Senator from Wisconsin. I say that you cannot make anything else out of this long statement in this bill except that we intend to have these Indians understand, and we intend to understand ourselves, that we are to take no step at all in the performance of our duty under the present treaty to relieve their country from this lawless invasion of gold-hunters, unless by providing that the Indians shall leave it upon terms which this statute says the commissioners may offer to them. If there is any other construction to be put upon it I should be glad to have it stated.

Mr. ALLISON. I will state to the Senator that, so far from that being the proper construction, the very reverse is the one the committee intended. We provide here distinctly in the second section that we will not appropriate for subsistence. The law does not require us to appropriate for subsistence, nor does the treaty. Now, we simply say by this bill, "We will make a bargain with you, if we can, for the purchase of the Black Hills; if we cannot, we will, as you say we shall, stand on the treaty of 1868;" and that is all we say. "We will abide by that treaty; but, if we abide by it, we shall ask you to abide by it." That is all there is of that. We are bound to do certain things under the treaty of 1868. This bill contemplates that all those things shall continue to be done from year to year as now provided by law; but we say, "We will do more than the treaty provides; we will subsist you, and do certain other things for you for ten years to come if you will give up this little patch of a reservation known as the Black Hills." That is all there is.

Mr. EDMUNDS. Ah, Mr. President, the Senator has most skillfully missed the point entirely. The proposition of this bill is to leave the citizens of the United States now being in the lawless possession of this country, (and it being our duty to keep them out of it and to take them out of it,) exactly where they are, without taking any step or making any provision to enable the President to take them out or perform that branch of the treaty at all. We have got to look at the fact as it exists in order to understand the true meaning and interpretation of the statute and what its scope is; and we must not, therefore, shut up our eyes to what the Senator has said in his opening remarks, that here is a great wrong already perpetrated. This very land that it is proposed to acquire by this statutory enactment, as it is called, is already in the possession of these invaders, and the Indians are excluded from it in violation of our treaty obligations, to our knowledge. Now, the statute begins with this existing state of facts. It does not propose either as a condition precedent or a condition subsequent, or in any other way, that any steps shall be taken to right this wrong; but, leaving it just where it stands, we are to authorize these commissioners to tell these Indians, "You shall give up this little patch of territory," comprising somewhere from five to seven thousand square miles, "you shall give up that territory, and you shall also agree that you will acquiesce in such methods as may hereafter be provided by law or adopted by the President to advance you in civilization and the means of self-support; that you must agree to. You shall put yourselves into our hands absolutely in respect to whatever method we may say is best for your civilization."

I have heard it often said that the best way to civilize an Indian is to cut his head off; and that seems to be the opinion of a good many people. At any rate, the two things which they are to do, outside of and independent of their present obligations, are, first, to give up their property to those invaders; secondly, they are to put themselves

into our hands to take any methods respecting their conduct which we think will tend to their civilization at any time hereafter. Those are the two cardinal propositions contained in the first section as to what the Indians are to do. I say that a bill which takes the facts as they now stand, with this wrong now perpetrated upon them, and undertakes to say to them, "The conditions upon which you shall have support hereafter, although you are not entitled to it except so far as the treaty gives it to you—the conditions upon which we will do anything for you hereafter are that you shall give up this land and that you shall put yourselves into our hands; and, in order to do that, we will provide $50,000 to aid in the laudable enterprise."

Mr. President, the way to do justice to the white people of the United States is to do justice also to everybody else with whom they come in collision; and the way to get a treaty from these Indians, if these Black Hills are desirable, which I very much doubt—and I will hazard the prophecy that in twenty-four months from this time there will not be a white miner in the whole body of those hills working—the way to get justice and propriety out of these Indians is to begin by giving them their rights, and then you stand in that attitude where you can appeal to them and say "It is best for you and for us to make a change in our arrangements." But what will the Indians say? It is proposed now to make a new bargain. What guarantee are they to have that we will stand by the new bargain any more than the old one? What guarantee are they to have that their property on the south side of the Cheyenne Fork, lying between that and the great overland route to the Pacific, will not be occupied by white invaders; and, if occupied by white invaders, that the United States instead of driving them out or keeping them out will say to the Indians again, "You must give up that land to these white invaders, and then we will feed you some more?" But how are the Indians to support themselves if you constantly strip them of their hunting-grounds and their places where there are timber and streams, and then continually say to them, "You must either take what we give you and give up your land, or take nothing at all?" We cannot stand upon any such ground as that, Mr. President; and any treaty, in my opinion, that is made upon the basis of this statute will turn out just as the last treaty has turned out, to be merely as paper, so far as it respects the disposition of white people who invade them if there is any motive, either of land speculation or of gold, or of settlement, or whatever, that will lead our citizens to go there. And why so? These four thousand citizens of the United States when they went there went with their eyes open; they have invaded this country where they have no right to be; and we, instead of saying "You must go out of there and then we will see what we can do for the Indians," blandly acquiesce in that wrongful occupation; and, therefore, the intruders will say by a just logic, "If the United States acquiesce in this invasion they will in the next one, and we can take any part of the Indian territory that seems advantageous to us, and feel sure, from what has taken place, that we shall be protected instead of resisted in undertaking to do it."

There are other objections to this bill which strike me, but I do not know that they will other Senators. By the Constitution the power to make treaties is alone in the President and the Senate, and we have always hitherto made treaties with Indian tribes respecting the acquisition of territory. It is proposed by this bill to make a treaty with these Indians by commissioners appointed under the authority of law and with the approval of Congress, and not the approval of the President and the Senate under the treaty-making power. Can we do that? I do not see upon what ground we can do it. One Senator will answer, I have heard it suggested, that this is not a treaty but an agreement. That is merely another name for the same thing. This is a class of subjects which, from the foundation of the Government down to a very recent period, has always been considered by the courts and by Congress to fall within what is called the treaty-making power.

Mr. ALLISON. We have a law now which prohibits the making of treaties with Indians.

Mr. EDMUNDS. We have a law, I know, that was passed under somewhat peculiar circumstances which prohibits us from making treaties with Indians; and I suppose we might have a law that would be just as good to prohibit us making further treaties or anything else with foreign nations, and we might have a law that prohibited the Senate from meeting or the President from sending messages to us; but it might turn out in the end that the Constitution was a higher law and that the rights of everybody under the treaty-making power must be guided by that and not by statutes. I think it would turn out so.

In short, Mr. President, although we have the law that the Senator from Iowa speaks of, I feel quite sure that the Constitution is still in force and that the treaty-making power does not reside in the Congress of the United States; and I am equally sure that this provision of this bill is to provide for a treaty and nothing else. You may call it a contract or agreement or arrangement or stipulation; you may exhaust the epithets of the lexicon, and you still have the substance of a treaty from the beginning to the end. The title of these Indians, which the courts have always decided was a good title to the extent of their occupation, and a title in this particular case which they obtained or rather had ratified to them by treaty, is now to be disposed of by an arrangement, if you call it that, a treaty in fact and in law I call it, which is to change the sovereignty and the jurisdiction of this territory, and all rights to it, from these Indians to the United States. I do not believe that a law of that kind is constitutional. I do not know that it will make any difference with these Indians, or with the white people who wish to invade their territory and hunt for gold there. They will stay there with this law; they will stay there without it, so long as they see that Congress, or a considerable portion of it, is willing that the thing should go on in that way, and leave them and the Indians to settle their own affairs.

But the Senator from Missouri goes further, and says that this is a necessary bill, because it is going to save us a war; that there will be collisions in this Indian country unless we move with expedition and with diligence, and we shall be involved in a war. How are we to be involved in a war if citizens of the United States invade a country where they have no business to go, with arms in their hands, and undertake to dispossess the rightful inhabitants of it, and are resisted? Suppose the Indians in the spring make an assault upon the intrenched camps of the miners, and beat them, and drive them out, is there any duty on the part of the United States to step in and back the miners? The Senator has stated in substance that it is the duty of the United States to aid the Indians to expel the miners. How then are we to have a war? Does the Senator from Missouri believe that these four thousand have so great an idea of their strength that they would resist the military of the United States in equal numbers or greater numbers, and that they are going to carry on a successful war against their own country in holding on by right or by wrong, holding on any way to these mines? I do not think that is so. Undoubtedly, if the thing goes on, these Indians will feel that these white men are violently intruding upon their territory, and will take the Indian means, and the civilized means, too, of expelling them, and that is by applying force. Whether when the force begins the Indians will hold to civilized methods with prisoners and captives, I do not know; I should rather doubt it; but these men have gone there with their eyes wide open. They have violated our laws and our honor, and have violated the rights of the Indians; and the redress that we propose by this bill to give is the redress of taking the land that has thus been captured for the time being by this invasion, upon terms which we lay down in advance the Indians must come to, or else we tell them that they shall have no further favor or assistance from us.

Mr. President, I do say that it appears to me that this is proceeding in a wrong way. Undoubtedly it is a troublesome subject. It would be desirable to deal with it in some way; but I should feel much more disposed to vote upon the subject in any form rather than this, that would look likely to accomplish a similar result; that is a negotiation. Whether the President of the United States has authority, without any law to authorize it, to appoint commissioners to negotiate any treaty, I do not know. It has sometimes been questioned; but I think I would vote with pleasure for a simple concurrent resolution if you please, or any appropriate measure, which would authorize the President to appoint commissioners to treat with these Indians, not upon terms presented in advance which cannot be changed, but according to his discretion and that of his agents who are employed to execute this duty. Then when the treaty should be reported for approval by the Senate, as I think the Constitution requires, (but I waive that for the moment,) we could agree to it or not agree to it, just as this bill provides. If we should simply resolve that the President of the United States be requested to enter into negotiations with these tribes of Sioux with a view to obtaining this described territory upon reasonable terms, stopping right there and let him select, as this bill authorizes him in terms, such number of commissioners as he pleases, being the general of the Army out there alone who has been spoken of by the Senator from Nebraska, or being a larger corps coming from the executive head of the Government, with an open authority, and not with a treaty made in advance to which the Indians must come word for word and letter for letter or it all falls, and try to see what they could do, I should be greatly in favor of it, and I would vote for it with pleasure. But to do this which on its face appears to me to acquiesce in the present wrongful condition of things, if it does not do more, and to hold out a declaration to these poor people that they must give up the land—not negotiate but give it up, because it is what is called a strict conference, there is no latitude left for anybody—and then put themselves into our hands in respect to civilization or else they shall have no more aid from us, it appears to me would work in exactly the opposite direction from what it is intended to do. Instead of their meeting such a proposition with favor even for consideration, they would say, "We have no faith in you at all; you are violating this treaty now; you do not take any steps to correct it; but you come here not for negotiation, but with the strict terms in your hands, and tell us we must do so, and so, and so, and so, or you will leave matters just as they are and will do no more for us in any way." I do not believe they will submit to that; it is not human nature; and certainly Indian human nature is not any more easily coerced than is civilized human nature. We all know that. On the other hand, if we were to send commissioners there simply empowered to treat, without undertaking to foreclose the subject of the method of treating or the exact boundary of the land they are asked to give up, I believe that something possibly might come out of it.

Mr. MAXEY. I wish to ask a question. Have the Indians ever

made any formal demand on the United States Government to secure the lawful possession of that country to them of which they have been unlawfully dispossessed by the whites?

Mr. EDMUNDS. I do not know whether they have or not. I believe, according to the reports of the Indian agents, who are all the people with whom they can have any immediate communication, and who are the agents of the Government for Indian intercourse, they have bitterly complained of this invasion of their rights. I think my friend from Iowa supports me in this statement. So that in substance they have done all that you can expect people with as little civilization as they possess to do. That is to say, they have remonstrated with the diplomatic representatives of the United States, to use such a phrase, residing at their courts against this invasion of their territory, but of course that did no good.

Mr. MAXEY. As it is said that parties are unlawfully in possession, the question of right is to be looked into; and if possession is to be restored as it was, the point is whether a formal demand has been made or not for possession.

Mr. EDMUNDS. What would be tantamount to that has been done over and over again.

I come now, apologizing for occupying so much time, to the last proposition——

Mr. HITCHCOCK. Allow me to ask a question. Does the Senator know that these Indians are not now and never have been on the reservation that he talks so much about, and that they positively refused to go upon that reservation to live and are now living outside of the reservation and within the boundaries of the State of Nebraska?

Mr. EDMUNDS. No, Mr. President, I do not know it, and in the next place, if the Senator will pardon me, I do not think that what the question implies is exactly correct. The Indians, under the treaty of 1868, having a vast reservation as is stated—that is, a very large tract of country which is their reservation proper—have also hunting rights which extend over, I believe, a part of the State of Nebraska and part of the Territories west of that.

Mr. HITCHCOCK. They have no hunting rights in the State of Nebraska.

Mr. EDMUNDS. They did have at one time.

Mr. HITCHCOCK. They yielded those rights; and they positively refused at the outset to go on the reservation, and they have never up to this day conceded that point.

Mr. PADDOCK. My colleague is slightly mistaken in reference to that. So much of the Indian right to hunt within the State of Nebraska was taken away as excluded them from that section of the State in which their reservations were not placed, west of a certain meridian, which I do not now remember, and to the south bank of the White River. That small section of the State, the northwest corner of the State still remains where agencies are located. That is all.

Mr. HITCHCOCK. But my colleague is well aware of the fact that this reservation never extended to Nebraska, and that they never had any right in Nebraska except the right to hunt over a portion of the State, which right they have given up.

Mr. ALLISON. If the Senator from Nebraska will allow me to interrupt him, I think I can explain the matter.

Mr. EDMUNDS. I am looking for information and getting it.

Mr. ALLISON. The southern boundary of this Sioux reservation is the north line of the State of Nebraska, as stated by the Senator from Nebraska; but, as I understand, the north line of the State of Nebraska was run after the treaty of 1868; and the Sioux Indians not being very familiar with parallels of latitude and meridians of longitude, being rather more familiar with streams and water-lines, insist that the real boundary was in a portion of what is now called Nebraska. That is a matter that they have constantly disputed; although by the terms of the treaty the southern line of their reservation is the northern line of the State of Nebraska. Therefore they are literally now off their reservation, although they claim that they are on territory which was originally intended to be embraced within it by the treaty of 1868.

Mr. HITCHCOCK. But at the time of their location they refused positively to go to the Missouri River, where they were expected and desired to go.

Mr. EDMUNDS. The treaty does not exactly require them to go to the Missouri River and stay there, but they agree to receive their supplies in the vicinity of the Missouri River; and the Senator says, undoubtedly correctly, for he is familiar with it, that they have not received their supplies there, but they have been delivered to them at the agencies in his State.

Mr. HITCHCOCK. What I said was that their home, their agency buildings, their agency, never have been and are not on the reservation that is so much talked about. Much has been said about the rights of the Indians; but here is a treaty that the Indians made, and they positively at the outset refused to comply with it.

Mr. EDMUNDS. That begs one question on which the Indian would probably like to be heard before we decide against him. When this treaty was made——

Mr. HITCHCOCK. So far as champions are concerned, they are very ably represented here, I am sure.

Mr. EDMUNDS. I am very glad they are, and particularly by my friend from Nebraska. They are a part of his constituents, according to his statement, and he has a right to speak for them, and I have not in so intimate a sense as he. But what my friend has said involves one serious matter of right between the Indians and the United States. There may be Indian reservations within a State. There is nothing in the fact that Nebraska is a State that has anything to do with it that I know of. Her State sovereignty does not extend over them any more than the State sovereignty of New York does over the Senecas, if there are any of them left there. The Indians are Indians still, and the title of the State to the land they occupy does not depend upon the fact that she is a State, but it depends upon the fact that those lands have become the property of private citizens, deriving them from the United States, except in respect to the sixteenth and thirty-sixth sections and so on, that are given to the States after the surveys. So, then, these Indians at the time this treaty was made lived chiefly or partly in what is now claimed to be a part of the State of Nebraska near its north line.

Mr. HITCHCOCK. Not at all. They moved into Nebraska after the treaty was make.

Mr. EDMUNDS. Well, put it that way, because the United States established their agency buildings on the north side of the White River, if that is the name of the river.

Mr. ALLISON. The south side.

Mr. EDMUNDS. The south side of the White River or wherever the United States put up their agency buildings, I suppose the Indians clustered around. But, Mr. President, supposing the Indians have not any rights at all where they now are in the State of Nebraska; suppose they occupy the same relation to the State of Nebraska in respect of a right to be there that these miners do in their reservation, how does that help it? Does one wrong right another? But the Senator has not shown us that there is any wrong in the Indians being there, unless they are there in violation of the treaty.

Mr. HITCHCOCK. That is precisely what I have been saying and repeating.

Mr. EDMUNDS. Will the Senator read the clause of the treaty then?

Mr. HITCHCOCK. The clause of the treaty? I will read the description of the reservation:

> Commencing on the east bank of the Missouri River where the forty-sixth parallel of north latitude crosses the same; thence along low-water mark down said east bank to a point opposite where the northern line of the State of Nebraska strikes the river; thence west across said river and along the northern line of Nebraska to the one hundred and fourth degree of longitude west from Greenwich; thence north on said meridian to a point where the forty-sixth parallel of north latitude intercepts the same; thence due east along said parallel to the place of beginning.

Showing that the north line of Nebraska was the south line of the Indian reservation.

Mr. EDMUNDS. That is perfectly clear; but that does not prove that the Indian ought to be deprived of his property because he is on the south side of his reservation. If he is not violating anybody's rights, if he is on the public lands of the United States that is not occupied, I do not know any reason why he has not just as good a right to be there as I have.

Mr. PADDOCK. Allow me to state that he is upon just that territory into which he was permitted to go under treaty to hunt. The Indian, in his interpretation of treaties, makes no distinction between a reservation and that section of country into which he is permitted to go to hunt. He therefore considers himself to be there rightfully.

Mr. FRELINGHUYSEN. Do you think so?

Mr. PADDOCK. Undoubtedly.

Mr. EDMUNDS. My friend from Nebraska on the right [Mr. PADDOCK] has stated the case, as he always does, with great clearness, so that I understand it perfectly; but I am putting it now on the ground taken by my friend on my left, [Mr. HITCHCOCK,] and I am seeing how it will be supposing he is perfectly right in his doctrine that these Indians are outside of their reservation in the sense of being on the reservation they are not on it, and are therefore wrong. But does it follow that these Indians are committing any wrong upon any body, or violating any treaty, because having a reservation they have chosen to leave its limits and to set up a wigwam upon some public territory of the United States that is not occupied by anybody in advance? Why has not an Indian just as good a right to put up a cabin on unoccupied land of the United States as a miner has? I do not know any reason. I cannot think of any reason.

Mr. HITCHCOCK. He is not a citizen.

Mr. EDMUNDS. Suppose he is not; suppose he is an alien or an outlaw, a man under disabilities, he still has a right to be somewhere, and he does not violate any law by setting up his wigwam in the vicinity of buffalo ranges along the White River, where he can hunt conveniently. But as the Senator from Nebraska has stated the case, it is unnecessary to debate that question, because it is not the question. These Indians have a right to hunt in the country where they are now located, taking the phrase of my friend from Nebraska on the other side of the Chamber, and they cannot hunt there without being there; and there is nothing in the treaty which says that they shall only hunt one week in the year that I know of. They must subsist, except so far as we subsist them; and when you come to that, it is not altgether clear to my mind that these Indians have received by way of subsistence any more than we agreed to pay them. It is true that we have made appropriations for one or two years since the time we bound ourselves to make them; but whether it be true that these Indians have, taking it altogether from the making of the treaty to this time, actually received what they were entitled to, after the

property and the blankets and the supplies have gone through the strainers of the Departments, contractors, transporters, and Indian agents, is quite another question. I rather think if we could have a bill in equity, and an inquiry and an examination before a master, we should find that on the general average we have not yet actually put into the hands of these savages any more property than they were entitled to have under the treaty.

Mr. MORTON. I agreed with the Senator from Iowa to let this bill run a little while, concluding that it would soon pass. I am satisfied now that the discussion will be continued. I must therefore call for the regular order.

Mr. EDMUNDS. I hope the Senator will let me speak one minute longer.

Mr. MORTON. I thought the Senator was through.

Mr. EDMUNDS. I will not take more than a minute longer.

Mr. PADDOCK. Will the Senator from Vermont allow me a word? Mr. President, in relation to the subject of supplies under the treaty——

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

Mr. EDMUNDS. For a moment.

The PRESIDING OFFICER. The Senator from Indiana has called for the unfinished business.

Mr. EDMUNDS. But he has yielded to me.

Mr. PADDOCK. I desire to say that from the outset the Indians themselves did not comply with the requirements of the treaty in respect to the matter of subsistence. The treaty required that the provisions, blankets, &c., should be delivered to each Indian. They were to be delivered to the Indians individually. In order to make that possible it was necessary that the Indians themselves should submit to an enumeration. That, from the commencement of the performance under the treaty until the day that they ceased to be fed under the four-year term, they always persistently refused to do. In that respect they violated the treaty. So it is impossible to tell whether they did receive so much as they should have received or whether there were abuses or not in respect to that matter.

Mr. EDMUNDS. That may be true. That was not the part of the matter that I was alluding to. If they have not got as many blankets as they might have received if they had submitted to be counted, it is their own fault, and we have not had to give them blankets to that extent; but, although that was a violation of the treaty, like the waiver of a privilege that they have, they could not have their blankets until they came for them and were counted; and if they did not come and were not counted, they did not get them; that would not make any difference on this question. What I alluded to was what we have a pretty general understanding of, that in the distribution of goods there are many things done which ought not to be done and many things omitted that ought to be done.

Mr. PADDOCK. I admit that.

Mr. EDMUNDS. A single word more. The last amendment of the committee I wish to call the attention of the Senate to, which provides that the further sum of $50,000 is appropriated "to make suitable provision to aid the said commission in the discharge of the duties required by this act." It has been suggested that that had reference to getting rid of the miners and persuading them to be still or to go out so that the Indians could treat on fair terms in possession of their country again; but it does not say that. It is "to aid the commission in the discharge of the duties required by this act." Those duties are to say, first, to the Indians that they must give up this Black Hills country and, second, that they must put themselves into our hands for civilization and, third, that if they will do that they shall have appropriations for ten years. This money, therefore, in its expenditure is confined exclusively to aiding these commissioners in doing what they are to do, and that is to get the Indians to agree to these particular terms. I hope that the Senate will not adopt it, because we cannot disguise it from ourselves that it is like aid that is granted to commissioners making secret treaties with other powers, as has been done in the course of civilization a good many times for the purpose of dealing with the chief men of civilized as well as savage nations, by way of pecuniary inducements and benefits, to get them to do something which they otherwise would not do in surrendering the rights of their people.

Expressing my thanks to my friend from Indiana, I conclude.

Mr. MORTON. I now ask for the regular order.

Mr. MERRIMON. I beg to be allowed to offer an amendment, which I wish to have read for information.

The PRESIDING OFFICER. The amendment suggested will lie on the table and be printed.

Mr. MERRIMON. I ask that it be read.

The PRESIDING OFFICER. The amendment will be read if there be no objection.

Mr. MERRIMON. I want to say in candor that I am opposed to this bill out and out——

The PRESIDING OFFICER. The Chair will remind the Senator from North Carolina that the morning hour having expired, and the Senator from Indiana having called for the consideration of the unfinished business, it is out of order except by consent of the Senate.

Mr. MERRIMON. So I understood, but he yielded to me for a moment. I will take but a moment. I said that it was due to candor to say that I was opposed to this bill; but if it is to pass I think it important that certain amendments should be made. I offer this one now and shall offer others, if it is to pass, to make the whole bill harmonious with this. I move to strike out——

Mr. MORRILL, of Maine. That is not in order now.

Mr. MERRIMON. I want it read for information. I propose to strike out all after the word "that," in line 3 down to the word "Sioux" in line 9 of section 1, and substitute what I have sent to the desk, and I ask that it be read.

The PRESIDING OFFICER. If there be no objection, the words proposed to be inserted by the Senator from North Carolina will be reported.

The CHIEF CLERK. The amendment is to strike out all after the word "that," in line 3 of section 1 down to the word "Sioux" in line 9, and substitute for the words stricken out the following:

That the President is hereby authorized to detail for the service herein provided for five officers of the Army not below the rank of colonel, who shall compose a commission whose duty it shall be to visit the various tribes of the Sioux Indians.

The proposed amendment was ordered to lie on the table, and be printed.

## MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. GEORGE M. ADAMS, its Clerk, announced that the House had passed the following bills:

A bill (S. No. 386) approving an act of the Legislative Assembly of Colorado Territory;

A bill (S. No. 489) for the relief of G. B. Tyler and E. H. Luckett, assignees of William T. Cheatham; and

A bill (S. No. 490) for the relief of Hibben & Co., of Chicago, Illinois.

The message also announced that the House had concurred in the amendments of the Senate to the following bills:

A bill (H. R. No. 80) granting a pension to Elizabeth B. Dyer, widow of Alexander B. Dyer, late brigadier-general and Chief of Ordnance, United States Army;

A bill (H. R. No. 198) to relieve the disabilities of Robert Tansill, of Virginia;

A bill (H. R. No. 1596) granting a pension to Ruth Ellen Greelaud; and

A bill (H. R. No. 811) making appropriation for the payment of invalid and other pensions of the United States for the year ending June 30, 1877.

The message further announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. No. 810) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1877.

The message also announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. No. 1251) to exclude the State of Missouri from the provisions of the act of Congress entitled "An act to promote the development of the mining resources of the United States," approved May 10, 1872, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JACOB TURNEY of Pennsylvania, Mr. R. P. BLAND of Missouri, and Mr. JOHN F. PHILIPS of Missouri managers at the conference on its part.

The message further announced that the House had passed the following bills and joint resolutions; in which it requested the concurrence of the Senate:

A bill (H. R No. 101) amendatory of the act entitled "An act for the relief of the heirs and next of kin of James B. Armstrong, deceased," approved March 3, 1873;

A bill (H. R. No. 431) for the relief of the heirs of William A. Graham;

A bill (H. R. No. 726) to change the name of the steamboat Charles W. Mead;

A bill (H. R. No. 2012) to authorize the sale of certain ordnance stores to the First Troop Philadelphia City Cavalry;

A bill (H. R. No. 2018) to authorize the Exchange National Bank of Pittsburgh, Pennsylvania, to improve certain real estate;

A bill (H. R. No. 2197) for the relief of Henry B. Kelly, of Louisiana, from political disabilities imposed by the fourteenth amendment;

A bill (H. R. No. 2482) for the relief of Charles W. Mackey, late first lieutenant Tenth Regiment Pennsylvania Reserve Volunteer Corps;

A bill (H. R. No. 2686) to provide for holding of terms of the district and circuit courts of the United States at Jackson, Tennessee;

A bill (H. R. No. 2687) to provide for holding of terms of the district and circuit courts of the United States at Chattanooga, Tennessee;

A bill (H. R. No. 2688) to provide for holding terms of the district and circuit courts of the United States at Kansas City, Missouri;

A joint resolution (H. R. No. 85) to authorize the Secretary of War to issue certain arms to the Washington Light Infantry of Charleston, South Carolina, and the Clinch Rifles of Augusta, Georgia; and

A joint resolution (H. R. No. 86) for the relief of the Turtle Mountain band of Chippewa Indians.

## ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore:*

A bill (H. R. No. 83) for the relief of James A. Hile, of Lewis County, Missouri;

A bill (H. R. No. 215) granting a pension to John G. Parr, of Kittanning, Pennsylvania;

A bill (H. R. No. 811) making appropriations for the payment of invalid and other pensions of the United States for the year ending June 30, 1877;

A bill (H. R. No. 1599) granting a pension to Frances C. Elliott;

A bill (H. R. No. 1962) to confirm certain school-indemnity selection of public lands by the State of Nebraska; and

A joint resolution (H. R. No. 65) authorizing Edwin James, consular agent at San José, to accept a piece of plate from the Queen of Great Britain.

## COUNTING OF ELECTORAL VOTES.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 1) to provide for and regulate the counting of votes for President and Vice-President and the decision of questions arising thereon.

Mr. RANDOLPH. Mr. President, under the rules of the Senate the amendment I propose to the pending bill will not be strictly in order until a vote has been taken upon the question before us. What that vote shall be may depend upon the existence of some better plan than any now under consideration, and I therefore beg to speak to the subject for a few moments.

The committee's bill has in view the passage of a law under which the electoral vote of States shall be counted.

Debate has elicited these facts: That as to this important subject there is a vital omission in the organic law; that for many years there has been in force as a remedy for the defect a joint rule of Congress. That rule, now abrogated, is admitted on all sides to have been iniquitous in conception, dangerous in existence, and constitutionally without warrant. With its paternity denied by all and its abrogation delayed by none, it seems to have been a political bastard, whose usefulness was contingent upon a partisan emergency and whose life closed with the first dawn of purer public sentiment.

The debate also discloses this remaining fact: That, agreed as we are as to the necessity of some new and equitable law which shall cover all contingencies likely to arise in the selection of a President and Vice-President, we are at great variance as to a remedial mode, comprehensive in its character and within our power to adopt.

The Committee on Privileges and Elections present their remedy in the pending bill; to it several amendments are offered, among them one of my own. Before presenting reasons in favor of this amendment I desire to state my objections to the committee's proposition, as well as to some of the amendments thereto.

The original bill fails in its purpose, confessedly so, in contingencies likely to arise, that have arisen heretofore. It is imperfect because it leaves the count of the electoral vote of a State entirely dependent upon the concurrent vote of both Houses of Congress. Should a State be so unfortunate as to have two sets of electors returned, and fail to convince both Houses of Congress as to which the true ones are, then its electoral vote is thrown out, its people wholly disfranchised.

A large majority of the House of Representatives, for instance, might declare in favor of one set of returns; in the Senate all but one vote necessary to a majority might concur therein; yet this lacking vote, representing at best but half a State, and in fact but an individual opinion, would suffice to reject the electoral vote of a State.

Clearly it was not within the purpose of the fathers to give any such extraordinary power to an individual over the people of a State, and that in deciding a question not judicial but political in its character.

There has been a general expression that the functions of members of both Houses of Congress are largely, if not altogether, ministerial as to the count of the electoral vote. The Constitution could scarcely have contemplated the almost instant transformation of a mere ministerial agent to that of a supreme judicial officer from whose fiat no appeal could be taken.

The original bill fails in comprehensiveness. Its fault is that of omission.

The second section reads thus:

SEC. 2. That if more than one return shall be received by the President of the Senate from a State, purporting to be the certificates of electoral votes given at the last preceding election for President and Vice-President in such State, all such returns shall be opened by him in the presence of the two Houses when assembled to count the votes; and that return from such State shall be counted which the two Houses, acting separately, shall decide to be the true and valid return.

Simply stated, the bill provides for the count of each undisputed electoral vote. In case of dispute as to the true returns of any State two hours only are allowed for reconciling the conflicting views of the Senate and House. Even this brief time is consumed in separate session; and, failing to agree, the electoral vote of the State is wholly cast out.

The disfranchisement of a people may thus hinge upon two quite possible contingencies: First, the easily procured and presented bogus returns so called from a State; next, the virtue of one or the other of the great political parties, tested under the greatest temptation.

Practically the committee's bill gives to Congress a veto power upon the acts of States.

The danger of adopting the second section of the pending bill can be briefly illustrated by taking the case of Louisiana.

Should that State return two sets of electors and the vote of one or the other set be sufficient to determine the political ascendency of one or the other of the parties, in the administration of Federal affairs, is it probable the Senate and House would agree as to which were the true returns? No. Then the vote of Louisiana would be rejected.

This might leave the remaining three hundred and sixty-two votes standing as follows:

| | |
|---|---|
| For the democratic electors | 181 |
| For the republican electors | 180 |
| Total | 361 |

This would insure a democratic President and Vice-President. Yet to the people of the country it might be made palpable that the rejection of Louisiana by a democratic House was a partisan action and to defeat, as it only could defeat, the election of a republican President, as the count of Louisiana's vote would do. I choose this illustration, that is hypothetically against my own party, to strengthen its force with my republican friends.

Aside from this narrow and partisan result there is an objection broader and deeper. It consists in the crime of deliberately disfranchising the people of a State—in the enormity of excluding one of our own—not because her rights are not equal, but because we have not patriotism, patience, and virtue enough to defend them. Yet this defense is one of, and perhaps the greatest of, our mutual obligations as States to each other. It is the keystone guarantee of the Federal compact. No, Mr. President, Congress has no right—never had, and never will have, if justice is to prevail—to disfranchise the people of any State. The admission of such power is fraught with danger to liberty itself. Peculiarly as to this matter the States stand as peers, nor can we, their servants in Congress, infringe the rights of the weakest of them.

Sir, it has been intimated at least that the rejection of contested electoral votes would be no fault of the Congress nor of the people of the uncontested States. This is not true. There is just as much power in Congress under the Constitution to assure the full vote of every State as to assure that of one. If we can provide by law for doing anything, (beyond the plain, though admitted imperfect, provisions of the Constitution,) we can provide for all contingencies foreseen as possible. Our duty, sir, is to leave no chance for injustice, no invitation to fraud.

The amendment of the Senator from Tennessee [Mr. COOPER] proceeds upon the theory of the constitutional provision regulating the selection of a President and Vice-President when no choice has been made by the electors. The theory seems to me to fail when applied to an equitable adjustment of the difficulty now under consideration.

The electors referred to in the Constitution were to be persons chosen by the State Legislatures—not by the people. They were to be an intermediate body between the States—not the people—and the executive officers selected. Their selection of proper officials was not expected to be controlled by party conventions, as has turned out to be the fact. It was anticipated they might differ in judgment to such degree as to leave no one person with a majority vote.

So plain is this anticipation that the Constitution provides that only three of all the persons voted for by State electors should be subsequently considered.

The electoral vote is a secret one. The power, once exercised, is ended. Thus the necessity for another tribunal, another electoral college substantially, in a contingency possible. That final tribunal, as we all know, is the House of Representatives; but only in the emergency named.

The whole of this residuary power of the House of Representatives proceeds upon the theory of a want of sufficient agreement between the agents or electors of all the States; not between people of the same State. The principle that lodged the first-named power in the House of Representatives was that of protection to the smaller States. No such principle applies in the adjustment of differences arising within a State.

The constitutional provision referred to is a remedy for what might otherwise be a fatal defect. It points to the legislative power, or a portion of it, as the proper power to decide who the Executive shall be in grave emergencies. In this view it is just now very suggestive. But it seems to me no more.

The amendment proposed by the Senator from Tennessee, to my mind, renders possible the selection of an Executive against whom the popular vote has been largely cast. It is no fair reply that this possibility already exists in another emergency. There should be no additional crevice through which the will of the majority of the people can be defeated.

The amendment proposed by the Senator from Virginia [Mr. JOHNSTON] proceeds upon the power of the two Houses to come together in joint meeting, and when together to act as a unit in Legislation. This power, in Congress, is not generally admitted. Its exercise, if constitutional, is hazardous and the line that most old-fashioned democrats deem as indispensable to true constitutional government is badly weakened by his plan, if not, for a period, absolutely lost sight of. I think the Senator will, upon reflection, agree with me that the actual amalgamation of the votes of the two Houses by meeting in joint convention is open to objection.

The amendment proposed by my colleague in substance provides for a court composed of the Chief Justice, the President of the Senate, and the Speaker of the House of Representatives. Though he

does not say so in words, his amendment would seem to imply a lack of power in Congress to do that which it gives authority to its agent to do; or, if I am wrong in this construction, then it doubts the fitness of Congress to decide a question "partly judicial, partly political." Yet, Mr. President, it is just such questions this body, at least, is often called upon to decide.

But there is another objection to the amendment of my colleague that I deem fatal. This relates to the persons constituting the final tribunal named by him. The Chief Justice or senior justice holds his appointment from the President; not infrequently, as re-elections of Presidents occur, from the person to whom he owes his original elevation and upon whose continuance in the presidential office, as a matter of fact, he is called upon to decide. However just and honest his vote, this high judicial officer would stand in imminent danger of being questioned as to motive, and thus of losing his indispensable judicial influence. No part of the Supreme Court can be brought to the decison of a question that plain people would ever consider purely political without lowering public respect for that great and final tribunal.

Mr. President, I have proposed to add a new section to the bill now being considered, which I will thank the Clerk, if he has the amendment, to read.

The PRESIDING OFFICER. The amendment submitted by the Senator from New Jersey will be read.

The Chief Clerk read as follows:

SEC. —. Should the two Houses of Congress, acting separately, fail to agree as to which is the true and valid return of a State, then, and in that event only, the President of the Senate shall render a decision of the question, and such rendition shall be in favor of that return of a State which shall have received a majority of all the votes cast in both Houses of Congress, considered as if both Houses had cast their votes in joint meeting assembled.

Mr. RANDOLPH. Now, Mr. President, I hope it will be plainly seen that the adoption of this or a kindred section leaves no pretext for omitting the count of every electoral vote of all the States.

The Houses of Congress, acting separately, failing to agree as to which the true returns of a State are, join in effect the aggregate vote of both, and those returns which shall have received a majority of all the votes of the members of both Houses are declared the true returns. The duty of making this declaration is put upon the President of the Senate. The decision is final; the case is ended. This plan has some affinity with parts of both of those suggested in the amendments made by the Senator from Tennessee and the Senator from Virginia. Through the votes of Senators the States, as such, are directly had. By the votes of members the people speak through their more immediate Representatives. Their is no exclusion of either voice. The larger States make their power felt through their greater number of Representatives; the smaller States assert their equal voice in the votes of their Senators.

It may be said that the voice of States is liable to be lost under my amendment. This may sometimes occur. Yet at all times the plan suggested by me is an important gain of power to the smaller States, as against relegating the decision of the question to the House of Representatives alone. Another view of the matter will disclose this fact. Under my plan the practical decision of the question may often rest with the States through the votes of Senators. Should the House of Representatives be about evenly divided, as is frequently the case, then the Senate, usually very unevenly divided politically, would have the controlling vote. In a word, the opportunities would be quite evenly divided as to whether the decision would be reached by the controlling vote of the Senate or the House.

So, Mr. President, the amendment proposed seems to be as reasonably free from objection as any we are likely to adopt. Undoubtedly the wiser and safer plan would be to amend the Federal Constitution in such manner as to render the disfranchisement of the people of any State impossible. Meantime our duty is to provide the best system we can. That which I have proposed may be more objectionable under the light of full discussion than it now appears. It seeks no party advantage. It is in practice familiar to the people of all the States through the results of State legislative joint meetings. It has no small sanction from Congress itself since the passage of the law regulating the election of United States Senators. That law, it will be recollected, had for its object, almost its sole object at the time of its passage, the compulsory decision of a grave question, the selection of members of this body. The mode concluded upon as just and equitable was that of compulsory joint meeting when separate branches of a State Legislature would not or could not agree. I propose to apply to ourselves the same remedy for honest differences or factious opposition that we have assured the State governments was good for them.

Mr. President, I ought to say in justice to myself that I have not been able to give that full consideration to my own amendment which I had hoped to be able to do, and it is only within the last three or four hours that I have been able to touch it at all. I submit the suggestions I have made in the earnest hope that they may to some extent lead to a true and legitimate determination of this important, if not the most important, question now before Congress.

Mr. WHYTE. Mr. President, I should not attempt so soon again to make any remarks in the Senate upon this subject were it not that it strikes me the Senate ought first to be brought to the conclusion whether this power, about which so much discussion is now being had, is not lodged with the President of the Senate, as I suggested when making the remarks I did last Monday to the Senate. If that power is lodged now with the President of the Senate, then it is idle for us to waste time in statute legislation; but it is the duty of Congress, in case we have discovered an omission, to provide for contested elections, or, in case the power is doubtful as regards the President of the Senate, to propose an amendment to the Constitution; and therefore the preliminary inquiry is whether or not a constitutional amendment is necessary. That having been concluded, then what shall be the character of that constitutional amendment?

There is a vast difference between the ministerial duty of the President of the Senate, as I maintained the other day, in counting the electoral returns, and granting a *prima facie* case to an officer, and the examination of the right of that officer to hold the place in the case of a contest whether as regards the electoral vote of a specific State or in regard to the aggregate votes of all the States. Therefore, whether in regard to the count there is an omission or not, it is clear that there is no provision of the Constitution for the case of a contested election of President or Vice-President before the people. Hence it is important, if we mean to make any provision in regard to the count of the vote, that we should go a step further and provide for a contested election of President and Vice-President of the United States. I say that it is essential for us now to amend the Constitution, for, after reading the able arguments of the Senators on this floor on last Thursday, I have seen nothing to change the view which I had the honor to present to the Senate on Monday of last week. On the contrary, a close examination of the question and mature reflection not only satisfy me in regard to that view of the case as presented by my own reading of the Constitution, but I do not think the precedent established when the Constitution was set in motion can be "whistled down the wind" as it was by my friend the Senator from Ohio, [Mr. THURMAN.] No, Mr. President, let us look at the point for a moment, and I shall not occupy the Senate long; let us look at the proposition as I presented it to the Senate upon that occasion.

The Senator from Ohio speaks of the precedent in the count. I did not call the attention of the Senate to the precedent in that respect; I called the attention of the Senate to what the convention that framed the Constitution, to what the men who were the makers of the Constitution asked the First Congress to do, and then followed it up by the precedent established by the first Congress that assembled under the Constitution. I called the attention of the Senate to the fact that, in the resolution which sent the Constitution to the Congress of the confederation and requested its delivery to the people of the States for ratification, the express language was:

That the Senators should appoint a President of the Senate for the sole purpose of receiving, opening, and counting the votes for President.

That was his duty, to receive, to open, and to count the votes. That resolution went with the Constitution to the Congress of the Confederation; that Congress sent the Constitution, with this resolution, with the report of the committee, to the people of the States to be ratified by the people of the States. The people of nine States ratified it. Congress met under it; and, when Congress met, what was the action of Congress? Its action was to elect a President of the Senate in the very words of this resolution, complying literally with it; the Senate of the First Congress elected John Langdon, one of the Senators from the State of New Hampshire, President of the Senate, "for the sole purpose of opening and counting the vote for President and Vice-President of the United States." Who was John Langdon? John Langdon, a Senator from New Hampshire, was the very first man to sign the Constitution, the work of the convention, under the name of George Washington. He was one of the framers of this very Constitution; he was one of those who gave it his signature to send it to the world; he was one of those who voted for this identical resolution; and he now becomes the hand of the convention to open and to count these very votes under that very resolution which he himself had voted for in the convention that framed the Constitution.

That is not all, Mr. President. Immediately upon the election of Mr. Langdon the following proceedings were had:

*Ordered*, That Mr. Ellsworth inform the House of Representatives that a quorum of the Senate is formed; that a President is elected for the sole purpose of opening the certificates and counting the votes of the electors of the several States in the choice of a President and Vice-President of the United States.

Who was to bear this message to the House of Representatives, that the Senate was now in session to attend upon the opening and counting of the votes by the President of the Senate who had been elected for that sole purpose? It was Oliver Ellsworth, who had done as much in the framing of the Constitution as any other member of the convention. Oliver Ellsworth knew what he was going to the House of Representatives for. He knew that the Senate of the United States was merely performing the duty of attending while the President of the Senate opened and counted the votes for President and Vice-President of the United States.

That is not all, sir. Who else was there? Of the ten members of the Senate at that time, six were members of the convention that framed the Constitution. Of the very Senate that passed this resolution, the very Senate that ordered Mr. Ellsworth to go to the House of Representatives and invite them to attend to witness the counting of the votes by the President of the Senate, six had been participants in framing this very Constitution. There, if I remember correctly, were Langdon, and Ellsworth, and Robert Morris, and Bassett of

Delaware, and Few of Georgia. There were the very men who knew exactly what was the intention of the framers of the Constitution, and knew exactly how to carry out that intention in setting the machinery of the Government in motion. What did they do? Mr. Ellsworth went to the House of Representatives. The Senator from Ohio when he spoke about this precedent being of no great force added also that this most admirable compilation or history of the First Congress made by our worthy Chief Clerk was not an accurate account, and that an opposite presumption might be drawn by reading the Journal. He is mistaken. I have examined another history of Congress by Mr. Blanchard of the First Congress, and it corresponds exactly; and to-day I have got the Journals of the Senate from 1789 to 1793, and they confirm, and not only confirm, but make stronger, the theory that the House of Representatives and the Senate were mere attendants upon the duty discharged by the President of the Senate: they had no part or lot in it except to furnish two gentlemen on the part of the House and one on the part of the Senate to sit at the Clerk's table and make out a list as the President of the Senate declared the votes of the States. That is all. Let us see. Mr. Ellsworth proceeded to the House of Representatives and informed them that—

The Senate is now ready in the Senate Chamber to proceed, in the presence of the House, to discharge that duty.

I read from the Journal.

He informed them also that the Senate have appointed one of their members—

To do what?

to sit at the Clerk's table to make a list of the votes as they shall be declared—

Declared by the President of the Senate—

submitting it to the wisdom of the House to appoint one or more of their members for the like purpose.

He reported that he had delivered the message.

Mr. Boudinot, from the House of Representatives, communicated the following verbal message to the Senate:

"Mr. President, I am directed by the House of Representatives to inform the Senate that the House is ready forthwith to meet the Senate, to attend the opening and counting of the votes of the electors of the President and Vice-President of the United States."

"To attend," to wait upon the President of the Senate as witnesses, to attend him as he performs his duty, but not to take any part in the performance of that duty, not to interfere with him in discharging his office of opening, counting, and declaring the electoral votes of the various States; and so it goes on. They appointed tellers.

The President elected for the purpose of counting the votes—

That is the record of the First Congress. The record leaves out "opening the votes;" but—

The President elected for the purpose of counting the votes declared to the Senate that the Senate and House of Representatives had met, and that he—

John Langdon—

in their presence, had opened and counted the votes of the electors for President and Vice-President of the United States; which were as follows.

That is not all. John Langdon gave the certificate to George Washington of his election, and in that certificate, as the Senate will see, announced that—

The underwritten, appointed President of the Senate for the sole purpose of receiving, opening, and counting the votes of the electors, did, in the presence of the said Senate and House of Representatives, open all the certificates and count all the votes.

He, John Langdon, did, and nobody else did; and he certified that Washington was elected, and sent messengers to the President and to the Vice-President.

That is not all. What was done at the very next election of the President of the United States when George Washington was again elected? I turn to page 480 of this volume of the Journal. The very question was brought to the attention of the two Houses at that time; for there was a resolution passed by the House of Representatives to which the Senate gave its concurrence, which will be found on page 480:

The Senate proceeded to consider the resolution of the House of Representatives that a committee be appointed, to join such committee as may be appointed by the Senate, to ascertain and report a mode of examining—

Not of counting—

a mode of examining the votes for President and Vice-President, and of notifying the persons who shall be elected of their election, and for regulating the time, place, and manner of administering the oath of office to the President.

Of examining the votes, not counting them. The counting was done by the President of the Senate, and nobody at that day supposed for a moment that Congress could dislodge him from the position in which the framers of the Constitution had placed him. Now see, page 484, the report of that committee, composed of Mr. Izard and other gentlemen who had been members of the constitutional convention. James Madison was one of that committee on the part of the House; and I presume no man was more familiar with the Constitution, then but a few years framed, in which he took such a part; no man could have been more familiar with it, and no man could have known the intention and object of the framers of that instrument better than James Madison:

Mr. King, from the joint committee appointed the 6th February, instant, reported, That the two Houses shall assemble in the Senate Chamber on Wednesday next, at twelve o'clock; that one person be appointed a teller, on the part of the Senate, to make a list of the votes as they shall be declared.

By the President of the Senate, just as it had been done four years before, when he opened them and read them, and the tellers made the count under his eye and under his hand, using them merely to do the manual labor of making the list, and certifying and handing it to him that he might announce the result.

Mr. SAULSBURY. I desire to ask the Senator from Maryland if the object of that resolution of the House for examining the votes of the electors of the different States was not to ascertain whether they were electoral votes or not? What was the object of examining on the part of the two Houses, unless it was with some view of regulating and controlling the counting of the votes?

Mr. WHYTE. Mr. President, it was for the simple purpose of being a check upon the Vice-President or President of the Senate, so that the very object of the Constitution should be complied with of having witnesses who saw the certificates before the count had been announced by the Vice-President. That was the object. What is the meaning of tellers? Only to keep a tally of the votes. What power has a teller in an election but to keep a tally of the votes? He is only to mark them down and see that they correspond with the enunciation by the Chair. That is all, Mr. President.

To make a list of the votes as they shall be declared, that the result shall be delivered to the President of the Senate, who shall announce the state of the vote and the persons elected to the two Houses assembled as aforesaid; which shall be deemed a declaration of the persons elected President and Vice-President, and, together with a list of the votes, be entered on the Journals of the two Houses.

Therefore in the beginning the eye of Congress was turned to this very question, and they recognized that the President of the Senate was the proper depositary of the votes, and that he was the proper person to discharge the duty of making the count and announcing it to the country in the presence of the two Houses. If any resolution of the House shows that, it was merely to attend upon the President of the Senate when he makes this count.

I have shown, Mr. President, that this was a resolution first from the convention that framed the Constitution to the First Congress, and that the First Congress obeyed that order, and after that the Congress in session when George Washington was elected the second time confirmed everything that had been done by the preceding Congress, and that was the uniform practice from that day down to 1865, for in 1857 Mr. Mason, presiding over the two Houses, did not count the vote of Wisconsin, as I shall show directly.

Some Senators seem to think that this is an extraordinary power. Why should it be so deemed? In regard to the election of President you have to find some similitude in your mode of procedure from the past. You have to look at the operations of your States, for after all we all, or certainly those of us who think the way I think upon constitutional questions generally, maintain that the Federal Government is but an aggregation of the State governments, and therefore what will apply within a State government may very well apply to the National Government so far as its method of exercising power is concerned; and does not every Senator on this floor know that the governors of nearly all the States, if not all of them, possess the same power in regard to the returns of elections of State officers? Certainly in my State, and I believe in most of the other States, the governor issues a commission upon the returns made through the clerks' offices of the various courts, or through the local boards of canvassers. He looks at those returns, and he issues the commission, and declares the party elected. Is not that so? What is his duty? The other day my friend from Indiana seemed incredulously to smile when he asked me whether I considered it a ministerial duty to decide between two returns, and I said yes. I repeat it. There is not a canvasser of any State in this Union that does not have to do that very thing, and yet everybody knows his office is ministerial.

Mr. MERRIMON. *Quasi* judicial?

Mr. WHYTE. No, sir; not *quasi* judicial. On the contrary it is purely ministerial, and just as ministerial as that of the clerk of a court who is authorized to record a deed, and will not record the morning newspaper if you take it to him and ask him to do it He is bound to record a deed where the law is complied with, and he looks to the deed to see if the law is complied with and if it is a deed to be recorded. If it is not, he is not bound to record it. Who would for a moment say that that was the exercise of a *quasi* judicial duty? Cooley on Limitations lays it down so broad that no man can doubt it, that the power of a canvasser, though you may call it *quasi* judicial if you please, is not *quasi* judicial, but purely ministerial from the beginning to the end. Take, in passing, the case of a marriage license. A clerk of a court is authorized to issue a marriage license, but not to a minor. A gentleman presents himself at his desk and asks him for a marriage license. He looks at him and doubts whether he is of age. He has a right to refuse it if he thinks proper, and subject that man to the necessity of a mandamus to compel him to perform that duty. More than that, he has a right to swear the man, and ascertain whether he is a minor or not before he issues a license. It is a purely ministerial duty. It has been recognized by everybody as a ministerial duty so far as the ordinary boards of canvassers are concerned. Such a person is a mere canvassing officer. In my judgment he represents the State. The State votes for President. Each State, says the Constitution, shall, under the direction of the Legislature, appoint electors, and the President of the Senate is the canvasser for the States; and, as such canvasser, performs merely the ministerial duty of deciding, *prima facie*, who is elected President or Vice-Presi-

dent of the United States. Now, no Senator need answer me by saying that that decides the whole case, because there is no provision in the Constitution which looks to a contested presidential election. That may be an omission in the Constitution which ought to be supplied. Then you can take the contested election to the Supreme Court of the United States to determine who ought to be the lawful occupant of the White House; but, until some such provision is made in the Constitution, the President of the Senate, as a ministerial officer, determines who is elected President and Vice-President of the United States. Kent says so:

The President of the Senate, on the second Wednesday in February succeeding every meeting of the electors, in the presence of both Houses of Congress, opens all the certificates, and the votes are then to be counted. The Constitution does not expressly declare by whom the votes are to be counted and the result declared. In the case of questionable votes, and a closely contested election, this power may be all-important; and, I presume, in the absence of all legislative provision on the subject, that the President of the Senate counts the votes, and determines the result, and that the two Houses are present only as spectators, to witness the fairness and accuracy of the transaction, and to act only if no choice be made by the electors.

Sir, the presumption is conclusive, there being nothing else in the Constitution, the Constitution not specifically saying by whom, the presumption is, from all the surrounding language, that the two Houses are only there as spectators, and that the President of the Senate is the proper person to count and to declare the vote; and, if I am not much mistaken, the distinguished Senator from Indiana thought the same way when he made his speech on the 17th of January, 1873:

Clearly—

Said he—

the framers of the Constitution did not contemplate that the President of the Senate in opening and counting the vote for President and Vice-President should exercise any discretionary or judicial powers in determining between the votes of two sets of electors, or upon the sufficiency or validity of the record of the votes of the electors in any State; but that he should perform a merely ministerial act, of which the two Houses were to be witnesses and to make record. But the exercise of these high powers may devolve upon him *ex necessitate rei*, and whatever decision he may make between the two sets of electors or upon the sufficiency and validity of the record of the votes—whether on the evidence of the right of the electors to cast votes, or whether they have been cast in the manner prescribed by the Constitution—his decision is final.

So that the Senator from Indiana clearly accepted that as the true construction, that having this ministerial power lodged with him out of the necessity of things he might be called upon on some occasion to declare which of two returns he would take, or whether the people had the right to vote or not, and the Senator stated then that he considered his decision to be final, and I agree with him. If it is to be changed, it is to be changed by a constitutional amendment, and in no other form. Let us see what else the Senator said on that same subject on that occasion:

The Constitution provides that the President of the Senate shall be the depositary of the electoral votes of the States, and that he "shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted." It has been generally conceded that this means that the two Houses shall be present in their separate characters, and not as a joint convention; that they cannot act and vote as one body; that the two bodies cannot deliberate and act as separate bodies in each others' presence; that they are simply brought together to witness the result of the opening and counting of the vote as reported by the President of the Senate. The fact that tellers have been generally appointed by the two Houses in nowise affects the question, for they are mere facilities to actually count and make record of such votes as the Vice-President hands to them for that purpose.

Can there be any doubt that it was the view of the Senator then that it was conceded on all hands that that was the status of the case under the Constitution of the United States? But, Mr. President, I may not perhaps be adding any strength to my argument with the Senate; but certainly to my judgment the authority I am about to quote was a high authority on constitutional questions; and therefore I ask permission to call the attention of the Senate to this question as presented by the late President of the United States and late Senator who we regret to miss from the chair in my rear. I refer to a veto which he sent to Congress on the 20th of July, 1868—a veto which I had the honor to vote to sustain in company with Senator Hendricks and other gentlemen on this floor. It is not material to read any other portion of the message or to discuss any other part of the question raised in his veto further than this particular point referring to the power of the President of the Senate. Said President Johnson, on the 20th of July, 1868:

The mode and manner of receiving and counting the electoral votes for President and Vice-President of the United States are in plain and simple terms prescribed by the Constitution. That instrument imperatively requires that the President of the Senate "shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted." Congress has, therefore, no power under the Constitution to receive the electoral votes or reject them. The whole power is exhausted when, in the presence of the two Houses, the votes are counted and the result declared. In this respect the power and duty of the President of the Senate are, under the Constitution, purely ministerial. When, therefore, the joint resolution declares that no electoral votes shall be received or counted from States that since the 4th of March, 1867, have not "adopted a constitution of State government under which a State government shall have been organized," a power is assumed which is nowhere delegated to Congress.

And so all the better reasoning in the case of Wisconsin was that way. There is no argument worthy of the name of argument that can be presented in reply to the statement of the case as made by Mr. Stuart, of Michigan, at that time, which Mr. Collamer thought so strong and so important in its character that he refused to vote for the resolution that had been proposed by Mr. Crittenden; and I ask the attention of the Senate to Mr. Collamer's remarks on that subject. We all know that the certificate of the vote of Wisconsin showed hat the electoral college had met a day after the day appointed by law for casting the electoral vote, by reason of a snow-storm. We all know that Mr. Mason did not count Wisconsin, upon the ground that it would make no difference whether Wisconsin was counted or not; the result was the same; and, therefore, the vote was not counted. A debate arose, and Mr. Toombs, of Georgia, made a violent demonstration against the ruling of the President of the Senate. The announcement was made, and the Houses separated. The debate was resumed in each House, and, in the Senate, Mr. Crittenden, after a long debate, offered this resolution:

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the electoral vote of the State of Wisconsin in the late presidential election, being given on a day different from that prescribed by law, was therefore null, and ought not to have been admitted or included in the count of electoral votes given in the late presidential election.

The Senate laid that resolution on the table, after Mr. Collamer's speech, without even a division. Now, let us see what Mr. Collamer said:

I very much doubt whether the framers of the Constitution ever intended to leave the subject of the presidential election to the House of Representatives or the Senate, or either or both of them. There was a great deal of debate in the convention that framed the Constitution as to the manner of choosing a President of the United States. Various projects were presented. Among others, it was very gravely debated whether he had not better be elected by Congress For some considerable time that proposition was under consideration. Various plans were put forward, various suggestions made as to the manner of choosing a President, and much difficulty was found in relation to it before a plan was arrived at, and that so soon resulted in a practical failure as to lead to the change in the Constitution to what it now is in this respect. The Constitution vested in each House the power to decide upon the election of its members; it provided carefully that it would not trust to the two Houses to elect a President.

That is what we are trying to do here to-day.

It seems to me that if we consult history at all, and consider the probability of things even as they fall within our own observation and experience, we shall find that there is very little practical difference between leaving the presidential election to Congress and leaving Congress to decide that election.

He could not put it better than that by the use of human language. The convention would not leave it to Congress to elect, and now Congress proposes to elect for itself.

Mr. THURMAN. Shall I interrupt the Senator if I make a suggestion?

Mr. WHYTE. Not at all.

Mr. THURMAN. Does the Senator think that the question before the Senate is whether we can go back of a return admitted to be genuine and regular upon its face? If he supposes that to be the question, I must say that I do not suppose it to be the question; nor do I see how it is involved. I certainly do not admit that you can go back and go into a contest of the election at all. I submit that the remarks that have been made, which he has read, both by the late Senator Johnson and Mr. Collamer and Mr. Crittenden, do not refer to a case like the present at all. The question now is, what must we do when the question is which of two returns is the genuine return? When you have decided which of them is the genuine return, I admit you cannot go back of that.

Mr. WHYTE. Yes, sir, that is just what I am on. I say that Congress has no right to assume to itself to decide which is the right return, because the Constitution has put it in the hands of the President of the Senate, and until you amend the Constitution you have no right to take it away from him. That is my argument. The Senator was not in when I first commenced or he would have known that that is precisely what I say. It is tinkering with the Constitution if you do not go a step further. You want to decide which of the two returns is the right one, and not to go behind the return and take the evidence that is to give you the power to decide judicially. What is it that is to be done? One party in the House may say one is the right return; another party in the Senate may say another is the right return; and the State is disfranchised, which our fathers never meant.

The President of the Senate is the custodian of these votes; he is the canvasser of these votes; and he is just where the governor of a State is when he is bound to issue a commission upon the returns that are sent to him. He is bound to look at the returns and see that they comply with the law, and then he is to issue a commission to the man who upon the face of the return has a majority of the votes cast. That is the state of the case. I say that is a mere ministerial duty, and I should like to be pointed to some authority to the contrary. Every governor has to discharge that duty, not as governor, not in the discharge of those executive functions which are political exclusively in their character, and which are not subject to the revision of the courts. Take the case of a governor; and I liken the President of the Senate to him, for I see no difference. Suppose the President of the Senate wantonly rejects the legitimate return from a State; is there no power to compel him to count it? Is there a power to compel the governor of a State to count a return properly certified? The Senator from Wisconsin [Mr. HOWE] truly said the other day there can be but one right return and one wrong one, and our fathers never expected us to legislate for a case where there should be two executives of a State at one time. Our fathers never expected us to be in a condition that we should doubt what was the executive authority which certified to the electors in any State of this Union. The Con-

stitution prescribes the duty to the President of the Senate. The law of 1792 shows him how the certificates are to be certified to him, shows him now he is to know who are the persons in the States claiming to be electors; and on that he has got to answer to the country and to his God that he discharges his duty faithfully. If he discharges it wickedly and puts aside a regular return which he ought to count, is he not in the same position as the governor of Kentucky, who is bound to issue a commission to the attorney-general upon the returns of the canvassers or the county clerks that he has a majority of the votes cast? When he adds them up and finds he has got a majority of the votes, he is bound to issue the commission. If he rejects the right return and counts him out, the courts of Kentucky by mandamus will compel him to issue the commission to the lawfully elected officer. That is the law. Nobody knows better than the Senator from Ohio that governors perform ministerial duties as well as discharge their general duties as governors of States. He himself has applied for a mandamus to compel the governor of Ohio to execute a law of his own State which he claimed was merely a ministerial duty upon his part; and in my State it has been decided over and over again, not only by democratic courts but by republican courts, without any reference to politics, upon the plain, square, judicial inquiry, and I ask the attention of the Senate briefly to it. In the case of Magruder *vs.* Swann, governor, reported in 1866, in 25 Maryland Reports, there is a review of all the cases:

> The cases cited were used to sustain the position that the executive, in his political or discretionary powers, was beyond all judicial interference, not to sanction the application of the principle to the facts of each case.

Here is the clause of the constitution:

> All elections of judges and other officers, provided for by this constitution, (states' attorneys excepted,) shall be certified and the returns made by the clerks of the respective counties to the governor, who shall issue commissions to the different persons for the offices to which they shall have been respectively elected, and in all such elections the person having the greatest number of votes shall be declared to be elected.

The court held, in regard to the duties devolved upon the governor by these sections of article 4, that—

> These are auxiliary ministerial duties imposed on the governor preliminary to the qualification of the judges and other officers, in the discharge of which he has been invested with no discretion, but is imperatively required by the organic law to perform in order to keep the departments of government in motion.
> The clerks' certificates determine "who has the greatest number of votes," or whether "the opposing candidates have an equal number of votes." In either event the injunction of the constitution is equally peremptory.

To go a step further, to show that this duty is merely ministerial, I refer to the case of The People *vs.* Pease, in the New York court of appeals, also decided, if I can judge from the names, by judges a majority of whom were in opposition to the democratic party. Speaking of canvassers, the court say:

> These are all the safeguards the Legislature have thought proper to provide to insure the prevention of fraudulent or illegal voting, and this leaves but little discretion to the inspectors. Their duties, except in the single instance adverted to, are simply ministerial in the reception of the votes, and entirely so in counting and making returns thereof.

And then, when they come to speak further on of the board of county canvassers, they say:

> It is made the duty of the board of county canvassers, upon the statement of votes given, to determine what person by the greatest number of votes has been duly elected to any office mentioned in said statement. * * *
> And the certificate of the board of canvassers authorized to canvass the votes given for any elective office is made evidence of the election of the person therein declared to have been elected.

I read now from the syllabus of the case:

> The inspectors of elections are not judicial, but administrative officers. Their decision is final only as to receiving or rejecting votes; but the question whether a voter was or was not entitled to vote is open to examination in subsequent proceedings upon any competent evidence. (13 New York Court of Appeals Reports, page 45.)

There is a clause in this decision in regard to county canvassers which maintains the same ground precisely.

Mr. MORTON. Would it interrupt my friend if I called his attention to a point in the line of his argument?

Mr. WHYTE. Not at all.

Mr. MORTON. I venture to suggest to the Senator from Indiana that, as I understand ministerial duty and as it is defined in books of law, it is one which is to be performed under the direction of another. Bouvier describes it thus:

> That which is done under the authority of a superior; opposed to judicial; as, the sheriff is a ministerial officer, bound to obey the judicial commands of the court.

Where a duty is prescribed by law and the officer is simply to follow the law and do the particular thing the law requires, it is done by the direction of the Legislature and it is purely ministerial. Take the case which was presented from Louisiana in 1873. Suppose, when the President of the Senate comes to count the vote in the presence of the two Houses, he finds upon his desk two sets of returns from the State of Louisiana each of which bears what purports to be the great seal of the State, each signed by a person claiming to be governor. The question as to which of these returns is the valid and legal return from Louisiana is a question that is not ministerial, in my judgment, at all. It is the highest form of political duty, or, as was suggested by the Senator from North Carolina, [Mr. MERRIMON,] in one sense you may call it a judicial duty. If there is but one set of returns, and they are in form, and he opens them and counts them, that is ministerial; but where he is called upon to decide some question that is not determined upon the face of the paper itself, that is a political duty of the highest character, and is as far from a ministerial duty as any political duty can be.

Let me make a further suggestion. I will take the case of but one return. Suppose, when the President of the Senate opens that return, he finds that there is no statement on the face of the return that the electors voted by ballot, as the Constitution requires. Is it necessary that the return should show the fact that the Constitution has been complied with? The decision of that question is political in its highest character. One lawyer may say that it is not necessary for the return to show that the electors voted by ballot; that is presumed to be their duty. Others may say that the return must show that the Constitution was complied with. Who is to decide that question? In one sense it is a judicial question of the highest character. The decision of that question is not ministerial at all. Again, the electors are required to vote for one person for President and another person for Vice-President, who shall not both be citizens of the same State. Suppose the returns showed, as in the case of Georgia at the very last count, that the persons receiving votes for President and Vice-President both lived in the same State. That was the fact in regard to three votes from Georgia? Shall the result of that be to cast the vote out? What shall be done with it? Shall it be rejected? The decision of that question is not ministerial, but is as far from it as it can be.

Mr. THURMAN. And in the case of Georgia the vote was for Greeley, who was dead.

Mr. MORTON. The question was whether the vote for Greeley should be counted. In that case it was a notorious fact that he was dead; but it was a very important question, because it went to determine what constituted a majority of all the electors appointed. It might become a very important question in a close contest. The decision of the question as to whether the vote of Georgia should be counted or not was very far from being ministerial.

One word further. Take the case of common canvassers in an election return created under the laws of a State. So far as their duty consists in simply counting the votes sent up, it is ministerial; but if there is a discretionary power reposed with that board of canvassers to determine certain questions that may arise, that discretionary duty is not ministerial, but it is judicial in its character. Almost every board of canvassers in every one of the States has to some extent judicial power conferred upon it. I want to call the attention of my friend to a point which I think is stated in the passage he read from Kent, that in the absence of legislation the President of the Senate will count the vote. I quote from the report of the committee from which my friend read:

> Clearly the framers of the Constitution did not contemplate that the President of the Senate, in opening and counting the vote for President and Vice-President, should exercise any discretionary or judicial power in determining between the votes of two sets of electors or upon the sufficiency or validity of the record of the votes of the electors in any State; but that he should perform a merely ministerial act, of which the two Houses were to be witnesses and to make record. But the exercise of these high powers may devolve upon him *ex necessitate rei*, and whatever decision he may make between the two sets of electors or upon the sufficiency and validity of the record of the votes—whether on the evidence of the right of the electors to cast votes or whether they have been cast in the manner prescribed by the Constitution—his decision is final.

And unquestionably so. I presume the fact is that the framers of the Constitution and those who counted the votes during the first few elections did not contemplate the fact of two sets of electors. No such contingency ever happened until the case of New Jersey, within the last twenty-five years. They contemplated simply a ministerial duty. They did not expect the President of the Senate to perform anything but a ministerial duty; but, as stated by Kent and as stated in this report, if the two Houses of Congress decline to take any jurisdiction of the questions that may arise, then that duty would be devolved upon him *ex necessitate rei*. Somebody must decide it, and if he finds two sets of returns upon his table, if the two Houses of Congress refuse to decide the question, then the President of the Senate must decide it. He then determines whether the Kellogg government or whether the McEnery government is the lawful government of Louisiana, whether McEnery should certify to the electors or Kellogg could do it; and in doing that it seems to me he would be exercising the very highest form of political power, entirely aside from a ministerial duty.

Mr. WHYTE. Now let me ask my friend the Senator from Maryland a question. The Clerk of the last House of Representatives makes up a list of the succeeding House of Representatives. Suppose two sets of gentlemen claiming to represent the State of Louisiana in the House of Representatives, one with a certificate signed by Kellogg, the other with a certificate signed by McEnery, ask to be put upon the roll, so that when the roll is called they will be there to answer to their names; and the Clerk of the House puts one set on. Does the Senator from Indiana call that a judicial duty?

Mr. MORTON. As I understand the law organizing the House of Representatives it authorizes the Clerk of the old House to make up the roll of members of the new one for the purpose of organization; and should there be two sets of members certified to by different persons each claiming to be the governor of the State of Louisiana, inasmuch as the law authorizes the Clerk to make up the roll, it from necessity gives to him the choice for the time being, and that far his

duty is not ministerial. It is a higher duty, but it is one devolved upon him by the law.

Mr. WHYTE. I will ask the Senator another question, because I differ with him upon that point. Suppose the governor of Indiana is authorized to issue a commission to the auditor-general of that State, if there is one, who shall be elected by a majority of the people of the State, and the law requires that the returns shall be made by the clerks of the courts. Suppose the clerk of a court sends two returns, or there are returns from two persons claiming to be clerk of a court, and the governor of the State decides in favor of one of them, is that the performance of a judicial duty? Is the determining whether a law has been complied with the performance of a judicial duty?

Mr. MORTON. If I understand the question put by my friend, it is where the governor of a State is called upon to commission a State officer, the auditor for example, and the clerks of the counties have sent up two sets of returns. The question supposes that the governor in that case may choose between these returns and determine which is the proper return, and issue a commission accordingly. If the law of the State authorizes the governor in such a case to decide which of the two returns is the correct one, that power of decision is not ministerial; it is judicial clearly.

Mr. WHYTE. But where it is just as the constitution leaves it, and there is no provision of law?

Mr. MORTON. Then the law authorizes him to make that decision. If there are two sets of returns both certified by competent authority, the governor has no discretionary power, he cannot issue a commission to anybody, because there is no evidence before him authorizing him to do it; but if the law of the State authorizes him in that contingency to decide which of the two is the correct return, the exercise of that discretionary power is not ministerial but it is judicial. In some States the governors have such power conferred upon them; in other States they have not. In the State of Indiana the governor has no such power, and if he should make such a decision and issue a commission his act would be a nullity and in violation of law. But if the law gave him the power to determine which of the two returns of the county clerks is the correct and true return, then the exercise of that discretionary power would be judicial.

Mr. WHYTE. The question has been decided over and over again that where the governor is authorized and required to issue a commission upon certain returns made to him, he has to issue a commission and the contest comes afterward. He is bound to deliver the commission as the *prima facie* title. It is his duty to do it or the wheels of government would stop. There would be a hiatus in the office if there was no provision of law that the prior incumbent held until his successor was appointed and qualified.

Mr. MORTON. Let me say to my friend that in the case he supposes himself, there is no *prima facie* title. He supposes a case where the lawful clerk of the county has made two returns, each of which is certified by the proper authority. In that case if the returns are contradictory, one is as *prima facie* correct as the other, and so there is no *prima facie* case about it. But if the governor is authorized to decide which is the correct return, I submit to my friend that that is not ministerial.

Mr. WHYTE. I am sorry to differ from so distinguished a lawyer. The courts, as far as I have examined the question, are unanimous upon that subject, that it is a ministerial duty, and governors have been compelled by a mandamus to perform that duty.

Mr. MAXEY. Will the Senator from Maryland inform me whether in any case where an act of judgment is devolved upon an officer his view that the power is ministerial would apply?

Mr. WHYTE. No, sir. Where he has discretionary power a mandamus will not lie; but where he is in the discharge of a mere ministerial duty a mandamus will lie. Let us see why a mandamus will not lie against the President of the Senate.

Mr. MAXEY. If the Senator will permit me, the point I would like to make is that where two certificates come up it is an act of judgment to determine which one of those certificates is the right one; and if it be an act of judgment it is not a mere ministerial act. The opening of a certificate, is a mere ministerial act unquestionably. The counting of the vote may be a mere ministerial act, but it may also involve an act of judgment. Where there are two certificates it necessarily does involve an act of judgment.

Mr. WHYTE. If my friend will read Cooley on the subject he will find the whole thing explained and all the authorities cited. He will see that it is not an act judicial in its character, but that it is simply attached to the ministerial duty that the party may discharge it intelligently. Cooley cites the very case, according to my recollection, (for I cannot lay my hand upon the book,) of the clerk of a court who has to see that he complies with the law, who has to examine the paper that he is authorized to record to see that it complies with the law before he records it. The President of the Senate is in no other position than the governor of a State who is authorized to issue a commission upon the returns made to him. If there are two returns, there must be a lawful return and an unlawful one. If there are two governors, there must be a lawful governor and an unlawful governor. Therefore there must be a right and a wrong. Neither the learned Senator from Indiana nor the Senator from Ohio need point out to me defects in the Constitution. I am not saying that there are no defects in the Constitution. I am not saying that it is the perfection of wisdom, because we know ourselves that at the election of Jefferson in 1801 the defect of this very clause in the Constitution about the electors was discovered, and that it was amended; but our fathers had not got quite as far advanced in political ethics as we have. They did not anticipate two governors in one State. They thought the States were hardly big enough for more than one governor each, and therefore they looked to a return certified by one governor. I admit that you have to make some amendment to the Constitution, and all that I have argued against here is that by legislation you are seeking to take away from the President of the Senate his constitutional power. All that I have been attempting to say is to show that the power is with him, and that you are bound to amend the Constitution if you mean to take it away from him; and if you mean to give any person or any umpire authority to decide upon the returns, you had better go a step further and go behind the returns themselves. I have not much faith in election returns after the exhibit of the manner in which they were concocted in Louisiana. I do not speak of any party; I have not much faith in the men who put them up; and therefore if you are going to determine which of two returns you will take, go behind the returns and propose a constitutional amendment that will lodge the power to decide upon the *prima facie* case first, and then submit it to some court or some judicial tribunal to determine upon testimony who has been lawfully elected the President of the United States. That is the point I make. I am not quite sure that that power is not now lodged in the courts of the United States. I am not sure of the entire truth of the remark which fell from the Senator from Kentucky [Mr. STEVENSON] the other day about the power of issuing a mandamus against the President of the Senate not being lodged either with the Supreme Court of the United States, exercising original jurisdiction, or with one of the courts of this District, and then the Supreme Court having appellate jurisdiction in the case. Why? Who votes for electors? Each State votes for electors. Each State can vote by its Legislature. It can vote by general ticket, and let a majority of the people of each State choose the electors. It can vote by districts. It can vote in any way the Legislature of the State shall determine. Therefore the State votes. The State is interested in having its vote counted. Suppose when the lawful State government sends its electoral vote here the President of the Senate refuses to count it. Why cannot that State, through its properly authorized officer, apply to the Supreme Court of the United States for a mandamus to compel the President of the Senate to count its vote? I would like to see some authorities to the contrary. If the Supreme Court cannot exercise original jurisdiction where a State is a party, because there the State is a party in claiming its vote, then the people can through the circuit court of the district and by appeal to the Supreme Court, test the question as to which is the lawful return upon which the President of the Senate is bound to base his decision.

I do not differ with gentlemen here that there is a defect in the Constitution in not providing for a case of contested election of President and Vice-President of the United States. I will vote to submit to the people of the States a constitutional amendment providing who shall count, who shall declare, in the first instance, the *prima facie* title to the office of President and Vice-President, and also designating a tribunal before which the contested election may be heard and decided in behalf of the person lawfully entitled to the office and lawfully chosen by a majority of the people in the several States; but I will vote for no bill that undertakes to assert upon the part of Congress the power of counting the electoral vote and deprive the President of the Senate of it, as I understand him to be entitled to it under the Constitution as it now is.

Mr. DAWES. Mr. President, after this protracted debate upon a subject-matter the need of legislation in respect to which all of us admit, I should not think of engaging the attention of the Senate for a moment did either the discussion itself or the bill before the Senate meet certain difficulties which have for a long time existed in my mind in reference to this question. It was my lot for many years to be upon a committee in the other branch corresponding to the one which has reported this bill here, before which this subject was frequently brought, growing out of the apprehensions in the public mind arising from the danger which at this point the Government of the United States seemed exposed to in 1857, in 1861, and again in 1869. Although those dangers were of a different kind on each of those successive occasions, yet in attempting to find some remedy, some guard against the evil and the danger which those discussions gave rise to, I have listened patiently in this debate to see if the difficulties which I then encountered had found a solution either in this debate or in the bill before the Senate. I hope I may be permitted to express my disappointment that after so long a time and such a discussion, under circumstances so favorable, in which all parties seem to have addressed themselves to the question without the bias or passion of party; when no measure can become a law unless it receives the sanction of both parties, no measure is agitated that can have any possible bearing upon any future contingency so far as we can foresee it now.

This bill in so far as it follows the outlines of the Constitution is without difficulty; but the moment it attempts to approach and grapple with the questions that may arise, with the actual difficulties, with those dangers to which I have alluded, if they ever shall exist, it seems to me it utterly fails. My disappointment is that there is going upon the statute-book a delusion, an appearance of provision against danger under which, when that danger shall arise, it will be

found to be utterly unprovided for; and so we shall be carried along in fancied security until we are upon the danger itself, and when provision for it will be in the nature of things utterly impossible.

Those difficulties I wish briefly to state to see whether there is any relief from them either in this bill or in any possibility of legislation, and whether we had not better have addressed ourselves to some amendment of the Constitution rather than to have attempted to tide over a danger with what is, in my mind, utterly insufficient and will prove rather a snare than a protection. Take the electoral college from the moment its action comes under the provisions of the United States Government, either the Constitution or any legislation; follow step by step all the proceedings; and the moment you undertake to provide for the question which this bill and this earnest effort of this committee and this discussion is seeking to provide for, you run at once counter to the very provisions of the Constitution itself, and why? Because the danger is something else than that which we have discussed. It does not arise upon the papers. It does not arise upon any question that can be decided, whether by the President of the Senate or the two Houses of Congress, or any umpire that it is possible to provide for, upon the papers themselves. A discussion or deliberation of two hours' duration is provided in this bill. The Constitution provided that the States should appoint the electors. It was not anybody else but the States, the States as States, and in just such manner as each individual State should deem best. One State might appoint them by a popular vote; another by its Legislature; a third might clothe its governor with power to appoint them; but however appointed, it was the act of the State. It was the State, and not the nation, that was to a point them; and the State was to take good care, in the opinion of the framers of the Constitution, that its act, whatever it was, was to be verified by the State and not by the nation. The State was to verify its act and certify it in such way as each State might determine so to certify its act.

Each State shall appoint—

Is the language of the Constitution—

in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress.

In point of fact one State did provide that it should be by popular vote. To-day in my State—and I doubt not that is an illustration of all the States—there are three methods: First, the popular method, and, if that fails, the legislative method; and, when the college meets on the first Wednesday in December, if there is a failure of a sufficient number to meet, the college itself fills up the number. But, however they were to be chosen, it was the act of the State, and it was the business of the State to verify and certify its own act and furnish each elector with the evidence of his appointment. Then the United States takes up the matter, and from that point provides by law just what is to be done. These electors bearing the certificate of their State are by the provisions of the Constitution and of the statute to meet at such place as the Legislature of the State has determined, and there in the manner prescribed by the Constitution these men bearing the certificate of the State, and these alone, are to cast their votes in a manner so particularly, so carefully guarded that the idea that it is possible for these particular men ever to make a mistake, or for anybody to ever make any mistake about the action of these particular men, seemed to be considered a phantom, a far-fetched idea. They are, after they have voted and each man subscribed his name to the vote and sealed it up, by a special messenger to send that particular action, and no other, to the President of the Senate. The President of the Senate is the sole constitutional custodian of these certificates from the several States. He is to bring them upon a particular day into the presence of the two Houses, of the Senate and of the House of Representatives, and he is to open them. He is not to open anything else but these certificates. Nobody can clothe him with power to open anything else but the genuine certificate of each State; but that carries along with it the incidental power of determining whether the paper in his hand is that certificate or not. Right there at the outset, before he breaks its seal, he is to determine whether he does break the seal of this certificate or whether he has a false certificate in his hand. So far, incidental to the duty with which the Constitution clothes him of receiving and keeping this certificate and in the presence of the two Houses opening it—incidental to that and without which he cannot determine that he has performed this act—he must decide whether the paper coming into his hands is the genuine certificate. Then the several certificates, all opened by him and before him, are to be counted. When? When he is with them there in the presence of the two Houses, and nowhere else. That, it seems to me, disposes of every one of these amendments that propose to take these certificates out of the presence of the two Houses and submit them to another tribunal to be created for the purpose of determining what these men shall count, and then for us to say that a tribunal created by us determining what shall be counted does not count!

I am not going into the argument that has been so elaborately made by the Senator from Maryland [Mr. WHYTE] as to whether these votes shall be counted by the President of the Senate or by the two Houses, because so far as my difficulties are concerned it does not matter. I have heard no one say that they were to be counted by anybody else, and therefore after he has brought them into a constitutional presence, if I may use that word, namely, the presence of the Senate and the House of Representatives, they are "then" to be counted. That is, when they are there; and therefore they cannot be counted in any other presence and before any other tribunal or by any other tribunal. I think that the Constitution means that they shall be counted by the two Houses. I cannot quite agree with the Senator from Maryland, that they are to be counted by the President of the Senate, for the reason that the framers of the Constitution kept in their mind, when they prepared for the election of President, the States. They provided, as I have said, that the States should appoint the electors, that the college of electors should in the first instance choose the President and the Vice-President; they provided that, if the college of electors shall fail to do their duty, then the States in the House of Representatives, as States, shall elect the President, and the States as represented in the Senate shall elect the Vice-President. They have kept up the idea of the States all through, until, as they supposed, they had secured beyond peradventure the election of a President.

I am not discussing the question whether we can now in this day afford to stand upon the ground of the States as against the people in the popular branch. I am one of those who believe in State rights, and I am one of those who so far as State rights are defined in the Constitution are for preserving them with sacred care, and I shall stand up for them. More than any other feature of this whole Constitution this idea is prominent, running from the time when the States reserved to themselves the power in such manner as they pleased of appointing the electoral college to the time when, if the electoral college fail to make that choice, they devolved it upon the States in the House of Representatives to choose the President and upon the States in the Senate to choose the Vice-President. I infer, therefore, that, if these two bodies are there for any purpose whatever, they are first there to aid in the counting of the votes; and the question is whether they are there as one body or as two. The Constitution says this shall be done, not in the presence of the members of the Senate and House of Representatives, but in the presence of the Senate and of the House of Representatives. Therefore the only question that can possibly arise at that point, namely, whether the paper that the Vice-President opens is the real, genuine paper coming from the electors of a State, must be decided either by the two as one body or by the two in their separate capacity as Senate and House of Representatives. You depart at once from the whole theory and tenor of the provision the moment you say it is to be done by them in convention in one body. If you follow it out and in harmony with all its provisions, as it seems to me—I am only suggesting how it strikes my own mind—you must say that this incidental question necessary for the counting of the votes is to be determined by the two Houses as Houses, and so far as this bill recognizes that principle so far this bill is but carrying out what seems to me to be the plain provision of the Constitution. But then from that point I find no comfort in this bill. The second section is:

That if more than one return shall be received by the President of the Senate from a State, purporting to be the certificates of electoral votes given at the last preceding election for President and Vice-President in such State, all such returns shall be opened by him in the presence of the two Houses when assembled to count the votes; and that return from such State shall be counted which the two Houses acting separately shall decide to be the true and valid return.

Does that mean two returns purporting to come from the same electoral college? If you reflect how the electoral college acts, you will see that that is a contingency so remote, so impossible to happen, that for us to spend any time in providing for it seems to me to be entirely idle. They are to act on a particular day, and they cannot act on any other day. Each one of them is to vote and to sign his name to his vote, and the sign-manual of every one of them is attached to the certificate stating how they vote. That is to be sealed up on that day, and a special messenger is to take that to the President of the Senate. Now the idea that on that day these same men could do two different acts in that way, vote for one man, and then, before the day closed, falsify that vote by voting for another, supposes a contingency which, I am free to confess, I do not think the framers of the Constitution ever contemplated; and if that is what is meant by deciding between two returns from the same college, it is not worth while for us to spend a great deal of time on so remote and almost impossible a contingency.

If, however, it means to meet the case of two returns coming from a State, purporting to be the action of two sets of electors appointed by the State, what is to be done under this bill? That is a question of fact which set is appointed; and, considering the general manner in which they are appointed, by election by the people, it is a question of fact lying deep down, surrounded by difficulties, and to be determined, not upon inspection of the papers, but upon evidence to be taken outside of the papers, if such a contingency shall ever arise. On those two sets of papers it is proposed here to determine this question of fact, without any hearing of the question of fact whatever, for the papers are to be submitted to the two Houses of Congress and to be decided on a ten-minute debate in two hours. Well, that only puts one's hand on the mouth of a crater in the vain idea that you have closed it up. That is a poor cobweb attempt to smother a volcano. It is a delusion to the people if it means that; and, if it means the other thing, it is an impossibility almost in the nature of the case that there can be two certificates from the same set of men on the same day, under their own seal and under their own hand.

Mr. MERRIMON. Suppose, in a State where the electors are elected by the people, those who are in the minority insist that they really got a majority of the votes?

Mr. DAWES. That is what I am discussing. I say, if it means that, if it means that those electors declared to be chosen are to meet on the proper day and send up a vote, and those who are defeated but who believed that they were really and actually elected are to do the same thing, so that we have two sets of certificates, I can understand that that is a danger upon which we are drifting, a danger which we have had warning time and again to provide for; and that was what I hoped from this able committee there would come out some remedy for. But what is it? It is to take these two certificates, and on the face of the certificates, and by a law of Congress limiting the deliberation to two hours, without testimony from any quarter whatever, to reach a result that the people of that State, or of the United States in certain contingencies, everybody will see it is impossible to expect will acquiesce in.

Mr. MITCHELL. Allow me to ask a question. Suppose a case of that kind just stated by the Senator, where two returns come up——

Mr. DAWES. From two different bodies?

Mr. MITCHELL. From the same body, in the case stated, where one part of the electoral college claim that they were elected and the other part claim that they were elected, and two returns come up.

Mr. DAWES. That would be from two different delegations.

Mr. MITCHELL. Yes. In that case do I understand the Senator to contend that, under the Constitution as it now stands, it is the duty of the President of the Senate to determine, before he breaks the seal, which of the two is the correct return?

Mr. DAWES. No, I did not say so. If I do not make it clear what I do mean before I get through——

Mr. MITCHELL. I understood the Senator to contend that there could be but one correct return from a State, and that under the Constitution it is the duty of the President of the Senate to determine, before he breaks any seal at all, which is that return.

Mr. DAWES. The Senator will allow me. I do think the Senator will admit that there can be but one correct return in point of fact.

Mr. MITCHELL. I admit that; but what I want to know is whether the Senator contends that, under the Constitution as it now is, it is the duty of the President of the Senate to determine, before he breaks the seal, which is the correct return?

Mr. DAWES. If the Senator will excuse me from answering just at this point, I will proceed. Let me go through with my statement again. It is impossible for there to be more than one correct return; and in the nature of the case it is next to impossible that there can be two returns from the same body of men. Inasmuch as they have to act on one particular day, in broad daylight, and sign their names to what they do, in the nature of the case, I do not say it is impossible, but it is next to impossible, that there can be two returns from the same body of men in the State of Massachusetts or the State of Oregon claiming to be the electors. Then I say this provision can in practice have no possible application to any other case except where two sets of men in Massachusetts claim to be each one of them appointed electors, and those two sets meet together at the capital of the State, and each one of them goes through with precisely the same form, voting for different men, and send up their votes; so that when they come to the President of the Senate, on the papers themselves there is nothing to guide him to determine which of them is correct and which is not.

Mr. MITCHELL. Now in that case, do I understand the Senator to say that it is the duty of the President of the Senate under the Constitution to determine which is the correct one?

Mr. DAWES. I did say a moment ago that that was a case for which no provision had been made, and that was a danger upon which we were drifting, and that I had hoped that, warned as we had been that such a contingency not only was possible but was almost probable, some provision would come from this committee. I said I had been disappointed in that hope. I said so because I stated that all the provision for such a case which they have made in this bill is that these two sets of certificates (the right or the wrong of which lies in a question of fact deep down among the complications and passions and frauds that exist in the State itself, which the Constitution has clothed with the power, and which alone it has clothed with the power of making the appointment) shall be opened and laid before the two Houses, and that the decision upon them shall be made by a vote of the two Houses, and it provides by law that it shall be done in two hours, and decided without any evidence upon the question of fact. I regretted to be compelled to say that that was an attempt to stifle with the palm of a man's hand the crater of a volcano.

Mr. MITCHELL. I do not like to interrupt my friend, but I wish to ask him one other question. I am a member of the Committee on Privileges and Elections, and trying to assist in this matter. What I want to know is whether the Senator means to be understood now as contending that there is no power in Congress under the Constitution to provide a means of determining as to which is the right certificate in a case of that kind, or whether the President of the Senate is compelled, under the plain provision of the Constitution, to determine it for himself?

Mr. DAWES. I am sorry, Mr. President, to be compelled to agree with the Senator from Wisconsin [Mr. HOWE] on that point. I do not think the framers of the Constitution foresaw that when they clothed the State with the power itself to appoint the electors a contingency would ever arise where the State would fail to see to it that its appointment was so certain and so verified that no question could ever arise about it. Inasmuch as the State appoints, the State must determine whether the State has appointed or not; the State must determine whether it has performed its duty in the absence of any constitutional provision.

Mr. MORTON. Will my friend allow me to call his attention to the questions that I think are involved in his argument?

Mr. DAWES. I am after light, nothing more.

Mr. MORTON. In a case where there are two sets of electors—take the case of Rhode Island during the Dorr trouble there; suppose a presidential election had occurred at that precise time and there were two sets of electors, one certified by the governor under the old charter government and the other certified by Governor Dorr under the Dorr government, and those two certificates or packages came here sealed. In order to settle which set of electors is to be counted in the vote it must be determined which is the government of Rhode Island, the Dorr government or the charter government. I suggest to the Senator whether that question under the Constitution of the United States must not be decided by Congress in such a case as that?

One other question in regard to what must be done in such a case. Where there are two sets of electors and there are two packages, of course the President of the Senate cannot, without some outside information, determine which is the proper certificate until he opens them. I understand the Senator to say that to determine on the face of these papers is simply to put the hand on the crater of a volcano; but the question goes back to which set of electors was chosen by the people or by the State. I want to call my friend's attention to this proposition, that the Constitution admits of no time for that investigation.

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted.

There is no period of time in which you can go back into a State and inquire who was actually elected. And then further on it provides that when these votes are thus counted, if no one person has a majority of all the electors appointed, the House of Representatives shall immediately proceed to the election; so that there shall be no interregnum, there is no pause in the proceedings until a President is chosen either by the votes of the electors or the vote of the House of Representatives.

Mr. DAWES. The remarks of the Senator from Indiana are but in corroboration of the reply that I made to the Senator from Oregon, that the provisions of the Constitution fail to meet the case of a contest upon a question of fact. Those points that the Senator from Indiana has called my attention to are but anticipating what I was going to say in a few moments.

The very fact that they are "then" to be counted, and as they appear then in that constitutional presence and nowhere else, shows that you have no more power to take them out of that presence before they are counted and submit them to the Supreme Court or to a court of arbitration than you have to submit them to a synod of Presbyterian ministers. The presence in which they are to be counted is fixed by the Constitution itself; and whether they are to be counted by the President of the Senate or to be counted by the Senate and House of Representatives, they are to be counted "then," in that presence, and "then" means at that time, and "immediately" thereafter, if the electors shall have failed to make a choice, the House of Representatives by States is to make the choice. Thus it appears that the Constitution has provided no method, has left no opportunity, if I may use that phrase, for a contest upon a question of fact; and the committee, recognizing that fact, has provided for a method of determining it by smothering the fact. When two distinct certificates come up here to the President of the Senate, from two distinct and separate sets of electors in the State of Massachusetts, each one of them claiming to be the true board appointed by the State, there is no provision, no opportunity, no method pointed out by the Constitution to determine that question of fact, and the Senator proposes, instead thereof, to take these two certificates, and on their face submit them to a two hours' deliberation in the two branches of Congress, and smother the voice of the State by the decision of those two branches

Mr. MCMILLAN. Will the Senator allow me to ask him a question? In the present state of the Constitution can we make any further provision than that?

Mr. DAWES. I was going to say, and had almost said it before the Senator interrupted me, that the fact that there is no other provision in the Constitution to meet this question, does not relieve us from the necessity, when there is a provision for amending the Constitution, of meeting the question.

Mr. MCMILLAN. Will the Senator then allow me to suggest to him that the joint rule of the two Houses which has existed up to this session has been repealed, and that before any provision for an amendment to the Constitution can transpire a presidential election must intervene; so that if this bill is not passed, there will be the mere naked provision of the Constitution of the United States, and that would certainly leave us in a most unfortunate condition.

Mr. DAWES. If the Senator from Minnesota will indulge me, I will endeavor to state just what I think will be the result when we get through and pass this bill; and I propose to vote for it. My objection to the bill is that, as I said in the beginning, it is a delusion;

it purports to accomplish what it does not accomplish; it leads the people of this country into a snare because it leads them to think Congress has provided ——

Mr. MORTON. If my friend will permit me a moment, as I am also in pursuit of light, I want to ask him a question. The twenty-second joint rule has been abolished. We have no rule. Suppose we fail to pass any law, and when we count the presidential vote less than a year hence there are from the State of Louisiana, if you please, two packages of electoral votes, each purporting to be certified to by a governor of that State and each bearing the *fac simile* of the seal of the State, so that you cannot tell by inspection which is the genuine and which is the false. I ask my friend, if we do not pass this bill and we have no rule, who is to determine the question between those two sets of votes? How is the question to be settled? Are you to cast aside both, or are you to count one? And if you are to count one, who is to select the one to be counted?

I would further add that the one is to be counted which is certified to by the governor of the State of Louisiana; and is not the question who is the governor or which is the government of Louisiana a proper question for the Congress of the United States to determine? Wherever there is a dispute in regard to electoral votes or in regard to a Senator, is it not the proper thing for the Congress to say which is the government of a State, and, that being decided, then the votes of the electors who are certified by that governor are to be counted.

Mr. DAWES. I agree with the Senator that every disputed question which can possibly arise upon the papers themselves had better be decided by the two Houses as Houses than to be decided by the President of the Senate. But I was commenting upon the utter impossibility of deciding the question under the form or, without meaning any offense, under the pretext of deciding it by deciding upon the face of the paper where the question lies deeper than all that, and I was showing that that question, from the very provisions that I have discussed, there is as yet no provision of the Constitution to settle; and an act of Congress only deludes the people by giving them the idea that it is settled when in point of fact it is not.

But the third section, the Senator will allow me to say, is the most curious section that ever I saw in a statute. It proposes to determine the rule of deliberation in the two Houses of Congress by an act of Congress.

Mr. MORTON. Before my friend passes to the other point, will he allow me——

Mr. DAWES. I wish to say but a few words more. The third section declares:

> That when the two Houses separate to decide upon an objection that may have been made to the counting of any electoral vote or votes from any State, or for the decision of any other question pertinent thereto, each Senator and Representative may speak to such objection or question ten minutes, and not oftener than once: *Provided*, That after such debate has lasted two hours, it shall be in the power of a majority of each House to direct that the main question shall be put without further debate.

Mr. MORTON. Before my friend passes to the third section—and I shall be glad to hear him on that question—I ask him if the two Houses are not to settle the question between the two sets of electors in the case supposed, who is to settle it, and how is it to be settled? What would my friend do in that case? If we do not pass the bill and authorize the two Houses to settle the question, how is the question to be settled between two sets of electors?

Mr. DAWES. I never would content myself with doing what is in this bill, and I never would fancy that I had done my duty as a legislator if I stopped with the provisions of this bill. That this bill is better than none I have said, and that is why I shall vote for it. That it is all that can be done without an amendment to the Constitution, I have no disposition to deny. I have not found fault with it, and I have not criticised this measure in any such spirit as that. I have listened with entire sincerity to see if it were possible by an act of Congress to meet the exigency; and having deliberated in another committee a good deal upon that question, I did hope that this committee would solve that question; but they have not done it, and that was the burden of my talk. That they could do anything better than this, I am not prepared to say.

Now the Senator will permit me to ask him what binding force as a rule upon the Senate or the House of Representatives this act of Congress can possibly have, if either desires to change it, when the Constitution itself says in so many words that each House may determine the rules of its proceedings itself, without the consent of the other House and of the Executive? That this may be treated as a rule of the Senate or of the House just so long as the Senate or the House is willing so to do, I will admit. It may be said that by passing this bill the Senate consents itself and the House consents itself to this law as its rule. That may be true; but the moment either wants to change it, it will have the power to change it without regard to this law. If, when the Houses are deliberating upon a question of this sort they choose to deliberate three hours, there is nothing in this law in the way, and it would not be a violation of this law, because this law is an attempt to exercise an authority over which the Constitution says the body itself is supreme; and therefore this section, in the interest of dispatch, in the interest of necessity, as the Constitution now exists, is a mere rope of sand, and the Senate can do away with it or the House do away with it at its pleasure. It is as idle to enact what shall be the rule of this body and of the House of Representatives by a statute as it is to enact what shall be the constitutional prerogative of the Executive himself.

The Senator has pressed upon me the question, what shall we do? I say, meet it fairly and squarely; bring forward some measure for an amendment of the Constitution upon a subject which the framers of the Constitution did not think there was any necessity for amending, but which subsequent experience has shown is vital and essential. But while such an amendment is pending and until it becomes a part of the organic law I shall vote for this bill; but I shall vote for it believing that, just so far as it follows the rules that existed before the twenty-second joint rule, it is but providing the uniform usage, and that the moment it goes beyond that it is only advisory and has no sort of binding force; and it is in vain for us to tell the people that we have met the peril, for the peril exists precisely under this bill as it existed before the twenty-second joint rule and when nothing but the usage under the Constitution was the guide of the two Houses.

Mr. MAXEY obtained the floor.

Mr. LOGAN. It is getting late, and if the Senator will give way I will move an executive session.

Mr. MAXEY. I am satisfied. I do not care to proceed at this late hour.

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

The PRESIDING OFFICER, (Mr. INGALLS.) Before submitting the question the Chair will lay before the Senate some bills from the House of Representatives for reference, with the consent of the mover.

Mr. LOGAN. Certainly.

### HOUSE BILLS REFERRED.

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

A bill (H. R. No. 101) amendatory of the act entitled "An act for the relief of the heirs and next of kin of James B. Armstrong, deceased," approved March 3, 1873;

A bill (H. R. No. 2197) for the relief of Henry B. Kelly, of Louisiana, from political disabilities imposed by the fourteenth amendment;

A bill (H. R. No. 2686) to provide for holding terms of the district and circuit courts of the United States at Jackson, Tennessee;

A bill (H. R. No. 2687) to provide for holding terms of the district and circuit courts of the United States at Chattanooga, Tennessee; and

A bill (H. R. No. 2688) to provide for holding terms of the district and circuit courts of the United States at Kansas City, Missouri.

The following bills and joint resolution were severally read twice by their titles and referred to the Committee on Military Affairs:

A bill (H. R. No. 2012) to authorize the sale of certain ordnance stores to the First Troop, Philadelphia City Cavalry;

A bill (H. R. No. 2482) for the relief of Charles W. Mackey, late first lieutenant Tenth Regiment Pennsylvania Reserve Volunteer Corps; and

A joint resolution (H. R. No. 85) to authorize the Secretary of War to issue certain arms to the Washington Light Infantry of Charleston, South Carolina, and the Clinch Rifles of Augusta, Georgia.

The bill (H. R. No. 2018) to authorize the Exchange National Bank of Pittsburgh, Pennsylvania, to improve certain real estate was read twice by its title, and referred to the Committee on Finance.

The bill (H. R. No. 726) to change the name of the steamboat Charles W. Mead was read twice by its title, and referred to the Committee on Commerce.

The bill (H. R. No. 431) for the relief of the heirs of William A. Graham was read twice by its title, and referred to the Committee on Patents.

The joint resolution (H. R. No. 86) for the relief of the Turtle Mountain band of Chippewa Indians was read twice by its title, and referred to the Committee on Indian Affairs.

### MILITARY ACADEMY APPROPRIATION BILL.

The PRESIDING OFFICER laid before the Senate the following action of the House of Representatives:

IN THE HOUSE OF REPRESENTATIVES,
*March* 15, 1876.

*Resolved*, That the House non-concur in the amendments of the Senate to the bill (H. R. No. 810) making appropriations for the support of the Military Academy for the fiscal year ending June 30, 1877.

Mr. MORRILL, of Maine. I move that that be referred to the Committee on Appropriations.

The motion was agreed to.

### MINERAL LANDS IN MISSOURI AND KANSAS.

The Senate proceeded to consider its amendments disagreed to by the House of Representatives to the bill (H. R. No. 1251) to exclude the State of Missouri from the provisions of the act of Congress entitled "An act to promote the development of the mining resources of the United States," approved May 10, 1872.

On motion of Mr. SARGENT, it was

*Resolved*, That the Senate insist on its amendments disagreed to by the House of Representatives to the said bill, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

By unanimous consent, it was

*Ordered*, That the managers on the part of the Senate be appointed by the President *pro tempore*.

Mr. SARGENT, Mr. COCKRELL, and Mr. HARVEY were appointed the conferees on the part of the Senate.

EXECUTIVE SESSION.

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

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

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## HOUSE OF REPRESENTATIVES.

### MONDAY, *March* 20, 1876.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. I. L. TOWNSEND.

The Journal of Friday last was read and approved.

LEAVE TO SIT DURING THE SESSIONS OF THE HOUSE.

Mr. BEEBE, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Committee on Expenditures in the Navy Department have leave to sit during the sessions of the House.

TAX ON WHISKY.

Mr. BANNING, by unanimous consent, presented the petition of distillers, rectifiers, and wholesale liquor-dealers of Cincinnati and Hamilton, Ohio; Covington, Alexandria, and Louisville, Kentucky; Lawrenceburgh and Aurora, Indiana; and Peoria, Illinois, requesting Congress to determine at an early day any change of the rate of tax on whisky, because both the interest of the trade and the revenue demand it, and protesting against any change in the present plan of collecting the tax; which was referred to the Committee of Ways and Means.

PROTEST AGAINST CHANGE OF TAX ON SPIRITS.

Mr. SAYLER, by unanimous consent, presented the protest of Charles Hoeffer and 19 other distillers and rectifiers of Cincinnati, Ohio, against any change in the revenue law fixing the amount of tax on spirits; which was referred to the Committee of Ways and Means.

CAPTAIN WILLIAM WELSH, LATE OF TWENTY-FIFTH INFANTRY.

The SPEAKER, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the report of the Adjutant-General containing the military history of Captain William Welsh, late of the Twenty-fifth Infantry; which was referred to the Committee on Military Affairs.

BREAKWATER AT SAN LUIS OBISPO, CALIFORNIA.

The SPEAKER also, by unanimous consent, laid before the House a letter from the Secretary of War, transmitting the report of the Chief of Engineers upon House resolution No. 139 to authorize the construction of a breakwater at San Luis Obispo, California; which was referred to the Committee on Commerce.

ENLISTED MEN AS ARMY OFFICERS' SERVANTS.

The SPEAKER also, by unanimous consent, laid before the House a letter of the Secretary of War, transmitting a communication from Major Henry M. Lazelle on the subject of the employment of enlisted men as servants of officers of the Army; which was referred to the Committee on Military Affairs.

VIENNA EXPOSITION.

Mr. WARD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

*Resolved*, That the Secretary of State be requested to communicate to this House the report of the special commission appointed to supervise the commission to the Vienna exposition, together with the correspondence of Mr. Jay, late minister to Austria, with the chief commissioner and with the Department of State, on the subject of the American department, together with such other papers and accounts relating to that business as may be necessary for a complete understanding thereof; and that the Secretary of State be further requested to advise the House what papers and reports connected with the Vienna exposition are now preparing for publication under the direction of the Department, and what amount, if any, remains unexpended of the $200,000 appropriated by Congress for the representation of the United States at the Vienna exposition.

Mr. WARD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. WARD. I now ask unanimous consent to have printed in the RECORD the memorial upon which that resolution is founded.

There was no objection; and the resolution was ordered to be printed, as follows:

*To the honorable the Senate and the House of Representatives:*

The petition of John Jay, late minister to Austria and member of the special commission of investigation appointed by the President to supervise the American commission to Vienna; of Thomas McElrath, a member of the original commission, a member also of the special commission of investigation, and subsequently charged with the closing of the American department and the returning the goods of exhibitors; of Colonel LeGrand B. Cannon, a member of the temporary commission appointed by the President to the charge of the American department after the suspension of the original commission; of Theodore Roosevelt, the only other member of the said temporary commission now in the country—the third member, Charles F. Spang, being absent in Europe; of Jackson S. Schultz, for some time chief commissioner in the charge of the American department, succeeding Colonel Cannon and his associates; and of H. Garretson, who succeeded Mr. Schultz as chief commissioner until the close of the exposition, respectfully pray your honorable body to call for and print the papers and accounts on file in the office of the honorable the Secretary of State relating to the management, conduct, and character of the said American department at Vienna.

The undersigned beg leave to show, in support of this petition, "that an event so unprecedented as the suspension by the President of a national commission representing in an international exposition the art, industry, science, and culture of the American people did not pass unnoticed at home or abroad; that the result of the governmental investigation into the causes and extent of the irregularities demanding the suspension has not been made known, excepting by *ex parte* statements and mutilated extracts, which have not enabled the country to judge where lay the responsibility for this national disaster; and that it seems due to the country at large, to the mass of exhibitors, and to officers of the Government concerned in the matter, including the suspended commissioners, that the entire record should be submitted to public scrutiny.

That it is believed that the accounts will show a large unexpended balance of the $200,000 appropriated by Congress for the representation of American industries at Vienna; that should it be intended to submit to Congress and the country special reports of scientists upon particular branches of the exposition, such reports, if unaccompanied by the correspondence and reports now asked for, would give no idea of the administration and operation of the American department.

And your petitioners will ever, &c.

JOHN JAY.
THOMAS McELRATH.
LEG. B. CANNON.
THEODORE ROOSEVELT.
JACKSON S. SCHULTZ.
H. GARRETSON,
[By telegraphic order.]

THE UNITED STATES, *February* 22, 1876.

THEODORE DEHON.

Mr. ELY, by unanimous consent, introduced a bill (H. R. No. 2708) for the relief of Theodore Dehon, of South Carolina; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

ORDER OF BUSINESS.

Mr. GARFIELD. I demand the regular order.

The SPEAKER. The morning hour begins at sixteen minutes after twelve o'clock; and this being Monday, the first business in order is the call of the States and Territories, beginning with the State of Maine, for the introduction of bills and joint resolutions for reference to their appropriate committees, not to be brought back on motions to reconsider. Under this call memorials and resolutions of State and territorial Legislatures may be presented for reference and printing. Is it the pleasure of the House that this call shall continue until the States and Territories have all been called, without reference to the termination of the morning hour? The Chair hears no objection.

SOPHIA A. WILSER.

Mr. BLAIR introduced a bill (H. R. No. 2709) for the relief of Sophia A. Wilser, administratrix of the estate of George Ailer, of Washington, District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

JAMES L. BARBOUR.

Mr. BLAIR also introduced a bill (H. R. No. 2710) for the relief of James L. Barbour, of Washington City, District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

MATTHEW G. EMERY.

Mr. BLAIR also introduced a bill (H. R. No. 2711) for the relief of Matthew G. Emery, of Washington, District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

H. D. WALBRIDGE.

Mr. BLAIR also introduced a bill (H. R. No. 2712) for the relief of H. D. Walbridge, of Cleveland, Ohio, for damages to property in Washington, District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

OVID H. CLARK.

Mr. JOYCE introduced a bill (H. R. No. 2713) granting a pension to Ovid H. Clark, late a private in Company F, Fifth Regiment Vermont Volunteer Infantry; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WALKER'S STATISTICAL ATLAS.

Mr. HOAR submitted a concurrent resolution for printing additional copies of Walker's Statistical Atlas; which was referred to the Committee on Printing.

MARY S. WEBSTER.

Mr. WARREN introduced a bill (H. R. No. 2714) granting a pension to Mary S. Webster; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

PRODUCT OF GOLD AND SILVER MINING.

Mr. BANKS introduced a bill (H. R. No. 2715) to utilize the product of gold and silver mining in the United States; which was read a first and second time, referred to the Committee on Mines and Mining, and ordered to be printed.

SHIP OCEAN EXPRESS.

Mr. BLISS introduced a bill (H. R. No. 2716) to give an American register to the ship Ocean Express, owned by Charles R. Flint, of New York; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

HUGH M'GOVERN.

Mr. BLISS also introduced a bill (H. R. No. 2717) granting a pension to Hugh McGovern; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NICHOLAS BUSH.

Mr. G. A. BAGLEY introduced a bill (H. R. No. 2718) for the relief of Nicholas Bush, of Redwood, New York; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

STENOGRAPHERS IN UNITED STATES COURTS.

Mr. COX introduced a bill (H. R. No. 2719) to provide for the appointment and to define the duties and fix the compensation of official stenographers in the United States courts in the southern and eastern districts of New York; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MARY F. M'KEEVER.

Mr. COX also introduced a bill (H. R. No. 2720) granting a pension to Mary F. McKeever, widow of the late Commodore Isaac McKeever, United States Navy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

JOHN HOFFMAN.

Mr. JENKS introduced a bill (H. R. No. 2721) for the relief of John Hoffman; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CATHARINE BOWERS.

Mr. JENKS also introduced a bill (H. R. No. 2722) granting a pension to Catharine Bowers; which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

JOHN HENDERSON.

Mr. STENGER introduced a bill (H. R. No. 2723) for the relief of John Henderson; which was read a first and second time, referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

ANNA M. CLIPPINGER.

Mr. STENGER also introduced a bill (H. R. No. 2724) granting a pension to Anna M. Clippinger; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

REGULATION OF COMMERCE.

Mr. HOPKINS introduced a bill (H. R. No. 2725) to regulate commerce and to prohibit unjust discriminations by common carriers; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

MRS. NANCY G. MILLER.

Mr. HOPKINS also introduced a bill (H. R. No. 2726) to compensate Mrs. Nancy G. Miller for use of and damage done her property by a portion of the United States Army; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JACOB G. EVANS.

Mr. SHEAKLEY introduced a bill (H. R. No. 2727) granting a pension to Jacob G. Evans, of Crawford County, Pennsylvania; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMOS A. YEAKEL.

Mr. SHEAKLEY also introduced a bill (H. R. No. 2728) granting a pension to Amos A. Yeakel, of Mercer County, Pennsylvania; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

NATIONAL-BANK CURRENCY, ETC.

Mr. TOWNSEND, of Pennsylvania, introduced a bill (H. R. No. 2729) to amend the act entitled "An act fixing the amount of United States notes and providing for the regulation of the national-bank currency, and for other purposes," approved June 20, 1874; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

UNITED STATES MARINE CORPS.

Mr. TOWNSEND, of Pennsylvania, also introduced a bill (H. R. No. 2730) to reduce, re-organize, and increase the efficiency of the Marine Corps of the United States; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

WILLIAM WHEELER HUBBELL.

Mr. FREEMAN introduced a bill (H. R. No. 2731) to make just compensation for the past making or use or vending of his patent explosive shell fuses and percussion exploders by the United States; which was read a first and second time, referred to the Committee on Naval Affairs, and ordered to be printed.

CURRENCY.

Mr. TUCKER (by request of distinguished statesmen of Virginia) introduced a bill (H. R. No. 2732) to regulate the currency; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

ALBERT MILLSPAUGH.

Mr. WALKER, of Virginia, introduced a bill (H. R. No. 2733) for the relief of Albert Millspaugh; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

CATHERINE HARRIS.

Mr. WALKER, of Virginia, also introduced a bill (H. R. No. 2734) granting a pension to Catherine Harris; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

E. T. PILKINGTON.

Mr. WALKER, of Virginia, also introduced a bill (H. R. No. 2735) for the relief of E. T. Pilkington; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

N. H. VAN ZANDT.

Mr. WALKER, of Virginia, also introduced a bill (H. R. No. 2736) to remove the political disabilities of N. H. Van Zandt; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

B. G. COGHLAN.

Mr. WALKER, of Virginia, also introduced a bill (H. R. No. 2737) for the relief of B. G. Coghlan; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

TAXES ON TOBACCO.

Mr. CABELL introduced a bill (H. R. No. 2738) to reduce the taxes on manufactured tobacco, and to regulate the taxes upon dealers in and producers of leaf-tobacco; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

THOMAS OXLEY, SR.

Mr. HUNTON introduced a bill (H. R. No. 2739) for the relief of Thomas Oxley, sr., a soldier in the war of 1812, which was read a first and second time, referred to the Committee on Revolutionary Pensions, and ordered to be printed.

PATENT RIGHTS.

Mr. VANCE, of North Carolina, (by request,) introduced a bill (H. R. No. 2740) relating to suits by foreign corporations for infringement of patent rights; which was read a first and second time, referred to the Committee on Patents, and ordered to be printed.

CLERKS OF THE UNITED STATES COURTS.

Mr. VANCE, of North Carolina, also introduced a bill (H. R. No. 2741) to authorize the payment of certain fees to clerks of the United States courts; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CYNTHIA A. MIZELLE.

Mr. YEATES introduced a bill (H. R. No. 2742) granting a pension to Cynthia A. Mizelle, of Bertie County, North Carolina; which was read a first and second time, and, with the accompanying papers, referred to the Committee on Invalid Pensions, and ordered to be printed.

MOSES W. ALEXANDER.

Mr. ASHE introduced a bill (H. R. No. 2743) for the relief of Moses W. Alexander; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

MAIL SERVICE IN GEORGIA.

Mr. COOK (at the request of his colleague, Mr. CANDLER) introduced a bill (H. R. No. 2744) to provide for the payment of the State of Georgia for services in carrying the mails of the United States; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

HOMESTEAD ENTRIES.

Mr. CALDWELL, of Alabama, introduced a bill (H. R. No. 2745) for the relief of persons who have entered lands under the homestead laws; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

MRS. MARY H. WALKER.

Mr. ELLIS introduced a bill (H. R. No. 2746) for the relief of Mrs. Mary H. Walker, widow of Colonel Thomas F. Hunt, late of the United States Army; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

W. H. TEGARDEN.

Mr. ELLIS also introduced a bill (H. R. No. 2747) for the relief of W. H. Tegarden, a citizen of Mississippi; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

G. P. WORK.

Mr. ELLIS also introduced a bill (H. R. No. 2748) for the relief of G. P. Work, a citizen of Louisiana; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

COMMISSIONER OF CUSTOMS AND COMPTROLLERS OF THE TREASURY.

Mr. BANNING introduced a bill (H. R. No. 2749) to repeal section 191 of the Revised Statutes, which provides that certified balances of the Commissioner of Customs and Comptrollers of the Treasury shall not be revised or changed by the heads of Departments; which was read a first and second time, referred to the Committee of Ways and Means, and ordered to be printed.

SIGNAL SERVICE.

Mr. BANNING also introduced a bill (H. R. No. 2750) to limit and fix the Signal Service; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

FREDERICK VON WERDER.

Mr. BANNING also introduced a bill (H. R. No. 2751) granting a pension to Frederick von Werder; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

EDWARD O'MEAGHER CONDON.

Mr. BANNING also introduced a joint resolution (H. R. No. 87) requesting the President to intercede with Her Majesty the Queen of Great Britain for the release of Edward O'Meagher Condon, now confined in prison in Manchester, England; which was read a first and second time, referred to the Committee on Foreign Affairs, and ordered to be printed.

SCHOONER MAYFLOWER.

Mr. MONROE introduced a bill (H. R. No. 2752) to change the name of the schooner Mayflower; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

OATHS, DEPOSITIONS, AND ACKNOWLEDGMENTS.

Mr. PAYNE introduced a bill (H. R. No. 2753) to amend section 1778 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

FORECLOSURE OF MORTGAGES.

Mr. HURD introduced a bill (H. R. No. 2754) concerning actions and suits on foreclosure of mortgages relating to particular property; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

JOHN SADDLER.

Mr. KNOTT introduced a bill (H. R. No. 2755) for the relief of John Saddler, of Hardin County, Kentucky; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

A. GATES LEE.

Mr. BOONE introduced a bill (H. R. No. 2756) for the relief of A. Gates Lee, of McCracken County, Kentucky; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

NEWCOM THOMPSON.

Mr. BRIGHT introduced a bill (H. R. No. 2757) for the relief of Newcom Thompson, of Bedford County, Tennessee; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

UNION UNIVERSITY, MURFREESBOROUGH, TENNESSEE.

Mr. BRIGHT also introduced a bill (H. R. No. 2758) for the relief of Union University, at Murfreesborough, Tennessee; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

ELECTION OF POSTMASTERS.

Mr. RIDDLE introduced a bill (H. R. No. 2759) for the election of postmasters in all the cities and incorporated towns of the United States by the legally-qualified electors thereof at every presidential election; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

CUMBERLAND UNIVERSITY, TENNESSEE.

Mr. RIDDLE also introduced a bill (H. R. No. 2760) for the relief of Cumberland University, at Lebanon, Tennessee; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

E. OSCAR PEGRAM.

Mr. McFARLAND introduced a bill (H. R. No. 2761) granting authority to the southern claims commission to rehear the claim of E. Oscar Pegram; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN W. SPEARS.

Mr. McFARLAND also introduced a bill (H. R. No. 2762) authorizing the southern claims commission to rehear the claim of John W. Spears; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

FANNIE E. DUNN.

Mr. McFARLAND also introduced a bill (H. R. No. 2763) authorizing the southern claims commission to rehear the claim of Fannie E. Dunn; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

SOUTHERN CLAIMS COMMISSION.

Mr. McFARLAND also introduced a bill (H. R. No. 2764) to enable the claims commission established by the act of March 3, 1871, to examine and report on all claims heretofore filed before said commission and to close the business of said commission; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

JOHN T. CASTLE.

Mr. HAYMOND introduced a bill (H. R. No. 2765) for the relief of John T. Castle, late first lieutenant Forty-sixth Regiment of Indiana Volunteer Infantry; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

NEWTON B. ADAMS.

Mr. LANDERS, of Indiana, introduced a bill (H. R. No. 2766) granting a pension to Newton B. Adams, of Indianapolis, Indiana, from the date of his discharge on July 10, 1865, until June 29, 1874; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

TAXATION OF BUFFALO HIDES.

Mr. FORT introduced a bill (H. R. No. 2767) to tax buffalo hides; which was read a first and second time, and referred to the Committee of Ways and Means.

JULIET A. HENDRICKSON.

Mr. BAGBY introduced a bill (H. R. No. 2768) granting a pension to Juliet A. Hendrickson, widow of William L. Hendrickson, late private Company E, Twenty-eighth Regiment Illinois Infantry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM REYNOLDS.

Mr. REA introduced a bill (H. R. No. 2769) granting a pension to William Reynolds, late a member of Company H, Forty-first Regiment Enrolled Missouri Militia; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

AMENDMENT OF REVISED STATUTES.

Mr. MORRISON introduced a bill (H. R. No. 2770) to amend section 101 of the Revised Statutes of the United States; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

MRS. ANNA E. POLK.

Mr. FRANKLIN introduced a bill (H. R. No. 2771) for the relief of Mrs. Anna E. Polk, of Missouri; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

BYRON S. MORRIS.

Mr. GUNTER introduced a bill (H. R. No. 2772) for the relief of Byron S. Morris; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

FORT WAYNE MILITARY RESERVATION, ARKANSAS.

Mr. GUNTER also introduced a bill (H. R. No. 2773) subjecting the Fort Wayne military reservation, in the State of Arkansas, to entry as other public lands in said State; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

EDWARD F. EDDY.

Mr. DURAND introduced a bill (H. R. No. 2774) granting a pension to Edward F. Eddy; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

BARBARA STEPHENS.

Mr. SAMPSON introduced a bill (H. R. No. 2775) granting a pension to Barbara Stephens; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

MISSISSIPPI AND ILLINOIS RIVER CANAL.

Mr. SAMPSON also presented joint resolutions of the Legislature of Iowa, in relation to proposed canal from some point between the mouth of the Rock River and Clinton, Iowa, on the Mississippi River, to the Illinois River at Hennepin; which was referred to the Committee on Railways and Canals, and ordered to be printed.

EQUALIZATION OF ARMY PROMOTION.

Mr. TUFTS introduced a bill (H. R. No. 2776) to equalize promotions among the lieutenants in the line of the Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

HOLDING OF THE PUBLIC DEBT BY CITIZENS.

Mr. BURCHARD, of Wisconsin, introduced a bill (H. R. No. 2777) to encourage and promote the holding of the public debt by citizens of the United States, and to secure without contraction return to a specie basis; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

CENTENNIAL DIRECTORY.

Mr. WILLIAMS, of Wisconsin, presented joint resolution of the Legislature of the State of Wisconsin, asking Congress to unite with

the Legislatures of the various States in compiling a centennial directory; which was referred to the Committee on Printing, and ordered to be printed.

PROTEST AGAINST BRIDGING DETROIT RIVER.

Mr. WILLIAMS, of Wisconsin, also presented a joint resolution of the Legislature of Wisconsin, opposing the bridging of the Detroit River at Detroit, Michigan; which was referred to the Committee on Commerce, and ordered to be printed.

LIGHT-HOUSE, STRAITS OF CARQUINEZ, CALIFORNIA.

Mr. PAGE presented joint resolutions of the Legislature of California, asking for an appropriation for the purpose of erecting a light-house and fog-bell in the straits of Carquinez, at or near Benicia or Martinez, California; which was referred to the Committee on Commerce, and ordered to be printed.

IMPROVEMENT OF HARBOR OF OAKLAND, CALIFORNIA.

Mr. PAGE also presented the following joint and concurrent resolutions; which were referred to the Committee on Commerce, and ordered to be printed in the RECORD:

Joint and concurrent resolutions.

Whereas, in pursuance of the established policy of the Government of the United States in promoting the trade and commerce of the country by the improvement of our bays and harbors, the Government has inaugurated certain improvements of the harbor at Oakland, in the Bay of San Francisco; and whereas the appropriation heretofore made is wholly inadequate to the completion of the work now in progress: Therefore,

*Resolved*, That our Senators be instructed and our Representatives requested to use their utmost exertion to obtain from Congress a further appropriation for the improvement of said harbor at Oakland.

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

B. F. TUTTLE,
*President of the Senate pro tempore.*
G. J. CARPENTER,
*Speaker of the Assembly.*

(Indorsed:)
Senate concurrent resolution No. 25 passed the senate February 18, A. D. 1876.
T. J. SHACKLEFORD,
*Secretary of the Senate.*
Passed the assembly February 28, A. D. 1876.
ROBT. FERRAL,
*Clerk of the Assembly.*
This resolution was received by the governor this 2d day of March 1876.
E. W. MASLIN,
*Private Secretary of the Governor.*
A true copy. Attest:
[SEAL.]
THOMAS BECK,
*Secretary of State.*

CERTAIN LAND TITLES IN CALIFORNIA.

Mr. PIPER introduced a bill (H. R. No. 2778) relating to the equitable and legal rights of parties in possession of certain lands and improvements thereon in California and to provide jurisdiction to determine those rights; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

HASTINGS AND DAKOTA RAILWAY.

Mr. STRAIT presented a memorial of the Legislature of the State of Minnesota, asking an extension of the grant of the Hastings and Dakota Railway; which was referred to the Committee on Public Lands, and ordered to be printed.

FORT ABERCROMBIE MILITARY RESERVATION, MINNESOTA.

Mr. STRAIT also presented a joint resolution of the Legislature of the State of Minnesota, requesting Congress to vacate that portion of the military reservation at Fort Abercrombie which lies on the east side of Red River, in the State of Minnesota, and to open the same to settlement and occupation under the homestead and pre-emption laws; which was referred to the Committee on Military Affairs, and ordered to be printed.

TIMBER-CULTURE ACT.

Mr. DUNNELL presented a joint resolution of the Legislature of the State of Minnesota, requesting the passage of an act for an extension of time to settlers under the timber-culture act of Congress; which was referred to the Committee on Public Lands, and ordered to be printed.

PROTECTION OF SETTLERS.

Mr. DUNNELL also presented a memorial of the Legislature of the State of Minnesota, asking Congress to protect settlers on certain public lands in Minnesota; which was referred to the Committee on Public Lands, and ordered to be printed.

OSAGE INDIAN RESERVATION.

Mr. BROWN, of Kansas, introduced a bill (H. R. No. 2779) providing for the sale of the Osage Indian reservation in Kansas; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

S. A. SHEPHERD.

Mr. GOODIN introduced a bill (H. R. No. 2780) for the relief of S. A. Shepherd; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

MALTA LODGE, CHARLESTOWN, WEST VIRGINIA.

Mr. FAULKNER introduced a bill (H. R. No. 2781) for the relief of the trustees of Malta Lodge, Charlestown, Jefferson County, West Virginia; which was read a first and second time, referred to the Committee on War Claims, and ordered to be printed.

JOHN VAN COTT AND SAMUEL MALIN.

Mr. CANNON, of Utah, introduced a bill (H. R. No. 2782) for the relief of John Van Cott and Samuel Malin, of the Territory of Utah; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

WAGON-ROAD, UTE RESERVATION.

Mr. PATTERSON introduced a bill (H. R. No. 2783) granting permission to construct and use a wagon-road through the Ute Indian reservation in the Territory of Colorado; which was read a first and second time, referred to the Committee on Indian Affairs, and ordered to be printed.

RIGHTS OF SOLDIERS AND SEAMEN.

Mr. PATTERSON also introduced a bill (H. R. No. 2784) to amend section 2304 of the Revised Statutes, so as to enlarge the rights of soldiers and seamen thereunder; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

PRE-EMPTIONS.

Mr. PATTERSON also introduced a bill (H. R. No. 2785) to amend chapter 4, title 32, of the Revised Statutes of the United States, entitled "pre-emptions," and to prevent frauds in the entry of the public lands; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

JOHN S. FILLMORE.

Mr. PATTERSON also introduced a bill (H. R. No. 2786) for the relief of the heirs of John S. Fillmore, of Denver, Colorado; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

ALFRED H. PFEIFFER.

Mr. PATTERSON also introduced a bill (H. R. No. 2787) for the relief of Alfred H. Pfeiffer, of Colorado Territory; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

TIMBER LANDS, COLORADO TERRITORY.

Mr. PATTERSON also presented a memorial from the constitutional convention of Colorado Territory, asking for the transfer of the timber lands of said Territory to its care and custody, and setting forth reasons therefor; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. PATTERSON. As the memorial is of some interest, I ask unanimous consent that it be printed in the CONGRESSIONAL RECORD.

There was no objection, and it was so ordered.

The memorial is as follows:

MEMORIAL.

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

The memorial of the convention assembled for the purpose of framing a constitution for the State of Colorado respectfully represents:

That the greatest attention ought to be directed to the preservation and care of those resources upon which the welfare of the people depends. This principle finds an especial application with us as far as our forests are concerned. With the exception of our mountain regions, but little timber is met with anywhere in Colorado. But along the creeks and rivers which cross our prairies we may find now and then a small spot covered with scattered trees and short, useless undergrowth. Our mountains alone contain forests worth the while to be mentioned and considered. But even these, except some valleys, where, indeed, beautiful forests are yet growing, present an alarming spectacle to the close observer. The slopes, ridges, and higher plateaus of the mountains contain but few trees, generally short and twisted from their constant exposure to strong winds. The higher regions, of course, are bare on account of their great elevation. Only the more protected portions of the mountains, valleys, and small parks contain valuable timber. The area of the mountainous portion of Colorado, as far as we can estimate from the best topographical maps and our own knowledge, amounts to about 15,000,000 acres. Of these, 30 per cent. may be considered bare at present, 30 per cent. covered with useless wood, 30 per cent. to contain about twenty-five cords of wood per acre and 10 per cent. unobjectionable forests. But the rapid increase of our population; the spread of industries, the building of extensive railroads, the reckless devastation of timber in cutting and transporting it, and the frequent fires—mostly caused by carelessness and often raging for months—threaten soon to destroy our forests and expose us to the danger of a wood famine, if some effectual means are not employed to check a further destruction and to remedy, as far as possible, the damage already done. The consequences of such a calamity would be severely felt; thousands of laborers would be thrown out of employment who had made a living in cutting, transporting, and working up the products of our forests. Saw-mills would have to stop and smelting-works have to be removed entirely out of our mountains. Many mines could not be worked at all, on account of want of timber, and thus our main resource of existence—mining—would be severely crippled. Besides, the large capital now invested in machinery would become unprofitable and still greater sums of money would have to be yearly expended to supply us with the necessary wood for building purposes and machinery. We must not console ourselves with the thought that such a calamity is yet far off. A comparison of the condition of our forests sixteen years ago, when our Territory began to settle up, with that at present, and taking into consideration that there is a geometrically progressing consumption of wood to be anticipated, entitles us to the belief that twenty-five years from now the devastation of our forests will be complete and that our mountains then will rather have the appearance of enormous ruins than that of an inviting field for human enterprise.

It would be a shame for an intelligent people to look with indifference at such an approaching calamity, and it would be an unpardonable mistake in a wise Government not to provide in time, whatever may be the sacrifice, against an evil which when once it overtakes us, can never afterward be remedied, or at least not for centuries. So far we have referred to the direct results, if we do not protect our forests against devastation; but there are besides, indirectly connected with it, certain

evils which still increase the mischief. These are produced by losing the beneficial influences of our forests upon climate and vegetation. A forest, or larger samples of trees and bushes growing rather in close proximity, is, to say, a magazine of moisture, from which the atmosphere is constantly supplied with this commodity. How great this exhalation of moisture of a forest into the atmosphere must be can easily be concluded by stating that experiments have shown that a single full-grown lime-tree is able to exhale twenty tons of water from spring to fall. Further, regular forests keep the soil in which their roots grow in a comparatively loose condition, and thus enable the melting snows and falling rains to easily sink into the ground, and in course of time are gradually given back to the atmosphere by exhalations through the leaves, or run slowly off if there be a surplus through springs into the large water-courses. They also attract the moisture suspended in the air and conveyed there from other parts of the earth by the great atmospheric currents. In short, we may say, forests form natural reservoirs of moisture: fertilize the atmosphere and prevent heavy rains from rushing suddenly down into the valleys and causing floods. They keep up a lasting supply of water in the natural streams, break the force of the winds, and exert generally a most beneficial influence on climate and vegetation, and where irrigation is to be used they may be considered their natural auxiliaries. This is exactly what we want in Colorado, where our climate is so dry that we are obliged to irrigate if we wish to raise crops, and where our pasture regions will become more profitable the more our atmosphere is moistened. If we continue the devastation of our present forests, we will certainly at the same time destroy a great portion of our means to develop our agricultural and pastoral resources; and, taking this together with the above-mentioned dangers arising from actual want of wood, we may well stop and consider how to escape these calamities. It may be, perhaps, not quite out of place here to refer to the experience made in this respect in other countries, as well in ancient as in modern times. The Bible speaks of the cedars of Lebanon as large and beautiful trees; the country around was then thickly settled. At present, according to a late report, only a few dwarfy trees are there to be found, and the adjoining country is a perfect desert, only able to support a few nomadic hordes. Spain, at the time of the Roman republic, was covered with majestic forests, and the Romans built their ships there and the country was renowned for its fertility. At present, their forests have disappeared to a great extent; agriculture has become of little profit, and stock-raising has taken its place, and a poor, scanty population, about one-third of its former number, now inhabits the Peninsula. We read the same of the north coast of Africa, Asia Minor, Persia, Greece, Turkey, and many other countries. Everywhere the fertility of the soil has greatly diminished with the disappearance of the forests, and where once 300,000,000 of people were living we can now hardly count 50,000,000. But more convincing are the experiences of modern times in Russia, France, South Africa, and even some parts of the United States, especially in Ohio and Pennsylvania. Everywhere in these countries the forests were cut down without being replanted, the natural results of which are they now suffer from frequent droughts, floods, and a lower temperature in winter, and a frequent failure of their crops in consequence.

Of all Europe only Germany escaped these evils, and this only by introducing in time a suitable system of forest-culture, which is now brought almost to perfection, and no expense and care are spared to sustain it. Great efforts have been made for some time past all over Europe outside of Germany to introduce this system, and even an international forest law is taken into serious contemplation by all sections of Europe. As far as we in Colorado are concerned, we cannot afford to delay any longer to make at least some movement to save our forests and to attempt to extend them as soon as possible even into our plains, if we wish to fully develop our agricultural, pastoral, and mining interests, and to escape the danger of becoming destitute of the necessary wood for building purposes, fuel, machinery, &c. But we must refer to an obstacle which if not removed would greatly hinder our purpose; this is the circumstance that we do not possess the full control of the forests in Colorado. By far the greatest part of them is in the hands of the Government of the United States. Those small tracts now owned by private persons would hardly, for the present at least, materially interfere with the management we intend to propose. We think it essential, nay, necessary, for the furtherance of our object to acquire not only the exclusive control of all the Government forests in our mountains, but also at least one-fourth of all the Government lands on our plains to use in future times for forest-culture. This proposal may seem at the first glance as somewhat exorbitant, but we have no doubt after a little reflection that it will appear quite proper, nay, even advantageous to all parties concerned. If the forests of Colorado are left as they now are their fate is sealed; they will have disappeared before another generation will have half passed away. There are a great number of cases on record where parties have been prosecuted for cutting timber on Government lands; and, although the facts in each case were undeniable and the laws referring to them plain and unmistakable, still no judge or jury can be found or ever will be found in our Territory who will pronounce such trespassing parties guilty and punish them. The reason is simply this: We need the wood and cannot exist without it, and will have it as long as there is any left. We see here that great truth clearly demonstrated, "Need is stronger than right." But with the disappearance of our forests we may as well cease our efforts to progress. Our otherwise immense natural wealth will never be developed to any extent and progress in any direction cannot be thought of. What would the Government of the United States gain by having the forests of Colorado destroyed? They cannot be sold and the National Government cannot protect them. We alone, who are living here dependent upon them and appreciating their value, are able to save them from destruction and the chain of attendant evils. If we were an old and a wealthy people with a dense population we could buy the forests; but we are young as a people, and, as in all newly-settled countries, we need our all to build canals, ditches, railroads, factories, schools, and colleges, and fully develop the resources of our mines and virgin soil. Would it not be the wisest policy for the Government of the United States to transfer the control of our forests to the care of the prospective State of Colorado, together with all the lands on our plains needed for the future culture of forest trees? Such a measure seems to us so plain, so just and advantageous to the nation at large, as well as to ourselves in Colorado, that we venture to propose to Congress to make such a transfer.

It may not be out of place here to mention that, however wise and beneficial the present system of disposing of public lands may have been when applied to other States and Territories, still its enforcement in Colorado will be injurious not only to us, but will, if persisted in, bring destruction and calamity upon the entire population of the so-called Far West. Here the climate is dry and agriculture is impossible without irrigation, however fertile the soil may be; and, if ever the prairie should be redeemed and made the home of a dense population, it can only be effected by a combination of irrigation and forest-culture. Does it not seem to be the duty of the National Government to protect our forests from destruction by putting them into the hands of somebody who is able and willing to protect them? And is there a reasonable doubt in the minds of any that those who are the most able to do so are the territorial and State governments of the West? Congress ought to pass a law that, in countries where the climate is so dry that agriculture cannot be carried on without irrigation, that the existing forests should be withdrawn from private entry and put under the control of the respective State or territorial governments, with such by-laws as will preserve and keep them in a flourishing condition. This convention has already embodied in the constitution of the prospective State of Colorado the following article, namely: "The General Assembly shall enact laws in order to prevent destruction of, and keep in good preservation, the forests upon the lands of the State or upon lands of the public domain, the control of which shall be conferred by Congress upon the State." In contemplation of the above-stated reasons, this convention respectfully suggests to Congress to put the respective forests and waste forest grounds of all those regions where irrigation has to be used for agricultural purposes under the control of the respective territorial or State governments.

J. C. WILSON,
*President of the Convention.*

Attest:

W. W. COULSON,
*Secretary.*

SETTLERS ON CAMP LOWELL MILITARY RESERVATION.

Mr. STEVENS introduced a bill (H. R. No. 2788) for the relief of certain settlers on the Camp Lowell military reservation, Territory of Arizona; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

CHARLES A. LUKE.

Mr. STEVENS also introduced a bill (H. R. No. 2789) for the relief of Charles A. Luke; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

LAW LIBRARY IN IDAHO.

Mr. BENNETT introduced a bill (H. R. No. 2790) making an appropriation for the purchase of a law library for the use of the courts and United States officers in the Territory of Idaho; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

CHARLES L. DAHLER.

Mr. MAGINNIS introduced a bill (H. R. No. 2791) for the relief of Charles L. Dahler; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

RIGHTS OF THE PEOPLE OF THE TERRITORIES.

Mr. STEELE introduced a bill (H. R. No. 2792) to guarantee to the people of the several Territories a republican form of government and to secure them in the right of local self-government; which was read a first and second time, referred to the Committee on the Territories, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER *pro tempore*. The call of the States and Territories having been completed, the Chair will now recognize any gentlemen who were absent during the call.

ALDEN ROSE.

Mr. WARD, of New York, by unanimous consent, introduced a bill (H. R. No. 2793) for the relief of Alden Rose, of the city of New York; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

PRE-EMPTION RIGHTS.

Mr. KIDDER, by unanimous consent, introduced a bill (H. R. No. 2794) to permit any person (except when such person may have sold or assigned a claim upon which he has filed his declaration of intention) to use his right of pre-emption on different tracts of land until he shall have made final proof and payment, and to repeal section 2261 of the Revised Statutes; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

BRIDGE ACROSS THE BIG SIOUX RIVER.

Mr. KIDDER also, by unanimous consent, introduced a bill (H. R. No. 2795) for an appropriation to repair the military bridge over the Big Sioux River near Sioux City, in the State of Iowa; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

COLONEL THOMAS S. READEN.

Mr. HARTZELL, by unanimous consent, introduced a bill (H. R. No. 2796) for the relief of Colonel Thomas S. Readen; which was read a first and second time, referred to the Committee of Claims, and ordered to be printed.

The SPEAKER *pro tempore*. The call of States and Territories is now complete.

THE CURRENCY.

Mr. ATKINS. I offer the bill which I send to the Clerk's desk, and I move that the rules be suspended and the bill passed.

The Clerk read the bill, as follows:

A BILL IN RELATION TO THE CURRENCY.

*Be it enacted by the Senate and House of Representatives*, That all of the provisions of the act entitled "An act to provide for the resumption of specie payment," approved January 14, 1875, which authorizes the Secretary of the Treasury to redeem or cancel United States notes and to sell United States bonds for the accomplishment of that purpose be, and the same are hereby, repealed.

Mr. HOLMAN. I ask for the yeas and nays on the motion to suspend the rules.

Mr. PAYNE. Is it in order to move an amendment?

The SPEAKER. It is not.

The yeas and nays were ordered.

Mr. HAMILTON, of New Jersey. Does not the motion to suspend the rules require a second?

The SPEAKER. It does not.

The question was taken; and there were—yeas 109, nays 109, not voting 71; as follows:

YEAS—Messrs. Ainsworth, Anderson, Ashe, Atkins, John H. Baker, Banning, Blackburn, Bland, Blount, Boone, Bradford, Bright, John Young Brown, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Campbell, Cannon, Cate-

Caulfield, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Cook, Cowan, De Bolt, Dibrell, Douglas, Durham, Eden, Egbert, Ellis, Evans, Faulkner, Forney, Fort, Franklin, Fuller, Goode, Goodin, Gunter, Andrew H. Hamilton, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Haymond, Hays, Hereford, Goldsmith W. Hewitt, Holman, Hopkins, House, Hunter, Hunton, Hurd, Hyman, Jenks, Thomas L. Jones, Kelley, Knott, Franklin Landers, Lewis, Lynde, McFarland, McMahon, Milliken, Morgan, Neal, New, Oliver, Phelps, John F. Philips, William A. Phillips, Poppleton, Rea, John Reilly, James B. Reilly, Rice, Riddle, William M. Robbins, Robinson, Savage, Sayler, Scales, Sheakley, William E. Smith, Southard, Sparks, Springer, Stevenson, Stone, Terry, Tucker, Van Vorhes, John L. Vance, Robert B. Vance, Waddell, Gilbert C. Walker, John W. Wallace, Erastus Wells, Whitthorne, James D. Williams, Jeremiah N. Williams, Woodworth, Yeates, and Young—110.

NAYS—Messrs. Bagby, George A. Bagley, John H. Bagley, jr., William H. Baker, Ballou, Banks, Barnum, Bass, Beebe, Blaine, Blair, Bliss, Bradley, William R. Brown, Horatio C. Burchard, Caswell, Chittenden, Conger, Cox, Crapo, Cutler, Denison, Dunnell, Durand, Eames, Ely, Farwell, Foster, Freeman, Frost, Frye, Garfield, Hale, Robert Hamilton, Hancock, Hardenbergh, Hathorn, Hendee, Henkle, Abram S. Hewitt, Hoar, Hoge, Hooker, Hubbell, Hurlbut, Joyce, Kehr, Kimball, George M. Landers, Lapham, Leavenworth, Luttrell, Lynch, Maish, McCrary, McDill, Metcalfe, Miller, Money, Monroe, Morrison, Nash, Norton, O'Brien, Page, Payne, Pierce, Piper, Plaisted, Potter, Powell, Pratt, Randall, Reagan, John Robbins, Sampson, Schleicher, Schumaker, Seelye, Singleton, Smalls, A. Herr Smith, Strait, Stenger, Stowell, Tarbox, Thompson, Thornburgh, Throckmorton, Washington Townsend, Tufts, Charles C. B. Walker, Alexander S. Wallace, Ward, Warren, Wheeler, Whitehouse, Whiting, Wike, Willard, Andrew Williams, Alpheus S. Williams, Charles G. Williams, James Williams, William B. Williams, Willis, James Wilson, and Alan Wood, jr.—109.

NOT VOTING—Messrs. Adams, Bell, Buckner, Burleigh, Candler, Cason, Chapin, Collins, Crounse, Culberson, Danford, Darrall, Davis, Davy, Dobbins, Felton, Gause, Gibson, Glover, Haralson, Benjamin W. Harris, Hatcher, Henderson, Hill, Hoskins, Frank Jones, Kasson, Ketchum, King, Lamar, Lane, Lawrence, Levy, Lord, Edmund W. M. Mackey, L. A. Mackey, Magoon, MacDougall, Meade, Mills, Morey, Mutchler, Odell, O'Neill, Packer, Parsons, Platt, Purman, Rainey, Roberts, Miles Ross, Sobieski Ross, Rusk, Sinnickson, Slemons, Swann, Teese, Thomas, Martin I. Townsend, Turney, Waldron, Walling, Walls, Walsh, G. Wiley Wells, White, Wigginton, Wilshire, Benjamin Wilson, Fernando Wood, and Woodburn—70.

So (two-thirds not voting in favor thereof) the rules were not suspended.

During the roll-call,

Mr. JONES, of Kentucky, said: I rise to a point of order. I want to know why the gentleman from Indiana [Mr. HOLMAN] and the gentleman from Maine [Mr. BLAINE] are sitting at the Clerk's desk during the call of the roll?

Mr. BLAINE. I desire to say, for the benefit of the gentleman from Kentucky, that I was at the Speaker's desk because the honorable Speaker sent for me.

Mr. JONES, of Kentucky. We did not know what you were doing there.

Mr. HUNTER. My colleague, Mr. CASON, is absent on account of sickness; if here, he would vote "ay."

Mr. DURHAM. I desire to state that Mr. MACKEY, of Pennsylvania, is detained from the House on account of sickness.

Mr. LAPHAM. I desire to say my colleague, Mr. DAVY, is absent by the leave of the House.

Mr. TOWNSEND, of New York. I am paired with Mr. DAVIS; if I voted, I should vote "no," and I suppose Mr. DAVIS would vote "ay" if he were here.

Mr. LUTTRELL. I desire to state that Mr. WOODBURN of Nevada, Mr. WIGGINTON of California, and Mr. LANE of Oregon are detained in their rooms by sickness.

Mr. STONE. Mr. BUCKNER is absent by leave of the House. If present, he would vote "ay."

Mr. BLAND. My colleague, Mr. HATCHER, is absent by order of the House. If present, he would vote "ay."

Mr. POPPLETON. My colleague, Mr. WALLING, is absent by leave of the House.

The result of the vote was announced, as above.

## ORDER OF BUSINESS.

Mr. NEAL. I call for the regular order of business.

The SPEAKER. This being the third Monday of the month, the regular order is the consideration of business reported from the Committee for the District of Columbia.

Mr. RANDALL. I raise a question of consideration. My object is to allow the gentleman from Ohio [Mr. PAYNE] to submit another proposition in connection with the repeal of the resumption act.

Mr. FORT. We do not want anything more on that subject.

The SPEAKER. The Chair will direct the Clerk to read the rule.

The Clerk read as follows:

The third Monday of each month, from the hour of two o'clock p. m. until the adjournment of that day, shall, when claimed by the Committee for the District of Columbia, be devoted exclusively to business reported from said committee, and said committee shall henceforth be omitted by the Speaker in the regular call of committees.

The SPEAKER. The Chair holds upon the imperative language of this rule that the question of consideration cannot be taken against this committee on its demand for the regular order. Their right under the rule is absolute and cannot be interfered with by motions to suspend the rules. The Chair desires to say that any other ruling would have the practical effect of denying to the Committee for the District of Columbia any hearing in this House, because it would be practicable for gentlemen on the floor of the House during Mondays to consume the entire day by motions to suspend the rules. The Chair holds that the right of the Committee for the District of Columbia is clear, and that they alone can surrender it.

Mr. RANDALL. I ask the gentleman from Ohio in charge of the Committee for the District of Columbia [Mr. NEAL] to allow the gentleman from the Cleveland district [Mr. PAYNE] to submit his proposition.

Mr. NEAL. I would like to accommodate my friend, but I cannot in justice do so. The Committee for the District of Columbia is now ready to report more bills than we shall probably be able to dispose of during the balance of the day.

Mr. RANDALL. That is rather a snap judgment to take of the House. We will have to wait until the time when the District Committee shall have disposed of their business, and then we can have an opportunity to vote upon the proposition. I regret that the gentleman from Ohio does not see the propriety of allowing the proposition to be submitted and voted upon now.

Mr. FORT and Mr. HOAR called for the regular order of business.

The SPEAKER. The gentleman from Ohio [Mr. NEAL] is entitled to the floor.

## ANACOSTIA AND POTOMAC RIVER RAILROAD.

Mr. NEAL, from the Committee for the District of Columbia, reported back, without amendment and with a recommendation that the same do pass, the bill (S. No. 295) to amend the act entitled "An act giving the approval and sanction of Congress to the route and termini of the Anacostia and Potomac River Railroad, and to regulate its construction and operation."

The question was upon ordering the bill to be read a third time.

The first section of the bill provides that section 2 of the act giving the approval and sanction of Congress to the route and termini of the Anacostia and Potomac River Railroad, approved February 18, 1875, be, and is hereby, so amended as to extend the time for the completion of said road to six months from and after the completion of the streets now in process of improvement along and upon which the chartered rights of the company extend.

The second section grants the company the privilege of changing their terminus at Fourteenth street and Pennsylvania avenue west, as follows: Commencing at intersection of Twelfth street and Ohio avenue northwest, along and upon Twelfth to D street, along and upon D street to Fifteenth street, along and upon Fifteenth street west to Pennsylvania avenue, near the Treasury gates, being one square west of the present terminus; also, that the company may extend their road from the intersection of Twelfth street and Ohio avenue northwest, along and upon Louisiana avenue to the south side of Pennsylvania avenue at a point opposite Center Market; provided that whenever the street pavement may be torn up and travel thereon interfered with by removal of the track of said road said company shall, at its own expense, put such street pavement in as good order as before the laying of the track thereon.

The third section provides that Congress may at any time alter, amend, or repeal the act.

Mr. RANDALL. I rise to a point of order against this bill.

Mr. NEAL. I hope the gentleman will state his point of order.

Mr. RANDALL. I make the point of order that the Supreme Court of the United States have declared that the streets in this city belong to the Government, and this bill proposes to dispose of them for a certain purpose.

The SPEAKER. The Chair overrules the point of order, because the Chair cannot hold it is his duty to construe the laws or the public decisions of the courts.

Mr. RANDALL. That decision has already been rendered.

The SPEAKER. The Chair is not supposed to take cognizance of all the judicial decisions of the country, and to attempt to execute them from this chair against the wish of the House. The Chair overrules the point of order.

Mr. NEAL. The act of which this is amendatory passed Congress on the 15th of February, 1875. The amendments proposed are three in number. The first simply extends the time for the completion of the road for six months from and after the completion of the streets now in process of improvement along which this road is to extend and has previously been located. The second amendment simply changes the western terminus of the road, and provides that the road shall pass from the intersection of Twelfth street and Ohio avenue northwest, along and upon Twelfth to D street, along and upon D street to Fifteenth street, and upon Fifteenth street to the west side of Pennsylvania avenue, near the Treasury gates, being one square west of the present terminus. The third amendment simply gives this company the right to extend its road from the intersection of Twelfth street and Ohio avenue northwest along and upon Louisiana avenue to a point opposite Center Market, south of Pennsylvania avenue.

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

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

The latter motion was agreed to.

## RECORDING DEEDS AND MORTGAGES IN THE DISTRICT OF COLUMBIA.

Mr. CRAPO, from the Committee for the District of Columbia, reported back without amendment, and with a unanimous recommendation that the same do pass, the bill (H. R. No. 1922) providing for the recording of deeds, mortgages, and other conveyances affecting real estate in the District of Columbia.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read. It provides that sections 446 and 447 of the Revised Statutes relating to the District of Columbia be repealed, and the following enacted in lieu thereof:

All deeds, deeds of trust, mortgages, conveyances, covenants, agreements, or any instrument of writing which by law is entitled to be recorded in the office of the recorder of deeds, shall take effect and be valid, as to creditors and as to subsequent purchasers for valuable consideration without notice, from the time when such deed, deed of trust, mortgage, conveyance, covenant, agreement, or instrument in writing shall have been acknowledged, proved, or certified, as the case may be, and delivered to the recorder of deeds for record, and from that time only.

Mr. CRAPO. I will state very briefly the changes which the passage of this bill will make in the existing law. By the Revised Statutes relating to the District of Columbia it is now provided that all deeds of trust and mortgages shall take effect and be valid as to subsequent purchasers for valuable consideration without notice, and as to all creditors, from the time when such deeds of trust or mortgages are delivered to the recorder of deeds for record. But all other deeds and conveyances of real estate and instruments of writing which by law are entitled to record, if they are delivered to the recorder of deeds within six months from the date of their sealing and delivery are valid and take effect as against all persons at the date of their acknowledgment, and not at the date of their being filed for record. That is, a person negotiating for the purchase of real estate in this District may, after a careful examination of the records, find that the record title is in the party with whom he is dealing; may pay the purchase-money, take the deed, and place it on record; and at any time within six months his title may be defeated by another deed prior in date of execution but subsequent in time of record.

The legislation proposed in this bill is similar to that in force in nearly all, if not all, of the States of the Union. Its effect will be to facilitate the sale and transfer of real estate in the District, to protect innocent purchasers who rely upon the record title, and to restrain dishonest persons from fraudulent conveyances. It puts conveyances in fee upon the same footing that mortgages now are. I think there can be no objection to the passage of the bill.

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

COLUMBIA RAILWAY COMPANY.

Mr. HENDEE, from the Committee for the District of Columbia, reported back with amendments the bill (H. R. No. 1271) amendatory of the act to incorporate the Columbia Railway Company of the District of Columbia, approved May 24, 1871.

The bill was read, as follows:

*Be it enacted, &c.*, That the act to incorporate the Columbia Railway Company of the District of Columbia, approved May 24, 1871, be, and the same is hereby, amended so as to extend the rights under said charter giving the said company the right and power to lay down a single or double track railway, with the necessary switches and turn-outs, on, through, and along the following avenues, streets, and highways in the city and county of Washington, in the District of Columbia, subject to all the provisions and regulations of the original charter and amendments thereto, commencing at the eastern terminus of Maryland avenue, now the eastern terminus of said company; thence along Maryland avenue westwardly to its intersection with North B street; thence along North B street to its intersection with North Capitol street; thence along North Capitol street northwardly to its intersection with H street north, with the right to run public carriages thereon drawn by horse-power.

SEC. 2. That should a majority of the stockholders so elect at any time within three years after the completion of said extension of said railway as is hereinbefore provided, the said company shall have the right to extend said road, either with a single or double track, with the necessary switches and turn-outs, along the line of North Capitol street from its intersection with H street north to its intersection with Lincoln avenue, in the county of Washington; thence along Lincoln avenue to its intersection with the county-road leading to the Old Soldiers' Home; thence along said county-road to the gate at said Old Soldiers' Home, receiving therefor a rate of fare not exceeding —— cents a passenger for any distance on said extension of said road; the carriages on the extension of said road or roads to be propelled either by horse-power or any accepted improved noiseless propelling power that may meet the approval of the authorities of the District of Columbia.

SEC. 3. That section 9 of the original act to incorporate the Columbia Railway Company be, and the same is hereby, amended so that the capital stock of said company shall not be less than $100,000 nor more than $800,000.

SEC. 4. That said Columbia Railway Company shall have the right of running on and over the tracks of any other company (with their carriages) that may have tracks laid on any of the avenues, streets, or highways along the route hereby granted, provided said Columbia Railway Company pay to any company (that may have their tracks laid down and being used by them) a reasonable portion of the cost of laying down and keeping said track so used by said Columbia Railway Company in good order and repair.

SEC. 5. That all acts and parts of acts heretofore passed which are inconsistent with any of the provisions of this act be, and the same are for the purposes of this act hereby, repealed so far as the same are inconsistent herewith.

The amendments reported by the committee were as follows:

Strike out section 2.

Add to section 4 the following:

The amount to be contributed to be ascertained, when the companies disagree, by the supreme court of the District of Columbia, upon application of any company interested, and on notice to, and hearing of, the parties interested.

Mr. HENDEE. I desire to say in explanation of this bill that it provides merely for an extension of the route of what is now known as the H street or New York avenue railway. That company has already built a road under an old charter, granted, I think, in 1870, from a point near the Treasury Department through part of New York avenue, K street, and Massachusetts avenue, thence, by way of the Government Printing Office, to the eastern boundary of the city. This bill proposes to allow the company to build a track from the eastern boundary through Maryland avenue to a point on North Capitol street very near the Capitol; thence down that street to a junction with its present track at the Government Printing Office. The object is simply to allow people living on New York avenue, Massachusetts avenue, K street, and in the sections of the city contiguous to those streets, to come directly to the Capitol and return by means of these cars. The amount fixed for the fare is five cents.

That portion of the bill which allows the company to build a branch from the Government Printing Office, or from H and North Capitol streets, to the Old Soldiers' Home, we propose by the amendments to strike out; so that the bill will only empower the company to do what I have already stated. It is thought to be in the interest of the people, especially those living in the vicinity of New York avenue, Massachusetts avenue, and K street. The avenues and streets through which this extension of the road is to pass are very wide; and this measure can be no detriment to public travel in any manner.

Mr. MAISH. As I understand this bill, the company will have the right to use such motive power as the District authorities may approve.

Mr. HENDEE. The section containing that provision is to be struck out by the amendments we offer; so that the company will have the right to use nothing but horse-power.

The amendments were agreed to.

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

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

The latter motion was agreed to.

CONSTABLES AND MARSHALS.

Mr. HENDEE, from the Committee for the District of Columbia, reported back with amendments a bill (H. R. No. 1256) to regulate the duties of constables and marshals in the District of Columbia where property is claimed to be exempt from execution.

The bill was read, as follows:

*Be it enacted, &c.*, That in the District of Columbia, from and after the passage of this act, it shall be the duty of the marshal or constable, as the case may be, where an execution or attachment against the property of a judgment debtor is placed in his hands for execution and the judgment debtor claims that he has no property save that exempted by law, to select a jury of three responsible persons of the neighborhood, who shall first be sworn by the marshal or constable to well and truly perform the duty of taking an inventory and appraisement of the judgment debtor's property; and the marshal or constable, with the jury, shall proceed to take an inventory of the property of the judgment debtor and appraise it at a cash valuation.

If the jury shall find that the judgment debtor has more property than is, in their judgment, exempt by law, they shall certify upon the inventory and appraisement the amount over and above the legal exemption; and this amount only, as certified to by the jury to be over and above the legal exemption, shall be liable to attachment or execution. And where a jury finds that a judgment debtor has more property than is legally exempt and so certify, the debtor shall have the privilege of choosing what article or articles or piece or pieces of property shall be levied upon under the attachment or execution. If the jury shall find that the judgment debtor has no more property than is, in their judgment, legally exempt, they shall so certify upon the inventory, and state the amount of it. If the jury see fit, they may question the debtor as to his property.

The judgment debtor shall afford the jury ample opportunity to make their investigation, and shall truly answer all their questions in relation to his property. The jurors and the marshal or constable shall receive from the judgment debtor, for their services in this connection, $1 each; which sum, if not paid in ten days after the inventory and appraisement is completed, the marshal or constable may cause to be made by a levy upon the furniture, care being taken to levy upon that least necessary.

Where, upon entering the premises of a judgment debtor, it is reasonably apparent to the marshal or constable that there is no property liable to attachment or execution, he may so certify without a jury; and if the judgment creditor shall demand a jury, and the debtor's property is appraised at less than $150, the costs of the investigation shall be paid by the judgment creditor.

After a jury has once certified that a judgment debtor has no property save that exempt by law, each additional investigation shall be at the cost of the party demanding it, unless it shall be found that there is property not exempt, in which case the costs shall be paid by the judgment debtor.

The amendments of the committee were read, as follows:

Section 1, line 29, insert after the word "debtor" the words "and any other person."

In line 30, after the word "property," insert the words "of the debtor, and said marshal or constable may administer the proper oath to the debtor or persons to be examined."

In lines 44 and 45 strike out the words "and the debtor's property is appraised at less than $150," and insert in lieu thereof the following words: "and if said jury shall certify that the debtor has no property liable to attachment or to be taken on execution."

In line 46, insert after the words "judgment creditor" the following words: "but if said jury shall certify that such debtor has property liable to attachment or to be taken on execution, then the costs of such investigations shall be paid by the judgment debtor."

Mr. HENDEE. Mr. Speaker, perhaps a statement in regard to this matter is necessary. We have found in our investigation that it is a matter of difficulty on the part of officers of this District having charge of the collection of debts, or service of writs of attachment or execution, to find among a great mass of people property upon which to satisfy those debts. They are evaded and eluded, and the property is secreted, and at the present time there is no law which compels a debtor or any other person to give any information as to his property, whether he has any liable to attachment or not.

Now, in this District there are various articles and kinds of articles exempt from attachment and levy of execution. I wish to call the attention of the House not fully but partially to them. By section 797 of the laws of the District of Columbia as revised the following articles are exempt from attachment; I will not read the whole of

them: First, all wearing apparel belonging to the persons and all heads of families; second, beds, bedding, household furniture, stoves, &c., to the amount of $300; third, provisions for three months' support, whether provided or growing; fourth, fuel for three months; fifth, mechanics' tools and instruments of trade or business amounting to $200 in value, with $200 worth of stock, &c.; sixth, libraries and implements of a professional man or artist to the value of $300; seventh, one horse, mule, or yoke of oxen, one cart, dray, or wagon for said team; eighth, farming utensils, with food for such team, &c., to the value of $100, family effects to the amount of $400, one cow, swine, and six sheep. Other articles are also exempt from attachment.

It will be seen in all these different kinds of property exempt from attachment there is a certain limit in dollars beyond which the debtor is not entitled to his property as against execution or attachment. Now, there is no law in this District by which it can be ascertained whether the debtor has more or less than the law gives him of any particular class of property which is exempt from attachment; and it has been thought prudent and proper—and I think that something like this is the law of many of the States of the Union—to pass a law like that which we have proposed. It is simply this: that where an officer has in his possession a writ of attachment or execution for levy upon property of any debtor and the judgment debtor shall demand a jury, that jury shall be furnished him by the marshal or officer having the paper for levy of three persons of the neighborhood, who shall be sworn to the faithful discharge of their duty; and they shall then put the debtor and such other persons as they see fit on oath to determine the question whether in any one of the classes of property exempt from attachment the party has more than the law allows him. If they find he has in a particular class more than is exempt under the statutes of the District they shall so certify to the officer, and the balance of the property will then as a matter of course be subject to levy or attachment, giving to the debtor the right to choose what articles he shall submit to attachment or levy of execution. In case the judgment debtor shall demand a jury to determine whether he has property not subject to attachment and shall succeed in showing to the jury he has no property subject to attachment, the costs of that investigation are to be paid by the judgment creditor. If it shall be determined when the judgment debtor asks for the hearing that he has property in either class liable to attachment, then the costs of that investigation are to be paid by the judgment debtor. It is opening up to the creditors doing business in this District a fair and equitable means by which they can get at property in this District liable to attachment, thereby securing to them the payment of their honest debts. The committee was unanimous on this question. We really think the abuses practiced in this District for a great many years will be cured by this legislation. I move the amendments be agreed to.

The amendments were agreed to.

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

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

The latter motion was agreed to.

### MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. SYMPSON, one of its clerks, informed the House that the Senate had passed a bill (S. No. 591) to regulate the transfer of bonded merchandise withdrawn from warehouse; in which the concurrence of the House was requested.

The message further announced that the Senate had passed with an amendment, in which the concurrence of the House was requested, the bill (H. R. No. 2589) to supply a deficiency in the appropriations for certain Indians.

### CITIZENS' RAILROAD.

Mr. HENDEE also, from the Committee for the District of Columbia, reported back a bill (H. R. No. 1652) giving the approval and sanction of Congress to the route and termini of the Citizens' Railroad, and to regulate its construction and operation, with the recommendation that it do pass.

The first section of the bill provides that the approval and sanction of Congress be given to the construction, operation, and maintenance of a single or double track street-railroad by the Citizens' Railroad Company of Washington City, District of Columbia, a company incorporated in accordance with chapter 18 of the Revised Statutes of the United States applicable to the District of Columbia, which incorporation is confirmed and validated, along, upon, and over the following route in the city and county of Washington, District of Columbia, namely: Commencing at the intersection of Louisiana avenue and Seventh streets northwest, in the city of Washington; thence along and upon Louisiana avenue to Sixth street west; thence along and upon said Sixth street west to G street north; thence upon and along said G street to Fifth street west; thence along and upon said Fifth street to Boundary street; thence along and upon Boundary street to Larch street, in the county of Washington; thence along and upon said Larch street to Elm street; thence along and upon said Elm street to Four and-a-half street; thence along and upon said Four-and-a-half street to College street; thence along and upon said College street to the valley east of Howard University; and thence by the most practicable route to the southern or Harewood entrance to the Soldiers' Home; with a branch leaving the main line at the intersection of Fifth street and New York avenue northwest, and proceeding along and upon said New York avenue to North Capitol street; and thence along and upon said North Capitol street and its extension known as Lincoln avenue to Glenwood Cemetery.

The second section of the bill provides that whenever the foregoing route shall coincide with the route of any other duly incorporated railroad company or connect portions of such route, but one set of tracks shall be used, and each company using the tracks shall contribute equitably to the expense of laying and maintaining them; the amount so to be contributed to be ascertained, when the companies disagree, by the supreme court of the District of Columbia, upon application of any company interested and on notice to and hearing of the parties interested.

The third section of the bill provides that this company shall construct at least a single track over their route within six months from the approval of this act, under penalty of forfeiture of this grant.

The fourth section provides that in the manner of laying its tracks and paving the same this company shall be under the control of the executive authority of the District of Columbia, and it shall pave its tracks and the spaces between them and for the space of two feet beyond the outer line thereof and keep the same in good order without expense to the United States or the District of Columbia; and that said pavements shall be as prescribed by the said executive authority of the District of Columbia; and the rate of fare charged and received by said company shall not exceed five cents a passenger for any distance between the termini of said road.

The fifth section provides that Congress may at any time alter, amend, or repeal this act.

Mr. HENDEE. I will detain the House but a moment in explanation of this bill. It has been looked upon by the committee as one of more merit perhaps than usually attaches to bills of this character. This company has already been authorized under the general law, and now seeks only from Congress to be allowed to construct the road, Congress having reserved to itself the power to determine the route which any road shall take in this District. This bill is to authorize the company to do so.

It authorizes the construction of a road to be operated by horse-power from a point near the junction of the Seventh-street railway and the Avenue railway on Louisiana avenue; to run upon that avenue to Sixth street west; thence along Sixth street to G street north; thence along G street to Fifth street west; thence along Fifth street to Boundary street, which is the northern boundary of the city; thence along some short streets there to Le Droit Park; and thence to the Soldiers' Home; with power to build a branch to Glenwood Cemetery.

The object of the bill is to furnish the citizens residing on Le Droit Park and in that portion of the city and District communication with the heart of the city of Washington. They are now comparatively without conveniences in the way of travel by horse railways. It also allows the building of the road through Le Droit Park, which is owned by private citizens, and who are the gentlemen in interest largely in this bill, and thence to the Soldiers' Home. I think it will be a great convenience to the people of the District of Columbia or the city of Washington, and to all parties who may visit the city and who desire to go to the Soldiers' Home and also to Glenwood Cemetery. I would say that there is no railway now to Glenwood Cemetery, and it seems quite proper that one should be built. It will enhance the value of the property of Le Droit Park. It will also largely enhance the value of the property in Fifth street and other sections of the city which it traverses; and this, as a matter of course, is of great benefit to the city, because as you enhance the value of real estate in the city, that real estate pays more of the taxes and other expenses of the city and District government.

I think upon this statement there can be no objection to the bill. The fare to be asked for passage over this road is only five cents, and it is a road extending some distance, and is to be built mainly and almost entirely by the people who own the Le Droit Park and the people who live on Fifth street and other streets near it. I hope the bill will be passed.

Mr. GARFIELD. I desire to ask the gentleman a question. I noticed in the reading of a former bill, which was considered by the House earlier in the day, an expression that the cars might be propelled by horse-power "or any noiseless force." I do not think that that expression is in this bill, but I have not understood with certainty whether it is in the bill or not. It occurred to me that if that expression were construed to authorize steam-cars it might be productive of serious inconvenience. I ask the gentleman whether it is in the bill?

Mr. ROBBINS, of Pennsylvania. I ask that the bill may be reported again.

Mr. GARFIELD. Before the bill is again reported I would also ask the gentleman from Vermont [Mr. HENDEE] whether the committee have had in view existing roads to see whether the streets are not now being encumbered with more railroads than the city needs? This road, so far as I have been able to follow its route from the reading of the bill, seems an important one, and I think the bill ought to pass. But I should be sorry to see the use of steam authorized on the city

railroads by any terms that might be so construed without our designing it.

Mr. HENDEE. In reply to the gentleman from Ohio I would say that this road is designated in the bill simply as a street railway. I do not think that under the terms of the bill the company would be allowed to use any other power than horse-power. But for the purpose of settling that question I would propose to add to the end of section 1 the words, "to be operated by horse-power only." I offer that amendment.

Mr. GARFIELD. Now as to the other point. Will the gentleman state whether this road runs parallel to any other leading road?

Mr. HENDEE. In answer to that question I will say that it does necessarily run parallel to other roads in the same way as the F street railroad runs parallel to the Avenue railroad.

Mr. GARFIELD. But not very near?

Mr. HENDEE. Not very near. The nearest are the Seventh street road, and the Capitol and North O street road on the other side. One passes north and south upon Third street and the other upon Seventh street. The termini are quite distant from each other, and this runs midway upon Fifth street, and is no nearer to the other roads and I think not quite as near as the Ninth and Seventh street roads are now. And the Ninth and Eleventh street lines are, I think, nearer than this road is to any road that runs in the same direction.

Mr. GARFIELD. Will the gentleman also allow me to ask him in this connection whether the chariot line is a chartered institution?

Mr. HENDEE. I understand that this is a private institution; that it is not chartered.

Mr. GARFIELD. Has it come to Congress for any authority?

Mr. HENDEE. I understand not.

Mr. GARFIELD. I thought perhaps that it might be one of those inventions that would save the necessity of cutting up the streets of the city with railroad tracks, but I do not know about that.

The question was taken on Mr. HENDEE'S amendment, and it was agreed to.

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

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

The latter motion was agreed to.

### CITIZENS' BUILDING COMPANY OF WASHINGTON.

Mr. HARDENBERGH, from the Committee for the District of Columbia, reported back a bill (S. No. 401) to incorporate the Citizens' Building Company of Washington with a favorabe recommendation.

The bill was read, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That John C. McKelden, T. L. Tullock, B. F. Bigelow, Samuel Emery, M. Ashford, Frank M. Green, J. G. Judd, E. G. Davis, John Fraser, B. F. Fuller, Charles Bradley, C. C. Duncanson, W. B. Morgan, and their associates, are hereby created a body politic and corporate by the name of "The Citizens' Building Company of Washington City," and as such may purchase, hold, and convey real and personal estate, make contracts, sue and be sued, plead and be impleaded, may have a corporate seal, and may exercise all other powers incident to corporations and usually enjoyed by them, and such especially as are requisite to enable them to purchase, take, hold, and convey square 363, in Washington City, District of Columbia, and to improve the same by building dwelling-houses thereon, and to sell and convey them to stockholders or others, for the benefit of the stockholders: *Provided*, That the capital stock of the said company shall not exceed $300,000.

SEC. 2. That the first meeting of said company shall be holden at the time and place at which a majority of the persons hereinbefore named shall assemble for that purpose, and five days' notice of such meeting shall be given each of said corporators; at which meeting, and at all annual meetings, and at all meetings specially called for that object, said company may adopt or amend a constitution, and enact, amend, or repeal by-laws regulating the affairs of said company, prescribing the number, character, and duties of their officers, and the manner of their election, and providing in all things for the management of the affairs of said company, or for securing its interests and welfare.

SEC. 3. That the powers of this corporation shall vest in a board of directors, who shall be chosen as provided by the company's constitution or by-laws, and shall consist of thirteen persons, and shall have perpetual succession, each one holding his office until his successor is chosen and qualified: *Provided*, That until an election by the stockholders of said company shall be had in accordance with the constitution and by-laws of said company, the persons hereinbefore named shall constitute the board of directors of said company.

SEC. 4. That when the improvement of said square 363 shall have been completed, the dwellings sold, and the proceeds distributed to the stockholders in the manner provided by the constitution, then the said company shall cease to exist: *Provided*, That the provisions of the Revised Statutes of the United States relating to the District of Columbia relating to the liability of the officers and stockholders of corporations shall apply to the officers and stockholders of said corporation.

SEC. 5. That the corporation hereby created shall have no authority to transact business outside of the District of Columbia; and Congress may at any time alter, amend, or repeal this act.

Mr. HARDENBERGH. The purpose of the bill is a very plain and simple one. A number of persons have aggregated their capital together in a building association and purchased a square of land. The simple purpose of this bill is to give them an act of incorporation whereby they can join their funds together and proceed to the erection of buildings upon the square. There is no general law in the District which admits of acts of incorporation, and therefore this bill is asked for and is reported by the unanimous consent of the committee.

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

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

The latter motion was agreed to.

### INEBRIATE ASYLUM, DISTRICT OF COLUMBIA.

Mr. STEVENSON, from the same committee, reported back, with a favorable recommendation, the bill (S. No. 359) to incorporate the Washington City Inebriate Asylum in the District of Columbia.

The Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That all persons who shall become subscribers pursuant to this act shall hereby constitute and be declared a community corporation and body-politic forever or until Congress by law direct this charter to cease and determine, by and under the name of the Washington City Inebriate Asylum of the District of Columbia; and by and under the same name and title they shall be able and capable in their corporate name to take, purchase, have, lease, and hold real estate, not exceeding sixty acres, in the District of Columbia, and erect thereon a building or buildings suitable for the purposes of an asylum hereinbefore named; and to take, purchase, hold, and convey such personal property as may be necessary to carry out the objects of said asylum, namely, the care and medical treatment and control of the inebriate, and for no other purpose. Said asylum shall have power to sue and be sued, to make and use a common seal and alter the same at pleasure, to take and hold any grant or devise of land, or any donation or bequest of money or other personal property to be applied to the maintenance of said asylum. But the limitation that the said asylum shall not take, purchase, have, lease, and hold real estate shall only apply to property leased or purchased, and shall not prevent the said asylum from taking and holding any estate, real or personal, given or devised to it, not exceeding in value $500,000: *Provided*, That the property held by the said asylum shall never exceed $500,000 in value.

SEC. 2. That any person donating the sum of $10 to the asylum hereby incorporated shall be deemed a subscriber and stockholder.

SEC. 3. That the fund of said institution shall be $50,000, but may be increased to $300,000 at any time the board of directors may think it compatible with the best interest of said asylum, and shall be deemed personal property.

SEC. 4. That all the affairs and concerns of said asylum shall be managed by and conducted under the direction of twenty-five trustees, who shall be subscribers and citizens of the United States of America, and who shall be elected by the subscribers, after the present year, annually, on the first Thursday in November of each year, by ballot, by a plurality of subscribers present or represented by proxy, each and every subscription of $10 having one vote; if for any cause such election shall not be so held, the said asylum shall not be deemed dissolved, but an election shall be held within twelve months thereafter; notice of time and place of such election shall be published for two weeks immediately preceding the day appointed therefor in at least two newspapers of the District of Columbia. The said board of trustees, annually, from their own body, and as soon as may be after their election, shall proceed to elect, by ballot, a president and one treasurer of said asylum, who, so long as they shall continue trustees of said asylum, shall hold their offices respectively during the pleasure of the board of trustees; and the said trustees shall have power to fill vacancies in their own body caused by the death, resignation, removal, or otherwise of any trustee or trustees, and to make all by-laws, not inconsistent with the Constitution and laws of the United States, as they may deem proper for the management of the affairs of said asylum, and shall appoint annually, by ballot, at least thirty days before such election of trustees of said asylum, three fit and disinterested persons inspectors of the then next election of trustees, and, at any time before the election, supply any vacancy which may occur in the office of any such inspector. Nine of the board of trustees, of which number the president or vice-president must be one, shall constitute a quorum for the transaction of business. All committees, physicians, agents, and officers, authorized by this act, or by the by-laws of this asylum, shall be appointed by the board of trustees.

SEC. 5. That no subscriber of this asylum shall be liable in his or her individual capacity for any contract, debt, or engagement of said asylum after the full amount of their subscription is paid in.

SEC. 6. That W. W. Corcoran, George H. Plant, George W. Riggs, W. W. Moore, Samuel Norment, J. W. Thompson, Matthew G. Emory, John T. Given, A. E. Perry, John C. Harkness, William Stickney, J. C. McKelden, Joseph Burrows, doctor of medicine, William J. Murtagh, Columbus Alexander, William R. Riley, D. D. Cone, Thomas Berry, George W. Stickney, D. P. Halloway, John W. Simms, E. C. Carrington, James H. Stone, Dickerson Nailor, and Joseph T. Howard, doctor of medicine, shall constitute the first board of trustees, who shall hold their offices until a new board of trustees is elected; and they shall be commissioners, whose duty it shall be to locate the said asylum and to receive subscriptions to the funds of said institution.

SEC. 7. That the said institution shall have power to receive any inebriate who shall voluntarily make application thereto, and retain him or her therein for such period as may be deemed advisable by the physician in charge.

SEC. 8. That any justice of the supreme court of the District of Columbia, upon petition or complaint, duly verified and presented by any relative of an inebriate or habitual drunkard, or by any officer of this asylum, or by any officer of police of said District of Columbia, shall proceed thereupon to appoint a commission to inquire into the case in the same manner as is directed by law in relation to the care and custody of the persons and estates of idiots, lunatics, persons of unsound mind, and drunkards, and according to the rules and practice of the said supreme court in such cases. The person charged with being an inebriate shall have notice to be present himself, or by counsel, before such commission, and to defend himself from such charge. Upon becoming satisfied by the return of said commission that the person in question is an inebriate, or habitual drunkard, any justice of the supreme court may issue a warrant committing such inebriate or habitual drunkard to the said asylum for a period not exceeding one year, as said justice may deem proper; and such warrant, duly issued, shall be full and sufficient justification for all acts done by any properly-authorized officer under and in accordance therewith. Such order of commitment may be vacated or modified by any justice of said supreme court on cause duly shown. After complaint has been made, and pending the proceedings under this section, the justice hearing the case may commit the person charged with being an inebriate or habitual drunkard to said asylum, and the person so temporarily committed shall be discharged therefrom if, on the return of a commission, it be determined that he is not a proper person to be detained. The estate and person of any inebriate committed to said asylum shall be liable for his support therein; and the committee, trustee, or guardian of every such person shall pay out of his estate such reasonable and proper sums as shall be fixed by the justice ordering the commitment.

SEC. 9. That for the purposes of this act, any person who, by the use of intoxicating liquors, or other intoxicants, has lost self-control, or become incapable of proper attention to the care and management of his affairs, or habitually or periodically neglectful thereof, or dangerous to himself or others, shall be regarded as an inebriate or habitual drunkard.

SEC. 10. That the trustees and superintendent of said asylum shall, so far as may be practicable, employ such inebriates as are without the means of support in such labor as may be adapted to their capacity; and for this purpose they shall arrange in separate departments of their buildings, or in separate edifices, workshops and appliances by which such labor may be made, if possible, a source of income and a

means of promoting the reformation of the persons employed. From the profits of such labor, if any, the actual cost of support of each inebriate may be deducted and retained by the institution, and any surplus shall be paid to his (or her) family, or, in case he (or she) have no family, to himself (or herself) or his (or her) committee, trustees, or guardian for his (or her) benefit, at the time of his (or her) discharge from the asylum. And labor performed upon the grounds or premises of the asylum by inmates thereof shall be fairly appraised, and the proceeds shall be disbursed as above provided.

SEC. 11. That no person shall sell any strong or spirituous liquors or wine or fermented liquors within the distance of one-fourth of a mile from the outward bounds of the land and premises of the said asylum hereby incorporated, and whoever shall violate the terms of this section shall forfeit $50 for each offense, and shall also be guilty of a misdemeanor: *Provided*, That the site or location of said asylum be not nearer than one-quarter of a mile to the corporate limits of the city of Washington.

SEC. 12. That no person shall enter or pass upon the land or premises of said asylum, other than the officers of said asylum, officers of justice, and those having business with said asylum, without a written or printed pass or permit from that officer of the asylum who may be empowered by the by-laws of said asylum to issue such pass; and any person violating the provisions of this section shall forfeit the sum of $10 and be guilty of a misdemeanor. All penalties imposed in this act shall be sued for and recovered in the name of the president of the asylum, and shall be paid to the treasurer thereof for the support of any poor persons who may be inmates of said asylum.

SEC. 13. That the superintendent of said asylum is hereby authorized to appoint two or more of the attendants and employés of said asylum as policemen, whose duty it shall be, under his order or that of the assistant superintendent, to arrest and return to the asylum such inebriates as have escaped therefrom, or any patient who shall violate any law of the asylum, or person trespassing on the grounds or premises of said asylum, contrary to the provisions of section 12 of this act.

SEC. 14. That the board of trustees of said asylum shall make an annual report at their first meeting in November of their proceedings, income, expenditures, the number of patients received, discharged, and remaining in the institution, verified by the affidavit of the president and the treasurer; which report shall be filed in the office of the Secretary of the Interior.

SEC. 15. That any State or territorial Legislature, municipal council, or authorities of the District of Columbia may provide for the maintenance in the said asylum of any number of poor patients by appropriating sufficient funds for that purpose; and any person who shall donate or leave by legacy the sum of $5,000 to the said Washington City Inebriate Asylum shall establish forever a free bed in said asylum; $2,500 shall provide a free bed in said asylum for six months in each year; the donor or legator shall name the patient who shall occupy the said free bed; but in case the donor or legator shall fail to name a patient to occupy the free bed which said donor or legator shall have endowed, then the trustees of said asylum shall fill the said free bed with a poor patient. The said patients in said free beds shall be provided with medical treatment free of charge, and like all other patients shall be subject to the rules and regulations of the said asylum.

SEC. 16. That Congress may at any time alter, amend, or repeal this charter: *And provided*, That no money shall ever be appropriated by the United States to aid in the construction or support of said institution.

Mr. STEVENSON. Before moving the previous question upon the passage of this bill, I desire to say a few words in explanation of its provisions. The importance, in fact the necessity, of this or a similar act of incorporation in this District cannot be overestimated. Institutions of a kindred character to the one sought to be founded by this bill now exist in many of the States of this Union, as well as in Canada and Great Britain; and, unless all testimony is to be disbelieved, have resulted in great good to the unfortunate persons for whose benefit they were founded. As will appear from the bill, the object of the asylum sought to be incorporated is the cure, medical treatment, and control of inebriates. This bill is, I think, so guarded in its terms that no practical difficulties can arise as to what persons are to be affected by its provisions. Section 9 is as follows:

That for the purposes of this act, any person who, by the use of intoxicating liquors or other intoxicants, has lost self-control or become incapable of proper attention to the care and management of his affairs, or habitually or periodically neglectful thereof, or dangerous to himself or others, shall be regarded as an inebriate or habitual drunkard.

It will be seen, sir, from the foregoing section that this asylum takes control only of those who have lost all ability or desire to control themselves. By section 10 of the act, the superintendent and others in charge of the asylum are authorized to give to such of the inebriates as are without the means of support such labor as may be adapted to their capacity and condition, and to that end workshops may be established in the institution. The profits arising from the labor of any inebriate thus employed shall go to himself or family, after deducting the actual expenses of such inebriate in the asylum. The propriety of the latter provision can hardly be too highly commended.

Upon the points of the average duration of the residence of patients in such institutions and the proportion of cures effected, Dr. Dodge, superintendent of the New York State Inebriate Asylum, stated that after a careful examination he had come to the conclusion that the average residence is four months. As in all similar institutions, some remain only a few weeks, a large proportion remain three months, a goodly number continue six months, and a few remain one year, and even longer, but the average is four months.

The proportion of cures during the past two years, for which period he had reliable data, is 40 per cent. In using the term "cured" he was not contented to put a man down as cured because he left the asylum in a state of sobriety and reasonably good health, but followed him up by correspondence with himself or his friends, and got the best information he could after being exposed to the risks and temptations of society.

Mr. Speaker, the gentlemen whose names appear in the sixth section of this bill as the first board of trustees of this institution are, as I believe, a sufficient guarantee that it will be inaugurated under auspices favorable to its usefulness and prosperity. The trustees are empowered to locate the asylum, receive subscriptions to its funds, and to take the necessary steps to carry into practical effect the provisions of this act.

No money is appropriated by this bill, the last section especially providing that no appropriation shall ever be made by Congress for this institution. The bill, sir, is manifestly a just one, and I trust will pass without opposition.

I ask the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading; and it was accordingly read the third time, and passed.

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

The latter motion was agreed to.

### REFORM SCHOOL, DISTRICT OF COLUMBIA.

Mr. STEVENSON also, from the same committee, reported the bill (H. R. No. 1345) revising and amending the various acts establishing and relating to the Reform School in the District of Columbia, with a favorable recommendation.

The Clerk read the bill, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the institution known as the Reform School of the District of Columbia shall be in charge of, and governed and managed by, a board of seven trustees, who shall be appointed by the President of the United States, upon the nomination of the Attorney-General, each for the term of three years, but in such a manner that the terms of not more than three of them shall expire within any one or the same year; that one of the trustees shall be elected president of the board, whose duty shall be prescribed by the board.

SEC. 2. That the board of trustees shall be a corporation by the name of the "board of trustees of the Reform School of the District of Columbia," for the purpose of taking and holding, in trust for the United States, property of every description which has been purchased, appropriated, or set apart for the use of the institution, or which may hereafter be purchased, appropriated, or set apart for its use, or given or bequeathed to it, or to the said board, for its use, with all power necessary to carry this purpose into effect, and to protect and preserve such property, including the land and buildings, fences, stock, fruit, crops, and trees of all kinds.

SEC. 3. That the board of trustees may appoint a superintendent, two or more teachers or assistants, and a matron, whose salaries are fixed by law; they may also employ two or more master mechanics, a farmer, a gardener, and such other persons, as servants and laborers, as may be necessary, and fix their compensation, subject to the approval of the Attorney-General.

SEC. 4. That the board of trustees shall appoint a treasurer, who shall, before entering upon the duties of his office, give a bond to the United States, with two or more sureties, to be approved by the First Comptroller of the Treasury, in the sum of $5,000, or a larger sum, at the option of the said Comptroller, conditioned that he shall faithfully account for all the money received by him as treasurer; and it shall be his duty to keep a clear and full record of his accounts as treasurer, and report an abstract of the same to the board of trustees once in every two months, and shall also make an annual report to the board of trustees.

SEC. 5. That before entering upon the duties of his office the superintendent shall give a bond to the board of trustees, with sureties, to be approved by the Attorney-General of the United States, in the sum of $3,000, conditioned that he shall faithfully account for all money received by him, and faithfully perform all the duties incumbent on him as superintendent of said Reform School.

SEC. 6. That the superintendent shall reside at the institution constantly, and that he, with such subordinate officers as may be appointed in accordance with the third section of this act, shall have the charge and custody of the boys; shall govern them in accordance with such rules and regulations as the board of trustees may prescribe in its by-laws; shall employ them in agricultural, mechanical, or other labor; shall give them instruction in reading, writing, arithmetic, geography, and such other studies and in such arts and trades as the trustees may direct; and shall employ such methods of discipline as will, as far as possible, reform their characters, preserve their health, promote regular improvement in their studies and employments, and secure in them fixed habits of religion, morality, and industry.

SEC. 7. That the superintendent shall have charge of the lands, buildings, furniture, tools, implements, stock, provisions, and every other species of property pertaining to the institution, within the precincts thereof, under the board of trustees, including the farm in possession of the board where the school was first located; and he shall keep, in suitable books, regular and complete accounts of all his receipts and expenditures, and of all the property intrusted to him, so as to show clearly the income and expenses of the institution; and he shall account, in such manner as the trustees may prescribe, for all the money received by him from the proceeds of the institution or otherwise; and he shall keep a register of the names and ages of all boys committed to the institution, with the dates of their admission and discharge, and such particulars of their history before and after leaving the institution as he can obtain. His books and all documents relating to the Reform School shall, at all times, be open to the inspection of the trustees, who shall, once or more in every month, carefully examine his accounts, and the vouchers and documents connected therewith, and make a record of the result of such examination; and, once in every three months, the institution shall be thoroughly examined in all its departments by three or more of the trustees, and a report of such examination shall be made to the board.

SEC. 8. That whenever any boy under the age of sixteen years shall be brought before any court of the District of Columbia, or any judge of such court, and shall be convicted of any crime or misdemeanor punishable by fine or imprisonment, other than imprisonment for life, such court or judge, in lieu of sentencing him to imprisonment in the county jail or fining him, may commit him to the Reform School, to remain until he shall arrive at the age of twenty-one years, unless sooner discharged by the board of trustees. And the judges of the criminal and police courts of the District of Columbia shall have power to commit to the Reform School, first, any boy under sixteen years of age who may be liable to punishment by imprisonment under any existing law of the District of Columbia, or any law that may be enacted and in force in said District; second, any boy under sixteen years of age, with the consent of his parent or guardian, against whom any charge of committing any crime or misdemeanor shall have been made, the punishment of which, on conviction, would be confinement in jail or prison; third, any boy under sixteen years of age who is destitute of a suitable home and adequate means of obtaining an honest living, or who is in danger of being brought up, or is brought up, to lead an idle and vicious life; fourth, any boy under sixteen years of age who is incorrigible, or habitually disregards the commands of his father or mother or guardian, who leads a vagrant life, or resorts to immoral places or practices, or neglects or refuses to perform labor suitable to his years and condition, or to attend school. And the president of the board of trustees may also commit to the Reform School such boys as are mentioned in the foregoing third and fourth classes upon application or complaint in writing of a parent or guardian or relative having charge of such boy, and upon such testimony in regard to the facts stated as shall be satisfactory to him; and for taking testimony in such cases he is hereby empowered to administer oaths.

SEC. 9. That every boy sent to the Reform School shall remain until he is twenty one years of age, unless sooner discharged or bound as an apprentice; but no boy shall be retained after the superintendent shall have reported him fully reformed.

SEC. 10. That whenever there shall be as large a number of boys in the school as can be properly accommodated, it shall be the duty of the president of the board of trustees to give notice to the criminal and police courts of the fact, whereupon no boys shall be sent to the school by the said courts until notice shall be given them by the president of the board that more can be received.

SEC. 11. That if any person shall entice or attempt to entice away from said school any boy legally committed to the same, or shall harbor, conceal, or aid in harboring or concealing, any boy who shall have escaped from said school, such person shall, upon conviction thereof, be deemed guilty of a misdemeanor, and shall pay a fine of not less than ten nor more than one hundred dollars, which shall be paid to the treasurer of the board of trustees; and any policeman shall have power, and it is hereby made his duty, to arrest any boy, when in his power so to do, who shall have escaped from said school, and return him thereto.

SEC. 12. That the trustees shall have full power to place any boy, committed as herein described during his minority, at such employment, and cause him to be instructed in such branches of useful knowledge, as may be suitable to his years and capacity, as they may see fit; and they may, with the consent of any such boy, bind him out as an apprentice during his minority, or for a shorter period, to learn such trade and employment as in their judgment will tend to his future benefit; and the president of the board shall, for such purpose, have power to execute and deliver, on behalf of the said board, indentures of apprenticeship for any such boy; and such indentures shall have the same force and effect as other indentures of apprenticeship under the laws of the District of Columbia, and be filed and kept among the records in the office of the Reform School; and it shall not be necessary to record or file them elsewhere.

SEC. 13. That for the support of the boys sent to the Reform School, as hereinbefore mentioned, the District of Columbia shall pay to the board of trustees $2 for each boy per week; and it shall be the duty of the superintendent to make out and render to the proper officers monthly accounts at the close of each month for the support of the boys in said school, which shall be paid on demand; and, if not paid within ten days from the time the account is presented, shall draw interest at the rate of 1 per cent. per month until paid.

SEC. 14. That all contracts and purchases made for or on account of the institution shall be made in the name of the board and by whomsoever the board may direct. The president of the board shall be its executive officer, and it shall be his duty to make an annual report to the Attorney-General, to be accompanied by the annual report of the superintendent and treasurer.

SEC. 15. That the board of trustees may make such by-laws, rules, and regulations for their own and the government of the institution, its officers, employés, and inmates, as they may deem necessary and proper.

SEC. 16. That two consulting trustees shall be appointed, namely, one Senator of the United States, by the presiding officer of the Senate, for the term of four years, and one member of the House of Representatives, by the Speaker thereof, for the term of two years.

SEC. 17. That all acts and parts of acts incompatible with this act are hereby repealed.

Mr. DUNNELL. I wish to offer an amendment to the bill. I move to strike out in lines 6 and 7 of section 1 the words "upon the nomination of the Attorney-General." I can hardly see the necessity of giving the President the appointing power and then obliging him to accept the nominations of the Attorney-General. This bill does not require the Attorney-General to recommend, but does require the President to appoint upon the nomination of the Attorney-General. That seems to me unusual and a little out of order.

Mr. ANDERSON. I will say to the gentlemen from Minnesota that the law now in existence provides that these appointments shall be made upon the recommendation of the board of commissioners and the Attorney-General. It was simply for the purpose of simplifying these nominations that the recommendation is proposed to be placed in the hands of the Attorney-General, instead of the Attorney-General and the board of commissioners.

Mr. DUNNELL. I think my amendment is a very proper one.

The amendment was not agreed to.

Mr. DUNNELL. Then I move to strike out the word "nomination" and insert in lieu thereof the word "recommendation," so that it will read, "who shall be appointed by the President upon the recommendation of the Attorney-General."

Mr. ANDERSON. I have no objection to that.

The amendment was agreed to.

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

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

The latter motion was agreed to.

MARKET-HOUSE ON SQUARE 446, WASHINGTON, DISTRICT OF COLUMBIA.

Mr. NEAL. I am instructed by the Committee for the District of Columbia to report back, with amendments and to recommend its passage, the bill (H. R. No. 2157) to provide for building a market-house on square 446 in the city of Washington, District of Columbia.

The bill was read, as follows:

*Be it enacted, &c.*, That the commissioners of the District of Columbia be, and they are hereby, authorized and directed, within thirty days after the passage of this act, to cause to be prepared plans and specifications for a market-house building, to be constructed of suitable materials to make a substantial, durable structure, on that part of square No. 446 purchased from W. W. Corcoran, esq., for market purposes, in the city of Washington, in said District, fronting on Seventh street, extending from O street to P street, and of sufficient width to contain two hundred market-stalls not less than nine feet in length, with ample space for the use thereof for market purposes, together with proper sewerage, water-closets, water and gas pipes. The ground-plan shall show distinctly the location and size of each stall to be placed in said building, the width of passage-ways between said stalls; and each stall shall be numbered, and the number thereof shall be marked thereon on said ground-plan.

SEC. 2. That, upon the completion of said plans and specifications, the commissioners shall fix the rent per annum that will be charged for each stall, which rent shall be payable in equal monthly installments in advance; but said rent shall not exceed an average of $5 per month per stall; and the commissioners shall cause the amount of rent so fixed for each stall to be placed thereon on said ground-plan.

SEC. 3. That, immediately after the completion of said ground-plan in the manner aforesaid, the commissioners shall give notice by publication in a daily newspaper printed and published and of general circulation in the city of Washington, for six consecutive days, that said plan is subject to examination in the office of said commissioners, and that on a day to be named in said notice, not more than thirty days from the date of the first publication, they will proceed to sell at public auction, on said square, between the hours of one o'clock and four o'clock in the afternoon, the said stalls, as numbered on said plan, to the highest responsible bidder, subject to the rent fixed thereon, one-tenth of the purchase money to be paid in cash and the remainder in nine equal annual installments, bearing 8 per cent. per annum interest, payable semi-annually from and after the date of the completion of said building, as hereinafter provided for, and that said sale will be continued from day to day thereafter until all of said stalls are sold: *Provided*, That it shall not be obligatory upon said commissioners to continue such sales after a sufficient number have been sold to make the aggregate amount of purchase-money the sum of $100,000; but any remaining unsold may be afterward sold by said commissioners at such time and upon such notice as they may deem advisable.

SEC. 4. That, on the day fixed in said notice, and from day to day thereafter if necessary, said commissioners shall proceed to sell said stalls at public auction to the highest responsible bidder, on said square, according to said ground-plan, upon the terms mentioned in this act, and subject to the rents hereinbefore provided for; and, if the sales shall aggregate the sum of $100,000, they shall, upon the payment of the first installment of purchase-money as hereinbefore provided for, and the execution by the purchasers respectively of an obligation or obligations in such form as said commissioners shall prescribe, indorsed or otherwise secured to the satisfaction of said commissioners, for the payment of the residue in the installments, and bearing the interest in the preceding section specified, execute to the purchasers respectively a certificate of such purchase, and shall make a record thereof; which certificate shall be deemed to vest in such purchaser the right to the use of the stall so purchased in perpetuity, subject to the payment of the rents aforesaid, and subject to such rules and regulations as may be from time to time established by said commissioners for the government of the market in said building, which said right to the use may be conveyed in the same manner, and shall be subject to the same rules of descent as real estate in said District; and, if any purchaser shall fail to comply with the terms of such sale, said commissioners shall, without unnecessary delay and upon such notice as they may deem proper, again offer for sale the stall or stalls as to which the purchaser or purchasers have failed to comply with his or their purchase or purchases. In addition to the other security hereinbefore provided for, the deferred payments aforesaid shall be a lien upon the stalls respectively, which shall be enforced in the manner hereinafter provided; and said lien shall inure to the benefit of the holder or holders of such obligation or obligations, and shall be enforced in favor of such holder or holders in the manner aforesaid.

SEC. 5. That, if sales of stalls shall be made amounting in the aggregate to the sum of $100,000, and the first payment shall be made, and the obligations shall be executed as hereinbefore provided for, then it shall be the duty of said commissioners to proceed forthwith in the erection of said market-building with the stalls aforesaid, according to the said plans and specifications; and, for this purpose, they are hereby authorized and directed to enter into such contract or contracts as they may deem advisable; but the entire cost of said building, including the stalls, shall not exceed the sum of $100,000; and said building and stalls shall be fully completed on or before the 1st day of October, A. D. 1876: *Provided*, That they shall not proceed with the erection of such building unless they can, by the negotiation of said obligations without recourse, together with the cash payments aforesaid, provide sufficient means to pay for the same.

SEC. 6. That, upon the completion of said building and stalls, the purchasers of said stalls respectively shall be, and they are hereby, authorized to take possession thereof, and to occupy and use the same for market purposes, upon the terms and conditions in this act set forth; and upon any failure, for the period of ten days after the same shall become due, to pay any installment of rent by any owner or lessee of any stall, or in default of the payment of any installment of purchase-money, or of the interest thereon when the same shall become due, such stall and the right to the use thereof may, at the option of the commissioners, be declared to be forfeited, which declaration of forfeiture shall be made a matter of record in the office of said commissioners, and a copy thereof shall be served upon the owner or upon the occupant of such stall; and thereupon, after five days' notice in a daily newspaper printed and published and of general circulation in said city, and upon such terms as they may deem most advantageous to the public interests, said commissioners shall sell said stall at public auction, on the premises, to the highest and best bidder, and the purchaser thereof shall take by his said purchase the same estate therein as was held by the original purchaser; but the sale of such stall on account of any default, as aforesaid, shall not discharge the indebtedness on account of which the same was sold, excepting to the extent of the purchase-money derived from such sale, after deducting the costs thereof; any excess of indebtedness over the amount of the purchase-money, after the deduction of costs, shall be subject to be collected as other indebtedness is collected; and in case the purchase-money yielded by such sale shall exceed the liens thereon, whether due or not due, rents and costs, there shall be paid to the defaulting owner the amount of purchase-money actually paid by him, but no more, if such excess shall be sufficient therefor. If for any cause said building shall not be erected, then the cash payment hereinbefore provided for shall be refunded to the party paying the same, his executors, administrators, or assigns.

SEC. 7. That said stalls shall not be liable to any tax other than the rent hereinbefore provided for.

SEC. 8. That, in the event that there shall be a change in the form of government in said District, then the powers conferred upon, and the duties to be discharged by, said commissioners under this act shall devolve upon and be exercised and discharged by the officer or officers having executive authority in said District.

The amendments reported by the committee were as follows:

In section 5 strike out "October" and insert "January;" also strike out "1876" and insert "1877;" also add to the section the following:

*And provided further*, That said commissioners are hereby authorized to settle for work already done and materials used in the construction of the foundation of the walls already constructed for a market-building on such square, and payment therefor shall be made out of the first proceeds of said sales according to such settlement.

Also strike out section 7 of the bill.

The question was upon the amendments reported from the committee.

Mr. RANDALL. I move, as a substitute for the entire bill, the joint resolution which I send to the Clerk's desk.

The Clerk read the joint resolution, as follows:

Joint resolution authorizing the commissioners of the District of Columbia to sell and dispose of, for school or other purposes, the square located in the city of Washington and known as No. 446.

*Resolved by the Senate and House of Representatives, &c.*, That the commissioners of the District of Columbia be, and they are hereby, authorized and directed, in conformity with the terms and conditions set forth in their report of December 1, 1876, to sell and dispose of, for school or other purposes, the square located in the city of Washington and known on the plat of said city as No. 446.

Mr. NEAL. I believe that I had the floor, and I did not yield to the gentleman.

Mr. RANDALL. The gentleman did not call the previous question, and I move this joint resolution as a substitute for the bill.

Mr. NEAL. I was on the floor.

Mr. RANDALL. The Chair recognized me to offer that as a substitute. The gentleman failed to call the previous question.

Mr. NEAL. No; we do not want any gag on this bill.

The SPEAKER *pro tempore*, (Mr. SAYLER.) The previous question not having been called, the amendment of the gentleman from Pennsylvania [Mr. RANDALL] is in order.

Mr. RANDALL. In connection with that amendment I ask the Clerk to read a protest, which will speak for itself, against the passage of the original bill.

Mr. NEAL. Let the amendments of the committee be acted upon, in order to perfect the original bill.

Mr. RANDALL. We had better meet the matter right here.

Mr. NEAL. Very well.

The Clerk read as follows:

Protest of the Market-Dealers' Mutual Protective Association against the favorable consideration by Congress of the bill authorizing the erection of what is known as the Corcoran market-house.

The undersigned, executive committee of the Market-Dealers' Mutual Protective Association, in the name and on behalf of the organization which they have the honor to represent, beg leave respectfully to present to the honorable the Senate and House of Representatives this their protest against the favorable consideration by Congress of the bill authorizing the erection of what is known as the Corcoran market-house; and they beg leave further to embody herein certain statements of fact in connection therewith which will clearly establish, as they believe, the great injustice the bill in question must necessarily do them and the large interests they represent should it receive the sanction of your honorable bodies.

Your protestants desire to set forth that in 1872 they occupied what was called the Northern Liberty market-house, at the intersection of New York and Massachusetts avenues with K, Seventh, and Eighth streets; that by a wanton and reckless usurpation of authority on the part of the then board of public works, and at the instance (as is believed) of the Center Market Company, whose influence was paramount with said board, the Northern Liberty market-house was suddenly and without notice torn down and your protestants turned into the streets; that in this emergency they were compelled for the time being to re-establish their business in temporary sheds, and therein remained until through an organized effort they were enabled to secure an eligible lot and erect thereon, at great expense to themselves, the present imposing and magnificent market-house corner of K and Fifth streets.

That they were compelled to rely solely on their individual efforts to accomplish this, because of the repeated refusal of Governor Shepherd and the board of public works to entertain any proposition from them for aid in that behalf, said refusal being accompanied with the declaration that under no circumstances would the government of the District lend its aid in support of erecting market-houses. That, as a consequence of this refusal, your protestants organized what is known as the Northern Liberty Market Company, with a capital of $250,000, and erected the commodious and substantial building above mentioned, investing therein all their means, and hoping through the business accruing to them to retrieve the losses sustained through the wanton acts of the board of public works, instigated by and done in the interest of a rival company.

That the Corcoran market-house is not required to meet any immediate or probable future want of the public, nor is its erection sought for or intended to subserve any public interest; a fact which is abundantly shown in its being located but three squares from the building devoted to the same purposes on the corner of K and Fifth streets.

That its erection is urged solely in the interest of the O Street Railroad Company and the property-holders in the immediate vicinity of the square selected as its site; and to advance the interests of this small *coterie*, your honorable bodies are asked wholly to disregard and sacrifice those of a large number of your fellow-citizens whom the action of a corrupt board of public works and the preservation of their business, not choice, compelled to place their means in the jeopardy threatened by the bill against which protest is here entered.

That the erection of the Corcoran market-house is not urged by any considerable number of people who are to be benefited through its supplying a want now felt or likely to be pressing. And while there might be some claim presented on the ground of necessity for the erection of such building at some point on Fourteenth street or contiguous thereto, there can be none urged in support of one at the point named in the bill as the site of the Corcoran market-house.

Having been driven from their former places of business through the machinations and jealousy of a rival company, working through a venal and corrupt board of public works, and having been compelled through the same influence, working through the same channel, to erect out of their own means their present beautiful and complete market-house; and having at large additional expense taken long leases of the stalls therein; and having, under so many disadvantages, once more established themselves in successful business, your protestants respectfully urge that it would be in the highest degree unjust for your honorable bodies, through such legislation as is threatened, again to destroy their prosperity and turn to naught the constant, persistent, and honorable labor of years; especially so when no public want is to be met and no public good subserved thereby.

Your protestants respectfully urge that the large outlay to which they have been driven in erecting their present market-house, its convenience of access, and their unquestioned ability to meet all the demands of their immediate section of the city in respect of marketing facilities, together with the present and future interests they have at stake in the matter, are entitled to greater consideration than the wishes of those who seek their own aggrandizement rather than the public good.

In view of the facts stated, your protestants respectfully beg that your honorable bodies will take no action on the bill in question that will necessarily jeopardize or destroy their interests.

And they will ever pray, &c.

Mr. NEAL. By whom is that signed?

Mr. RANDALL. By Mr. Kelley, a butcher and a respectable citizen.

Mr. NEAL. From where does it purport to come?

Mr. RANDALL. From the Northern Liberty Market Company, three squares off.

Mr. NEAL. That is all we want to know.

Mr. RANDALL. A market-house built by private enterprise upon their own lot.

The SPEAKER *pro tempore*. The first question is upon the amendments reported by the Committee for the District of Columbia.

Mr. NEAL In the section of the country from which I come the democratic party has been generally recognized as the party of the people, organized in the interests of the people, and against monopolies of all kinds whatsoever. But to-day we have the strange spectacle of the great leader of that party upon the floor of this House stepping forward as the advocate of a monopoly and a corporation against the interests of the people of this city and of the District. I am amazed that such should be the action of the leader of the democratic party of this House.

Mr. RANDALL. You will not be so amazed when you hear my statement.

Mr. NEAL. What are the facts? The bill now reported to this House with the unanimous recommendation of the Committee for the District of Columbia provides for the erection of a market-house upon square 446 in this city, in such a way, as I think I shall be able to show, as will not cost the Government of the United States or the government of the District of Columbia one dollar.

If the House will give me their attention for a short time, I shall endeavor, in as plain and concise a manner as I can, to explain the provisions of this bill. By the first section the commissioners of this District are authorized and required, within thirty days after the passage of this bill, to cause to be prepared plans and specifications for a market-house building, to be constructed of suitable materials upon the square named, situated between Sixth and Seventh and O and P streets, in this city. The plan for the building is to contain two hundred stalls of specified dimensions, and the ground plan shall distinctly show the location and size of each stall, and the number of each shall be marked upon the ground plan. After this has been done, the commissioners are further required to fix a rent per annum that shall be charged for each stall, which shall not exceed an average of $5 per month, or $60 per year.

Then, as the next step, after this shall have been done, the commissioners are authorized and directed to advertise in some daily newspaper printed within this city, of general circulation, the fact that the plan is subject to examination in the office of said commissioners; and after thirty days' publication they are required to proceed to sell at public auction upon the square, between the hours of one and four o'clock in the afternoon, the stalls numbered on the plan to the highest responsible bidder, subject, however, to the rental which shall have been placed upon them by the commissioners as required by the preceding section. One-tenth of the purchase-money is to be paid cash in hand and the remaining nine-tenths in nine equal annual installments, which shall bear interest at the rate of 8 per cent. per annum, payable semi-annually, to be secured in such manner as shall be satisfactory to the commissioners, they at the same time retaining a lien upon the stall so sold as a further security.

When the commissioners shall have sold in this manner stalls that will aggregate in amount $100,000, they are authorized to dispose of the notes and bonds which they may have taken for the deferred payments, without recourse upon the District government in any way whatever; and, after they shall in this way have secured and had paid into their hands the sum of $100,000, they are authorized to advertise for the letting of the contracts and the erection of the building, but not (mark you) until they have in their hands every dollar that shall be required to commence and complete the erection of the market-house.

Right here I will state that under a previous law the Legislative Assembly of this District contracted for the erection of a market-house upon this identical square; work was commenced; and to-day, by reason of a failure of the commissioners of the District to comply with the terms of their contract, the contractor holds a just and valid claim against the District authorities for the sum of $6,000 or $8,000 for work actually done. This bill provides that the commissioners shall rid themselves of this claim against the District authorities by settling with this contractor for the work actually done and which will be utilized in the erection of this building. The contractor is to be paid the amount allowed him upon such settlement out of the first proceeds realized from the sale of these stalls.

So that it will be seen that under the terms of this bill, carefully guarded in every particular, not one dollar of public money can be expended in the erection of this building. On the contrary, an examination of the facts will prove to the satisfaction of any one that money will be actually saved to the people of this District. The property upon which the market-house is proposed to be erected was purchased for the purpose for which we now propose it shall be used so far back as 1872, for the amount of $100,000, payable twenty years after date, with interest at the rate of 7 per cent. per annum; and from that time to this the authorities of the District have been required to pay this $7,000 per annum as interest upon that obligation which is still outstanding and unsatisfied, while by the terms of this bill, if it shall become law and its provisions be fully and completely executed, $12,000 will be realized every year as rent from the several stalls, two hundred in number, in the market-house, thus enabling the authorities of the District to meet, as it shall fall due from time to time, the $7,000 interest, and in addition to this to accumulate gradually a sinking fund in their treasury for the final payment of the principal when it shall become due. The sum of $5,000 will be collected by them every year, and put into their treasury as a sinking fund to meet the principal of this indebtedness at its maturity, as was contemplated by the acts of the Legislative Assembly under which the market-house was first proposed to be erected.

I maintain, Mr. Speaker, that those who constitute this monopoly, this corporation, which stands here alone to-day in opposition to the passage of this bill, have no rights upon which we need have any fear that we shall trespass. They have no merits whatever in the claim which they assert here in that protest. So far from this, whatever they have done in the premises has been done with full knowledge of all the facts which I have stated, and others to which I shall now direct your attention.

So far back as August 23, 1871, the first Legislature Assembly of this District passed a bill authorizing and requiring the committees on markets of the two houses of the Assembly to select, subject to the approval of the governor, sites for market-houses in the northern and western sections of the city, and the governor was authorized and directed to purchase the same upon the most reasonable terms. I repeat (for I desire to impress it upon your minds) that herein this act, so far back as 1871, we find a provision authorizing the purchase of the site for this northern market.

Subsequently to this, on the 19th of June, 1872, the governor of the District was authorized and instructed to purchase this identical property, square 446, of Mr. W. W. Corcoran on the liberal and munificent terms proposed by him, as the act itself states. So that more than three years ago this square was purchased for the purpose of erecting thereon this market-house. Appropriations were made, bonds of the District government were authorized to be issued, the contract for the building of a portion of this market-house was actually entered into, and the work commenced. It failed only because of the failure of the governor of the District to negotiate the bonds of the District in accordance with the terms of the act. But from that day to this there have been from one hundred and fifty to two hundred butchers and market-dealers occupying temporary sheds upon this identical ground; men who were driven out of the old Northern Liberty Market, which had been torn down by the action of the board of public works; who were promised in lieu of that market the erection of this structure upon the site named in this bill, and who by the terms of the acts of the Legislative Assembly which had appropriated $2,000 for the purpose of constructing these temporary sheds were authorized to enter and occupy them, free of charge, until the expiration of the leases which they held from the District government for the occupation of stalls in the Northern Liberty market. From that day to this these parties, from one hundred and fifty to two hundred of them, have been carrying on a market upon this identical square in temporary structures, which are insufficient at times to protect them from the weather.

Now, after all this had been done, after these acts had been passed, after this property had been purchased and a contract for the erection of this market-house entered into and partly consummated, this monopoly, this corporation which is here to-day protesting against the passage of this bill, as late as February 23, 1874, organized under the general law for the organization of incorporated companies in this District, and commenced the erection of their market-house which they complain we are now about to interfere with to the detriment of their rights and privileges.

So you will see these gentlemen have no equities in this case. The position they occupy to-day is one of their own voluntary selection, one into which they entered with the full knowledge of the fact that the District authorities had passed a law providing for the purchase of this property and for the erection of this market-house, and if they suffer in the slightest degree by the erection of this structure as now proposed, the fault will rest with themselves. Whatever injury or damage they may sustain will accrue to them through their own negligence in the premises.

And the simple question for us now to determine is whether we, in order to foster and build up this monopoly, shall say to these gentlemen who have incorporated this company that they shall have the exclusive right and privilege of furnishing all the citizens of the northern portion of this city with their provisions, with their meats and vegetables, or whether we shall permit other citizens who are engaged in like business to compete with them.

I maintain still further, Mr. Speaker, that to erect this market-house is nothing more or less than the part of good faith to the butchers and market-men who are in possession of the temporary sheds on this square 446; that it is no less than good faith to the citizens of that section of this city. I maintain furthermore that good faith to Mr. Corcoran, who sold these premises to the District government for the purpose of erecting a market-house thereon, requires this thing should be done. It is evident from the very language of the act under which the purchase was made that Mr. Corcoran had disposed of the property to the District for that purpose at something less than its true value. The act itself declares that the Government was authorized to purchase it on the munificent and liberal terms proposed by Mr. Corcoran. And to-day Mr. Corcoran, in a letter which I hold in my hand dated December 30, 1875, states, first, that square 446 was sold by him to the District of Columbia for a market-place; and, second, that he desired and expected that square would be devoted to the purpose for which it was sold. It was expected at the time it was to be used for the erection of a market-house. So, while there may be no legal obligation on the part of the District so far as the rights of Mr. Corcoran are concerned, I maintain we will be guilty of bad faith to him if we now, as proposed by the gentleman from Pennsylvania, [Mr. RANDALL,] pass a bill or joint resolution providing for the sale of this property and its use for any other purpose than that originally proposed.

Now, sir, if the gentlemen who are opposed to the passage of this bill can show that by any possibility one dollar can be taken from the Treasury of the United States or from the District government, to be used in the erection of this market-house, then we as members of the committee are perfectly willing an amendment shall be made to prevent any such thing, although we believe that no such liability can now by any possibility be incurred either by the Government or by the District.

As appears from the argument of those interested in this monopoly, which has been laid upon the table of every member this afternoon, this identical property, this square 446, with all the disadvantages under which it has labored, with only these temporary sheds erected thereon, paid during the last year into the Treasury of this District government more than one-half of all the revenues derived from the market-houses of this city. Three thousand seven hundred and fifty-four dollars out of $6,195 were paid by the occupants of the temporary sheds on this property—more than the four other market-houses combined. If there be anything wanting to show the necessity for the erection of this market-house, I think we find it in the very fact that one hundred and fifty or two hundred market-men and butchers in this city have been content under all these disadvantages to occupy these temporary sheds, and have been able to thrive and prosper in business there so as to pay into the District government treasury more revenue than all the other market-houses of the District combined.

Mr. RANDALL. Mr. Speaker, the petition which I presented came from parties in interest in another market-house, but the amendment which I offered, it seems to me, is right irrespective of any interest of those petitioners. This, in fact, to my mind, is the promotion of a private enterprise at the public expense. I have no earthly objection, if persons can be found who will contribute and subscribe money, if they think it a profitable investment to build all the market-houses which they may deem to be necessary in this city; but I do distinctly object to giving away the District property to individuals for the purpose of erecting market-houses when I consider additional market facilities are not required. Indeed, sir, our experience in connection with the giving away of public land for the purpose of erecting a market-house is very much against the repetition of any such action on the part of Congress. All will remember the controversies which sprang out of the grant of land at the corner of Seventh and Pennsylvania avenue to private individuals upon which to erect a market-house. It immediately produced a collision between the market company and the owners of the stalls by reason of extravagant rates of rental, which, in fact, came out of the pockets of those who purchased the beef and the products in that market. So the other market, by the act of the board of public works, having been torn down and these market people having been sent off, they were forced into this market, but subsequently went up and bought a lot there with their own money and as a private enterprise erected a market building.

Now, if my amendment shall be adopted and the property shall be sold, I have no earthly objection that these gentlemen, if they so desire, shall go there and purchase this lot, and put their market-house on it at their own expense. But I am unwilling to give the public property of this District to any private person for any purpose whatever; and least of all when it comes in competition with the citizens who in good faith have erected at their own expense another market-house within three squares off.

And just let me say here that in passing this lot from Mr. Corcoran to the District there was no condition whatever in that sale. In regard to the necessity for this market, I want to show what is the fact, as I am informed, that stalls in the new market, the Northern Liberty market, have not been rented, and are not now entirely rented, proving that there is actually no necessity for another market up there.

If you will examine this bill, which I have only read to-day for the first time, you will find that the certificate of the purchase of a stall—

> Shall be deemed to vest in such purchaser the right to the use of the stall so purchased in perpetuity.

And if you will read further on you will find it provided by the seventh section of this bill—

> That said stalls shall not be liable to any tax other than the rent hereinbefore provided for.

Mr. NEAL. The committee have reported an amendment to strike out that section.

Mr. RANDALL. I am glad that they have come to their senses in that respect.

Mr. NEAL. I believe they are as much in their senses as the gentleman ever was in his.

Mr. RANDALL. If my substitute be adopted, as I have said, and these people come in and buy that lot as any other people might do, I have no objection to their doing so; and I have no objection to there being as many markets as private enterprise and private money will build. But I am utterly unwilling to take the public lands of the District for such a purpose when I believe that a market there is unnecessary. I ask the previous question on the amendment.

Mr. HENDEE rose.

The SPEAKER *pro tempore*, (Mr. BLACKBURN.) The Chair understands that if the previous question be ordered on the amendment it will not be exhausted with the amendment.

Mr. RANDALL. In calling the previous question on the substitute I do not want to interfere with the consideration of the bill if the substitute should be voted down. I want that the bill shall be treated with all fairness. I only ask the previous question on my substitute, and I call for the reading of the substitute again.

The substitute was again read.

The SPEAKER *pro tempore*. Does the gentleman from Pennsylvania yield to the gentleman from Vermont, [Mr. HENDEE?]

Mr. HENDEE. It strikes me that the gentleman from Pennsylvania would be acting quite unfairly if he insisted on the previous question now.

Mr. RANDALL. I only want the previous question on my substitute. But if the gentleman wishes to speak now and will agree to renew the call for the previous question after he has spoken, I will withdraw it for the present.

Mr. HENDEE. I suppose it would be quite fair——

Mr. RANDALL. That is what I intend to be.

Mr. HENDEE. I suppose it would be quite fair, as the gentleman who offers the amendment has made the only remarks upon it, that I should now be heard. As a matter of course when I shall have spoken I will put the gentleman in the same position he occupies now.

Mr. RANDALL. The acting chairman of the committee who reported the bill discussed it for a great length of time.

Mr. HENDEE. As a member of the committee I think I am entitled to make a few remarks. I did not intend to say anything upon this bill when it was reported by the acting chairman of the committee. But, inasmuch as it has created a little discussion and as I have some knowledge of the facts, perhaps it is proper that I should make a statement to the House and give briefly my views upon the proprieties of the passage of the bill. Several years ago, I think some four or five years ago, the city government purchased of Mr. Corcoran square No. 446, situated between O and P streets, in the northwest part of the city. It was understood at the time, and the agreement was made in perfect good faith between the purchasers and Mr. Corcoran the grantor, that the purchase was made for the purpose, and the sole purpose, of constructing a market upon the square. Now what has been the result? A great many people in the District of Columbia, poor people as well, perhaps, as people of means, in view of the fact that it had been agreed that a market should be built on that square, have purchased in different sections about that market-place property. They have built it up at great expense; they have made this a valuable part of the city; and they have done it almost solely upon the ground that Mr. Corcoran had virtually donated that ground for market purposes.

But now, the gentleman from Pennsylvania [Mr. RANDALL] says it would be unjust to the people who now occupy the Northern Liberty Market to allow another one to be built within the limits he has named, only three or four squares off. But I think the injustice is not to the parties who are occupying the Northern Liberty Market, but directly to the parties who have purchased the property about square 446, improved that property, and made it valuable to themselves on the ground that they were to have a market in their immediate vicinity. There is where I think the injustice applies if you refuse to pass this bill. The gentleman desires to sell the lot. Now, this bill virtually is a sale of the lot, and it is a sale of the lot to the parties who shall build stalls or purchase stalls upon the ground, as provided in this bill. The bill provides that neither the District government nor the United States Government either shall pay one dollar toward the construction of this market building. We are already as a Government, standing behind the District of Columbia, indebted to certain parties for making improvements on this square for market purposes; the foundation-walls have already been constructed at an expense of about $8,000; that $8,000 has never been paid. To-day the party who did that work has a claim, and it is a good claim, against the Government. This bill provides that whoever builds the market shall pay that $8,000, and relieve the District from the payment of it. Further, the bill provides that a certain rental shall be paid, and that rental will amount to $12,000, or thereabouts, annually. Now, annually we are paying to Mr. Corcoran the sum of $7,000 interest on the purchase-money for this square. This bill provides that that interest shall be paid out of the rentals. There is $7,000 annually saved to the Government of the United States, and it seems to me that is an item worth considering, and I believe further that under the provisions of this bill we should realize also a revenue of $5,000 a year, which in twenty years would pay the principal which we owe Mr. Corcoran for the site. This, sir, is a simple sale of that property, for just what it cost the Government, or the District government, as I look at it, to the parties who propose to build the market; and while we sell the land, as proposed by the gentleman from Pennsylvania, though not for the purposes proposed in his substitute, we relieve ourselves of a debt now existing of $7,000 annually, and also of $8,000 which we owe for constructing the market, so far as it has been constructed.

Now, during the last Congress over three thousand persons, if I remember the number right, petitioned that Congress to allow to be built on that square a market for their accommodation, just in accordance with the original agreement. Now I think that we should stand here in defense of the rights of those three thousand petitioners rather than the rights of that private institution known as the Northern Liberty market, which bought its property with its own money and stands on its own rights and is legitimately competing for the trade in this city.

Again, Mr. Speaker, what is to prevent the present owners of the Northern Liberty market from selling out to-day? Nothing in the world. If they can make money by it and make a good investment or profit by selling it for any other purpose, they have a right so to do. There is no law of Congress, neither can we pass one, which will prevent them from doing this, and then of course the whole northern part of the city would be without market accommodations.

This market is to be built under the regulations prescribed in this bill and must always be kept and used as a market, and a market for the benefit of the people living in that section of this city.

Now, sir, let me say a little more. All the persons who stand upon that square to-day, and there are about one hundred and twenty-five of them, together with the market-men who are in what is now known as the Northern Liberty market on K street, were formerly doing business in what was known as the Northern Liberty market on Seventh street and Massachusetts avenue, which was destroyed under the orders of Governor Shepherd. After its destruction they moved on to this square 446, known as Corcoran square. It is not a large square, and the gentlemen who were on that square and had money spent it in purchasing the Savage property and built the new Northern Liberty market; those who had no money were compelled to stay under the old sheds, and they are there to-day, doing a large amount of business and accommodating thousands of people in this city. There are now from one hundred and twenty-five to one hundred and fifty men who are occupying that square, and they only ask of the United States that they may from their own pockets, not from yours, not from mine, not from the Treasury of the United States or the District treasury, but from their own pockets, build a shelter which will properly protect them, and put them in a position to sell the people of this city good healthy meat and the vegetable products of the country. This is all they ask; simply the privilege with their own money to build themselves a market; and it seems to me that it would be great injustice on the part of the House to deny these people that privilege.

Mr. Speaker, I desire to say further that this matter was before the Committee for the District of Columbia in the last Congress, and was considered favorably. It has been before the committee this session, and arguments have been heard day in and day out for at least six weeks in regard to this market, and the committee are unanimous, as I understand it, in favor of the passage of this bill. We found only one voice from this entire District opposed to the construction of this market, and that is the voice of men who are afraid of competition. Now, I say that competition is the life of business. I say that anything which prevents competition is contrary, to say the least, to your boasted democratic doctrine. I say give every person in the District who has the money the power to improve it with fine structures if they will, and we ought not to deny these gentlemen this opportunity.

I now yield the floor for a moment to the gentleman from Virginia, [Mr. HARRIS.]

Mr. RANDALL. The gentleman from Vermont agreed to call the previous question at the close of his remarks, but I have no objection to his yielding to the gentleman from Virginia.

Mr. HARRIS, of Virginia. I know this bill and its effect only from the reading of it and of the amendment offered by the gentleman from Pennsylvania, [Mr. RANDALL.] I know nothing of the parties interested in it, either personally or otherwise. But I think if the House will look for a moment at the two propositions now presented to them, it cannot hesitate to reject the substitute offered by the gentleman from Pennsylvania for the whole bill.

What is the purpose of the bill reported from the Committee for the District of Columbia? It is to divide this lot of ground, known as square No. 446, into two hundred lots, to be shown by a ground-plan. These two hundred lots are to be put up for sale, subject to a ground-rent, which ground-rent is to be previously fixed by the board of commissioners. Each purchaser of a lot buys it in fee-simple, subject only to the ground-rent so fixed for the use of the property, and having bought it in fee-simple, of course it is in perpetuity. Here will be two hundred small lots, open to purchase by any poor man who desires to engage in the business of marketing. Any poor man in the city or in the country can come in and purchase one of these small lots. But if you put it up for sale in gross, as proposed by the substitute of the gentleman from Pennsylvania, this property which cost the city of Washington $100,000, who can compete for its purchase? No one but moneyed men and capitalists. Then where lies the interest of the District of Columbia, to whom this land belongs—not to the United States Government, as would seem to be the impression conveyed by the argument of the gentleman from Pennsylvania, who says he is opposed to taking public property for private use. This is not taking public property for private use, but it is exposing to sale public property belonging to the District government, whose guardians we are.

Mr. RANDALL. How do you propose to sell this land?

Mr. HARRIS, of Virginia. The bill provides——

Mr. RANDALL. You propose to give it away.

Mr. HARRIS, of Virginia. That shows that my friend has not read the bill even once.

Mr. RANDALL. I have read it.

Mr. HARRIS, of Virginia. Then you did not understand it; I will give you the benefit of that excuse. This bill provides that this land shall be divided into two hundred lots, to be shown upon a ground-plan to be drawn by an architect and shown to the public by the commissioners. Before they are to be exposed for sale they are to be numbered and made subject to a ground-rent not to exceed $5 per month, so that any purchaser, when he goes to buy, will know how much ground-rent he will have to pay. It is to be offered at public sale, lot by lot, until all the lots are disposed of. The two hundred lots are to be sold in fee-simple, subject to a ground-rent to be fixed in advance by the commissioners, so that no man shall be taken by surprise and each man will know when he buys what he is buying. That is a fair sale, at public auction, with due competition, open to poor men, men of moderate means. But the gentleman proposes to sell it in a lump "for school or other purposes."

Mr. SAVAGE. Will the gentleman yield to me a moment to ask a question for information?

Mr. HARRIS, of Virginia. Certainly.

Mr. SAVAGE. Is the money for which these two hundred lots are to be sold to be paid into the District treasury or to be used for the erection of a market building?

Mr. HARRIS, of Virginia. The first $100,000 is to be used for the erection of a building, and if there is a surplus after that, it will belong to the District of Columbia.

Mr. SAVAGE. Does the bill so provide?

Mr. HARRIS, of Virginia. And to be used to pay off the debt now resting on the property, and on which an annual interest of $7,000 has to be paid by the District government. Now, which proposition presents the better chance to get a good price for this land? To sell it in gross, and open only to purchase by capitalists, or in small parcels, two hundred or more lots, by which means poor men can come in and compete for the lots, and the people of the District will be made good what they have paid for this land and fulfill the promise of Mr. Corcoran, who said when he sold this land that it was for a market-house?

I regard not those who have bought lots in expectation, or who have put up a market-house on their own hook, for they knew this land had been bought for a market-house, and that a market-house was to be built on it, unless by the connivance of those in charge, who had no right to make such a pledge, they were assured there would be no market-house built there.

I think the substitute should be voted down for its ambiguity, if for nothing else. It says that this lot, No. 446, shall be exposed to public sale and in the lump "for school or other purposes." If it is to be for school purposes, then say so; if not, then strike out "for school or other purposes," and say for public sale and to the highest bidder, which of course will include only Mr. Corcoran and others of similar wealth.

According to promise, I now call the previous question on the substitute for the bill.

Mr. NEAL. I call the previous question on the bill and pending amendments.

The previous question was seconded and the main question ordered.

The amendments reported from the committee were agreed to.

The substitute moved by Mr. RANDALL was not agreed to, upon a division; ayes 17, noes not counted.

The question was upon ordering the bill, as amended, to be engrossed and read a third time.

Mr. SPRINGER. I move that the bill be laid upon the table.

The motion was not agreed to.

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

The question was upon the passage of the bill.

Mr. RANDALL. Upon that question I call for the yeas and nays.

The question was taken upon ordering the yeas and nays; and upon a division there were—ayes 22, noes 96.

So (one-fifth not voting in the affirmative) the yeas and nays were not ordered.

The bill was then passed.

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

The latter motion was agreed to.

### ORDER OF BUSINESS.

Mr. PAYNE. Mr. Speaker——

Mr. DURHAM. I move that the House now adjourn.

Mr. HOLMAN. I trust the gentleman from Kentucky [Mr. DURHAM] will withdraw his motion for a moment.

The queston being taken on the motion, there were—ayes 72, noes 47.

Mr. HOLMAN called for tellers.

Tellers were ordered; and Mr. HOLMAN and Mr. DURHAM were appointed.

Mr. HOLMAN. I trust the gentleman from Kentucky will withdraw his motion.

Several MEMBERS. Regular order!

Mr. DURHAM. I have no objection to withdrawing the motion to allow the gentleman from Virginia [Mr. TERRY] to make a report; but I will not withdraw it for any other purpose.

The SPEAKER *pro tempore*, (Mr. SAYLER.) Debate is not in order.

The House divided; and the tellers reported—ayes 88, noes 44.

Mr. COCHRANE. I call for the yeas and nays.

The yeas and nays were not ordered.

So the motion to adjourn was agreed to; and accordingly (at five o'clock and twenty minutes p. m.) the House adjourned.

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### PETITIONS, ETC.

The following memorials, petitions, and other papers were presented at the Clerk's desk under the rule, and referred as stated:

By Mr. ASHE: The petition of M. W. Alexander, for compensation as a route-agent on the Charlotte and Columbia Railroad, running between Charlotte, North Carolina, and Columbia, South Carolina, in the year 1865, to the Committee of Claims.

By Mr. BANNING: The petition of 26 steamboat-men and citizens of Cincinnati, Ohio, for amendments to existing steamboat laws, to the Committee on Commerce.

Also, a letter of Importers' and Grocers' Board of Trade of New York, in favor of the resumption of specie payments, to the Committee on Banking and Currency.

Also, the petition of distillers, rectifiers, and wholesale liquor-dealers of Cincinnati and Hamilton, Ohio; Covington, Lexington, and Louisville, Kentucky; Lawrenceburgh and Aurora, Indiana; and Peoria, Illinois, that Congress determine at an early day any proposed tax on whisky, and protesting against any change in the present plan of collecting the tax, to the Committee of Ways and Means.

Also, the petition of Frederick von Werder, for a pension, to the Committee on Invalid Pensions.

Also, remonstrance of Pfirman & Pface and 20 other distillers and rectifiers of Cincinnati, Ohio, against the passage of certain amendments to the revenue laws regarding the tax on spirits, to the Committee of Ways and Means.

By Mr. BURCHARD, of Wisconsin: Joint resolution of the Legislature of Wisconsin, relating to a consolidated centennial directory of the general and several State governments of the United States, to the Committee on the Centennial Celebration.

Also, joint resolution of the Legislature of Wisconsin, protesting against the construction of bridges across the Detroit River, to the Committee on Commerce.

By Mr. COCHRANE: The petition of citizens of Allegheny County, Pennsylvania, that the present duty on foreign coals may not be removed, to the Committee of Ways and Means.

By Mr. COX: The memorial of John Sheridan and 100 others, that Treasury notes be made receivable for all forms of taxes, duties, and debts, and interchangeable at the will of the holder with the interest-bearing bonds of the Government; also, that 25 per cent. of the present bank circulation be withdrawn annually until all is replaced by greenbacks, to the Committee on Banking and Currency.

Also, the petition of Mrs. Gordon Granger, for a pension, to the Committee on Invalid Pensions.

By Mr. FRYE: The petition of J. H. Buchanan, Henry Worsham, and citizens of Ripley, Mississippi, for a commission of inquiry concerning the alcoholic liquor traffic, to the Committee on the Judiciary.

Also, the petition of James J. Lourie, Edward H. Gibson, and other citizens of Washington County, New York, of similar import, to the same committee.

Also, the petition of Gideon Noel, G. W. Sommers, and other citizens of Palo, Michigan, of similar import, to the same committee.

Also, the petition of the Grand Lodge of Good Templars of Missouri, signed by the officers, representing 15,000 members, of similar import, to the same committee.

Also, the petition of David Winn, H. N. Price, and other citizens of Illinois, of similar import, to the same committee.

Also, the petition of E. G. Rugg, J. J. Pettit, and other citizens of Kenosha, Wisconsin, of similar import, to the same committee.

Also, the petition of John J. Davis, Daniel W. Jones, and other citizens of West Bangor, Pennsylvania, of similar import, to the same committee.

Also, the petition of the New Jersey State Temperance Alliance, George Shepard Page, president, G. R. Snyder, secretary, of similar import, to the same committee.

Also, the petition of H. H. Heald, A. W. Mott, and other citizens of Granville Center, Pennsylvania, of similar import, to the same committee.

Also, the petition of the Grand Division of the Sons of Temperance of East Tennessee, signed by the officers, representing 248 members, of similar import, to the same committee.

Also, the petition of W. King, E. H. Williams, and other citizens of Indianapolis, Indiana, of similar import, to the same committee.

Also, the petition of the Grand Temple of Honor and Temperance of New York, J. N. Stearns, grand worthy templar, R. C. Ball, grand worthy recorder, representing 30 subordinate temples and 1,200 members, of similar import, to the same committee.

By Mr. HENKLE: The petition of the Granite Cutters' Association, of Washington, District of Columbia, that a portion of the stone to be used in the construction of the War, Navy, and State Departments, be cut in Washington, District of Columbia, to the Committee on Public Buildings and Grounds.

By Mr. HEWITT, of Alabama: A paper relating to a post-route from Birmingham to Cedar Grove, Alabama, to the Committee on the Post-Office and Post-Roads.

By Mr. HOAR: The petition of J. C. Stoddard, for an extension of a patent for a steam musical instrument, to the Committee on Patents.

By Mr. HOGE: The petition of the officers of the Richland Rifle Club, a military company at Columbia, South Carolina, that the Secretary of War be authorized to issue to said company one hundred improved Springfield rifles in order that they may be better prepared to take part in the approaching centennial celebration, to the Committee on Military Affairs.

By Mr. JENKS: The petition of John Hoffman, to be relieved from the sentence of a court-martial depriving him of pay as a United States soldier, to the Committee on Military Affairs.

Also, the petition of Thomas H. Martin, for an increase of pension, to the Committee on Invalid Pensions.

Also, the petition of citizens of Pennsylvania, for bounty and bounty land for soldiers of the war of 1861, to the Committee on War Claims.

By Mr. KELLEY: The petition of Major Thomas H. McCalla, for a full pension, to the Committee on Invalid Pensions.

By Mr. MACDOUGALL: The petition of citizens of New York, for the repeal of the check-stamp tax, to the Committee of Ways and Means.

By Mr. MAGINNIS: The petition of settlers of Montana, for the survey of the public lands in order that they may obtain titles to pre-emption and homestead claims, to the Committee on Appropriations.

By Mr. MOREY: The petition of General E. S. Dennis, with accompanying papers, for the payment of his claim which was rejected by the southern claims commission, to the Committee on War Claims.

By Mr. MORRISON: The petition of citizens of Illinois, for the repeal of the check-stamp tax, to the Committee of Ways and Means.

By Mr. NORTON: Remonstrance of residents on the Allegany Indian reservations, against the passage of House bill No. 2158 of the present Congress, to the Committee on Indian Affairs.

By Mr. PATTERSON: The petition of the heirs of John S. Fillmore, for relief, to the Committee on Commerce.

Also, the petition of D. H. Moffatt, jr., and other citizens of Colorado Territory, for the repeal of the check-stamp tax, to the Committee of Ways and Means.

Also, the petition of F. D. Wright and other citizens of Colorado, of similar import, to the same committee.

By Mr. JAMES B. REILLY: The petition of Mrs. Bridgett Smith, for a pension, to the Committee on Invalid Pensions.

By Mr. SAMPSON: The petition of Barbara Stephens, for a pension, to the same committee.

By Mr. SAYLER: The protest of Charles Hoeffer and 19 other distillers and rectifiers of Cincinnati, Ohio, against any change in the revenue law fixing the amount of tax on spirits, to the Committee of Ways and Means.

By Mr. SPARKS: The petition of citizens of Nashville, Illinois, for the repeal of the check-stamp tax, to the Committee of Ways and Means.

By Mr. SWANN: The petition of W. F. Keirle, for moiety as a detective in the Revenue Department under act of March 2, 1867, to the same committee.

By Mr. THOMPSON: The petition of P. E. Pillsbury and 120 others of Massachusetts, for the repeal of the check-stamp tax, to the same committee.

By Mr. TUFTS: Joint resolutions of the General Assembly of Iowa, in relation to the proposed canal from some point between the mouth of Rock River and Clinton, Iowa, on the Mississippi River, to the Illinois River at Hennepin, to the Committee on Commerce.

By Mr. WALKER, of New York: The petition of Margaret Mills, widow of the late General Madison Mills, for a pension, to the Committee on Invalid Pensions.

By Mr. WALKER, of Virginia: The petition of N. H. Van Zandt, for the removal of his political disabilities, to the Committee on the Judiciary.

Also, resolutions of the Grand Lodge of Masons in Virginia in relation to Washington Monument, to the Committee on Public Buildings and Grounds.

By Mr. WIGGINTON: A paper relating to a post-route from Fresno to Panoche, California, to the Committee on the Post-Office and Post-Roads.

By Mr. A. S. WILLIAMS: The petition of 193 citizens of Detroit, Michigan, that authority be granted for the erection of a bridge across the river at Detroit, to the Committee on Commerce.

By Mr. WILLIAMS, of Delaware: The petition of 59 citizens of Delaware, that Treasury notes be made receivable for all forms of taxes, duties, and debts, and interchangeable at the will of the holder with the interest-bearing bonds of the Government, and that 25 per cent. of the present bank circulation be withdrawn annually until all is replaced by greenbacks, to the Committee on Banking and Currency.

Also, the petition of 85 citizens of Delaware, of similar import, to the same committee.

Also, the petition of 88 citizens of Delaware, of similar import, to the same committee.

By Mr. WILLIAMS, of Wisconsin: The petition of James Cleland and 29 other citizens of Rock County, Wisconsin, for the repeal of the resumption act, and against the tax on tea and coffee and the paying of a bonus to national banks, &c., to the Committee on Banking and Currency.

Also, the petition of E. G. Huggins and 479 other citizens of Wisconsin, that the present duty on linseed and linseed-oil be maintained, to the Committee of Ways and Means.

By Mr. WILLIS: The petition of Colonel C. A. Ellis, First Missouri Cavalry, for a trial by court-martial or otherwise, to the Committee on Military Affairs.

Also, the petition of Wolff & Brown, for relief, to the Committee on War Claims.

By Mr. WILSON, of Iowa: The petition of 3,500 citizens of Iowa, for the appointment of a commission to investigate and report the effects of the liquor traffic in the United States on the health, intelligence, industry, prosperity, crime, and pauperism of the individuals; also, upon taxation, revenue, and the general welfare of the country; to prohibit the importation of alcoholic liquors from foreign countries; to prohibit the manufacture and sale of alcoholic liquors as a beverage in the District of Columbia, in the Territories of the United States, and in all places where Congress exercises exclusive jurisdiction; to require total abstinence from alcoholic liquors as a beverage on the part of all officials and subordinates in the civil, military, and naval service of the United States, to the Committee on the Judiciary,

By Mr. WOODWORTH: The petition of H. Baldwin and 130 voters and 222 women of Ohio, for the appointment of a commission to investigate and report upon the effects of the liquor traffic in the United States, to the same committee.

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## IN SENATE.

### TUESDAY, *March* 21, 1876.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

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

#### PETITIONS AND MEMORIALS.

Mr. WRIGHT. I present the petition of the Right Worthy Grand Lodge of Good Templars of the United States, said to represent 850,000 members, the petition being signed by the officers thereof, praying for prohibitory legislation for the District of Columbia and the Territories; also, for the prohibition of the importation of alcoholic liquors from abroad; also, that total abstinence be made a condition of the civil, military, and naval service; and for a constitutional amendment prohibiting the traffic in alcoholic beverages throughout the national domain. I believe this question has passed from the Senate and the bill has gone to the House. Under that impression I move that the petition lie on the table.

The motion was agreed to.

Mr. WINDOM. I offer a similar petition of the Good Templars of the State of Minnesota, and, for the reason just stated by the Senator from Iowa, I move that it lie on the table.

The motion was agreed to.

Mr. WINDOM presented a joint resolution of the Legislature of Minnesota, in favor of the vacation by the Government of that portion of the military reservation at Fort Abercrombie, Dakota Territory, which lies on the east side of Red River in the State of Minnesota, and to open the same to settlement and occupation under the homestead and pre-emption laws; which was referred to the Committee on Public Lands.

Mr. KERNAN presented the petition of Margaret Mills, widow of the late Surgeon Madison Mills, brevet brigadier-general United States Army, praying that her pension may be increased from twenty-five to fifty dollars a month; which was referred to the Committee on Pensions.

Mr. CAMERON, of Wisconsin, presented a joint resolution of the Legislature of Wisconsin, remonstrating against the passage of a law authorizing the bridging of the Detroit River; which was referred to the Committee on Commerce.

Mr. LOGAN presented a petition of soldiers, sailors, and marines of the late war, praying for the passage of an act granting to them and their heirs—except commissioned officers—a bounty of eight and one-third dollars per month for the time served, deducting all United States bounty heretofore paid; which was referred to the Committee on Military Affairs.

He also presented a petition of citizens of Washington County, Illinois, praying for the repeal of the two-cent stamp tax on bank-checks; which was referred to the Committee on Finance.

He also presented the petition of C. M. Levy, captain in the volunteer service in 1863, praying that he may be allowed the amount of two years' pay and allowances as captain and assistant quartermaster of volunteers; which was referred to the Committee on Military Affairs.

He also presented the petition of the Grand Division Sons of Temperance of Illinois, officially signed and representing 2,000 members, praying for prohibitory legislation for the District of Columbia and the Territories, the prohibition of the importation of alcoholic liquors; that total abstinence be made a condition of the civil, military, and