for a post-route from Lancaster, South Carolina, to Charlotte, North Carolina, to the Committee on the Post-Office and Post-Roads.

By Mr. BASS: Memorial of the National Board of Trade, for revision of the laws relating to statistical information in regard to the commerce of the northern lakes, to the Committee on Commerce.

Also, the petition of citizens of Buffalo, New York, for the extension of the breakwater at Marquette Harbor, Lake Superior, to the Committee on Commerce.

By Mr. BEGOLE: The petition of A. S. Mathews and 17 others, of Oakland County, Michigan, for an amendment of the homestead law, to the Committee on the Public Lands.

By Mr. BUTLER, of Tennessee: The petition of Joseph R. Gibson, for bounty, to the Committee on Military Affairs.

Also, the petition of Susan Hutson, for relief, to the Committee on Military Affairs.

By Mr. CHIPMAN: The petition of William Bowen, for relief, to the Committee on the District of Columbia.

Also, the petition of Rebecca Dougherty, for relief, to the Committee on the District of Columbia.

By Mr. COTTON: The petition of citizens of Muscatine, Iowa, for the passage of the bill defining a gross of matches, to the Committee on Ways and Means.

Also, the petition of citizens of Muscatine, Iowa, for the repeal of the tax on matches, to the Committee on Ways and Means.

By Mr. DURHAM: The petition of citizens of Kentucky, for a post-route from Mackville to Perryville, Kentucky, to the Committee on the Post-Office and Post-Roads.

By Mr. GUNCKEL: The petitions of Joseph M. Hoffman, Alex. Larson, and Robert Quinn, for pensions, severally to the Committee on Invalid Pensions.

By Mr. E. R. HOAR: The petition of Charles Watson, of Massachusetts, for relief, to the Committee on Military Affairs.

By Mr. KASSON: The petition of Micajah Stout, of Madison County, Iowa, for a pension, to the Committee on Invalid Pensions.

By Mr. KELLEY: The petition of citizens of Schuylkill County, Pennsylvania, for the restoration of the 10 per cent. duty taken off leading products in 1872, and for the passage of the currency bill of Hon. W. D. KELLEY providing for the issue of 3.65 convertible bonds, to the Committee on Ways and Means.

By Mr. NESMITH: The petition of citizens of Union County, Oregon, for the passage of the Portland, Dalles and Salt Lake Railroad bill, to the Committee on Railways and Canals.

Also, memorial of the Legislative Assembly of Oregon, for the establishment of certain post-routes, to the Committee on the Post-Office and Post-Roads.

Also, memorial of the Legislative Assembly of Oregon, for the extinction of the Indian title to the Umatilla reservation, to the Committee on Indian Affairs.

Also, memorial of the Legislative Assembly of Oregon, that the State be reimbursed for expenses incurred on account of the provisional territorial government, to the Committee on the Territories.

Also, memorial of the Legislative Assembly of Oregon, for an appropriation of $30,000 to construct a military wagon-road from some point on Illinois River to Chetco, Curry County, Oregon, to the Committee on Military Affairs.

Also, memorial of the Legislative Assembly of Oregon, for an appropriation to construct a wagon-road from Ashland to Hot Springs, in southern Oregon, to the Committee on Military Affairs.

Also, memorial of the Legislative Assembly of Oregon, praying Congress to make all future issues of Government bonds taxable, to the Committee on Ways and Means.

Also, memorial of the Legislative Assembly of Oregon, asking Congress to place burlaps and jute on the free list, to the Committee on Ways and Means.

Also, memorial of the Legislative Assembly of Oregon, for an appropriation to improve Yam Hill River, to the Committee on Commerce.

Also, memorial of the Legislative Assembly of Oregon, for an appropriation to improve Coquille River, to the Committee on Commerce.

Also, memorial of the Legislative Assembly of Oregon, for an appropriation to improve Willamette River, to the Committee on Commerce.

Also, memorial of the Legislative Assembly of Oregon, for an appropriation to improve Nehalim River, to the Committee on Commerce.

By Mr. O'NEILL: Petition of mothers pensioned on account of services of their sons in the Army and Navy, for increase of pension, to the Committee on Invalid Pensions.

By Mr. RANSIER: The petition of citizens of Charleston, South Carolina, for the incorporation of the Eastern and Western Transportation Company, to the Committee on Railways and Canals.

By Mr. SCHELL: Memorial and other papers relating to the case of Townsend Harris, formerly minister to Japan, to the Committee on Foreign Affairs.

By Mr. SENER: The petition of George W. Payne and wife, of Spottsylvania County, Virginia, to be compensated for services rendered a sick soldier of the United States Army and for losses incurred during the late war, to the Committee on War Claims.

By Mr. THORNBURGH: The petition of William Rule, postmaster at Knoxville, Tennessee, for relief, to the Committee on the Post-Office and Post-Roads.

By Mr. VANCE: The petition of Mary McMillan, for relief, and to be placed on the pension-rolls, to the Committee on Revolutionary Pensions and War of 1812.

IN SENATE.

FRIDAY, *January* 15, 1875.

Prayer by the Chaplain, Rev. BYRON SUNDERLAND, D. D.

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

PETITIONS AND MEMORIALS.

Mr. ALLISON presented the petition of C. H. Barron & Co., and 16 others, of McGregor, Iowa, praying the passage of the pending bill defining a gross of matches; which was referred to the Committee on Finance.

He also presented a petition of citizens of McGregor, Iowa, asking for the repeal of the tax on friction matches; which was referred to the Committee on Finance.

Mr. ROBERTSON presented the memorial of Messrs. Campbell, Dowling, Richards, Finlay, McIver, and others, of Charleston, South Carolina, praying the incorporation of the Eastern and Western Transportation Company; which was referred to the Select Committee on Transportation Routes to the Seaboard.

He also presented a resolution of the Legislature of South Carolina, relative to the Freedman's Savings Bank; which was referred to the Committee on Finance.

He also presented a memorial of citizens of Charleston, South Carolina, praying Congress to reimburse them for losses sustained by deposits made in the Freedman's Savings Bank; which was referred to the Committee on Finance.

Mr. SCOTT presented a petition of citizens of Blair County, Pennsylvania, praying Congress to grant the prayer of the Texas Pacific Railroad Company for the indorsement or guarantee of interest on its bonds; which was referred to the Committee on Railroads.

Mr. CLAYTON presented the petition of John J. Murphy, guardian, &c., asking that a pension be granted to the minor heirs of Isaac N. Murphy, a soldier in the First Arkansas Regiment of Infantry in the late war; which was referred to the Committee on Pensions.

He also presented the petition of L. C. Obarr, late commissary sergeant First Regiment Arkansas Cavalry, asking for the payment of bounty; which was referred to the Committee on Military Affairs.

Mr. BOUTWELL presented the petition of Mrs. D. Jay Browne, asking compensation for services of her late husband as agent of the Patent Office; which was referred to the Committee on Claims.

Mr. MORTON presented the petition of William Cash, of Princeton, Caldwell County, Kentucky, asking for relief for property taken by the Army during the late war; which was referred to the Committee on Claims.

Mr. SPENCER presented the petition of Victoria C. Woodhull, Tennie C. Claflin, and James H. Blood, praying indemnity for false imprisonment by orders of a United States court; which was referred to the Committee on Claims.

Mr. KELLY presented a memorial of the Legislative Assembly of Oregon, in favor of Congress granting the right of way to the Portland, Dalles and Salt Lake Railroad; which was ordered to lie on the table, and be printed.

Mr. ALCORN presented the petition of Mrs. Hannah Waters, of Horn Island, Mississippi Sound, praying compensation for certain beef-cattle and swine taken from her during the late rebellion for the use of the United States Army; which was referred to the Committee on Claims.

Mr. BOGY presented a petition of manufacturers of matches, praying that the law imposing a tax on matches be repealed; which was referred to the Committee on Finance.

Mr. HAMILTON, of Texas, presented a memorial of citizens of the Chickasaw Nation of Indians, remonstrating against the proposed organization of a territorial government for the Indian Territory; which was ordered to lie on the table, and be printed.

Mr. BOREMAN. An adverse report was made by the Committee on Claims during the last session in the case of Frederick A. Holden, praying remuneration for property destroyed in Wayne County, West Virginia. I have some additional papers to present in the case. I ask for an order to withdraw and recommit the papers heretofore reported upon, with these additional papers, to the Committee on Claims.

Mr. SCOTT. May I ask the Senator whether there was an adverse report?

Mr. BOREMAN. Yes, sir; I stated that fact. This is additional testimony, with an additional statement by the petitioner sworn to.

Mr. SCOTT. Setting out what the additional testimony is?

Mr. BOREMAN. Yes, sir.

The VICE-PRESIDENT. The Senator from West Virginia asks that certain papers be withdrawn on which an adverse report has been made, and that the additional testimony in this case, with those papers, be referred to the Committee on Claims. The Chair hears no objection, and the order will be made.

WITHDRAWAL OF PAPERS.

Mr. GILBERT. I offer the following order:

Ordered, That the papers in the claim of Salvador Costa, for a vessel captured and destroyed by the naval forces of the United States, be taken from the Committee on Claims and referred to the Committee on Naval Affairs.

Mr. EDMUNDS. What is the object of that change of reference?

Mr. GILBERT. It is thought the case belongs to the Committee on Naval Affairs rather than to the Committee on Claims.

Mr. SCOTT. I will examine that and confer with the Senator from Florida before the order is finally made.

The VICE-PRESIDENT. Objection is made.

Mr. SCOTT subsequently said: I have examined the order offered by the Senator from Florida, [Mr. GILBERT] and I find that the petition which he wishes to take from the Committee on Claims and refer to the Committee on Naval Affairs, does not ask to do anything in the Navy or for the Navy; it is simply a demand for the payment of money for a boat taken by officers of the Navy; and while I should be glad to have the assistance of the Naval Committee in disposing of this case, I think it has had the proper reference, and the order ought not to be made.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The question is whether the order asked by the Senator from Florida shall be adopted.

The order was rejected.

On motion of Mr. MERRIMON, it was

Ordered, That Eli H. Garrett have leave to withdraw his petition and papers from the files of the Senate for use in the Pension Office.

Mr. CONKLING. I have in my hand a letter of John Graham, a citizen of New York, who asks me to move for an order allowing him to withdraw his papers, including a brief and a proposed act touching a claim of his, once referred to the Judiciary Committee, but receiving, as he says, no action there. I move that he have leave to withdraw his papers, copies to be left if it shall turn out that there has been an adverse report.

It was so ordered.

BUSINESS OF THE COMMITTEE ON CLAIMS.

Mr. SCOTT. I gave notice yesterday morning that I would call up a motion to which objection was then made to fix Thursday next for the consideration of bills from the Committee on Claims. I find in the RECORD this morning a notice given by the Senator from Maine [Mr. MORRILL] that he will on Monday next insist on taking up the legislative, executive, and judicial appropriation bill, and on continuing it until it shall be disposed of. In view of that notice, and knowing how successful my friend from Maine usually is in getting his bills before the Senate, I shall await the disposition of his notice before I again press mine.

REPORTS OF COMMITTEES.

Mr. KELLY, from the Committee on Public Lands, to whom was referred the bill (S. No. 940) granting six hundred and forty acres of land to the widow and heirs of James Sinclair, deceased, reported it with an amendment, and submitted a report thereon; which was ordered to be printed.

Mr. OGLESBY, from the Committee on Pensions, to whom was referred the memorial of Frank W. Jones, in relation to the fees of attorneys prosecuting claims for pensions, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the petition of Brenton Lewis, praying the passage of an act placing him on the pension-roll, asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom was referred the bill (H. R. No. 2674) granting a pension to John W. Wright, now at the National Military Asylum near Dayton, Ohio, reported it without amendment.

Mr. STEVENSON. I am directed by the Committee on the Judiciary, to whom was referred a resolution of the Legislature of California against the passage of the bill now pending for the confirmation of what is known as the "Santillan land grant," to report it back with the recommendation that it be indefinitely postponed.

Mr. SARGENT. I did not understand the report.

Mr. STEVENSON. The committee reported in favor of the indefinite postponement of the resolution.

Mr. SARGENT. How is the Senate to indefinitely postpone the resolution of a State Legislature?

Mr. STEVENSON. I should have asked that the committee be discharged.

Mr. EDMUNDS. That is all, and then the resolution goes on the files.

Mr. SARGENT. I have no objection to discharging the committee.

The VICE-PRESIDENT. The Chair supposed the proper way to put the question was on discharging the committee rather than on the indefinite postponement.

Mr. SARGENT. There was no resolution of the Senate and no bill for the action of the committee sent to it, but the committee ask to be discharged from the further consideration of the subject. I will not object, but only say that this Santillan claim is a monumental case, in my judgment, of a fraud, and abundant evidence of that fact of a documentary character could be furnished to the committee if an opportunity had been given; and I would have been much gratified if that opportunity had been afforded and the committee had branded it as it deserves. But as the committee ask to be discharged and there is no legislation pending, let it go for the present.

The report of the committee was agreed to.

Mr. DAVIS. I am directed by the Committee on Appropriations to report back with an amendment the bill (H. R. No. 3823) making appropriations for fortifications and other works of defense for the fiscal year ending June 30, 1876. As there is but a single amendment it is unnecessary to have this bill reprinted. I give notice that at an early day I will call it up.

BILL RECOMMITTED.

On motion of Mr. PRATT, it was

Ordered, That the bill (H. R. No. 2190) to amend the act entitled "An act granting pensions to certain soldiers and sailors of the war of 1812, and the widows of deceased soldiers," approved February 14, 1871, and to restore to the pension-rolls those persons whose names were stricken therefrom in consequence of disloyalty, be recommitted to the Committee on Pensions.

JOHN G. PARR.

Mr. SCOTT. I ask unanimous consent to move for the reconsideration and recommitment to the Committee on Pensions of House bill No. 1616, granting a pension to John G. Parr, of Kittanning, Pennsylvania. I understand the chairman of the Committee on Pensions consents that it shall be recommitted for the purpose of examination into an alleged error of fact.

The VICE-PRESIDENT. Is there objection to reconsidering the vote by which the bill was postponed indefinitely? The Chair hears none; and the bill will be recommitted to the Committee on Pensions.

ELIZABETH B. DYER.

Mr. SCHURZ. Mr. President, the Senator from Kansas made an adverse report yesterday from the Committee on Pensions on the bill (H. R. No. 3716) granting a pension to Elizabeth B. Dyer, and the bill was thereupon indefinitely postponed. With the consent of the Senator from Kansas, I move that the vote be reconsidered and that the bill be put upon the Calendar.

The motion was agreed to.

BILLS INTRODUCED.

Mr. HITCHCOCK asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1132) to establish a branch mint of the United States at Omaha in the State of Nebraska; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. CLAYTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1133) for the relief of Charles W. Preddy; which was read twice by its title, and with the accompanying papers referred to the Committee on Post-Offices and Post-Roads.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1134) to establish certain post-routes in the State of Arkansas; which was read twice by its title, referred to the Committee on Post-Offices and Post-Roads, and ordered to be printed.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1135) for the relief of Francisco V. De Coster, of Litchfield, Meeker County, Minnesota; which was read twice by its title, and referred to the Committee on Military Affairs.

Mr. KELLY (at the request of the Delegate from Idaho) asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1136) for the sale of timber land in the Territories; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

Mr. BOGY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1137) for the relief of Rosa O. Gantt; which was read twice by its title, and referred to the Committee on Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1138) for the relief of Henry C. Preuss, administrator of Constantia Reeves; which was read twice by its title, and referred to the Committee on Claims.

Mr. ALCORN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1139) for the relief of William D. Bibb, of Mississippi; which was read twice by its title, referred to the Committee on Claims, and ordered to be printed.

Mr. MORTON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1140) for the relief of Lucy C. Field; which was read twice by its title.

Mr. MORTON. I move that that bill be referred to the Committee on Claims and printed, and that the papers on file pertaining to the claim of Lucy C. Field be taken from the file and placed in possession of that committee.

The motion was agreed to.

Mr. CRAGIN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1141) to amend an act entitled "An act for the government of the District of Columbia, and for other purposes," approved June 20, 1874; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. ALLISON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1142) to provide for the sale of the Pawnee Indian lands in Nebraska; which was read twice by its title, and, with an accompanying communication from the Commissioner of Indian Affairs to the Secretary of the Interior, ordered to be printed, and referred to the Committee on Indian Affairs.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1143) to provide for the sale of a portion of the Fond du Lac Indian reservation in Minnesota, and for other purposes; which was read twice by its title, and, with an accompanying communication from the Commissioner of Indian Affairs to the Secretary

of the Interior, ordered to be printed, and referred to the Committee on Indian Affairs.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1144) to prevent cruelty to animals in the District of Columbia; which was read twice by its title.

Mr. EDMUNDS. As that is a penal bill, I move that it be referred to the Committee on the Judiciary, and printed.

The motion was agreed to.

Mr. HAGER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 1145) to provide for the sale of desert lands in Lassen County, California; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

PORTLAND, DALLES AND SALT LAKE RAILROAD.

Mr. KELLY. If the morning business is closed, I wish, if it be the pleasure of the Senate to allow me to do so, to call up and make some remarks upon the bill which I gave notice the other day that I would call up, or at least ask the Senate to take it up after the conclusion of the morning business to-day. Inasmuch as the Senator from Nebraska [Mr. TIPTON] has the floor at one o'clock and I desire exceedingly to make some remarks upon this bill, I should like to have it called up now.

The VICE-PRESIDENT. What is the number of the bill?

Mr. KELLY. It is Senate bill No. 331, providing for the construction of the Portland, Dalles and Salt Lake Railroad and Telegraph, and for the performance of all Government service free of charge.

Mr. EDMUNDS. Does the Senator wish to take up this bill for final action to-day?

Mr. KELLY. No, sir.

Mr. EDMUNDS. Then I have no objection.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 331) providing for the construction of the Portland, Dalles and Salt Lake Railroad and Telegraph, and for the performance of all Government service free of charge.

Mr. KELLY. I ask the Clerk to read the bill as proposed to be amended. I do not wish to consume the time of the Senate in reading the original bill.

The CHIEF CLERK. The Committee on Railroads report an amendment, which is to strike out all after the enacting clause of the bill and in lieu thereof to insert the following:

That the Portland, Dalles and Salt Lake Railroad, extending from a point on the Union Pacific or Central Pacific Railroad not farther east than Ogden nor farther west than Kelton, in the Territory of Utah, to Portland, in the State of Oregon, is hereby declared a military and post-road; and the Portland, Dalles and Salt Lake Railroad Company, by its own cars, appropriate for the service and approved by the Postmaster General and with its own rolling-stock, equipment, and management, without fee or reward, except as hereinafter mentioned, shall forever transport the United States mail, Army and Indian supplies, troops and munitions of war of every kind; and shall transmit all dispatches upon its telegraph line for the United States Government free of charge.

SEC. 2. That the Portland, Dalles and Salt Lake Railroad shall be constructed in a substantial and workmanlike manner, with all the necessary draws, culverts, bridges, viaducts, crossings, turn-outs, stations, and watering-places; and all other appurtenances, including furniture and rolling-stock, equal in all respects to railroads of the first class when prepared for business, with rails of the T or angle iron, and upon the narrow-gauge plan, three feet in width; with a telegraph line, constructed in a substantial manner, to be operated along the line of the said railroad. And the said company shall commence the work on such road within one year from the approval of this act, and complete the same within five years thereafter.

SEC. 3. That in consideration of the services herein agreed to be performed by the Portland, Dalles and Salt Lake Railroad Company, the United States guarantee, as hereinafter expressed, the payment of interest, at the rate of 5 per cent. per annum in gold coin, payable half-yearly, on the 1st days of January and July in each year, for the period of ten years, upon the construction bonds of said company, to the amount of $8 000 only for each and every mile of the main line of the said railroad, not including side-tracks. And for that purpose, and as evidence thereof, the Secretary of the Treasury is hereby authorized and directed to cause to be indorsed said guarantee of interest on behalf of the United States upon the construction bonds of said corporation to the extent mentioned in this section, for not exceeding in the whole seven hundred miles of single track from its terminal point, as the same shall be established upon the line of the Union Pacific Railroad or the Central Pacific Railroad, as hereinbefore stated, to the city of Portland, its western terminus.

SEC. 4. That whenever and as often as the said corporation shall have completed a section of its road of not less than twenty-five miles, it shall report such fact to the Secretary of the Interior, who shall thereupon cause an examination of the same to be made by three commissioners, to be appointed by him, who shall be paid for their services at the expense of said corporation; and if it shall appear by the report of said commissioners that such section has been completed substantially in accordance with the requirements of this act, then the Secretary of the Interior shall report that fact to the Secretary of the Treasury, who shall thereupon cause the said guarantee of interest to be indorsed on an amount of the above-described bonds of the said company equal to the said sum of $8,000 per mile on such completed section, and shall deliver the same to the lawful agent, attorney, or representative of said company. The said construction bonds shall be made payable by the said company in the city of New York at a specified time, not more than twenty years from the date thereof, with coupons attached for half-yearly interest, which shall also be made payable in the city of New York. All coupons attached to said bonds so indorsed and delivered, the time for the payment of which shall have elapsed before such delivery, shall be canceled and preserved, and the guarantee of interest on the part of the United States shall only commence with the half-yearly payment next after the indorsement and delivery of the said bonds to the said corporation at the rate aforesaid. No indorsement or delivery of such bonds shall be made by the Secretary of the Treasury upon the last two sections of twenty-five miles each of the said main line of railroad until it shall appear from the report of said commissioners that the same shall be completed according to the requirements of this act, and that effectual railroad connection has been made by said company as herein proposed from the Union Pacific or the Central Pacific Railroad to the city of Portland: *Provided, however*, That if the said company shall first construct those portions of its railroad known as the Portage Links, around the Cascade Falls and the Dalles of the Columbia, and complete the same before any other portion of the said road along the Columbia River, so as to facilitate navigation and lessen the expenses of transporting freight and passengers on said river, then and in that case it shall be the duty of the Secretary of the Interior, upon an application of the said company, to cause an examination of the same to be made by the commissioners, as herein provided; and if it shall appear by their report that either of those portions of said road has been completed as required by this act, then the Secretary of the Interior shall report that fact to the Secretary of the Treasury, who shall thereupon cause the said guarantee of interest to be indorsed on an amount of the above-described bonds equal to the said sum of $8,000 per mile of completed road over either of said portages, although the portion so constructed may not be equal to a section of twenty-five miles.

SEC. 5. That nothing herein contained shall be so construed as to prevent the said corporation from issuing and disposing of its bonds in accordance with the powers granted to it by the State of Oregon by an act dated October 15, 1872, or any act amendatory thereof; but all such bonds and the mortgages, trust-deeds, or other securities given to secure the payment thereof shall in all cases be subordinate to the rights and powers herein reserved to the United States. And the services to be rendered by the said railroad and telegraph line for the United States Government shall inhere in and become a part of the corporate existence of the said company; and shall be a lien upon and attach to the said railroad, its road-bed, rolling-stock, and equipments, and to the said telegraph line. And such services shall be performed by the said corporation, its assigns, and successors, whether such transfer or succession be made by voluntary act of said corporation, by act of the Legislature of the State of Oregon, by sale under process of any court of competent jurisdiction, or by any other form of legal adjudication whatsoever.

SEC. 6. That it shall be the duty of the Secretary of the Treasury to see that the said bonds be not indorsed and delivered as hereinbefore provided until it shall be made to appear that there are no liens of any kind, by mortgage, trust deed, or otherwise, upon any section of completed road, excepting such as expressly recognize the priority of right in the United States to have the services performed as specified in this act; and the United States shall in no event be liable for any part of the principal of said bonds; and the performance by the corporation of the services stipulated in this act shall be deemed to be a full payment of all claims of the United States for reimbursement of any sums paid as interest as aforesaid; and in case of refusal or failure to perform such services by the said corporation for the period of six months, the said corporation, its successors or assigns, shall forthwith become liable to repay to the United States all sums of money paid by them, after deducting a reasonable compensation for any services actually performed; and the United States shall have power to bring actions or suits in the circuit court of the United States for the district of Oregon against said corporation, its successors or assigns, to enforce such repayment by judgment or decree and execution thereon, with the right of appeal to the Supreme Court of the United States by either party; and the obligation to perform said services in the future shall, notwithstanding the said judgment, decree, and execution, remain in full force and effect against the said corporation, its successors and assigns.

SEC. 7. That if any officer, agent, or employé of the said corporation, its successors or assigns, shall willfully refuse to transport the United States mails, Army or Indian supplies, troops, or munitions of war over its railroad, or transmit any dispatches over its telegraph line, after the United States shall be entitled to have such services performed as specified in this act, such officer, agent, or employé shall be deemed guilty of a misdemeanor, and, on conviction thereof in any United States district court having jurisdiction of the offense, be punished by a fine not exceeding $500, or by imprisonment not exceeding six months.

SEC. 8. That the said company shall not unjustly discriminate in favor of or against any person or corporation in its charges for the transportation of persons or property over the said railroad or dispatches over the said telegraph line; nor in favor of or against any particular town or place on the line of said railroad; nor make any excessive charges or other undue use of the powers and privileges hereby granted to the said company.

SEC. 9. That the said company shall annually report a condensed statement showing its net earnings, 25 per cent. of which, after payment of interest due by the said corporation upon its bonds, shall be immediately invested in United States interest-bearing bonds, and the same shall constitute a sinking fund with which to redeem at maturity the principal of its first-mortgage bonds.

SEC. 10. That the United States make the several conditional grants herein, and the Portland, Dalles and Salt Lake Railroad Company accept the same, upon the condition that if the said company make any breach in the conditions hereof, and allow the same to continue for one year, in such case the United States may at any time, by Congress, do any and all acts necessary to insure a speedy completion of said railroad.

SEC. 11. That the acceptance of the terms and conditions of this act by the said company shall be signified in writing under its corporate seal, duly executed, pursuant to a vote of its stockholders first had and obtained; which acceptance shall be made within ninety days after the approval of this act, and shall be filed with the Secretary of the Interior.

SEC. 12. That in order to effectually enforce the rights and privileges specified herein, Congress may at any time add to, alter, or amend this act.

Mr. KELLY. As I said the other day when I notified the Senate that I should ask for the taking up of this bill to-day, I am induced to do so by instructions from the Legislature of the State of Oregon. I then said, and I repeat now, that my colleague and myself have been twice instructed by that body to do what we can to urge the passage of this bill. I would say, further, that the territorial Legislature of Washington Territory have memorialized Congress to the same effect; that the territorial Legislature of Idaho have done the same thing; and resolutions to that effect were presented by me the other day.

This bill was carefully considered by the Committee on Railroads at the last session, and on the 4th day of May reported favorably, accompanied by a report I should like very much, if I had the time, to have read; but I am well aware that the time of the Senate is taken up in discussing matters which perhaps may be deemed more important than this, although to the people of the Pacific Northwest it is of much greater importance than anything that is before this body.

Mr. President, the State of Oregon and the Territories of Washington and Idaho, which are embraced in the Columbia Valley, contain two hundred and sixty thousand square miles. To compare that with other divisions of the United States, I will say that in territorial extent that valley is greater than all New England, New York, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, and Indiana combined, greater than all the States I have just named; and yet there is not any railway connection with that vast extent of country. It is a country rich in natural wealth; one of the best wheat-growing countries in the world; unexcelled for stock raising and wool

growing; it has forests of excellent timber, mines of gold, silver, copper, iron, and coal in great abundance; and yet, with all these natural advantages, it is almost entirely unsettled, because inaccessible to those who would willingly make it a home.

The census of 1870 shows that in that vast extent of country there were not quite one hundred and thirty thousand inhabitants, not sufficient for a single Representative in Congress, according to the present ratio of representation. The reason may be asked why it is that a country so productive, of such extensive resources, agricultural, mineral, and commercial, with a genial climate, unexcelled by any in the United States for its healthfulness, should remain comparatively uninhabited. I will state the reason why this is so. The early emigrants to Oregon crossed the plains, going in their teams drawn by horses or oxen, from the Missouri River to the Pacific coast, a journey of two thousand miles, requiring six months or more to accomplish it. That is the way it was peopled by the hardy pioneers who first settled in the country. At the present time one way of going there is by railway to Salt Lake Valley and thence by stage-coaches or wagons, a distance of five hundred miles, over the intervening sage-plains, before the principal settlements are reached. Another way of going is by passing over the Union and Central Pacific Railroads to San Francisco, and there taking the ocean steamers to Portland, making a sea-voyage of six hundred miles before arriving at the end of the journey. The only other way is by a tiresome stage-coach ride from the present terminus of the California and Oregon Railroad over a lofty mountain range and rugged road for a distance of three hundred miles.

The easiest way of reaching Oregon, and the one usually traveled, is by rail to San Francisco, and thence by the circuitous sea-voyage to Portland. And yet from Salt Lake Valley to the settled portions of Oregon is not nearly so far as it is to where the sea-voyage begins. From Kelton, in Salt Lake Valley, to San Francisco it is quite as far as it is to Astoria, in Oregon, and I need not add that a voyage on the ocean is regarded with undefined dread by emigrants with their families, who are unaccustomed to traveling by sea. It does seem to me that Congress ought to do something to lessen the difficulties of reaching this great and inviting portion of our country. Hitherto we have not received the beneficial legislation that other States have had to aid in the building of railroads.

In my judgment, what is asked for in this bill will really be more beneficial to the Government than to the company organized to construct this road. That company proposes to carry the United States mails, military and Indian supplies, and do all the transportation the Government requires, including the transmission of telegraphic dispatches, without any limit as to time, from and after the period when the road shall be completed. For all these services they ask that the Government of the United States shall pay the interest on the company's bonds at the rate of 5 per cent. on $8,000 per mile for ten years; the whole distance, however, not to exceed seven hundred miles, from Salt Lake Valley to Portland, making altogether the sum of $280,000 per annum, after the completion of the road, which the United States will be required to pay, and this sum for only ten years.

For several years prior to July last the contractors for carrying the United States mails from Kelton to Portland were paid $242,000. In July, 1874, a contract was let to carry them from Kelton to The Dalles for $67,900, but it happened to go to a straw-bidder, who forfeited his contract on the 1st of December last. The Postmaster-General since then entered into another contract, terminating on the 30th June, 1878, by which the mails will be carried from Kelton to The Dalles for $134,700 per annum, and I am well satisfied that this sum is quite as low as they can be carried by the present mode of conveyance. From The Dalles to Portland the cost of transportation is, I think, $16,500, making in all $151,200 now paid for carrying the mails over the line of the proposed railroad. For the transportation of military supplies, and telegraphic and signal services, over the same line the Government paid in 1873 the sum of $27,714, which no doubt is a less amount than will be hereafter paid annually for the same service. I have no data to show how much was paid during the past year for transportation of Indian supplies and annuity goods for the several Indian tribes on the different reservations in Oregon and in Washington and Idaho Territories, but certainly it was no inconsiderable sum.

If this bill should pass, and the Portland, Dalles and Salt Lake Railroad be constructed under it, all these services would be performed by the company without any payment or cost other than that paid as interest upon its bonds. In addition to all this, the mail-route from Boise City to Winnemucca could well be dispensed with if the proposed railroad were completed, for the mails could then be more speedily carried between those points by railway to Kelton and thence by the Central Pacific Railroad to Winnemucca than they are now carried by stage-coaches. The amount paid for this service is $47,000 per annum. To recapitulate what I have already stated in detail, the Government would pay to the Portland, Dalles and Salt Lake Railroad Company $280,000 annually for ten years, and receive in return services for which it is now paying $225,914 yearly; while these services for the Government would not be limited to ten years, but would be performed without any limitation as to time or amount, and with the absolute certainty that they would constantly increase in value and importance.

It now takes nine days in winter and seven in summer to transport the mails from Kelton to Portland. With this railroad completed it could easily be done in two, and at once it would become the great mail-route for the Columbia River basin, for Alaska, and for British Columbia; and commerce would be greatly increased between our own country and the British possessions on the north.

In addition to all this, the public lands, now almost valueless because inaccessible, would speedily be settled and occupied by men from the Atlantic States, many of whom are now desiring to go there to provide homes for themselves and their families.

Mr. President, this bill provides that nothing shall be paid by the United States Government to the railroad company, and no guarantee of interest shall be made until the road shall be completed as a first-class road and accepted as such; that is, until it shall be completed in sections of twenty-five miles. Whenever and as often as a section of twenty-five miles shall be constructed and accepted by commissioners appointed to examine it, then, and only in that case, will the Secretary of the Treasury be authorized to indorse upon the company's bonds a guarantee that the Government will pay the interest on $8,000 per mile of finished road, the interest to cease, as I before stated, at the expiration of ten years.

The bill further provides that this guarantee of interest shall not be indorsed upon the bonds of the company until it shall be made to appear that there are no liens of any kind whatever upon the road. It is also provided that the services to be rendered to the United States by the company shall inhere in and become a part of the corporate existence of the company and be a lien upon and attach to the road and its equipments, and be performed by the Portland, Dalles and Salt Lake Railroad Company, or its assignees or successors, whether such transfer or succession be made voluntary or by act of the Legislature of Oregon or by sale under process of any court. In short, every precaution has been taken by the Committee on Railroads to secure the Government against any loss and against all danger.

It may be said that the financial condition of this country is such that it would be impolitic to pass this bill at the present session of Congress. I do not think this a proper objection to be urged against its passage. It would hardly be possible to construct a section of twenty-five miles within a year from this time, and until that is done the Government will be under no obligation to pay anything as interest upon the company's bonds, nor indeed will it have anything to pay until six months after the indorsement by the Secretary of the Treasury. It will be apparent, therefore, that for at least a year and a half the United States will be required to pay nothing. Meanwhile I hope—indeed I have but little doubt—that the financial condition of the country and of the Treasury will be restored to a condition of comparative prosperity, and the Government quite able and willing to pay the small sum that might be due as interest upon the company's bonds, over and above the amount it will save in the transportation of mails and the performance of other services by the railroad company.

Much more I would like to say in support of this bill, but the expiration of the morning hour admonishes me that I must close my remarks upon it, and give place to the orders of the day. I shall take occasion hereafter, when the bill is again before Senate, to give other reasons in support of it, which for want of time I must now necessarily omit.

LEGISLATIVE, ETC., APPROPRIATION BILL.

The PRESIDING OFFICER, (Mr. INGALLS in the Chair.) The morning hour having expired, the unfinished business of yesterday is before the Senate.

Mr. MORRILL, of Maine. Before that is taken up, I wish to say a word. Yesterday, reporting the legislative, executive, and judicial appropriation bill, I took occasion to give notice to the Senate that at an early day I should ask the Senate to proceed to its consideration. I desire now to repeat that we have arrived at that period in the session when it is apparent I think to the Senate that the current ordinary and necessary business of the session must take precedence in the order of business; and therefore, with a view of economy of time and that we may make the most of the time between this and Monday next, I take occasion now to renew the notice I gave yesterday, that on Monday at one o'clock I shall invite the attention of the Senate to the consideration of this bill and move that it be taken up to the exclusion of the present order, and I should hope of any other business which might at that time be pressed upon the Senate. I greatly trust and hope that I shall have the countenance of the Senate in so doing.

Mr. SHERMAN. As I know that there are several Senators who desire to speak on the Louisiana question on both sides of the Chamber, I hope it may be taken as the unanimous sense of the Senate that we may meet to-morrow, sitting as late to-night as we can, so as to give Senators an opportunity to express their views on the Louisiana question. I think a great majority of the Senate will feel that it is necessary to support the motion of the Senator from Maine to take up the legislative appropriation bill on Monday. A clear understanding should be had on all sides that the speeches on Louisiana shall be made to-night and to-morrow. We might continue the session to-night if necessary for that purpose. I make no motion, but I suppose with general consent we may agree that no motion shall be made to-day to adjourn over, but that we shall continue the discussion to-day and to-morrow.

Mr. SAULSBURY. I will say to the Senator from Ohio that there are gentlemen who wish to discuss the question who are not now in the Chamber, and of course they ought not be concluded.

SWAMP LANDS IN LOUISIANA.

Mr. WEST. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of the Interior is directed to transmit to the Senate a statement of all lands listed to the State of Louisiana under the swamp-land act of Congress of March 2, 1849, in township 12 south, ranges 11 and 12 east, south-eastern district of Louisiana, east of the Mississippi River; and that he accompany that statement with the documentary and other evidence upon which such lands have been declared swamp and overflowed under the act aforesaid.

Mr. DAVIS. I should like to ask the object of that resolution. Does it relate to lands near the mouth of the Mississippi?

Mr. WEST. O no; some lands within the corporate limits of New Orleans.

Mr. DAVIS. I have no objection.

The resolution was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 4324) to authorize the change of the name of the Second National Bank of Jamestown, New York; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House had signed the following bills; which were thereupon signed by the Vice-President:

A bill (H. R. No. 4213) to provide for compensating the officers of the Government in observing the transit of Venus; and

A bill (H. R. No. 4214) declaratory of the act entitled "An act to amend the customs-revenue laws, and to repeal moieties," approved June 22, 1874.

SELF-GOVERNMENT IN LOUISIANA.

The Senate resumed the consideration of the following resolution, submitted by Mr. SCHURZ on the 8th instant:

Resolved, That the Committee on the Judiciary be instructed to inquire what legislation by Congress is necessary to secure to the people of the State of Louisiana their rights of self-government under the Constitution, and to report with the least possible delay by bill or otherwise.

Mr. TIPTON. Mr. President, I desire to ask the indulgence of the Senate to this extent; it is so difficult to be heard in this Chamber unless the voice of the speaker is in the best possible condition for speaking, that I trust there will not be as much loud conversation on the floor of the Senate as there was yesterday while I was attempting to discuss this important resolution.

In the message of the President of the United States, transmitted to the Senate and laid on our tables yesterday, I find that a reference is made to the election of 1872 in Louisiana. The President says of that election:

The election was a gigantic fraud, and there were no reliable returns of the result.

I desire to interpose against that declaration of the message of the President of the United States an article which was addressed to him in the New Orleans Republican of January 24, 1873. This document is recorded in the book of testimony in the case of the report of the Senate Committee on Privileges and Elections in regard to Louisiana affairs. I find it in "Senate Reports, Louisiana Investigation, Third Session, Forty-second Congress," on page 274, and I desire to read a portion of it, in order to show clearly and conclusively that the President must be mistaken when he says that the Louisiana election of 1872 was a gigantic fraud. At that time the editor of his own organ in the city of New Orleans addressed to the President of the United States a portion of an editorial in the following language:

In our testimony we have so recently reviewed the positions of the parties contending for the control of the public affairs of the State, that it is unnecessary to comment further at this moment. But as it is rumored that the President is preparing his message with the most kindly sentiments toward the southern people, we deem it a duty to add the testimony of the Republican as impressing those sentiments more strongly upon him. This testimony cannot but from our stand-point be accepted as impartial. The Republican, then, assures the President that no people were ever more orderly and obedient to law than the people of New Orleans and Louisiana in the State and Federal elections recently held; that the relations between the races are kindly and cordial, the colored people voting by the side of the whites openly without military protection, State or Federal, and free from insult or molestation whatever. Difficulties which have arisen since the election are simply official, and are not alleged to have sprung from any force or fraud of the people. The controversy now pending has not arisen from the casting of the vote but from the counting of the vote. This vindication of order and harmony is not only proper for Executive consideration, but to counteract, so far as it may, the slander that New Orleans is under control of lawless mobs. This slander has not only prejudiced the mind of Congress, but has impeded immigration and excluded capital.

Now comes an important part of this document:

Whatever, then, may be the result of legal or political questions growing out of the Louisiana elections, the Republican deems it a duty to assure all whose opinion may have a bearing upon the political or commercial condition of New Orleans and Louisiana that the people, without regard to race, color, or previous condition, have demeaned themselves well and deserved well of the country for their conduct in the recent State and Federal elections.

I must call the attention of the Senate especially to these two documents; the President saying to us yesterday that the election of 1872 was a gigantic fraud; and his own mouth-piece, the official organ of the party in Louisiana, from the city of New Orleans, boasting of the harmony, of the cordiality, of the kindly feelings that exhibited themselves between the colored and the white people in that same election which was "a gigantic fraud;" and then repeating again, coming back to the same proposition after he had left it, and declaring that something more than common was due to the people of Louisiana for the manner in which they had carried that election which the President says was a gigantic fraud. This editor wrote this article for the President's special attention. He says the reason he writes it is that he does not want the President to fall into a mistake. He says he understands the President is preparing a message for Congress in a kind spirit, and he wishes him to understand that he cannot exhaust his powers of eulogy for the manner in which those people have conducted themselves in that election. I put it not too pointedly; I put it as it is when I read again the concluding part of that document:

The people, without regard to race, color, or previous condition, have demeaned themselves well, and deserve well of the country for their conduct in the recent State and Federal elections.

I stand by that instruction of the editor of the President's organ of that day, for it was written at a time when this tumult had not swept over the land, in which it was not necessary to prove that these people had been guilty of such frauds in that election as that the election itself was "a gigantic fraud." I put, then, the President's instructions from New Orleans, in January, 1873, as to the fairness, the quiet, the amicable relations existing between the voters of that State, regardless of race and color, without Federal protection and without the arms of the State of Louisiana, against his assertion in his message of yesterday that that election was "a gigantic fraud."

I now desire to call your attention to another part of the message which the President has just submitted to the Senate, and it is that in which he gives us to understand how and why the troops of the United States were in Louisiana and in New Orleans, and why they were called upon, and why they were used in the conflict in the Legislature on the 4th of January of this year. He says, in regard to that:

Troops had been sent to the State under this requisition of the governor—

That was in September—

and as other disturbances seemed imminent—

After the troops had discharged whatever duty he intended them to perform; after they ought to have returned to their barracks, wherever they were; after the troops having discharged their duty, should have been withdrawn from the State, he takes it for granted that he may leave them there. Why?

They were allowed to remain there to render the executive such aid as might become necessary to enforce the laws of the State, and repress the continued violence which seemed inevitable the moment Federal support should be withdrawn.

That then is just this: the President believes himself at liberty to use the Army of the United States—our Army, the people's Army—for the purpose of gratifying the governor of a State who wants to borrow the military of the United States and keep them under his control and in his possession until such time as he may find something for them to do. Thus they were left, and whatever explanation may be put upon that language in any other part of the message, that view of the question accords directly and entirely with the view of his right over the Army that was exhibited to the people of Louisiana two years before. When he gave them the Army two years before, it was precisely on this same basis. They said to the President: "There are rumors that there may be difficulties, and we therefore ask you for the use of the Army." Here he says they satisfied him that there might be difficulty and that they might want an army, and as he had an army, in the kindness of his disposition to his political friend, the governor of Louisiana, he says: "Certainly keep the Army there and perhaps an opportunity may offer when I may be able to use it." He seems to have desired that his soldiery should not rust out for want of use, and that whenever there is an opportunity for them to do something they should be on hand, that the governor should have the privilege without any requisition on the President, according to the Constitution, to use the Army. Therefore we have it understood that that use of the Army was given upon the same old basis of "Use it at your pleasure and return it when you are done with it."

How does that agree with the Constitution of the United States? The Constitution is explict that "the United States shall guarantee to every State in this Union a republican form of government, and shall protect each of them against invasion, and on application of the Legislature, or of the executive (when the Legislature cannot be convened) against domestic violence." No provision is made whatever for furnishing in anticipation. A governor may be timid, he may honestly believe he will need military; a governor may be despotic, and may desire to use military. In either case it may never be proper to allow the use of the military; but when he has them in advance, it has passed beyond the power of the President to judge. That will answer very well to satisfy and allay the feelings of his party friends in the South. "I left the Army there in order that the executive of Louisiana might have the advantage of it if he deemed it necessary to use it." And then further on in his message he says, in answer to

a dispatch of Governor Kellogg, that which will be very palatable at the North:

Your dispatch of this date just received. It is exceedingly unpalatable to use troops in anticipation of danger. Let the State authorities be right, and then proceed with their duties without apprehension of danger. If they are then molested, the question will be determined whether the United States is able to maintain law and order within in its limits or not.

That is for northern consumption. When they gave them in the Durell case, the troops they gave were in anticipation of danger. When Casey asked for troops, it was in anticipation of danger. When Packard asked for troops, it was in anticipation of danger. When these troops were left with Kellogg, it was in anticipation of danger. And after the deed has been done, then very blandly and apparently honestly, your President says that it is exceedingly distasteful and unpalatable to use troops in anticipation of danger, and therefore that will sound very well at the North. Its counterpart will sound with his partisans at the South very palatable. In olden times we had an exhibition of politicians riding two horses at the same time. We have the same acrobatic feat—if that is the term, and there are enough gentlemen here who know whether it is or not—at the present time.

Now I wish to say one word in regard to how the olden doctrine of the Constitution has been obliterated, lost, and destroyed on this subject. I say to the Senate in advance that if a little corporation in the State of Louisiana to-day, whether it is for the purpose of operating a ferry-boat on a river, or for the purpose of controlling a market-house, or whether it is in reference to a slaughter-pen—and that would be a very appropriate subject to connect with their operations—any little handful of men incorporated in the State of Louisiana to-day, if you threaten them, if you send abroad in that community a report that perhaps they are not entirely safe, they honestly conceive that it is their business to draw a requisition on the President of the United States for the use of the Army! Senators, unless you have been looking into this precious document sent us by the President, some of you are taken by surprise that I should make an assertion of that kind in the face of the Senate and of the country. Ardent as I may be, impetuous sometimes, you never find me using documents without great care and discretion. Then you anticipate that I will prove this. I ask the Secretary to read what I send to the Chair.

The Chief Clerk read as follows:

[Telegram.]

NEW ORLEANS, *December* 10, 1874.

President GRANT, *Washington, D. C.*:

I transmit the following dispatch by request of Ex-Governor Wells, president of the returning board.

WM. P. KELLOGG.

NEW ORLEANS, *December* 10, 1874.

President GRANT:

Authentic information in possession of the returning board justifies them in believing that an attack is intended upon the Saint Louis Hotel, now occupied as a State-house, wherein the returning board holds its sessions, and where the returns of the late elections are deposited. The board has nearly completed a careful and impartial canvass of the returns, in compliance with law, and expect to make promulgations therefrom as soon as the same can be properly compiled. The members of the board are being publicly and privately threatened with violence, and an attack upon the State-house, which is likely to result in bloodshed, is also threatened. By request of the board, I respectfully ask that a detachment of troops be stationed in the State-house, so that the deliberations and final action of the board may be free from intimidation and violence.

J. MADISON WELLS,
President of State Returning Board.

Mr. TIPTON. There is the proof of the allegation which I make in reference to the demoralization of the republican party in the State of Louisiana, as respects the power of the President to furnish them the Army. There are a few clerks performing the clerical duty of adding up the election returns, making the footings, for the purpose of exhibiting the result in the State of Louisiana; and while those gentlemen in the discharge of their clerical duties in the Saint Louis Hotel are occupied, there are rumors that they may be disturbed in their deliberations, and they draw up a requisition on the President of the United States for the Army, hand it over to the governor of Louisiana, and the governor of Louisiana transmits it to the President of the United States, without note or comment, in order that these gentlemen may have their constitutional privilege under the Constitution of the United States of being protected in their clerical labor by the Army of the United States!

What next? The Army used for the purpose of enforcing order in Pennsylvania on election day, as was exhibited to the people of Pennsylvania in the canvass of 1871, when Governor Geary protested before the country in regard to the use of the Army for any such purpose; the Army used for election purposes in the State of New York in the same year, when Governor Hoffman protested against the interference of the Army; the Army used for the purpose of perambulating the State of Louisiana in charge of the marshal of the United States, while he is ostensibly engaged in enforcing the laws of the United States, and while he is really out electioneering for the party; the Army is used for the purpose of enforcing the mandates of a Federal judge; the Army used for the purpose of seizing State-houses at two o'clock in the morning; the Army used for the purpose of surrounding a State-house, in order that none but the faithful shall enter, in the year 1875; and now the Army is called upon for the purpose of assisting a returning board in counting and ascertaining the result of an election; and that seems to be the condition to which the country is reduced at the present time, in that portion of it at least, in regard to their understanding of constitutional privileges—so loose has been the practice of the Government in regard to the use of the Army.

On this subject of the duty of military men, in a message of the the governor of Illinois, I remember, two years ago he said:

I also deny that the officers of the Army have the right to determine the measure of the duties of any civil officer, under any circumstances whatever, or that their powers are increased by any emergency that can possibly happen in the affairs of any State. These are not, as they seem to suppose, the natural rulers of the people.

I hold that to be sound in regard to the Army officers of the United States, that they are not to judge in civil affairs in regard to what may be the interests of a State or the interests of individuals; but it is their business only in those cases to act their part where they act it exclusively under the Constitution and within the lines prescribed by the Constitution of the United States.

Again, the President attempts to prepare the country for the doctrine of a United States despotism. In this message he says:

That the courts of the United States have the right to interfere in various ways *with State elections*, so as to maintain political equality and rights therein, irrespective of race or color, *is comparatively a new and to some seems to be a startling idea*; but it results as clearly from the fifteenth amendment to the Constitution and the acts that have been passed to enforce that amendment as the abrogation of State laws upholding slavery results from the thirteenth amendment to the Constitution.

Here the startling doctrine is announced for the first time officially in the history of this country that the United States courts have jurisdiction over State elections. If State elections are not exclusively the privilege of the people, then what are our liberties worth? You tell me I may cast my vote as a freeman. After that vote is cast it must be counted. That vote for a State officer must be counted and ascertained by the authority of the individual State. After that vote has been ascertained by the authority of the individual State, then the persons elected under it must be permitted to hold their offices; and if a contest arises, the State courts are the only tribunals to which the question can be referred for adjudication: it may be perhaps by *mandamus*, it may be perhaps by the writ of *quo warranto*; but in all cases it must be to the court of my own individual State. If I am elected a member of the Legislature, I have the right under the constitution to be the judge, with my fellow-members, of who are eligible to seats in that body. The governor of my State has no power over that question. The governor of my State can have no power over that question. The President of the United States can have no power over that question. No State outside of my own State limits can have authority over that question. That is my question; it is the question of my neighbors; it is the question of my fellow-citizens. We in our individual capacity, in our own precincts, in our own townships, do our own voting; cast up the results according to our own State laws; and then purge our State Legislatures of those who are not entitled to seats as members by the authority of the individual and local State laws.

I remember well to have witnessed that scene in the Legislature of Ohio—for I was in the State-house every day during its continuance—at a time when the democrats had organized on one side of the house and the whigs had organized not ten feet away from the speaker's desk, and there were two legislative bodies pretending to be in session. A former United States Senator from Ohio, Mr. Pugh, was at that time interested in the proceedings of the democratic party. The Hon. Mr. Olds, a brother of a distinguished politician of Ohio, who has been in the other branch of Congress, was also an active politician. I remember seeing Mr. Pugh standing upon a desk addressing a speaker there, when ten feet away from him—Mr. Olds stood upon a desk addressing a speaker to the right, as though each individual was certain he was addressing the properly-constituted speaker of the house of representatives of the State of Ohio. If that difficulty could not have been settled amicably after two or three weeks of protracted struggle, even then the forces of the State of Ohio might not have ultimately been called upon for the purpose of forcing a settlement. But at that time nobody supposed that the proper way was to come to Washington and appeal to the President for the troops of the United States for the purpose of either overawing or ejecting any portion of the Legislature. It was a proposition too horrible to have been received at the time by any man. No, no, Mr. President, these are our own local questions. At the present time, when party spirit runs high, they may be considered of trifling moment, but after you shall have stripped this question of the inalienable rights of men, of the peculiar franchise of freemen; when you shall have stripped it of all extraneous political considerations, the people of this country will die upon the field of battle rather than ever concede to the doctrine of the President's message. Sir, when it comes down to that, you will get an issue square and straight; there will be no Mason and Dixon's line in such a contest as that. The question will not be a local question of slavery in three or four or ten States out of thirty. The question will not be a question of manufactures, that might cause the East to rise in mutiny. The question will not be a question of mining, that might cause Colorado and Nevada and California to defy the authority of the United States. But it will come to my hearth-stone, it will come to your hearth-stone, and it will come to the hearth-stone of every family in the limits of this Republic of ours; and you cannot divide the country then by Mason and Dixon's line, but all men

everywhere will have a deep interest in this question of local self-government by the people in their State capacities independent of the Government of the United States. Then, when it comes in that way, the people will settle it, and the distracting politicians will die politically before the power of the people.

If a President desires to strengthen his party, how would he work under this assumption of the message? Just as he has operated in the State of Louisiana. With that doctrine, suppose a President of the United States looks to his United States judge in Louisiana; he is interested in the passage of a great national measure. The Senate of the United States is almost a tie or entirely a tie upon that question. He appeals to his district judge in the State where the result is to be produced. He simply follows in the footsteps of Durell. He claims under the fifteenth amendment to the Constitution that he has an equitable right to enter into the question of the election of the officials of the State and settle that question. It is settled by the use of the Army according to the original precedent set in 1872. We stand upon the precedent and we use the Army, and we thus elect our Administration Senators and bring them into this Hall, and when the question is taken, by the bayonets we have worked out the problem and our political question has triumphed in the United States Senate.

With a man in the Presidency who has no such desire, with a man in the Presidency such as perhaps has generally occupied that chair, we may have no fear of such a result; but what do we know in regard to the future? If we may anticipate it by what we know of the past and the immediate present, the time may come in this Government, with a little more lawlessness, with a little more disregard of the inalienable rights of the citizen, with a little more contempt for the precious boon of local self-government and it treated as an abstraction, as belonging to an exploded theory of State rights, with a little more of that in the country the time may come when a tyrannical and despotic President of the United States will seize upon the privileges granted him by this message and by the practice of the party in power and thus hurl in ruin the fabric of our Government.

If this is to be decided by the courts of the land, a legitimate deduction from the fifteenth amendment, what of that? Why, this of that: whenever that is settled, whenever the United States courts shall say that such is a legitimate practice or may be a legitimate practice under the fifteenth amendment, then in this Senate and in the House of Representatives a proposition will be made to amend the fifteenth amendment of the Constitution, and it will be amended by the sovereign will of the people; for when the people passed the fifteenth amendment, intended to guarantee the right to vote of the colored man, they never for one single moment anticipated that by that act they were putting shackles upon States and putting States under the feet of Federal judges. That is my remedy. That is revolution through the ballot-box in answer to the omnipotent will of the sovereign people. Talk about sovereignty if you please; there is a principle of sovereignty, there is a principle of right as pure as ever God sent down from heaven to infuse life and vigor into the heart of man to impel him to patriotic acts and patriotic devotion—a principle which must live as original and must be protected as fundamental.

I think the whole judiciary of this country will not come to the conclusion that a question clouded in so much of uncertainty, that a question hedged around with so much of mystification, was ever a proposition worked out and developed by the brain of Judge Durell, of Louisiana. I think that the whole bar of the country, with devoted attention to constitutions and constitutional discussions, will never charge for one single moment that Judge Durell, without a book in his law or State library to guide him on the subject, had ever come to the decision of a question like that, which was to change the whole practice of the judiciary of the United States. You will not attribute that to Judge Durell. But as it has now emanated from the White House, I think the inference will have to be that it has to be fathered by the Cabinet of the President of the United States. If that is so, then I understand well enough, I understand perfectly what was meant by that order to Judge Durell. The marshal of the United States will sustain by the Army the mandates and the decisions of the United States courts; and then the next thing was to furnish the mandate, cut and dried. Let the judge be sure he has the Army, and then let him issue our mandate, and he father it!

If this is to be the practice and if the precedent is to be established, contemplate for a single moment the power which you have in the executive office in this nation. Is it true that we have sixty thousand office-holders? If we have sixty thousand office-holders, how many have we of expectants for office? Have we not ten for every office-holder? Go to your counties; remember who they are that appear there in your political discussions, remember who they are who perform the peculiar work of the primary elections. Are there not ten expectants for every office-holder? That would be six hundred thousand political missionaries, always working by day and by night, under the eye and the appointing power of the President of the United States—six hundred thousand. Then take all the marshals of the United States with the privilege and the power to control the Army. Then take all the governors with the privilege of borrowing troops and laying them away in barracks until an emergency arises. Then take all the corporations and take all the returning boards and give them troops also—they have as much right to them as the others have—and then what is the power of the President through the marshals of the United States? Then look into your courts. Your judicial circuits occupy all the territory of the United States. You have your judges everywhere, and those judges have the power to sit in judgment on State elections, says the message which we are considering to-day, and that is a part of the power of the President, if this doctrine is true. Well, then, you have also as you have at the present time your subsidized newspapers, those that are receiving money from the Treasury for services performed or services that they would perform if they were required. Then you have all that other class of newspapers that are the partisan oracles of the party in power, and you have them all under the moneyed consideration, "be careful what you say or the golden stream that otherwise might be caused to turn itself through your office shall be averted and turned aside." With that influence in addition to the rest, what power has the President of the United States—and when I speak of the President I speak of the representative of a party; I mean the party in power. Then when it comes here you all know how we struggle, how restive we become under the lash of party discipline. You all understand it. "You have been there yourselves; you anticipate me;" your minds are full of the subject; you all understand how restive you become when you are informed that this notion which is so tenaciously entertained by your constituency has not been favorably considered by a party caucus. How restive you become when your instructions from home say "Stand by that bill, a State's salvation depends upon it," when you are informed that such is not just the opinion of the omnipotent, omnipresent, and all-wise caucus.

I say then this is an additional instrument of political power, dangerous to the people, and to be resisted in every proper, constitutional, and legitimate way. Under such an administration as Jefferson's, under such an administration as preceded Jefferson's and immediately followed Jefferson's, no such power was ever supposed to attach to the executive authority of the United States. Thomas Jefferson, even if he had had sixty thousand office-holders, would have claimed no power over them. When he appointed a man, he appointed him to discharge a specific duty. He swore him into his office, turned his back upon him, and knew him never again unless he was charged with peculation, and then he simply knew him on the day of political execution. The doctrine of Thomas Jefferson was capacity, fidelity, trust; but that is seldom asked at the present time. It is a concomitant that merely may be submitted to; it is an incidental that may be slightly respected. What was the doctrine in the last campaign? Is he a worker; can he go down among the shanties in the fifth ward, and is he a power in the saloons? That was just as high a recommendation as virtue, better than fidelity and manly honor. The party! it must be preserved. Jackson said, "the Union! it must be preserved."

I believe the honorable Senator from Illinois in the discussion of this question talked very much about war. He fancied that somebody was going to fight, and wherever he found the man who was restrained by fetters he talked to him more about war, much as a pugilistic child would who seemed to be all uncomfortable and "spoiling" for want of a physical contest. War, forsooth! Where would the Senator go for war? To the people of the South? And if he were to go to the people of the South for an exhibition of war, where over all that land would he find room sufficient to pitch their tents if they did not pitch them upon the graves of their fallen countrymen?

He would go to the South for war; to a people despoiled of all their substance in the past, having accumulated nothing since the time of the desolation. Any child can go to war against such a prostrate, fallen, submissive foe as that. He would go to war with the people who have no peculiar institution now for which to wage a contest. I say that Massachusetts and New England might afford to revolt. I say that the Northwest may afford to revolt; but I say that the people of the South are a people who never will be the first to revolt, but only to strike when they have been smitten. What have they now? They have an agricultural interest. That agricultural interest is so great that it binds them and unites them with the destiny of the agricultural interest of the North, of the East, and of the West. What have they besides? They have a manufacturing interest. That is tied up in the manufacturing interests of New England. They have a mineral interest; that is tied up with the interest of Nevada, of California, of the green mountains of the West. They have a commercial interest; and that is tied up with the cities of New York and of Philadelphia and of Baltimore. All these interests are now a common interest. They have nothing peculiar to them, only that they are at the present time the victims of a political tyranny from which in a short time they hope that the better judgment of the North will emancipate them. That is the people with whom the honorable gentleman proposes to have a war. Indiscreet men they have; who wishes to live and fatten on their desolation? Libelous men they have; who wishes to soil his political hands by their garbage? Only they who have a taste for and a natural disposition for such refreshments. They have men among them as editors who are intemperate, but of course we have no intemperate editors at the North; of course we have no seditious men at the North; of course we have no desperate men in the city of New York, and other cities of the North; but it is all there, and there is where the volcano is to explode.

Just here, unless I should forget it, the honorable Senator I believe

contended that the democratic party of this country had been forty years in power, and the result, the *finale*, the grand climax, the magnificent *denouement*, was the destruction of the country. O, what a slight honor can be awarded them for that in point of time! The republican party, of which the honorable Senator is such a distinguished leader at the present time, has accomplished that in twenty-four months in the State of Louisiana. Twenty-four months against forty years! The race is improving; but before they were able to accomplish that they had to educate the prince of darkness up to the standard so that he could comprehend the situation and do justice to the occasion.

Following the example of the honorable Senator, I will return to a point upon which I have already animadverted. I say that when the President of the United States left the Army in Kellogg's keeping, in Kellogg's barracks, in order that when he wanted them he could order them, the President ought to have understood what was likely to be the use that would be made of them. Says this message, as innocently as though the President expected anybody to believe him, that really he knew nothing of this matter until he heard it through the public papers. He ought to have supposed that perhaps they would use the Army for the purpose of seizing a State-house. Why? Because they had used it for seizing a State-house two years before. Is not that a legitimate deduction? He might have supposed that they would probably use it to silence democratic editors, because Casey, collector of customs, had told him that they would like to have a little sprinkling of military down there, for an editor was trying to turn the public against them. He might have supposed that the troops might have been used for the purpose of turning the tide in their favor, for he had been shown before in documents that it was necessary to give it in order to turn the tide in their favor. He might have anticipated that it would be used for purposes, perhaps, of organizing political meetings; because what part had the Army not played in New Orleans more than two years ago? The army more than two years ago was stationed around a political convention that was held in the custom-house, and United States troops were drawn up in the custom-house. That was no question between republicans and democrats; it was in the republican party itself. It has differed about everything else, but it has never differed in regard to the use to make of the Army. The President might therefore have supposed that they would organize political meetings with the Army of the United States, as they had done heretofore. This act was denounced in the message of Governor Warmoth, and the appeal was made to the consideration of the whole country.

Now, with all this done against the people of Louisiana, I contend that their forbearance has been great. I contend that, after all this turbulence thrown upon them, they, in the language of the editor from whom I have quoted to-day, deserve well of the country for the manner in which they have behaved themselves. I say further on that subject that everything with them was at stake when the question came of the Army controlling their elections.

A few days ago the honorable Senator from Wisconsin, [Mr. HOWE,] not now in his seat, said that he had forgotten for the time being the Declaration of Independence. I have no doubt about that. It was an honest admission. I only fear that his party has also forgotten the Declaration of Independence; and I do think, if I were in the attitude of the people of Louisiana, I would feel comfort and consolation from reading its immortal truths. Therefore I shall ask the Clerk to read that portion of the Declaration of Independence which I send to him, for it seems to have been written not for one age, but for all time, and to be especially applicable to the present condition in the State of Louisiana.

The Chief Clerk read as follows:

When a long train of abuses and usurpations, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government. * * * *

The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these States. To prove this, let facts be submitted to a candid world:

* * * * * * *

He has * * * sent hither swarms of officers to harass our people and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislature.

He has affected to render the military independent of, and superior to, the civil power.

He has combined, with others, to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws; giving his assent to their acts of pretended legislation.

* * * * * * *

In every stage of these oppressions, we have petitioned for redress, in the most humble terms; our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Mr. TIPTON. Mr. President, that is rather a new production. I have no doubt but Senators may like to have it read; and it may have misled some of the people in the State of Louisiana. It says there are times when it is the duty—not only the privilege—when it is their right and their duty to throw off a government. It also asserts, among other things, that standing armies are distasteful to a free people in time of peace. It also protests against combinations with those who would oppress, and says that in every stage of these oppressions they have petitioned for redress in the most humble terms, and their repeated petitions have been answered only by repeated injury. I remember an illustrious example of this two years ago in the case of the people of Louisiana. They sent a committee of one hundred distinguished men of their State, men trusted by the people of Louisiana, for the purpose of holding a conference with the President of the United States. They were met by a dispatch from the Attorney-General saying that they need not come; that the mind of the President was made up and would not be changed. These are the circumstances under which their petitions have been met. If, therefore, they should come to the conclusion that Kellogg was a prince whose character was "marked by every act which may define a tyrant," and that he was "unfit to be the ruler of a free people," you need not be astonished, and if they would also add to the declaration that he is not fit to breathe the air of freedom, I do not think that should be a cause for any gentleman to say that they who uttered it mean assassination.

Before concluding my remarks I wish to indulge in rather a discursive manner, having been confined so closely heretofore to the subject of debate. The honorable Senator from Indiana [Mr. MORTON] said in his place here that murder was organized for the purpose of destroying the republican party in the South. I felt that if ever there had been an organization for the purpose of destroying the republican party by murder, that organization would now disband forever. Inasmuch as the republican party has destroyed itself, their occupation would be gone, and gone forever.

But we are also told that in that Legislature in Louisiana the conservatives called upon the military of the United States. That is certainly a conclusion to which the gentleman comes who has a peculiar idea in regard to responsibility. What were the facts in the case? Suppose that a bomb-shell had been cast into that hall where the house of representatives was attempting to organize, and suppose the presiding officer of that Legislature had seized the bomb-shell before it exploded and hurled it out into the lobby among the rabble that were there, for the purpose of expelling them; what then? Would you have charged him with having originated the mode of controlling a Legislature by the use of bomb-shells? No, sir; he would take advantage of your criminal act to save himself and his fellow-men and cast the bomb-shell out among the rabble where if it exploded at all it might perform its work there. Or if General De Trobriand had called at the private residence of Speaker Wiltz and if General De Trobriand had been on a hunting excursion, as southern gentlemen sometimes are, and if his pack of hounds had followed him to the premises of Speaker Wiltz, and after he entered the parlor and while he was engaged in conversation with the speaker if his hounds had raised a disturbance with the watch-dog of the speaker's mansion, what would the speaker be likely to do? He would ask him politely if he would please step to the hall and call off his dogs; and that is all Speaker Wiltz did. He found the hounds, the political hounds, of this officer of the Army belaboring and setting upon his officers of the peace in the lobby, and knowing that the owner of the dogs could do more with them than anybody else, said he, "General De Trobriand, will you please step out into the hall and call off your dogs?" [Laughter.]

And then not only one Senator but all the Senators who have brains and whose reputation in the country will as a matter of course cause the populace to believe all that emanates from their gigantic intellects get together, hold a consultation, and say, "Well, we think after mature deliberation that that one fact that Wiltz called upon the military will be sufficient to checkmate the whole democracy of the country," when all that had been done was to call off the hounds. And that is the political sagacity, and that is political fairness, and that is an index of the honor from which it springs! The honorable Senator from Indiana [Mr. MORTON] as well as the honorable Senator from Illinois [Mr. LOGAN] had much to say, O! they had tomes to say, they had volumes to circulate, on the question of intimidation; and if they could find a district in the United States where there was no colored vote polled, there they flaunted the record before us and said "Intimidation! Intimidation!" They went into the district of Hon. A. H. STEPHENS, the recent vice-president of the Confederate States, and "there," they say, "is an evidence of intimidation that will answer all you gentlemen; we refer you to the fact that the African was not permitted to vote in the district of Mr. STEPHENS, and why? O! intimidation." What was the reply? The Africans met in convention and declared that they would vote for Mr. STEPHENS, and there were consequently none to vote against him. I ask the Clerk to read a note from Mr. STEPHENS on this subject, to show how far intimidation affected the colored people in his district.

The Chief Clerk read as follows:

There was no party opposition to me at either of the elections, the one last fall or the one in February, 1873. At the last election I was nominated by the regular democratic convention. The republican convention met afterward, and by their action indorsed the nomination. All the leading republicans in the district voted for me.

ALEXANDER H. STEPHENS.

Mr. TIPTON. Mr. President, this is humiliating; this is sorrowful; this causes any man sorrow who ever has been personally attached to any of these gentlemen, to say nothing of politically affiliated with them in their better days, to say of the Senate of the United States that such claptrap as that has been resorted to in order to prove

intimidation; that whenever they find a man like Alexander H. Stephens, who has the affection of the colored population of his district to such an extent that they met together and renominated him after the conservatives had taken him up, and they all vote for him, then the cry is made that here is a man elected and there was no opposition, because they were afraid to vote against him. That is the stuff out of which all the argument and much of the eloquence of gentlemen has been developed in the last few days.

Now, in regard to intimidation, the idea is here, the idea is everywhere with the party, that unless the old slavery question in some bearing can be worked up right now, unless this African subject can be appropriated and the water turned upon their mill-wheel, their grinding will cease. That is the feeling. The honorable Senator from Wisconsin [Mr. HOWE] indicated it the other day when he said in his place here that in three months after the colored man had his rights guaranteed and protected both the political parties of the country would be disorganized, meaning thereby that they would have no stock in trade to keep them together after that. Inasmuch as the democratic party does not seem to use that stock in trade to any great extent, and inasmuch as our republican brethren are those who deal in this stock, that explains to me the reason why they are never going to let this question cease. Why is it? They have had the power here to pass the civil-rights bill and settle this question forever. They have had the power in the other House; they have had the power in the Senate; and yet they have not settled it. They say that after it is settled, in three months they will be disbanded. They do not want to disband, and therefore they do not want to settle it. That is the legitimate conclusion. They cannot reply to that. That is the legitimate conclusion. The facts are against them. The records of the Senate are against them. But when it is necessary to hoodwink the colored man, they can pass a civil-rights bill through the Senate, and then go to the country and say, "Boys, now to the rescue; we have passed the bill through the Senate; send us back to the House, and we will put it through the House also." But they come back to the House and they do not put it through the House, and the bill fails. Then the next year, I suppose, the House can pass it and the Senate can give it the goby. Thus floating before the country is the idea of a civil-rights bill; but they never have given a civil-rights bill to their African friends who stand by them in their political organization. They are doubled-faced in this matter; they are Janus-faced; they are attempting to look both ways; and the country begins to understand them.

You said by your Senate bill that you proposed to go into our States, and you intended to lay your hands upon our hotels, and you would let us understand that our hotels should be run as you dictated. You dare not do that. Too many men keep hotels and sell whisky for you to be able to afford it. [Laughter.] You cannot give up the pabulum on which you have flourished. Forty-rod liquor is too powerful an engine in carrying elections to be disregarded in a civil-rights bill. You said by that bill, which you have advocated here, that you would go into our States by the authority of the Government of the United States, with the stars and stripes floating, with the drums beating, and you would give us to understand that you would revise our systems of education. Too many men send children to school; you dare not do it, and you have not done it. You can put it through one body, but you dare not undertake to put it through the other.

You said in your discussion of that bill that you would know whether there was any such thing as State sovereignty or State lines, and you said you would come into our States, the States of the people, and that you would there legislate in regard to their theaters, their places of amusement, and you would see whether they devoted their money to the erection of theatrical buildings and then undertook to control who should go to the theater. O, why do you not pay some attention to the erection of churches and dot them over this land? Why do you not go out as missionaries in behalf of the Gospel? But no; you feel that the great educator of the people is the theater, the exhibitions of the Black Crook, and higher displays of theatrical genius and decency; and, therefore, that all the people throughout the land may have the benefit of theaters, you will go out and organize them and regulate them under the laws of the United States.

You said you would come into our States, and that you would undertake to regulate the use of our cemeteries. Well, when you come, come prepared; we will give you the hospitality of our cemeteries with a great deal of pleasure, [laughter,] but never, while the breath of freedom is breathed by us, never while the rights of freemen are dear to us, will you control the use of our cemeteries in our States. Our people are humane; our people are kind; our people if left alone are merciful; but our people are executioners of vengeance when they are probed by your bayonets. Let them alone. They will control education as they have controlled it in all time past. Let them alone. They will erect as few theaters as they may think necessary, and then they will not call upon you or trouble you in regard to their control. Let them alone, and the hospitality of their hotels will be for the wayfarers of the country; but force them, and after that see what will happen!

What do I propose as a remedy for these troubles? I propose in Louisiana that you call home your Army. What would be the result of that? I will tell you what would be the result of that. Such a state of things would finally come about as exists in Georgia, where white men and colored men all unite in sustaining STEPHENS unanimously for a seat in the House of Representatives. Call home your Army, and the first result will be the triumph of the conservatives politically in Louisiana. Very well. Colored men for a year or two may not hold office; but the colored man that has been in the rice-fields of Louisiana, the colored man who has toiled in the sugar-plantations of Louisiana, will not be harassed by a carpet-bagging politician as their governor; and I mean that in no offensive sense. All those gentlemen who are here and who are from the South understand me in that. I suppose we are all carpet-baggers in this country. New England has carpet-bagged all the West and Northwest, for her population is everywhere. That is legitimate. But this offensive carpet-bagging system, the pouring out all our political lazzaroni on their shores, is what I protest against.

The first result might be power in the hands of the conservatives down there; and what would be the next result? The colored man would go to his rice-field; he would go to his sugar-plantation; he would work, work, work, prepare to educate his children, prepare himself to discharge the duties of political life. He would not be left long in that attitude. O, no; an independent democratic conservative candidate would come up. He would say to the regular democratic nominee, "Sir, I dispute your right to the votes of this district; I am going to run myself;" and what would he do? Go right to the colored element, conciliate it—gentlemen, you know how that is done—conciliate the colored element, get all that vote for himself. They would not be assassinated, for then they would be voting for a conservative. He would be a shrewd, bolting conservative, and he would say to his political friends in their caucus, "Let us put one-half colored men on our ticket, and we will draw the whole colored vote to us." Then the regular democratic conservative nominee on the other side would say to his friends, "Let us put three-fourths colored candidates on our ticket, and then we will beat these fellows at their own game." The result would be in a short time that no ticket could be elected in Louisiana which did not have a number of prominent colored men upon it, and the only danger would be that everybody that was elected might be colored, because everybody would be singing peans to the glory of the colored voters, and how bravely the colored troops had fought. [Laughter.]

That is common sense. I am borne out in that by the experience of every man in this nation. I say the only salvation for the colored people, the dawn of happiness, of prosperity, is for those spirits of turbulence to be driven out of the South and your Army called home.

Mr. President, I desire to conclude the speech which I have had the privilege of making in the hearing of the Senate this morning, by referring to yet one or two more of the positions occupied by the honorable Senator from Illinois. I have thought that he dealt very harshly with the gentlemen on the other side of this Chamber. He has remembered, for he knows, what old democracy is. A man of his advanced years, who was so long in the service of that old hard-shell Bourbon democracy, knows what were the leading, fundamental principles of their creed in years long since gone. He therefore undertakes to arraign the democracy of the present day, and charges them with all he is familiar with of stratagem, of treason, and of spoils. Mr. President, I see the subject through a different pair of glasses. I understand it thus: In years gone by there was a whig party and a democratic party. They had organizations. They were the antipodes of each other. They fought their political battles. They had banks; they had tariffs; they had distribution of the proceeds of the public lands; they had questions of the policy of the day in which they flourished to quarrel about. They have both long since passed away. The principal part of these old democratic leaders drifted into the republican party, and now I could point them out all around these seats. Why, there is scarcely a man here, excepting some of the very young Senators, but was formerly of the old democratic party. They carried the abuses of the old democratic party into the republican party, and the new democracy, the superior democracy, the democracy of the Cincinnati and the Baltimore platforms, have had to combine against these olden democrats for their political destruction. In the State of Massachusetts BENJAMIN F. BUTLER was the old democratic representative of the republican party. The young democracy, the Cincinnati-platform democracy, gave him his quietus in the last fall election. The honorable Senator from Illinois [Mr. LOGAN] is the leader of the republican party of the Senate and of the United States. He was for years the bone and sinew, the brains, the will, and the authority of the old Bourbon democracy; but in the State of Illinois last fall the young democracy, the Cincinnati-platform democracy, laid the prospects of that Senator in the shade by electing a young, new democratic Legislature, based upon the principles of the rights of the people and local self-government. I say, therefore, that it is not astonishing that the honorable Senator should feel somewhat hard toward the new democracy, that is driving the old leaders to their political graves.

Of the platform of this new democracy suffice it to say, it contains a plea for the political equality of all men, for the Union of the States, for universal amnesty, for local self-government, for a purified civil-service, for equal taxation, for a return to specie payment, for justice among nations, and for the supremacy of the civil over the military power.

But, Mr. President, very honestly and very candidly, I say in my

place I regret it. He may say to me, "That is not particularly your concern;" but I do regret that a man of his position before the country should deem it necessary to attack the stricken people of the South in the manner in which he has during this whole discussion. Senators from the South have been so attacked, they have been so denounced, they have been so pressed, (if you look for the pressing to the reports that will go out of these speeches,) that I scarcely know how they will be able to face a chivalrous, bold, and fighting constituency; and I have fancied that the object was to take advantage of the circumstances under which they were placed here. I did feel that a great injustice was done to the Senator from Georgia [Mr. GORDON] the other day, when there seemed to be a studied effort to irritate and to goad that faithful representative. At that very time he had sent a dispatch to the people of Louisiana in which he had called upon them in words positive and unequivocal, "Bear all your tribulations; suffer, even suffer to manacles; but resist not the authority of the United States." While the honorable Senator from Georgia, in the spirit of the Cincinnati platform—of amity, of friendship, and healing of wounds, the spirit of conciliation, the spirit of magnanimity, the spirit of chivalry and of honor—was thus attempting to throw oil upon the troubled elements, that he should thus be attacked was to me most astounding, especially as he had just placed the fetters of peace upon hands that illustrated his valor in battle. The people of the country will understand it. Men are not to be badgered now from the North any more than it was once said, in the days of slavery, that they were not to be badgered from the South. We now stand upon a common platform, we now occupy the same position, and the people will apply the corrective. The people at the polls will give it the quietus; and the people of the North everywhere are determined that this everlasting tirade, this ebullition of hate, this pouring forth of blood, this varnishing of the skulls of a previous war and keeping them for future use, this playing on the bones in the Senate of the United States, this shaking of the skeletons before the Senate and the country, shall cease. That thing has been tried. That game was played in Illinois last fall. The honorable Senator—I know how eloquent he was; I know how persistent he was; I know how like an angel he was, flying from one portion of heaven to the other with the republican trumpet blowing the tocsin of war, telling about Penn's revolution, about the maimed and the decrepit soldiers of the South making a desperate effort to straighten up once more for the purpose of attacking the liberties of Illinois; I know how much of that speech was made to his people. They heard it; they treated him like a gentleman; but they voted for the modern democracy!

It was so, Mr. President, (Mr. SCOTT in the chair,) in your own State of Pennsylvania. You had been the author of thirteen volumes, printed on foolscap, containing reports of outrages in the South. That document had gone all over Pennsylvania. You had at least from one hundred thousand to five hundred thousand of a majority—probably one hundred thousand majority for Hartranft. It was an immense multitude that no man scarcely could number and expect to live. The books were carried in peddlers' packs all over the State. They were read for thirteen nights in succession, one volume every night, at the miner's cabin, around the doors of the furnaces, among the poor, impoverished laborers in the mines of Pennsylvania; but they saw through the flimsy disguise. They simply went to the polls on election day and registered their edict that a party that proposed to live on blood when they were scarcely able to live for want of bread should go to political pandemonium; and that edict stands registered at the present time.

I leave this question with the Senate. I am in favor of the passage of the resolution of the Senator from Missouri, [Mr. SCHURZ,] in order that the Judiciary Committee, in a cool, fair, manly, and dispassionate manner, may look into the subject, and I trust without partisan bias be able to come to the conclusion that there is a government of the people in Louisiana in abeyance; that the duty of this Government is to call home her Army, and no longer aggravate and exasperate the people of that State.

Mr. FRELINGHUYSEN obtained the floor.

Mr. LOGAN. I ask the Senator from New Jersey to yield to me for a moment. I do not wish to detain the Senate, nor do I wish to make any remarks in criticism or reply at all to what has been said by my friend from Nebraska; but inasmuch as he has suggested to me that there was a democratic Legislature in my State, I ask permission to have a telegram read from that Legislature on this question.

The Chief Clerk read as follows:

SPRINGFIELD, ILLINOIS, *January* 14, 1875.

Senators LOGAN and OGLESBY,
United States Senate:

The house of representatives has just laid a democratic resolution alleging unlawful interference in Louisiana on the table—83 to 62.

S. M. CULLOM.

Mr. LOGAN. I desire now to have read a certified copy of a telegram that was sent to the President of the United States, putting another phase on this case, showing now that the other side want the Army. I only ask that it be read.

The Chief Clerk read as follows:

NEW ORLEANS, *January* 14, 1875—8 p. m.

To U. S. GRANT,
President:

Seeing from your message that the interference by the military on Monday, the 4th, with the organization of the house of representatives of Louisiana was unauthorized by you, I now, as speaker of said house, ask you to direct the military to restore the *statu quo* existing at the time General De Trobriand ejected certain members from the house, in order that the house of representatives may proceed in the discharge of its duties without molestation.

LOUIS A. WILTZ,
Speaker of the House of Representatives of Louisiana.

A true copy.
LEVI P. LUCKY,
Private Secretary.

Mr. TIPTON. I have to say that I hope that will be granted, and that these gentlemen will not be humiliated by going back and undoing their tyrannical work.

Mr. FRELINGHUYSEN. Mr. President, I feel constrained to make a few calm remarks in this debate for the purpose of correcting a delusive impression which I fear is being made upon the people of the South, and for the purpose of counteracting, to the extent of my feeble ability, an injury which I believe is being done by positions here taken to the best interests of the country.

The allegation is made openly and repeatedly in the Congress of the nation, in the assemblies of the people, and in the public journals, that there has been inaugurated, has long continued, and now exists a system of outrage, murder, and assassination at the South, the deliberate design and purpose of which is to deprive American citizens of their constitutional rights. It is not for me to say that this allegation is true; that would be but the opinion of an individual; but I will very briefly call attention to some of the considerations which seem to prove the charge.

While it is true that "common rumor," to use a rough maxim, "is a common liar," yet the calm and deliberate conclusions of an impartial community, gathering their information from a hundred different sources, are entitled to much of the consideration that belongs to truth; and I feel that I may say that a large part of the community at the North believe that allegation to be true, and that the plain people of the country, who love their country better than any party, have painful apprehensions that it is true.

The fact that a large number of those against whom this system of terrorism is alleged to be directed omit to exercise the cherished right of voting, are discontented and seeking to remove from their homes, is further evidence of the truth of the charge.

The fact that some of the white people of the South who recently manifested their dissatisfaction with this Government by open revolt have since the close of the war displayed their hostility toward those who favored and sustained the Government by the organization of a secret order known as the Ku-Klux, who are proven by thirteen volumes of testimony to have been guilty of the most diabolical crimes, and that now another order is founded on the antagonism of race, as the name of "White League" alone sufficiently shows, is some evidence that the charge is true. We have the evidence of there having been several slaughters at the South, resulting in death to many of those toward whom this terrorism is directed, as that at Red River, that at New Orleans, that at Vicksburgh, and at other localities.

Then, too, we have the testimony of living witnesses officially before this tribunal, under the sanction of oath averring before us that the charge is true. The Senator from Louisiana [Mr. WEST] reluctantly and under a sense of painful duty, told us the charge was true. The Senator from Texas, [Mr. FLANAGAN,] who has lived nearly seventy years with the people of the South, who has no ends to answer excepting fidelity to the country, tells us that the one-half has not been told. His colleague from the same State [Mr. HAMILTON] does not contradict him. The Senators from Arkansas and from Mississippi are here, and they have not yet risen to say that the allegation is false.

Then, sir, we have the testimony of General Sheridan, that brave and patriotic man, the hero of many a battle-field, whose name and memory will be cherished by the American people long after most of us are forgotten. He tells us, with all the directness and frankness of a soldier, that the atmosphere which his high duty compels him to breathe is filled with violence.

Sir, I have in my possession a compilation of hundreds of instances of violence, gathered from the public press, giving place and date and name; but I will not refer to them, because their use would be met with the assertion that they were mere newspaper stories; but which while uncontradicted cannot fail to add to the conviction that a system of violence does prevail.

And last of all, under the duty imposed by the Constitution upon the President to communicate to Congress from time to time information of the state of the Union, we have the deliberate statement of the Chief Magistrate that this allegation of outrage and wrong is true. Now, sir, it will not do to attempt to "whistle down the wind" a charge sustained by such proof.

This charge that a system of violence has existed and does exist should have been met by every Senator, without distinction of party, with an impartial and firm determination to know the truth, rather than by a cold and vacant denial. It should have been met by a united effort to exhaust the whole power of the nation to bring to speedy punishment these violators of law, rather than by justification, extenuation, and derision. One Senator tells us that the allegation is an insult to the people of his section; and I suppose that is to stop action when law is trampled under foot. He tells us that "only in rare and isolated instances" does violence occur.

Another Senator says:

I do not vindicate murder; I do not vindicate violation of law; but I hope that the people of all countries, including Louisiana, will never tamely submit like cravens and cowards to be oppressed without a show of resistance.

If, sir, there is any more craven and cowardly way of resisting even oppression than by assassination and murder, I have yet to learn it.

Another Senator attempts to hold the charge up to derision, and tells us "the outrage business is played out; that the people have heard that song until it fails to be music to their ears; that the republican party have an outrage-mill; and that these stories are part of their political machinery."

When such astounding statements of systematic violation of law as are presented here are thus met by Senators, no one should wonder at the saturnalia of crime. If the Senate and House with one voice and one heart should denounce these atrocities, and, casting party to the winds, let the world know that we were determined law should reign supreme, there would be order at the South in sixty days.

If this charge of violation of law be true and such things be tolerated, we see before us the ruin of this Republic. This system of organized crime may accomplish the partisan purpose to which it is directed; but it is yet true, as has been well said, that laws that are enrolled in the chancery of heaven cannot be repealed by any popular vote, and He who enacted them cannot be reached by any bribe or moved by any terror. In the violation of that simple law of right and wrong which is written in letters of light on the shrine of creation, and on all our hearts, you may read the downfall of the generations of nations that have figured upon earth. The crimes of the Roman republic were lost in the greater crimes of the empire, and both were ruined. The revolutions of France, the vibrations between anarchy and tyranny in the Greek republics, only prove that no matter what be the form, government cannot be maintained but by maintaining virtue.

Our fathers, when they laid the foundations of this nation, made a compromise with vice, and it well-nigh cost the life of the Republic. Too patriotic to inscribe upon the pages of their Constitution that word which is the sum of all iniquities; too logical, when establishing a government based on the equality of man, to recognize different grades of citizenship or civil privileges, they yet did tolerate slavery; and the result has been that for every tear-drop that in response to the lash of the task-master has trickled down the cheek of man, there has been demanded a drop of the heart's blood of the sons of those who thus struck hands with a great national wrong.

We should learn wisdom by experience. We have come to a national epoch. The rebellion is over; there has been enough of suffering and of torture; the storm is passed, but the current still runs strong. There are animosities, antagonisms, hostility; and the question for us is whether, come weal or woe, we will stand by the right, or whether we will suffer the Republic to drift away to that destruction which has met every nation that did not withstand the tide of vice.

The people of our country have inscribed on their Constitution three principles: universal freedom, universal suffrage, universal citizenship. There they are. They are the trophies of the war. To purchase them three hundred thousand young men, as good as any of us, lie to-day cold and stark in death. Time has brought its alleviations, but to-day thousands of hearts are shrouded in sorrow. We Senators at yonder rostrum have assumed the solemn obligation to do all we can to maintain and enforce in letter and in spirit those three great amendments of the Constitution. Has it been done? Is it being done? Is there a citizen of the North who would to-day be willing to live under such citizenship as the colored people of the South are subjected to? These are questions each Senator of right determines for himself. But if these amendments did not exist, how plain is the path of policy and of duty At the Revolution the population of the country was three million; it is now forty million. The number of the colored people to-day is four millions eight hundred thousand. I do not say that in a like period to that which has elapsed since the Revolution the colored population will amount to forty million; but I do say that they will amount to twenty million; and the question is, as a matter of mere public policy, aside from all constitutional amendments, whether they should be reasonably elevated, educated, and made a thrifty and industrious population, a blessing to themselves and to society, or whether they shall be an ignorant and degraded race, rising occasionally in revolt as the lingering sparks of manhood are fired by some new wrong—whether they shall rise to the dignity of creatures of God or become a mass of moral degradation pestilential to society.

Let us remember that the object of government is not to minister to the pride or to feed the luxury of men, but its true end is to elevate, refine, and humanize all who are brought under its influence. If we did not intend to give these people the rights of citizens, we should have left them slaves. If we did not intend to give them the protection of the law, we should have left them that protection which the lord gives his vassals. Look at their history. They were brought here by the cupidity of our fathers. They have been docile and obedient to law; they have not been pensioners upon our bounty. They have cleared our forests, reclaimed our morasses, and every year they bring $150,000,000 worth of cotton—the equivalent of gold—to the wealth of the nation. Without return they have supported in affluence a large portion of the people of this country. They have educated their children. They have helped to fight our battles. They are not indebted to us. And, sir, besides, it is the height of folly for a people to quarrel with its labor, for that is its wealth.

But all these plain and clear obligations of the Constitution, of duty, and of policy are met by one plea, which I have heard iterated and reiterated when each of the three amendments and when any law for its enforcement has been before the Senate, until the plea has become vapid and nauseating. That plea is, "We do not want social equality." That plea is a fraud or a delusion. There is not, there never has been, and never can be any such thing as social equality. The richest and most influential man in society cannot take a cup of tea with the poorest and humblest old lady in the country without her consent. Social relations depend upon reciprocal consent; they depend upon taste; they depend upon the affinities of the mind; they depend upon the arbitrary will of individuals, which no statute can control. Look at it, sir. The most uncouth, illiterate, degraded, and uninviting white men in the land, if not felons, have now and ever have had full and equal civil and political rights. Has this fact compelled anybody to associate with that class? Has it created social equality? No; on the contrary, in this country where we do not recognize any grades of citizenship, society has risen to a refinement, a culture, and an elevation that it has not attained in those lands where grades of citizenship are recognized. That plea is either a fraud or a delusion.

The people of the South had better not be deceived; for the people of this country intend that sooner or later there shall be equal citizenship here. They intend that the plea, "I am an American citizen," shall be respected in every nook and corner of the country just as much as it is upon the deck of a man-of-war. Do not be carried away by any ephemeral excitement; the rights of citizenship have cost too much ever to be surrendered. If this system of violence goes on at the South, you will see no political divisions at the North. Democrats are just as good men as republicans, and when they come to understand the situation will be as determined as republicans to have the law triumphant in this country. There are associations and traditions connected with the history of the three great amendments which appeal to the hearts of all our people. They will remember that the same blanket covered a lamented son and the colored soldier on the morass; that they shared their waning canteens together; that they bore for each other the last message of affection, and even bivouacked in death together; and our people will say: "We have submitted that those who have a chartered right to equal citizenship shall not have the full advantage of that public education they are taxed to support; we have submitted that when they travel they shall be thrust into the bunk or cattle car; we have submitted that they shall eat their rations at the curb-stone instead of the common inn; we have submitted that they shall be buried upon the roadside and not be permitted burial in that public grave-yard which they are taxed to maintain; but we will not submit that their lives be tortured by apprehension and terminated by violence." That will be the sentiment of the democrats and republicans at the North.

Be not deceived. In 1860 there were democratic leaders who sympathized with the then approaching rebellion. They told the South that there would be a divided North; that military forces would not be permitted to pass through certain States, and that there should be no coercion; but as soon as the old flag was fired upon, the rank and file of the democrats cast to the wind the pledges of their leaders, and manfully fought, and died, too, for their country. If the people of the South gets the impression from anything said here that there will be at the North any sympathy with or toleration of the system of violence, that seems to prevail at the South, they will be deceived.

A distinguished Senator said the other day that we should conciliate the South. Let me say to the Senators from Southern States that I remember that we have a common ancestry and measurably a common history, and I hope a common destiny. That I remember that they made a great mistake and have been disappointed; and while I am glad that they were, my American manhood forbids that I should ever exult over their disappointment. But, sir, let me say that I am opposed to any system of so-called "conciliation" because that is not to their advantage or the interest of the country. What we all want, and must have, is a government of law and equal citizenship everywhere. Conciliation! No, Mr. President; that administration of affairs which depends upon the will of the governed, and not on the will of the governing power, is not government. We want no jelly-fish system, that rests on conciliation; we want a government of bone and vertebræ, which does not "bear the sword in vain," which is a "terror to evil-doers." Let it be the sam in every section.

It has been eloquently and truly said that the hand which breaks down our laws is the hand of death unbarring the gates of pandemonium and letting loose upon the land the crimes and miseries of hell; and if the Most High should stand aloof and not cast a single ingredient into our cup of trembling, it would yet be one of insufferable woe; but He will not stand aloof.

Mr. President, the subject of the prevalence of crime and lawlessness at the South, and especially in Louisiana, and the supreme necessity of averting anarchy, constitutes the atmosphere through which alone you can correctly see and judge of those transactions of the 4th of January, which have excited the country. Sending Federal soldiers at all to a State which was peaceful, which was in a normal condition, would find no defenders on this side of the Chamber. Having the

soldiery reinstate one government for another, as was done on the 14th of September, and which has met approval by the country, has only been approved because of the abnormal condition of society at New Orleans; and those utterances, here and elsewhere, which characterize the conduct of the General Government as if the theater of action had been in a peaceful State, where the law was supreme, where every citizen was a conservator of the peace, are a simple perversion of the true situation and calculated to weaken a government which every citizen of every party is bound to strengthen.

This much I wished to say: that those who wish to look at the transactions of the 4th of January as they really were may take a proper stand-point to view them.

I think the reflecting people of this country must be painfully impressed with the injustice that has been done to the President and to General Sheridan in this debate. The President, it is clear, has only been influenced by the most humane and patriotic motives. He called upon Congress for direction, and Congress in effect told him to recognize and to sustain the Kellogg government. He told us that he had recognized that government, and that he would continue to do so unless we directed to the contrary; and we were silent. He has, as a faithful man, done the best he could; and it seems to me that it is ungenerous and unjust to seek to excite toward him public prejudice or odium. Time and again, when massacre seemed to be impending, he has averted it.

As the 4th of January approached the whole country was filled with anxiety. The telegraph constantly informed us of the condition of affairs there; and when the day was passed without violence the nation was relieved. It was that modest, retiring, and indomitably brave man who has so often and so signally averted impending peril to his country who was the instrument to turn aside that threatened sorrow and disgrace. And to classify him with Napoleons, and Cæsars, and Cromwells, and oriental despots; to say to the country that he may yet fill the corridors of the Senate with troops to control legislation; to suggest that it may be necessary to refuse appropriations to the Army or disband it because he, of all men in this world, is unfit to be its commander, is ungenerous and unjust.

Mr. President, before considering the proceeding of the 4th of January, let me say a word as to the powers of this nation known as the United States of America. The democratic party up to 1860 had so cultivated and distorted beyond proportion the doctrine of State rights that their theories culminated in James Buchanan's sending, on the 4th of December of that year, a message to Congress, stating that after serious reflection he had arrived at the conclusion that Congress had no power to coerce a State which attempted to withdraw from the Union. The erroneous theories culminated in that message, but the baneful effects of that doctrine can only be arrived at by estimating the blood and treasure the doctrine of State rights has cost the country. From the State-rights stand-point it is difficult to discover what the military can lawfully do. No, Mr. President, this is a nation, and not a general agency of thirty-seven independent sovereign States. By the Constitution the States are denuded of many of the incidents of sovereign power. They can of themselves make no agreement or treaty with other States. They can have no foreign relations. They can have no army or navy, and even the militia, when in service, is under the control of the Federal Government. The States, by the surrender of these powers, would be unable to maintain their organization against insurrection from within and invasion from without. The great common power to which the States look for protection from domestic violence and foreign invasion is the United States.

All the power which the United States possesses in this regard is set forth in the fourth section of the fourth article of the Constitution. The provision is brief, but contains vast powers. The United States Government guarantees three things to the several States, in consideration of their having surrendered the incidents of sovereignty. It guarantees to them government, security, order. It guarantees to the States government. This the United States is to see that each State has, whether the Legislature or the governor of the State ask the interference or not.

Every State is interested that there should be government in each. The relations of the States are so intimate that anarchy in one would be to the injury of all; and besides, as the citizens of the several States are citizens of the United States, they have a right that anarchy shall not exist in any. Then, too, the United States has a system of laws and government extending into each State, and its laws and government cannot be enforced in the State that is in a condition of anarchy, and the obligation is on the United States to see to it that anarchy does not exist anywhere; and this whether the governor or the Legislature make a call or not.

The United States, whether the Legislature or governor ask it or not, whether they like it or not, is also to protect the several States from invasion. All are interested that the State should not be devastated by a foreign foe. All the citizens of the United States are interested in this, because as citizens of the United States they have rights, property, and privileges in the State to be protected. And the United States of its own motion is to afford this security.

The United States is to do one thing more, on the application of the Legislature or governor. The State having surrendered its rights to an army or navy, the United States is to render its aid in protecting from domestic violence.

Now, who is the United States? Is it the executive, or is it the judiciary, or is it Congress? It is all combined, and it is each of these three branches acting separately within its constitutional province. The Government which the United States guarantees is to be republican in form. Should a State pass a law tending to create an aristocracy, as that the judgeship should be hereditary, it would be the duty of the judiciary to declare that law void; and in that case, fulfilling this guarantee, the judiciary is "the United States." If all government in a State should be broken down, as after the rebellion, so that it became necessary to organize new governments, then the legislative power acts, and Congress is "the United States." If there is domestic violence in a State and the President is called upon by the Legislature or the governor to suppress it, he fulfills the guarantee, and he, acting in his province, is "the United States."

Mr. President, a republican government is not only one in which the representatives elected by the people govern, but is one in which the succession or continuance of organized authority shall be in accordance with the law of the land. That is quite as essential to a republican government as that the governing representatives shall be elected by the people. If by fraud or force, or both combined, this succession or continuance of organized authority according to law is interfered with, and the sovereign power is seized by intruders, that is a subversion of government and so is a subversion of a republican form of government, and the United States by that branch of the Government to which the duty appropriately belongs may interfere.

The highest and most atrocious breach of the peace, the most disastrous domestic violence, is that which prevents the lawful succession or continuance of organized authority.

It is worse than murder, rapine, or arson, because it strikes at the heart of government. If the usurper of power at the imminent moment the transfer or succession of government is being made can, by stratagem, by a *coup d'état*, wrest it from those designated by law, what folly is it to have armies to protect lawful government! For why should usurpers ever peril their lives to get that power which they can get by seizing, stealing, thieving? Why clothe sovereign power with a coat of mail, if you leave a joint in the harness open where the spear of the usurper may reach the very heart of government?

Let the United States Senate be careful that in its commendable hostility to the interference of the military with the civil authority it does not give countenance to the much more dangerous enemies to civil authority. The usurper of civil authority, whether by force or fraud, is entitled to no sympathy whether their treason be arrested by civil or by military agency; and the State that is delivered from the usurpation has suffered no wrong.

Unless we are careful, this nation with its thirty-seven State Legislatures may by our defense of those who through stratagem attempt to seize the government of Louisiana do greater injury to civil liberty than could ever in this land be done by the military power.

Mr. President, the military power of this country in the hands of the people is but that of a mouse under the paw of a lion. In countries where the people have little power, and where they are not the rulers, and where there are large standing armies, there may be danger from military power; and is it not true that the perils and dangers to civil liberty which there exist have been adroitly and skillfully transferred by some debaters to this country. It seems to me that I can hear the brave man of the West laugh at the idea of twenty-five thousand solders a few months from the people imperiling the liberties of their country! There is much of affectation in this pretense of danger to liberty from our Army. I think the trumpet has given in this case an uncertain sound.

Now, Mr. President, I have a few words to say in reference to the 4th of January. Remember the state of partisan feeling at New Orleans, as manifested by the murders and assassinations that had occurred. Remember that within ninety days an armed band of insurgents had overturned the government of the State of Louisiana; that they had shot down the police and trampled under foot the civil authorities; that they had murdered in the streets fifty citizens; that the governor himself only saved his life by fleeing to the custom-house. Remember that this insurrection was held in abeyance, but had not been exterminated; that it was like a subterranean fire that had been stamped out at one point, but was ready to burst out at another at any minute.

As that day approached, these insurgents had a definite purpose and definite plan for accomplishing their purpose.

Their purpose was at the imminent moment, when the sovereign power was being transmitted from one set of representatives to another, to seize the reins of government by stratagem and by force, and thus overturn a government which had been recognized by the courts of the State and by the Federal courts, by the Congress of the United States, by the President, which had existed for two years, and which this same party had within ninety days successfully seized, but were not suffered by the Federal Government acting through the military power to hold. That this was their purpose is manifest; first, by what occurred on the 4th of January, of which hereafter; second, by what McMillan, who was elected to the United States Senate by the McEnery legislature, told Mr. Foster, one of the committee which went to New Orleans. While sitting in the legislative hall, McMillan told him that their plan was that the newly-elected senators were to

join themselves with those who claimed to be elected to the senate in 1872, and thus they would have the senate. They were then to obtain the house of representatives in the manner we shall see; and that then the two houses would recognize McEnery as governor. Thus a revolution formerly attempted by force and defeated with the approbation of the whole country was to be effected by stratagem.

I am much mistaken if the Senator from Maryland [Mr. HAMILTON] the other day did not say in the Senate that if that Legislature had not been driven out, Kellogg would not have been governor for an hour. The purpose was by a *coup d'état* to effect that which they had failed to effect by arms and by bloodshed, and some of the people are thrown into a convulsion of excitement when this purpose fails. If the revolutionary stratagem had succeeded and been tolerated, it would have been a lamentable precedent for anarchy in a country where there are thirty-seven such legislative bodies, where power is annually succeeding from one set of representatives to another.

Now, how were the insurgents to get possession of the Legislature? The senate was to be easily managed. The democratic senators did not join their associates, but staid out of the senate to join the democratic members elected in 1872, when the house should have been secured.

How was the control of the house to be obtained? The plan of the insurgents and the outrageous violation of law are sufficiently manifested by a statement of the law and by what they did. There were two ways, and only two, by which any person could become a member of the Legislature—by his being named on the roll prepared by the clerk of the former house or by his being declared to be a member of the Legislature after it had been organized. Those are the only two possible ways in which any one can be a member of the Legislature of Louisiana. The statute that regulates this subject is the twenty-fourth section of the act of November 20, 1872, which declares in these words—

> That it shall be the duty of the secretary of state to transmit to the clerk of the house of representatives and the secretary of the senate of the last General Assembly a list of the names of such persons as, according to the returns, shall have been elected to either branch of the General Assembly; and it shall be the duty of said clerk and secretary to place the names of the representatives and senators elect, so furnished, upon the roll of the house and of the senate respectively; and those representatives and senators whose names are so placed by the clerk and secretary respectively, in accordance with the foregoing provision, and none other, shall be competent to organize the house of representatives or senate.
>
> Nothing in this act shall be construed to conflict with article 34 of the constitution.

Let us see if there is anything in the act interfering with the thirty-fourth article of the constitution. The thirty-fourth article of the constitution provides that—

> Each house of the General Assembly shall judge of the qualification, election, and returns of its members; but a contested election shall be determined in such manner as may be prescribed by law.

The act of 1872, you see, does not conflict with the constitution, but affirms it. The constitution says that none but the house shall determine the qualifications and elections of members. There was no house when this action was taken; there had been no organization. But the constitution further provides that the manner in which a contest shall be conducted shall be prescribed by law; and the law of 1872 does provide the manner, and expressly says that none, no matter whether in fact elected or not, unless their names appear upon the roll which is made out by the returning board and sent to the secretary of state and given by him to the clerk, shall take part in the organization of the house.

There were one hundred and two members on the roll who answered to their names; fifty-two, a majority of them, were republicans; fifty were democrats. By no possibility could that house under a party vote have had other than a republican organization. That was one of the difficulties the conspirators had to contend with.

There was another difficulty. The law provided that the clerk of the previous house should hold over, in the language of the act, "to facilitate the organization of the new house," and should hold over, as the act says, "until a clerk shall have been elected and qualified to succeed him." The former clerk, then, was the representative head of that assemblage of persons returned to the Legislature. It was he who should call the roll; it was he who was to preside until the house was organized by the election of a speaker. The language of the act is this:

> That, for the purpose of facilitating the organization of their respective bodies, the secretary of the senate and the chief clerk of the house of representatives shall hold over and continue in office from one term of the General Assembly to another until their successors are duly elected and qualified.

These laws were set at defiance.

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

Mr. FRELINGHUYSEN. Certainly.

Mr. MORTON. I desire the Senator to state whether under that law there was any authority for the election of what is called a temporary chairman or speaker to organize the house?

Mr. FRELINGHUYSEN. Certainly there was not; because there was an express provision of law that the clerk of the former house should hold over until his successor was appointed, for the purpose, in the language of the act, of "facilitating the organization of the house."

Mr. MORTON. I will ask the Senator still further if he understands the operation of that law and the practice of legislative bodies to be that the clerk himself is to act as the presiding officer until the organization is complete.

Mr. FRELINGHUYSEN. I certainly understand that the clerk is to preside until a speaker was elected.

Mr. President, these laws were set at defiance. The clerk was in his chair performing the duty of organization when a member usurped his duty. Mr. Billieu nominated Mr. Wiltz as temporary chairman. Billieu put the motion, which he had no more right to do than I had. He declared the motion carried and Wiltz elected. You, sir, might with equal authority have pronounced that judgment. There never was a grosser usurpation. Wiltz was not elected chairman of that house for these three reasons: First, because Billieu had no right to put the motion, or decide the vote; second, because he refused to call the yeas and nays. Mr. Foster told me that the demand for the yeas and nays was made. The constitution, by the thirty-sixth article, provides that "each house of the General Assembly shall keep and publish weekly a journal of its proceedings, and the yeas and nays of the members on any question, at the desire of two of them, shall be entered on the journal." A clerk was to hold over to keep the journal. There is the constitutional provision. There was a demand for the yeas and nays and there was a refusal. Wiltz was not elected the chairman of that house for the further reason that there were fifty-two men there opposed to him, as we have the right to infer, and not more than fifty in favor of him.

Mr. BOGY. I will ask the Senator if Mr. Billieu was a member of the Legislature, that is, one of the persons whose names were on the list furnished by the former clerk?

Mr. FRELINGHUYSEN. I understand he was one of those.

Mr. BOGY. If he was a member, it was according to the usage.

Mr. FRELINGHUYSEN. If he was elected a member of the Legislature, he was not elected speaker, and he undertook to perform the province of speaker by putting a motion and declaring that motion carried, and that too when another, provided by law, was presiding and when the motion was not carried.

Mr. BOGY. Did the law to which the Senator alludes authorize the clerk to put motions to the vote of that body? The law, if I understand it, only made it the duty of the clerk to call the roll of the members. It is the usage in the Western States—I know it is in my State—for a member whose name has been called to nominate a person, and he puts the question to the members whose names have been recognized as members, and it is not put by the clerk.

Mr. FRELINGHUYSEN. If the Senator from Missouri had done me the honor to listen to what I said, he would have understood my view.

Mr. BOGY. I will state to the Senator that I have listened to his speech with great attention and great pleasure, because I think he is making a very able speech indeed.

Mr. FRELINGHUYSEN. I am much obliged to the Senator.

The law expressly provided that the clerk should be continued over for the very purpose of facilitating the organization; that he should remain clerk until his successor was elected; that is, remain clerk until a speaker had been elected and they proceed to the election of a clerk. It would be a strange arrangement for the organization of legislative bodies if it was the province of one hundred and two men whose names were on the roll each to put a motion, each one to say "It is carried," and possibly have one hundred and two different results. That would be an organization into chaos!

Mr. MORTON. Will the Senator allow me to call his attention to the fact that at the time that man made the motion to elect Wiltz as temporary chairman none of them had been sworn in by the clerk?

Mr. FRELINGHUYSEN. Not one. None of them were sworn in before the republicans left in any other manner than according to Dr. Franklin's plan of asking a blessing upon the whole barrel of pork. They were not sworn in, as I understand, otherwise than by Wiltz declaring them to be sworn.

But, Mr. President, let us proceed. What use is there in raising a question whether Billieu had a right to put a motion or not, when the constitution provided that they should call the yeas and nays when they were demanded, and when they were refused and refused just because there was a majority against the motion?

Immediately on Wiltz's taking the chair, Mr. Trezevan was declared elected clerk. There was yet no permanent organization of the house. Then Mr. Billieu again moved that five persons who claimed to be elected, but whose names had not been placed upon the roll, should be sworn in as members; and this by the usurping speaker was declared carried. Another demand for the yeas and nays was made, and it was refused. They were not members of that house because they were not on the roll, and there was no house organized which could admit them. What a farce to say that five members who claimed contested seats could be admitted when there was no house organized, no committee appointed, nobody to look at the testimony, to look at the credentials, and when the law of the State expressly said that they should not be admitted until after there was an organization. What a farce to pretend that these men were members of that house when the person who put the motion expressly refused to call the yeas and nays, and when we have a right to infer that there were fifty-two against their admission and only fifty in favor of it.

Then, sir, we have this case: Here are five persons assuming without authority to exercise the sovereign power of the State of Louisiana; fifty democrats join with them, making fifty-five, which changes

the political complexion of the house, there thus being fifty-five democrats and fifty-two republicans, and thus by this legerdemain those men who had been defeated in their revolutionary project, with the approval of the country, by the Army of the United States, on the 14th of September, have subverted that government and placed themselves in the seat of power. The case is like this: Say there were seventy-one Senators of the United States and three vacancies; of the seventy-one, thirty-six were democrats and thirty-five were republican, and suppose that the republican members should come into this Chamber with three men and should apply to the Vice-President to put a motion that those three men be admitted as Senators and sworn, and he refusing some republican rises in his seat, puts the motion, and declares it carried. If some Senator objects and demands the yeas and nays, the demand is refused. The motion is declared carried and these three men are admitted. Now, the republicans would have the majority, they having thirty-eight members and the democrats but thirty-six. That is the case before us. It is revolution. Suppose, to make the case nearer parallel, that the same republican party within ninety days had by open violence by an army of ten thousand men in the streets of Washington attempted to subvert this Government; that they had made a democratic President flee to the house of some friend to protect his life; that they had stricken down fifty men in the streets; would this not make the atrocity more apparent, if not more aggravated? That is this case.

Mr. President, the grave allegation which has fired the American heart that the Federal soldiery have driven five members of the Legislature of Louisiana from the legislative hall wants the essential ingredient of fact and truth. They were not members of the Legislature. They were only members of a conspiracy to subvert the government. Are they to remain there? If they are, it is a successful rebellion against lawful authority. They must be removed; but how? Had they shot five republicans in their seats, then it would have been proper, I suppose all will admit, to have removed the five intruders by force.

But we are told they used no violence. Ah! Mr. President, if I drop the arsenic into the cup of my associate I use no particular violence, but the result is death. So these men used the violence necessary to accomplish the conspiracy intended to be to that government, ay, and to many of the people, death. And such would have been the result had their purpose not been averted. They committed violence upon the rights of the people of Louisiana. It was their right that the continuing clerk should facilitate the organization of the house until his successor was elected. It was their right that a majority and not a minority should speak for the body. It was their right that every decision should only be made by a call of the yeas and nays when they were demanded. It was their right that none but those on the roll should take part in the organization. They used violence enough. But how are they to be removed? Shall the sergeant-at-arms remove them? He and his associates seem to have been, by previous arrangement, parties to the lawless proceeding. And, besides, there is no sergeant-at-arms to an assemblage not organized.

As those who sought to subvert the government had invoked the military power to sustain themselves, shall Governor Kellogg seek the aid of that power?

I am opposed to the interference of the military power with civil authority in time of peace. But those who were removed were not clothed with civil authority; they were intruders; they were attempting themselves unlawfully to wrest civil authority from those to whom the law gave it; and it was not a time of peace. The fires of insurrection which time and again had broken forth were only slumbering; and if their conspiracy had been successful, it would no doubt again have brought devastation and death.

I am opposed to any intervention of the military power which might even be perverted into a precedent in other times and under other circumstances.

The question is whether Governor Kellogg, following the example of his adversaries, was authorized to seek the aid of the military, and that is all the question before us or before the people. In answer to that question I will ask another, and end my remarks on this subject. Let me ask who is there here, had he been chief magistrate of Louisiana intrusted with the solemn duty of preserving the government of that State, of preserving its peace, of preserving the lives of its citizens—who, seeing now that that government has been preserved, that peace has been preserved, that the lives of the citizens have been protected—who is there who would to-day take the responsibility of undoing, were it possible, what was done at that critical moment? I would not take that responsibility.

Mr. SAULSBURY. Mr. President, my only apology for occupying any portion of the time of the Senate to-day is the importance of the subject brought to our attention by the resolution now under consideration. I do not rise for the purpose of entering into any defense of the democratic party, which has been arraigned by gentlemen on the other side of the Chamber. I have regard and attachment for the party to which I belong, and on all proper occasions shall be ready to enter upon its defense and meet any accusation that may be made against it. But, sir, the relative claims to public confidence of the great parties of this country have recently been submitted to the judgment of the country. Upon the judgment which has been rendered the democratic party is willing to stand. I have no doubt that every accusation which has been brought against that party in this debate by the Senator from Wisconsin, [Mr. HOWE,] the Senator from Indiana, [Mr. MORTON,] and the Senator from Illinois, [Mr. LOGAN,] has been repeated time and again in every portion of the States they represent; and the reiteration of those charges here is simply the repetition of what has been alleged before their constituencies over and over again. They were made prior to the late election, and failed to have their effect upon the very communities with which these Senators are most particularly acquainted, and I doubt not that they will be wholly unable to reverse the verdict which was rendered in November last against the party to which they belong. It is therefore unnecessary that I should enter into any defense of the democratic party or attempt to repel any of the charges and accusations that have been brought against it in this debate.

But, sir, it was ingenious on the part of our friends, it was eminently ingenious on the part of the Senator who immediately preceded me [Mr. FRELINGHUYSEN] to enter into these allegations against the democratic party, to recount again the story of wrongs which they repeated at the hustings in order to divert public attention from the great public crime that has been committed in the invasion of the legislative halls of one of the States of this Union. I have no doubt that the purpose, the object, the intent in bringing these railing accusations against the democratic party, which has ever been the conservator of peace and the defender of the Constitution of the country, was if possible to counteract the effect which the recent military interference in Louisiana has had upon the public mind. But, sir, I apprehend it will not have that effect. In my judgment the people of this country look at this question calmly and dispassionately. It is not a question which they can lightly contemplate or from which they can be diverted by partisan appeals. Throughout this broad land the people seem to apprehend the fact—I hope not too late—that their liberties are in danger. I am not surprised that there has been a profound impression made upon the public mind by what took place in New Orleans on the 4th instant. It would have been surprising if there had not been a public feeling of indignation elicited by the great wrong that has been done. I do not regret that there has been a general dissatisfaction and protest against this crime of greatest magnitude. The conduct of the military authorities, under whosesoever order they may have acted, strikes at public liberty, strikes at the very foundation of our system of republican government; and unless the people of this country were prepared to give up their liberties, it should not be a matter of surprise that they regard such action with indignation and alarm.

I am not surprised that there has been protest in this Senate; I am not surprised that there has been in this Chamber vehement denunciation of the action of the military authorities and of those under whose orders and direction they acted, but I regret exceedingly that that condemnation has come almost exclusively from this side of the Chamber. I regret that our republican friends have not joined with us in denunciation against this great wrong. I regret it, because I believe it would greatly have aided in putting a stop to such military interference with the organization and existence of State Legislatures. It would have been a sublime spectacle to have witnessed a united Senate upon a great question like this, involving the very existence of the rights of the States of this Union. It would have been a sublime spectacle, when the liberties of the country had been invaded, if this Senate with a united voice had put the seal of condemnation upon it. I regret, therefore, that our friends on the other side of the Chamber have felt it their duty to make this a party question. Sir, it is not in itself a party question. There was nothing connected with this act on the morning of the 5th of January which properly made it a party question. The rights of a sovereign State had been trampled under the foot of the military power of this country; and when that news reached this Chamber there was nothing in the question that ought for a moment to have given it a party coloring. It was true that this military interference had taken place during the existence of a republican Administration. It was true also that the Executive, if we can believe the telegram of the Secretary of War, had given it his approval. Nevertheless that was not obligatory upon Senators on this floor. Notwithstanding that invasion had taken place under an Administration to which they had adhered, and notwithstanding the President may have been so unfortunate as in an unguarded moment to have given it his approbation and to have authorized the sending of a telegram to General Sheridan by the Secretary of War saying "that the President and all of us approve your conduct," still, though the President may have thus become committed to this act, no member of the Senate was so committed. The military interference was an exceptional act, one that could not have been anticipated in the regular and orderly administration of the Government. Therefore, when the question came here on the morning of the 5th of January, I repeat, there was nothing binding upon any member of either side of this House to approve or justify it in any particular. I regret that Senators in the presence of such danger to liberty, that Senators on the other side of the Chamber when they were made aware of the fact that the legislative halls of a sovereign State had been invaded by the military power and the legislative department of the government of that State interfered with, did not rise at once above all party feeling and unite with us in the condemnation of an act so perilous and wrong in itself. Sir, what would have been the action of the men who preceded us in

this Chamber in such an hour? Suppose such action had occurred in the days when Webster and Clay and Clayton and Cass were here? Unless I have greatly misunderstood their character and their devotion to free institutions, their condemnation would have been prompt, emphatic, and determined.

Mr. SHERMAN. I do not wish to interrupt the Senator; I simply wish to ask him for permission, as we are approaching the usual hour of adjournment, to move for a recess to seven or seven and a half o'clock, or any hour that will be agreeable to him. Or would he prefer to go on now?

Mr. SAULSBURY. I will say to the Senator that I wish to accommodate myself to the pleasure of the Senate. I should be glad to have spoken at an earlier hour of the day.

Mr. SHERMAN. I think there is a feeling in the Senate that the debate ought to go on this evening in order to accommodate any Senators who may desire to speak. I will only make the motion in case the Senator from Delaware assents. If he desires to go on now, I shall have no objection.

Mr. HAMILTON, of Maryland. I ask the Senator from Ohio whether there is a determination to close this matter to-morrow?

Mr. SHERMAN. I understand the Senator from Maine has given notice that he intends to move to take up the legislative appropriation bill on Monday, and that has precedence not only by right, but by parliamentary usage. He has given us notice to that effect twice. I suggest a recess to promote the convenience of those who wish to speak; but if the Senator from Delaware prefers to go on now, I will withdraw the motion.

The VICE-PRESIDENT. Does the Senator from Delaware yield for the purpose indicated?

Mr. SAULSBURY. I will yield, that whatever is agreeable to the Senate may be done.

Mr. SHERMAN. Then I move that at half past four o'clock to-day the Senate take a recess until half past seven o'clock.

The motion was agreed to.

Mr. MORRILL, of Maine. I suppose it is understood that the evening is exclusively for debate.

Mr. SAULSBURY. It is within ten minutes of the time fixed for the recess.

Mr. SHERMAN. Very well; if the Senator does not wish to go on till the evening, I move that the Senate now proceed to the consideration of executive business.

The VICE-PRESIDENT. If the Senator from Ohio will withdraw his motion for a moment the Chair will lay before the Senate a House bill for the purpose of reference.

HOUSE BILL REFERRED.

The bill (H. R. No. 4324) to authorize the change of the name of the Second National Bank of Jamestown, New York, was read twice by its title, and referred to the Committee on Finance.

EXECUTIVE SESSION.

On motion of Mr. SHERMAN, the Senate proceeded tothe consideration of executive business. After nine minutes spent in executive session the doors were reopened; and (at four o'clock and thirty minutes p. m.) the Senate took a recess until half past seven o'clock.

EVENING SESSION.

The Senate reassembled at half past seven o'clock p. m.

The PRESIDING OFFICER, (Mr. INGALLS in the chair.) The Senate resumes the consideration of the resolution offered by the Senator from Missouri, [Mr. SCHURZ,] upon which the Senator from Delaware [Mr. SAULSBURY] is entitled to the floor.

Mr. MERRIMON. I perceive that the Senate is very thin, not a quorum of Senators being present; and I move that the Senate do now adjourn.

The question was put on the motion to adjourn, and it was declared not to be agreed to.

The PRESIDING OFFICER. The Senator from Delaware has the floor.

Mr. MERRIMON. I call for the yeas and nays on the motion to adjourn.

The PRESIDING OFFICER. The result having been announced, the Chair thinks it is too late to call for the yeas and nays.

Mr. EDMUNDS. After debate, the motion can be made again in a minute.

Mr. SAULSBURY. Mr. President, when I gave way for the motion to take a recess this afternoon, I was trying to impress upon the Senate and upon the country this fact, that there was no occasion whatever, when this question first came to the Senate, for making it a party question. I was trying to show that the members of the Senate on the other side of the Chamber were not responsible for this act of the military power of this Government, that they could not reasonably have anticipated that any such act as interference with the existence of the Legislature of Louisiana would have taken place during the administration with which they are connected.

Mr. MERRIMON. Will the Senator yield? I again move that the Senate adjourn.

Mr. SAULSBURY. I give way.

The PRESIDING OFFICER. The Senator from North Carolina moves that the Senate do now adjourn.

The question being put, it was announced that the noes appeared to prevail.

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

The yeas and nays were ordered.

Mr. THURMAN. I should like to know, as I was not in——

Mr. EDMUNDS. Debate is not in order on a motion to adjourn.

The PRESIDING OFFICER. The Chair cannot decide whether the Senator from Ohio is in order until he states his proposition.

Mr. EDMUNDS. Nothing is in order on a motion to adjourn.

Mr. THURMAN. The Senator perhaps loses something by objecting to my being heard.

Mr. EDMUNDS. I do not object.

Mr. THURMAN. I only wish to know whether there was any understanding among Senators that we were to proceed now, or whether the recess was simply taken by a mere vote. That question will govern my vote on this motion.

Mr. EDMUNDS. I do not know myself. I was not in when the recess was ordered, and I have no information on that topic.

Mr. THURMAN. Then I have to say that in my judgment if Senators will not pay the Senator who has the floor the respect of coming to hear him, his friends are perfectly justified in adjourning the Senate.

Mr. SCOTT. If there was any understanding, I think it might be stated as the understanding that the session this evening was for debate alone; that no business would be transacted.

Mr. SAULSBURY. I will say this: I had taken the floor and spoken about ten minutes when the Senator from Ohio, not now in his seat, [Mr. SHERMAN,] asked me whether I would give way for a recess. I hesitated; I certainly was reluctant to do so; but feeling the delicacy of the position of a gentleman in regard to forcing himself on the attention of Senators, after manifesting some reluctance to it, I did consent to allow a motion to be made providing that a recess be taken. I wish to say, in reference to the remark of the Senator from Ohio, who is not in his seat, that he would not press the motion without my consent, that I gave way because I feel a delicacy in pressing myself upon the attention of Senators at any time, and I do not care now particularly about the attention of Senators to hear anything I have to say.

But whenever there is a motion made on the other side of the House, when I am speaking on the floor, that I shall give way for a recess, and I yield to their suggestions, I think there is something due to myself that they should be present at least and not manifest entire indifference to the discussion. I do not make speeches to the galleries. That is not my sphere. Whatever speeches I make for outside use are made to my own constituency; and so far as I am concerned, I could go on now and make a speech that would be read by my immediate constituents as well as if the Senate were full. I shall yield to the pleasure of the Senate now whether I shall go on or whether I shall be allowed to wait until to-morrow.

The PRESIDING OFFICER. Does the Senator from North Carolina insist on his motion to adjourn?

Mr. MERRIMON. I do.

The PRESIDING OFFICER. The yeas and nays having been ordered, the roll-call will proceed.

Mr. EDMUNDS. I hope, by unanimous consent, I may be permitted to say a word.

The PRESIDING OFFICER. If there be no objection, the Senator from Vermont will be allowed to proceed.

Mr. EDMUNDS. I should be glad to know what are the wishes of the Senator from Delaware upon this subject. The Senate is aware that the chairman of the Committee on Appropriations gave notice that on Monday morning we must proceed with the appropriation bills, and therefore this subject will have to be disposed of, as it now stands, to-morrow; and with the press of matters to-morrow, and the other gentlemen who may desire to speak, I should be glad to know, before I vote, what the wishes of the Senator from Delaware are, in view of the pressure there will be upon our time to-morrow in respect of the other gentlemen upon his side and upon this side of the Chamber who may desire to be heard.

Mr. SAULSBURY. I am sure that question need not have been asked by the Senator from Vermont. I do not think it necessary that I should express any preference. The other day a gentleman on the other side obtained the floor at four o'clock and desired an adjournment to the next day that he might make a speech. I have said enough to indicate my views in saying that I reluctantly yielded to what seemed to be the wish of some Senators this afternoon. I would much have preferred concluding my speech, and I said so to my friends around me, rather than have to come here this evening; but I certainly prefer to make a speech to the Senate and not to empty benches. I am in the hands of the Senate; they have placed me in this predicament; I shall not place myself out of it.

The PRESIDING OFFICER. The roll-call will proceed.

The Chief Clerk proceeded to call the roll, and Mr. ALLISON answered to his name by voting in the affirmative.

Mr. GORDON. If I can say a word by unanimous consent——

The PRESIDING OFFICER. The chair hears no objection.

Mr. GORDON. I simply wish to say to those Senators who are present that if it should appear to-morrow that more Senators wish to speak than can be heard, it would be proper to agree that this debate should be prolonged till the close of Monday's session at least. I am anxious to be heard once more; I think it necessary that I

should be heard; and yet there are a number of Senators here who have already indicated to the Senate and to the Chair their desire to speak, and I am satisfied those who wish to speak cannot all be heard to-morrow. I shall yield to others rather than intrude myself, though I am very anxious to be heard once more on this question.

Mr. WINDOM. The chairman of the Committee on Appropriations being absent, being a member of that committee myself, I desire to say that I am confident he intends to press the appropriation bills on Monday. We have twelve appropriation bills yet to pass, and it will be necessary to bring them to the attention of the Senate and press action on them. I am quite sure he would not consent to any arrangement of the kind now proposed, and I shall have to object to it in his absence.

Mr. SCOTT. Having stated what I understood to have been the impression of the Senate when it took the recess, I do not wish to be construed as having any desire that the Senator from Delaware shall go on to-night against his wishes But the recess having been ordered for the very purpose of permitting a larger number of Senators to address the Senate on the question now pending than could otherwise have addressed it in a view of the notice given by the chairman of the Committee on Appropriations, I supposed every Senator who attended to-night came with that expectation, and that the understanding that the session was only for debate would have its effect upon the attendance. Certainly those of us who came with the expectation of listening to the Senator from Delaware are guilty of no disrespect to him, but are rather disappointed if we shall not be permitted to hear him. But if he says he does not desire to go on, those who wish to speak will have to take the consequences if the time is shortened by their absence.

Mr. THURMAN. Go on with the roll-call.

The PRESIDING OFFICER. The Clerk will proceed with the call of the roll.

The Chief Clerk resumed and concluded the call of the roll, with the following result:

YEAS—Messrs. Allison, Clayton, Cooper, Edmunds, Gordon, Hamilton of Maryland, McCreery, Merrimon, Ransom, Scott, Sprague, Thurman, Wadleigh, and Windom—14.

ABSENT—Messrs. Alcorn, Anthony, Bayard, Bogy, Boreman, Boutwell, Brownlow, Buckingham, Cameron, Carpenter, Chandler, Conkling, Conover, Cragin, Davis, Dennis, Dorsey, Fenton, Ferry of Connecticut, Ferry of Michigan, Flanagan, Frelinghuysen, Gilbert, Goldthwaite, Hager, Hamilton of Texas, Hamlin, Harvey, Hitchcock, Howe, Ingalls, Johnston, Jones, Kelly, Lewis, Logan, Mitchell, Morrill of Maine, Morrill of Vermont, Morton, Norwood, Oglesby, Patterson, Pease, Pratt, Ramsey, Robertson, Sargent, Saulsbury, Schurz, Sherman, Spencer, Stevenson, Stewart, Stockton, Tipton, Washburn, West, and Wright—59.

The PRESIDING OFFICER. Before announcing the result of the vote, the Chair will state that at the expiration of the morning hour to-morrow the resolution proposed by the Senator from Missouri will be taken up as the unfinished business, and upon that the Senator from Delaware will be entitled to the floor. Upon the motion to adjourn the yeas are 14, and the nays none; so the motion prevails, and the Senate stands adjourned until twelve o'clock to-morrow.

The Senate thereupon (at seven o'clock and forty-six minutes p. m.) adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, *January* 15, 1875.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. J. G. BUTLER, D. D.

The Journal of yesterday was read and approved.

FREEDMAN'S BANK—PURCHASE OF PROPERTY FOR GOVERNMENT.

Mr. DURHAM. I am directed by the Committee on Banking and Currency to report two bills—one a bill (H. R. No. 4322) amending the charter of the Freedman's Savings and Trust Company, and for other purposes; and the other a bill (H. R. No. 4323) authorizing the Secretary of the Treasury to buy certain property for the use of the Government of the United States. The first of these bills is accompanied with reports and exhibits of the sub-committee upon the Freedman's Savings and Trust Company. I desire to have these bills printed and recommitted.

Mr. BROMBERG. Not to be brought back on a motion to reconsider. I shall object unless on that condition.

Mr. DURHAM. I ask, then, unanimous consent that Monday the 25th instant, after the States have been called, be set for the consideration of these bills.

Mr. BROMBERG. I object.

Mr. RANDALL. I must reserve a point of order with reference to one of those bills—that providing for the purchase of buildings.

The SPEAKER. Neither bill can be reported for consideration without unanimous consent.

Mr. KELLEY. I desire to object with reference to the other bill—that relating to the Freedman's Bank.

Mr. HOLMAN. I object to both.

The SPEAKER. Then all the gentleman can do is to have the bills printed and recommitted, not to be brought back on a motion to reconsider.

There being no objection, the bills were reported, read a first and second time, and ordered to be printed and recommitted, not to be brought back on a motion to reconsider.

CHANGE OF NAME OF A NATIONAL BANK.

Mr. SESSIONS, by unanimous consent, introduced a bill (H. R. No. 4324) to change the name of the Second National Bank of Jamestown, New York; which was read a first and second time.

Mr. SESSIONS. This bill has the unanimous approval of the Committee on Banking and Currency, and I ask that it be put on its passage at once.

The bill was read. It provides in the first section that the name of the Second National Bank of Jamestown, New York, be changed to the City National Bank of Jamestown, New York, provided the board of directors of the bank shall accept the new name by resolution of the board and cause a copy of such resolution duly authenticated to be filed with the Comptroller of the Currency within six months after the passage of the act; all expenses of the change, including that of printing and engraving, to be paid by the bank.

The second section provides that all debts, demands, liabilities, rights, privileges, and powers of the Second National Bank of Jamestown, New York, shall devolve upon and inure to the City National Bank of Jamestown, New York, whenever such change of name is effected.

Mr. HOLMAN. Is this simply a change of the name of a bank?

Mr. SESSIONS. It is.

Mr. HOLMAN. Not of location?

Mr. SESSIONS. No, sir; not at all.

There being no objection, the bill was ordered to be engrossed for a third reading; and being engrossed, was accordingly read the third time, and passed.

Mr. SESSIONS 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.

SURVEYS OF THE TERRITORIES.

Mr. DONNAN, from the Committee on Printing, reported back without amendment the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed one thousand extra copies of the report of the Committee on the Public Lands on the subject of the geographical and geological surveys of the Territories west of the Mississippi; five hundred copies to be for the use of the Department of the Interior, and five hundred copies for the use of the War Department.

IRRIGATION.

Mr. DONNAN also, from the same committee, reported back the following resolution, with an amendment.

The Clerk read as follows:

Resolved, That there be printed for the House of Representatives five thousand copies of the report of the commissioners of irrigation appointed under act of Congress entitled "An act to provide for a board of commissioners to report a system of irrigation for the San Joaquin and Sacramento Valleys in California," approved March 3, 1873.

Mr. DONNAN. The amendment reported from the committee is to strike out "five" and insert "three," so it will read "three thousand copies."

The amendment was agreed to; and the resolution as amended was adopted.

Mr. DONNAN 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.

PAYMENT OF CLAIMS BY FOREIGN GOVERNMENTS.

Mr. DONNAN also, from the same committee, reported back the following resolution, with amendments.

The Clerk read as follows:

Resolved, That the documents transmitted by the Secretary of State to the Committee on War Claims of the House of Representatives, relative to the mode of examining and allowing claims by foreign governments be, and are ordered to be, printed under the direction of the Clerk of the House, who is hereby directed to cause translations to be made into the English language of so much of said documents as are in foreign languages; and that additional copies of said documents be, and are hereby, ordered to be printed.

Mr. DONNAN. Now report the amendments.

The Clerk read as follows:

After the word "documents," in line 9, insert the words "relating to the subject aforesaid."

Strike out all after the word "languages," in the ninth line, as follows: "Of so much of said documents as are in foreign languages, and that additional copies of said documents be and are ordered to be printed."

Mr. DONNAN. It will be seen by the House that the first amendment restricts translations to the subject-matter only; that is, as to the manner of paying claims by foreign governments; and the second amendment strikes out the extra copies, as it is believed the usual number of copies will be sufficient.

Mr. HOLMAN. In the confusion I did not exactly understand what this resolution is about.

Mr. DONNAN. It refers to a series of reports sent to the Secretary of State and to the Committee on War Claims, relating to the method of payment of claims by foreign governments.

Mr. LAWRENCE. It is all right.

Mr. HOLMAN. I understand the request is only to print the usual number of copies.

Mr. DONNAN. We strike out the provision for extra copies.

The amendments were severally agreed to; and the resolution as amended was adopted.

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

The latter motion was agreed to.

PRIVATE BILLS.

Mr. HAWLEY, of Illinois. I now call for the regular order of business.

The SPEAKER. The regular order of business being called for, the morning hour begins at twenty minutes past twelve o'clock, and reports of a private nature are first in order from the Committee on Military Affairs.

CHARLES MARKLEIN.

Mr. ALBRIGHT, from the Committee on Military Affairs, moved that that committee be discharged from the further consideration of the bill (H. R. No. 1745) for the relief of Charles Marklein, late sutler of the One hundred and Seventy-eighth Regiment New York Volunteers, and that the same be referred to the Committee on War Claims.

The motion was agreed to.

LYDIA BENJAMIN.

Mr. ALBRIGHT also, from the same committee, submitted an adverse report on the petition of Lydia Benjamin, widow of David Benjamin; which was laid on the table, and ordered to be printed.

J. W. DREW.

Mr. YOUNG, of Georgia, from the Committee on Military Affairs, reported back the bill (H. R. No. 3873) for the relief of J. W. Drew, late additional paymaster United States Army, with amendments.

The bill, which was read, authorizes and directs the proper accounting officers of the Treasury of the United States to allow to J. W. Drew, late additional paymaster United States Army, in the settlement of his accounts for the months of November and December, 1868, the sum of $20,319.88 for disbursements made on vouchers lost in transmission.

The amendments reported from the committee are as follows:

Line 8 strike out the word "the" and insert "such sum as he may show not exceeding the."

Line 10 before the word "lost" insert "alleged to have been."

And add the following proviso:

Provided, That such accounting officers shall be satisfied such disbursements were made, and in determining the same secondary evidence may be received.

Mr. YOUNG, of Georgia. I ask that the report of the committee be read.

Mr. WILLARD, of Vermont. I make the point of order that this matter must first be considered in Committee of the Whole House on the Private Calendar.

Mr. YOUNG, of Georgia. This bill does not require any appropriation of money from the Treasury. If the gentleman will hear the report read he will see such is the case. The evidence shows that this money is in the Treasury in favor of this party and that no additional appropriation is required to be made.

The SPEAKER. The point being made, the Chair will be compelled to sustain it. The bill directs an allowance to this paymaster of $20,319.88.

Mr. YOUNG, of Georgia. The evidence shows that this money is already in the Treasury in favor of this paymaster, and the bill does not provide for making any additional appropriation.

The SPEAKER. Under the rules this is one of the bills which is required to have its first consideration in the Committee of the Whole House on the Private Calendar.

The bill and amendments were referred to the Committee of the Whole House on the Private Calendar, and with the accompanying report ordered to be printed.

GEORGE A. ARMES.

Mr. GUNCKEL, from the Committee on Military Affairs, reported adversely on the bill (H. R. No. 3949) authorizing the restoration of George A. Armes to the rank of captain; and the same was laid on the table, and the report ordered to be printed.

LAND CLAIMS IN MISSOURI.

Mr. BUCKNER, from the Committee on Private Land Claims, reported back, with the recommendation that it do pass, the bill (H. R. No. 3599) to confirm certain land claims in the State of Missouri; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

DANIEL S. MERSHON, JR.

Mr. HAYS, from the Committee on Naval Affairs, reported back the bill (H. R. No. 210) for the relief of Daniel S. Mershon, jr., and moved that the committee be discharged from the further consideration of the same and that it be referred to the Committee on Claims.

The motion was agreed to.

ADVERSE REPORTS.

Mr. SCOFIELD, from the Committee on Naval Affairs, reported adversely on the following; and the same were laid on the table, and the accompanying reports ordered to be printed:

The joint resolution (H. R. No. 36) providing for an inquiry into the condition of the United States Navy; and

The bill (S. No. 745) for the relief of Philip S. Wales, medical inspector in the United States Navy.

Mr. RUSK, from the Committee on Invalid Pensions, reported adversely on the following; and they were severally laid on the table, and the accompanying reports ordered to be printed:

The petition of Mary Sleigle;

The petition of James W. Huff;

The case of Thomas Willse;

The bill (H. R. No. 2835) granting a pension to Priscilla Griffith;

The petition of Ann W. Osborn, for a pension;

The bill (H. R. No. 1864) granting arrears of pension to A. S. Howard;

The bill (H. R. No. 2905) granting a pension to Francis Armstrong;

The petition of Margaret R. Clune;

The bill (H. R. No. 696) granting a pension to Alice Mullaly, mother of John Mullaly, Company C, Second Wisconsin Cavalry Volunteers; and

The bill (H. R. No. 1836) granting a pension to Thomas J. Acra.

WILLIAM R. DUNCAN.

Mr. STRAWBRIDGE, from the Committee on Invalid Pensions, reported a bill (H. R. No. 4325) granting a pension to William R. Duncan; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

SAMUEL P. EVANS.

Mr. STRAWBRIDGE also, from the same committee, reported a bill (H. R. No. 4326) granting a pension to Samuel P. Evans; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

W. GODFREY HUNTER.

Mr. STRAWBRIDGE also, from the same committee, reported a bill (H. R. No. 4327) granting a pension to W. Godfrey Hunter; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

BRIDGET LEAFFY.

Mr. STRAWBRIDGE also, from the same committee, reported a bill (H. R. No. 4328) granting a pension to Bridget Leaffy; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM H. SMALL.

Mr. STRAWBRIDGE also, from the same committee, reported a bill (H. R. No. 4329) granting a pension to William H. Small; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

SAMUEL C. COOPER.

Mr. STRAWBRIDGE also, from the same committee, reported adversely on the petition of Samuel C. Cooper; and the same was laid on the table and the accompanying report ordered to be printed.

CYPHERT G. GILLETTE.

Mr. MARTIN, from the Committee on Invalid Pensions, reported a bill (H. R. No. 4330) granting a pension to Cyphert G. Gillette; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

SARAH ANN CROSBY.

Mr. MARTIN also, from the same committee, reported a bill (H. R. No. 4331) granting a pension to Sarah Ann Crosby; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ADVERSE REPORTS.

Mr. MARTIN also, from the same committee, reported adversely on the following cases:

The petition of George Young and others;

The bill (H. R. No. 2007) granting a pension to Luther C. French, late assistant surgeon Fourth Regiment Michigan Volunteers;

The petition of Charles A. Overfelt; and

The petition of O. M. Ball.

FANNIE E. RECORDS.

Mr. THOMAS, of Virginia, from the same committee, reported a bill (H. R. No. 4332) granting a pension to Fannie E. Records, widow of Albert B. Records; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

JAMES ROUNSFELL.

Mr. THOMAS, of Virginia, also, from the same committee, reported a bill (H. R. No. 4333) granting a pension to James Rounsfell, private in Company K, One hundredth New York Volunteers; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

WILLIAM T. SIMMS.

Mr. CRITTENDEN, from the same committee, reported a bill (H.

R. No. 4334) granting a pension to William T. Simms; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

MARY C. TOY.

Mr. CRITTENDEN also, from the same committee, reported back, with the recommendation that it do pass, the bill (H. R. No. 3884) granting a pension to Mary C. Toy; which was referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

LOUIS C. CHASE.

Mr. EAMES, from the Committee on Patents, reported back, with the recommendation that it do not pass, the bill (H. R. No. 1350) to enable Louis C. Chase to make application to the Commissioner of Patents for an extension of letters-patent for an improvement in buckles; and the same was laid on the table, and the accompanying report ordered to be printed.

MRS. CHRISTIANA L. WILLIAMS.

Mr. EAMES also, from the same committee, reported back, with the recommendation that it do pass, the bill (H. R. No. 4202) to enable Mrs. Christiana L. Williams, administratrix of the estate of C. W. Williams, deceased, to make application to the Commissioner of Patents for an extension of letters-patent for improvements in canal locks and gates.

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

Mr. EAMES 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.

ANN JENNETTE HATHAWAY.

Mr. PARKER, of New Hampshire, from the same committee, reported back, with the recommendation that it do pass, the bill (H. R. No. 1317) to enable Ann Jennette Hathaway, executrix of the last will and testament of Joshua Hathaway, deceased, to make application to the Commissioner of Patents for the extension of letters-patent for improved device for converting reciprocating into rotary motion.

The bill was read. It provides that Ann Jennette Hathaway, as executrix of the last will and testament of Joshua Hathaway, deceased, of Milwaukee, in the State of Wisconsin, have leave to make application to the Commissioner of Patents for an extension of the letters-patent granted to Joshua Hathaway for improved device for converting reciprocating into rotary motion under date of April 3, 1860, for the term of seven years from and after the expiration of the original term of fourteen years for which said letters-patent are granted; such application to be made in the same manner and to have the same effect as if the same had been filed not less than ninety days before the expiration of the aforesaid original term of said patent. And upon such application, so filed, the Commissioner of Patents shall be authorized to consider and determine the same in the same manner, upon giving the same notice, and with the same effect as if the application had been duly filed within the time prescribed by law, and as if the original term of said patent had not expired, should the same expire before he has reasonable time to inquire into the facts and make his decision; provided that no person shall be held liable for the infringement of said patent, if extended, for making use of said invention since the expiration of the original term of said patent and prior to the date of its extension.

Mr. HAWLEY, of Connecticut. Is there a report accompanying that bill?

Mr. PARKER, of New Hampshire. There is a report, and I ask that it be read.

Mr. HAWLEY, of Connecticut. There ought to be some explanation of that bill.

The Clerk read the report.

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

Mr. PARKER, of New Hampshire, 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.

JOHN HAZLETINE.

Mr. PARKER, of New Hampshire, also, from the same committee, reported a bill (H. R. No. 4335) authorizing John Hazletine to make application to the Commissioner of Patents for extension of his patent on a new and useful water-wheel; which was read a first and second time.

The bill, which was read, provides that the Commissioner of Patents, on due application made therefor, may extend the patent of John Hazletine for the further time of seven years from and after the passage of the act, and that the said patent so extended shall have the same effect in law as if originally granted for the term for which it shall be so extended; provided that the patentee shall have no right to damages from any parties who may have infringed on said patent between the expiration of the original patent and the extension.

Mr. STARKWEATHER. I would like to have some explanation in reference to that bill.

Mr. PARKER, of New Hampshire. The case is a very clear one; let the report be read.

The Clerk read the report.

Mr. PARKER, of New Hampshire. I move the previous question on the bill.

The previous question was seconded and the main question ordered.

Mr. HALE, of New York. When did this patent expire?

Mr. PARKER, of New Hampshire. About three years ago. This man has been before Congress during all that time.

Mr. HALE, of New York. He has been diligent, then?

Mr. PARKER, of New Hampshire. He has.

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

Mr. PARKER, of New Hampshire, 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.

RUDOLF EICKEMEYER.

Mr. EAMES, from the same committee, reported back, with an amendment, the bill (H. R. No. 3924) to enable Rudolf Eickemeyer to make application to the Commissioner of Patents for an extension of letters-patent for a machine for stitching linings into hats.

The bill grants leave to Rudolf Eickemeyer, of Yonkers, in the State of New York, to make application to the Commissioner of Patents for an extension of the letters-patent granted to him for a machine for stitching linings into hats, of date the 9th day of August, 1859, for the term of seven years from and after the expiration of the original term of fourteen years for which said letters-patent were granted, such application to be made in the same manner and to have the same effect as if the same had been filed not less than ninety days before the expiration of the aforesaid original term of said patent; and upon such application, so filed, the Commissioner of Patents shall be authorized to consider and determine the same in the same manner and with the same effect as if the application had been duly filed within the time prescribed by law, and as if the original term of said patent had not expired: *Provided*, That no person shall be held liable for the infringment of said patent, if extended, for making use of said invention since the expiration of the original term of said patent and prior to the date of its extension.

The amendment was to add to the bill the following:

And that such application shall be made to the Commissioner of Patents within ninety days from and after the passage of this act.

Mr. SMITH, of New York. I call for the reading of the report.

The report was read; setting forth that letters-patent were granted to Rudolf Eickemeyer August 9, 1859, for a machine which is adapted only for stitching linings into hats; the patent expired on August 9, 1873. The law relative to extensions of letters-patent requires that applications be filed not more than six months nor less than sixty days prior to the expiration of the patent. The petition of Eickemeyer should have been filed prior to May 12, 1873, but was not filed until May 27, 1873, owing to a misunderstanding between the applicant and his attorney. The applicant came to Washington on April 17, 1873, one hundred and fourteen days before the expiration of the patent, for the purpose of having the application for the extension prepared for filing. His attorney understood that he was first to examine the case and make a report of his opinion in relation thereto, and to await further direction before preparing and filing the application for an extension. The applicant, however, supposed that the application was to be promptly prepared and filed by his attorney, and had no idea, until a few days prior to the date on which he did file it, that such had not been done. The patent is now wholly owned by the applicant, and the extended term will inure solely to his benefit. During the time he was developing his invention he was supporting himself and family on wages of nine dollars a week. Before the issue of his patent he was obliged to convey one-half interest therein to parties who would defray one-half of the cost of obtaining the patent; and subsequently, in 1859, being in debt, he was compelled at different times to sell portions of his interest, leaving as his remaining interest one undivided sixth part of the patent. The parties having the controlling interest failed to render the invention remunerative to any considerable extent, and the aggregate sum received by the applicant, less expenses, was only $2,945.

Prior to this invention all linings of hats were sewed in by hand, and a good operator could sew linings into not exceeding three dozen hats per day, at a cost of twenty-five to twenty-seven cents per dozen. With this machine an operator of equal skill can stitch linings into from forty to fifty dozen hats per day, at a cost of from three to four cents per dozen, showing an actual saving of at least twenty cents per dozen. Upon these facts, the committee are of opinion that the prayer of the applicant should be granted, and therefore recommend the passage of the accompanying bill.

The amendment reported from the committee was agreed to.

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

Mr. BECK. I understand that this applicant is entitled to only one-sixth of this patent if he gets this extension; that he first disposed of one-half of it and then of the balance down to one-sixth, so that five-sixths of it belong to persons who did not invent any thing.

Mr. EAMES. There is no evidence of that kind before the committee.

Mr. BECK. Does not the report so state?

Mr. EAMES. It makes no statement of that kind. The bill itself authorizes the original inventor to make this application, and if the patent shall be extended it will inure to his benefit. I think the report says that it belongs solely to the inventor.

Mr. BECK. Does not the report itself say that he sold one-half of it to other persons, and then was compelled to sell other portions, so that now he has but one-sixth left?

Mr. EAMES. The report states that he was the sole inventor and is now the sole owner of the patent. If the patent shall be extended, it will inure to his benefit. I think he was obliged to sell all but one-sixth of the original patent in order to introduce the invention itself into use. But the extended patent will inure solely to the benefit of the inventor himself.

Mr. BECK. I had supposed of course that if the patent should be extended it would inure to the benefit of those who own the original patent. But I am told by gentlemen about me that it does not. I am inclined myself to vote against all renewals of patents that have run long enough, whether the invention is worth anything or not. If the inventor has made nothing, that shows that the invention is of no value.

Mr. HAWLEY, of Connecticut. I wish to inquire of the gentleman from Rhode Island [Mr. EAMES] whether parties interested in the manufacture of hats by the use of this machine have had no notice of the hearing, or whether the application has simply been considered *ex parte*.

Mr. EAMES. I think there has been only an *ex parte* hearing; but I believe there is no opposition to the extension. Let me say further that this case comes within the rule which the committee and the House have generally followed in cases of this kind. This is a patent granted prior to the act of 1861 for fourteen years. Prior to the passage of that act the patentee had the right within a certain time to go before the Commissioner and ask an extension for seven years. It was only through a misapprehension on the part of the counsel of this patentee that his application was not made until some days after the patent had expired. He now comes here bringing himself within the rule which the committee has uniformly acted upon. He shows that he has made a useful invention; that he has not been properly remunerated; that he made reasonable efforts to have his patent renewed; and that it was through no fault of his that he lost his opportunity to go before the Commissioner and apply for a renewal. The committee unanimously recommend the passage of this bill.

Mr. NIBLACK. I do not understand anything of the merits of the case, but some years ago I happened to be a member of the Committee on Patents for, I believe, all of one Congress and a portion of another. We had at that time, in 1860-'61, a good deal of legislation on the subject of patents; we revised the whole patent system. I then came to the deliberate conclusion, which has been confirmed by subsequent experience on the subject, that very few patents indeed ought to be renewed. During my service here as a member I do not recollect voting for the extension of more than half a dozen patents; and upon further reflection and observation I am inclined to think I made a mistake in voting for the renewal of some of those.

I want to announce that as a rule I am opposed to all these renewals. I think that all applications of this kind ought to be scrutinized closely, and nothing except the clearest evidence of a meritorious case—such as a unanimous report from the Committee on Patents—would induce me to vote for the renewal of any patent. I do not say this for the purpose of opposing the extension in this particular case, but to try, so far as I may have any influence, to put the House upon its guard with reference to this class of cases.

Mr. EAMES. The gentleman will allow me to say that this patent was granted in 1859 before the change of the law and when there was a right on the part of the patentee to make application for renewal.

Mr. NIBLACK. I understand that there is an application pending before the Committee on Patents for the renewal of certain sewing-machine patents. That is a subject in which some of my constituents feel great interest. I would be pleased to hear from the gentleman from Rhode Island as to what action the committee has taken or is likely to take in regard to those patents.

Mr. EAMES. I do not know that I am at liberty to make such a disclosure. I will state, however, that as yet there has been no definite or final action by the committee on that subject.

Mr. NIBLACK. Are we likely to have any final action of the committee, either favorable or adverse, before the expiration of the present Congress?

Mr. EAMES. I think so.

Mr. PARKER, of New Hampshire. I wish to say a word in reply to the gentleman from Indiana, [Mr. NIBLACK.] I believe the gentleman has admitted that he has voted for some six extensions during the last eight or ten years. Now, I think the Committee on Patents during this Congress have had before them perhaps two or three hundred applications of this kind; and we have reported favorably upon only eight or ten. So I think the gentleman from Indiana has been disposed to go further in the way of extending patents than the Committee on Patents.

Mr. NIBLACK. Well, sir, my experience on the subject extends over ten or twelve years; and certainly I have not gone very far in voting during that time for only six extensions. But I desire to get some information upon the question of these sewing-machine patents—a question in which every woman in the land has an interest.

Mr. PARKER, of New Hampshire. This case has nothing at all to do with that question.

Mr. NIBLACK. I want to know whether we are likely to have any report, either favorable or adverse, upon that subject during the present Congress.

Mr. EAMES. I think I am at liberty, as a member of the committee, to say to the gentleman from Indiana that there will probably be a final report of the committee on that question during this session. I do not feel at liberty to express here my own opinion as to that extension, for or against it.

Mr. MAYNARD. I wish to ask the gentleman from Rhode Island whether the fact as stated by the gentleman from New Hampshire, that out of some two hundred or more applications for extensions only a small number have been acted on favorably, does not show that there is in the public mind a feeling that the patent system has been unduly extended, that the public is required to pay royalty for everything valuable to an extent far beyond any advantage that may accrue by way of encouraging inventors, and whether there ought not to be, in his opinion, some further limitation of the law of patents for the relief of the public.

Now, the gentleman knows in the matter of the history of inventions the greatest and most useful have been the result of the age, of the time; that different minds, working in different parts of the world upon the necessity which the general public felt, have come to the same conclusion independently of each other. In determining which has technical priority of invention, no one man should be entitled to such overshadowing benefits and advantages as have been derived by some inventors. Take, for instance, the sewing-machine needle and the planing machine and others of a like character. Does not the gentleman think there should be some further limitation in this matter of renewal of patents with a view to the relief of people generally?

Mr. EAMES. I will state in reply to the gentleman from Tennessee that there is a bill now pending before the Committee on Patents, and while they have this question under consideration it hardly comes here on a bill of this kind where the patentee simply seeks to come in under a provision of law existing in 1859 at the time his patent was granted. I think so far as the general question of the gentleman from Tennessee is concerned, without undertaking to speak for the community outside of the committee, that there has been a very careful examination and scrutiny of every case referred to the Committee on Patents before any report has been made to this House for its action. How the feeling may be outside the gentleman from Tennessee can judge as well as I can. I can only say here and now that this matter is before the committee on a general bill referred to them, and whenever their report is made it will be before the House for the fullest consideration as to the changes which ought to be made in the law in respect to what the gentleman has referred. I now demand the previous question on the pending bill as amended.

The previous question was seconded and the main question ordered.

The House divided; and there were—ayes 31, noes 54.

Mr. EAMES demanded tellers.

Tellers were ordered; and Mr. EAMES and Mr. COX were appointed.

The House again divided; and the tellers reported—ayes 45, noes 67.

So (no further count being demanded) the bill was rejected.

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

The latter motion was agreed to.

JOHN A. MONTGOMERY AND HEPBURN M'CLURE.

Mr. CRUTCHFIELD, from the Committee on Patents, reported a bill (H. R. No. 4336) for the relief of John A. Montgomery and Hepburn McClure with the recommendation that it do pass; which was read a first and second time.

The bill, which was read, authorizes and requires the Court of Claims to hear and determine the claim of John A. Montgomery and Hepburn McClure, owners of a certain patent journal-box used by the Government of the United States on certain vessels of war and gun-boats during the late civil war without license, and to ascertain what compensation is due them; such judgment so rendered by said court shall be paid out of moneys appropriated or thereafter to be appropriated to pay the judgments rendered by said court.

Mr. HALE, of New York. I make the point of order against that bill that it contains an appropriation and must, under the rules, go to the Committee of the Whole House on the Private Calendar.

The SPEAKER. The Chair sustains the point of order, and the bill and report will be referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

E. W. BLACKINTON.

Mr. HAWLEY, of Illinois, from the Committee on Claims, reported a bill (H. R. No. 4337) for the relief of E. W. Blackinton, postmaster at Blackinton, Massachusetts; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and ordered to be printed.

CHANGE OF REFERENCE TO WAR CLAIMS.

Mr. HAWLEY, of Illinois, also, from the same committee, reported back the following cases, and moved their reference to the Committee on War Claims; which motion was agreed to:

A bill (H. R. No. 3559) for the relief of James A. Stewart, of Fulton County, Georgia;

A bill (H. R. No. 3951) for the relief of William Lavery; and

A bill (H. R. No. 1503) granting relief to Agnes and Maria de Leon, heirs of Rebecca L. de Leon, for rent of house for United States troops.

CAPTAIN CHARLES S. REISINGER.

Mr. HAWLEY, of Illinois, also, from the same committee, reported back a bill (H. R. No. 4062) for the relief of Captain Charles S. Reisinger, and moved its reference to the Committee on Military Affairs.

The motion was agreed to.

WILLIAM S. STEVENS.

Mr. HAWLEY, of Illinois. I ask to report back for reference to the Committee on War Claims a communication from the Secretary of War in the case of William S. Stevens.

The SPEAKER. The papers must be in possession of the Clerk before the change of reference can take place. Otherwise it would lead to irregularity.

Mr. HAWLEY, of Illinois. I understood such changes of reference were made upon the floor by simply giving notification of the fact, without having the papers presented.

The SPEAKER. On the contrary, the Chair has never permitted it to be done in a single instance, because it might lead to great irregularity.

WILLIAM L. NANCE.

Mr. HOLMAN, from the Committee on War Claims, reported a bill (H. R. No. 4338) for the relief of William L. Nance, of Davidson County, Tennessee; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

BENJAMIN GRATZ.

Mr. LAWRENCE, from the Committee on War Claims, submitted an adverse report in the case of Benjamin Gratz; which was ordered to be printed.

Mr. BECK. I move the reference of that report to the Committee of the Whole on the Private Calendar.

The motion was agreed to.

CHARLES H. FRANK.

Mr. LAWRENCE also, from the same committee, reported a bill (H. R. No. 4339) for the relief of Charles H. Frank, with a substitute; which was read a first and second time, referred to the Committee of the Whole House on the Private Calendar, and ordered to be printed.

JOHN KELLY.

Mr. LAWRENCE also, from the same committee, reported adversly on the bill (H. R. No. 2523) for the relief of John Kelly; and the same was laid on the table and the accompanying report ordered to be printed.

LIEUTENANT PHILO SCHULTZE.

Mr. LAWRENCE also, from the same committee, reported back a letter from the Secretary of War, in relation to the claim of Lieutenant Philo Schultze and others; and the committee was discharged from the further consideration of the same, and it was referred to the Committee on Military Affairs.

TRUSTEES OF BETHEL COLLEGE.

Mr. HAZELTON, of Wisconsin, from the same committee, reported adversely on the bill (H. R. No. 909) to reimburse the trustees of Bethel College, and moved that the same be laid on the table.

Mr. ATKINS. I ask that the bill be referred to the Committee of the Whole on the Private Calendar.

The bill was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

WILLIAM S. STEVENS.

Mr. HAZELTON, of Wisconsin, also, from the same committee, reported adversely on the petition of William S. Stevens, for relief; and the same was laid on the table, and the accompanying report ordered to be printed.

NEW MEXICO MILITIA CLAIMS.

Mr. KELLOGG. I am instructed by the Committee on War Claims to report a substitute for the bill (H. R. No. 1505) authorizing the Secretary of War to ascertain and report the amount necessarily expended by the Territory of New Mexico in organizing, equipping and maintaining the militia force during the rebellion, and to ask that the substitute be put upon its passage.

Mr. HAWLEY, of Illinois. I make the point of order that the bill should have its first consideration in Committee of the Whole.

Mr. KELLOGG. There is no occasion for this bill going to the Committee of the Whole. There is no appropriation in any part of the bill.

The SPEAKER. This is a public bill, and it requires unanimous consent to report it on Friday.

Mr. KELLOGG. It is for individual supplies, and I supposed it was a private bill.

The SPEAKER. The Chair only judges from the title. It is "a bill authorizing the Secretary of War to ascertain and report the amount necessarily expended by the Territory of New Mexico in organizing, equipping, and maintaining the militia forces during the rebellion." The Chair does not know what would constitute a public bill if that does not.

Mr. KELLOGG. The bill, if passed, would operate on individuals.

The SPEAKER. All bills operate on individuals.

Mr. KELLOGG. I withdraw the report.

ORDER OF BUSINESS.

Mr. YOUNG, of Georgia. I insist on my motion that the House resolve itself into Committee of the Whole on the Private Calendar.

Mr. BUTLER, of Massachusetts. Will the gentleman yield for a moment, to allow me to ask for the printing of a report?

Mr. YOUNG, of Georgia. I am willing to yield to the gentleman for that purpose.

The SPEAKER. The gentleman must withdraw his motion absolutely or insist on it.

Mr. YOUNG, of Georgia. Then I withdraw the motion.

OVERCHARGE OF DUTIES.

Mr. BUTLER, of Massachusetts, by unanimous consent, from the Committee on the Judiciary, presented a report to accompany the bill (H. R. No. 3828) to provide judicial remedies for overcharge of duties on tonnage and imports; and moved that the same be printed and recommitted.

The motion was agreed to.

D. W. M'CLUNG.

Mr. MORRISON, from the Committee on War Claims, reported a bill (H. R. No. 4340) for the relief of D. W. McClung; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ANDREW JACKSON.

Mr. MORRISON also, from the same committee, reported the bill (H. R. No. 4341) for the relief of Andrew Jackson; which was read a first and second time, referred to the Committee of the Whole on the Private Calendar, and, with the accompanying report, ordered to be printed.

ALMONT BARNES.

Mr. SMITH, of Pennsylvania, from the Committee on War Claims, reported back, with the recommendation that it do pass, the bill (H. R. No. 815) for the relief of Almont Barnes; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

JOHN AMMAHE.

Mr. COBURN, by unanimous consent, from the Committee on Military Affairs reported back, with the recommendation that it do pass, the bill (H. R. No. 3391) directing the Second Auditor to settle the pay and bounties account of John Ammahaie or Ammahe, and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

LOWELL A. CHAMBERLIN.

Mr. COBURN also, by unanimous consent, from the Committee on Military Affairs, reported back the joint resolution (H. R. No. 102) for the relief of Lowell A. Chamberlin; and the same was referred to the Committee of the Whole on the Private Calendar, and the accompanying report ordered to be printed.

ADJOURNMENT OVER.

Mr. GARFIELD. I rise to make a privileged motion. I move that when the House adjourns to-day it be to meet on Monday next.

On agreeing to the motion, there were—ayes 86, noes 35.

Mr. BUTLER, of Massachusetts, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 124, nays 88, not voting 76; as follows:

YEAS—Messrs. Adams, Albert, Arthur, Ashe, Atkins, Averill, Barry, Bass, Beck, Begole, Bell, Berry, Biery, Bland, Blount, Bowen, Bright, Bromberg, Brown, Burchard, Burleigh, Burrows, Roderick R. Butler, Caldwell, Amos Clark, jr., John B. Clark, jr., Comingo, Cook, Cox, Crittenden, Crossland, Danford, Davis, Dawes, Dobbins, Durham, Eames, Finck, Giddings, Glover, Gooch, Gunckel, Gunter, Robert S. Hale, Hamilton, Hancock, Henry R. Harris, John T. Harris, Hatcher, Hathorn, John B. Hawley, Joseph R. Hawley, Hereford, Herndon, E. Rockwood Hoar, Holman, Hunton, Hynes, Kelley, Kellogg, Knapp, Lamar, Lamison, Lawrence, Leach, Lewis, Lofland, Lowndes, Magee, Marshall, Martin, McLean, Milliken, Mills, Mitchell, Moore, Morrison, Myers, Niblack, O'Neill, Orth, Hosea W. Parker, Pendleton, Perry, Pratt, Randall, Richmond, Robbins, Ellis H. Roberts, Ross, Milton Sayler, Schell, Scofield, Shanks, Lazarus D. Shoemaker, Sloan, A. Herr Smith, H. Boardman Smith, William A. Smith, Southard, Stanard, Standiford, Stephens, Stone, Storm, Swann, Thompson, Thornburgh, Waddell, Waldron, Wells, Wheeler, Whitehead, Whitehouse, Whitthorne, Charles W. Willard, George Willard, Willie, Ephraim K. Wilson, James Wilson, Wolfe, Wood, John D. Young, and Pierce M. B. Young—124.

NAYS—Messrs. Albright, Banning, Barber, Barrere, Bradley, Buckner, Buffinton, Benjamin F. Butler, Cain, Carpenter, Cason, Cessna, Chittenden, Clayton, Stephen A. Cobb, Coburn, Cotton, Crutchfield, Curtis, Donnan, Duell, Dunnell, Farwell, Field, Fort, Frye, Hagans, Gerry W. Hazelton, John W. Hazelton, Hendee, George F. Hoar, Hodges, Hoskins, Houghton, Howe, Hubbell, Hunter, Hyde, Kasson, Lawson, Loughridge, Lowe, Lynch, Alexander S. McDill, McKee, McNulta, Merriam, Monroe, Neal, Orr, Packard, Packer, Page, Isaac C. Parker, Parsons, Pelham, Thomas C. Platt, Rainey, Ransier, Ray, James W. Robinson, Rusk, Sawyer, Henry B. Sayler, Sessions, Sheats, Sherwood, Small, J. Ambler Smith, John Q. Smith, Snyder, Sprague, St. John, Strait, Strawbridge, Todd, Townsend, Tyner, Vance, Wallace, Jasper D. Ward, Marcus L. Ward, White, Whiteley, John M. S. Williams, William Williams, William B. Williams, and Woodworth—88.

NOT VOTING—Messrs. Archer, Barnum, Bundy, Cannon, Freeman Clarke, Clements, Clymer, Clinton L. Cobb, Conger, Corwin, Creamer, Crooke, Crounse, Darrall, DeWitt, Eden, Eldredge, Foster, Freeman, Garfield, Eugene Hale, Harmer, Benjamin W. Harris, Harrison, Havens, Hays, Hersey, Hooper, Hurlbet, Kendall, Killinger, Lamport, Lansing, Luttrell, Maynard, McCrary, James W. McDill, MacDougall, Morey, Negley, Nesmith, Niles, Nunn, O'Brien, Phelps, Phillips, Pierce, Pike, James H. Platt, jr., Poland, Potter, Purman, Rapier, Read, William R. Roberts, James C. Robinson, John G. Schumaker, Henry J. Scudder, Isaac W. Scudder, Sener, Sheldon, Sloss, Smart, George L. Smith, Speer, Starkweather, Stowell, Sypher, Taylor, Charles R. Thomas, Christopher Y. Thomas, Tremain, Walls, Wilber, Charles G. Williams, and Jeremiah M. Wilson—76.

Mr. GARFIELD moved to reconsider the vote by which the motion was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. SMITH, of New York. I desire to refer a bill.

The SPEAKER. The motion of the gentleman from Georgia [Mr. YOUNG] is pending, that the House resolve itself into Committee of the Whole on the Private Calendar.

CLOSE OF DEBATE.

Mr. KELLOGG. Pending that motion I move that all debate upon the bill pending, being the bill (H. R. No. 782) for the relief of the officers and crew of the United States ships Wyoming and Ta-Kiang, be closed in one hour.

Mr. MYERS. Say one hour and a half.

Mr. WILLARD, of Vermont. Debate ought not to be limited on this bill. On Friday last those favoring the bill had the entire time at their control and disposal, and it seems not quite fair that the opponents of the bill should have no chance to be heard upon it.

Mr. MYERS. I had control of the time, and I yielded a large part of it to the opponents of the bill.

Mr. HAWLEY, of Illinois. I think the time was about equally occupied by the friends and opponents of the bill.

The SPEAKER. The motion of the gentleman from Connecticut [Mr. KELLOGG] cannot be made under the rules. The Chair understood the gentleman to move that debate be limited to one hour and that the debate be under the five-minute rule.

Mr. KELLOGG. O no, sir; my motion was simply to limit the debate to one hour.

The SPEAKER. Under the rules the first man who gets the floor in Committee of the Whole is entitled to one hour. If the gentleman cuts off all general debate, then the five-minute debate runs on the bill until the committee agree to rise and report it to the House.

Mr. HAWLEY, of Illinois. I hope we shall limit debate on this bill to half an hour.

The SPEAKER. If that be done, then the five-minute debate will run until the committee directs that the bill be reported to the House.

Mr. MYERS. I object to any such limit to debate. I prefer that the debate be limited to one hour and a half and speeches confined to half an hour.

The SPEAKER. That cannot be done. There are two classes of speeches known to the rules of the House in point of length, one is an hour speech and the other a five-minute speech. Anything else must be agreed to by unanimous consent.

Mr. MYERS. Then I desire to make this suggestion which I think will meet the approval of the House that all general debate on the bill be limited to one hour and a half.

Mr. HAWLEY, of Illinois. I hope that will not be done. This bill occupied the whole of our last session on private bills, and there are other bills of importance of a private nature.

Mr. MYERS. It had a right to do so, for this is a question of some importance.

Mr. LAWRENCE. Let us have two hours for debate upon the bill.

Mr. KELLOGG. There are several other bills of a private character pending in Congress which are also of importance.

Mr. MYERS. I desire to say to the House that only forty-eight minutes were occupied last Friday on this bill. It did not take the whole day. My hour had not expired when the committee rose.

Mr. HAWLEY, of Illinois. I move to amend the motion to close debate so as to limit the debate to one hour—general debate for half an hour and the balance of the time in five-minute speeches.

The SPEAKER. That motion is not in order.

Mr. HAWLEY, of Illinois. We can limit the general debate to half an hour.

The SPEAKER. That is in order.

Mr. HAWLEY, of Illinois. Cannot we limit the whole debate to one hour?

The SPEAKER. The Chair thinks not. You cannot limit the five-minute debate on a bill. The pending proposition is that all general debate close in one hour, and that question is not debatable.

Mr. KELLOGG. Then I object to debate.

Mr. MYERS. With the permission of the House, I will say that if the debate is limited to one hour the opponents of the bill will occupy it, and they have already had most of the time that has been allowed for debate on the bill yielded to them. Let the time be one hour and a half. I offer that amendment to the motion of the gentleman from Connecticut, [Mr. KELLOGG.]

The SPEAKER. The question is upon the amendment offered by the gentleman from Pennsylvania to make the time one hour and a half.

The amendment was agreed to.

The motion of Mr. KELLOGG, as amended, was then agreed to.

The question recurred upon the motion that the House resolve itself into Committee of the Whole on the Private Calendar; and being put, it was agreed to.

OFFICERS AND CREW OF WYOMING AND TA-KIANG.

The House accordingly resolved itself into Committee of the Whole on the Private Calendar, (Mr. G. F. HOAR in the chair,) and resumed the consideration of the bill (H. R. No. 782) for the relief of the officers and crew of the United States ships Wyoming and the Ta-Kiang.

The CHAIRMAN. By order of the House, all general debate on this bill is limited to one hour and a half.

Mr. MYERS. I have twelve minutes of my hour remaining, but I do not intend to occupy them, and now yield the floor absolutely with the hope that I shall have the privilege of answering such arguments as may be advanced against this bill before the hour and a half closes.

Mr. WILLARD, of Vermont. If the committee will give me their attention I do not propose to detain them at any great length, but only sufficiently to set forth the facts in the case. What I have to say about this bill will relate mainly to the Japanese fund, and only incidentally to whatever right these claimants may have upon the bounty of the Government.

This fund or a great portion of it has been in the hands of the Secretary of State since I have been in Congress at least, a period of six years. During that time the Committee on Foreign Affairs of the House, of which I have had the honor to be a member, has claimed, and I believe it has succeeded in persuading the House, that the measures looking to any use of this fund or any disposition of it should be considered in that committee.

During the second session of the Forty-second Congress the Committee on Foreign Affairs made a report to this House in respect to this fund. The report was made by Mr. Banks, who was at that time and had been for many years the chairman of that committee. I hold a copy of the report in my hand and will summarize it in the debate, and then I may ask to have it printed as a part of my remarks. It had been known for many years that there was difficulty in gaining access by the commercial nations of the world to some of the interior ports of Japan. After some of those ports had been opened by treaty and by general understanding to the commerce of foreign nations, the American frigate Wyoming and the merchant-ship Pembroke were fired upon in 1863 in one of the straits of the Japanese waters. The first attack was made upon the merchant-ship Pembroke while peaceably pursuing her commercial business. Afterward an American man-of-war was sent to punish the Japanese for this insult and injury to a peaceable commercial vessel, and that ship was also fired upon, and in the course of the engagement which ensued two of the Japanese or piratical vessels, whatever designation we may give them, were sunk, and a fire was opened pretty indiscriminately upon some shore batteries. That was in 1863.

Subsequently the French government, the English government, the Netherlands government, and the United States government, represented by their embassadors and ministers at Japan, agreed to assist the government of Japan in punishing the rebellious prince who had erected these fortifications, shut up these forts and closed these straits. An expedition was fitted out and sent for that purpose. So far as the United States is concerned that expedition consisted of a chartered steamer called the Ta-Kiang, with forty men and three guns on board. That was the whole American force that participated in that expedition. The French naval force consisted of three vessels of war, with sixty-four guns and eight hundred and fifty men. The English fleet numbered ten war vessels, with one hundred and sixty-four guns and twenty-eight hundred and fifty men, including marines and engineers. The Netherlands had four war vessels, with fifty-six guns and nine hundred and fifty men. That expedition completely demolished the shore batteries of this rebellious prince, and severely punished him and those who allied themselves to him. I think but one person was wounded on the American chartered steamer Ta-Kiang.

As the result of that attack the rebellious prince agreed to pay an indemnity to the powers that joined in the expedition of $3,000,000, one-quarter of it being given to each of them. The United States thus became entitled to $750,000. In the treaty or convention which was made October 22, 1864, it was stipulated that that sum was to include all claims of whatever nature for past acts of aggression, whether indemnity or expenses entailed by the operations of the allied squadrons. Mr. Pruyn, who was at that time our minister to Japan, in a communication to Mr. Seward dated November 28, 1863, in speaking of the negotiations which resulted in this convention, says:

I stated distinctly [to the Japanese governors] I made no demands for the insult to our flag in firing on the Pembroke nor on the Wyoming before any provocation was given, as I wished to leave that for the decision of the President; but that I would be prepared to receive any propositions which the government might be disposed to make.

In another place in the same communication he says:

I then reminded the governors of what I had said about the insult to our flag, stating that I did not wish to demand any money indemnity, though I wished the daimio punished; that if the government were disposed to offer a sum which would provide annuities for the families of the dead and for the wounded of the Wyoming, I would, for the purpose of giving further proof of friendship and moderation, take the responsibility of settling the entire case on such basis; but I made no specific demands, preferring, unless some offer was made, to await instructions.

In a communication from the same minister, in which he inclosed a copy of the convention, he says:

The British minister and myself, prior to meeting the Japanese commissioners, had agreed on $2,000,000 as the sum to be paid, and would have had no difficulty in its division among the powers interested. But some difference was suggested as

likely to arise from the considerations whether the moral support afforded was not entitled to weight in such adjustment, and I did not feel that it was incumbent on me to interpose any objection to this view, as the moral support afforded by the United States was considerably in excess of the material support I was enabled to give. I therefore readily agreed to the reference of this delicate question to the home governments, with the understanding that a memorandum which I prepared should be signed and accompany the convention, so as to provide an equitable basis, if any should become desirable or necessary by reason of payment of the indemnity being demanded by them. I assented the more readily to the proposition of the envoy of his Imperial Majesty the Emperor of the French to fix the amount at $3,000,000, because I thought it more likely to lead to the substitution of a port as a material compensation for the expenses of the expedition.

Bear in mind that our minister was ready to fix it at $2,000,000 at the start, but he assented readily to the proposition of the Emperor of the French to fix it at $3,000,000.

Should the Tycoon be averse to the opening of another port, and fail to make such offer in lieu of the payment of indemnities and expenses, the amount agreed on will not be regarded as unreasonable. But should he make the offer, it will be at the option of the four powers to accept it in full or in part payment, and in that event a moderate pecuniary fine may be imposed.

The treaty itself contains this stipulation, to which I desire to call the attention of the committee:

3. Inasmuch as the receipt of money has never been the object of the said powers, but the establishment of better relations with Japan, and the desire to place these on a more satisfactory and mutually advantageous footing is still the leading object in view, therefore, if His Majesty the Tycoon wishes to offer, in lieu of the payment of the sum claimed, and as a material compensation for loss and injury sustained, the opening of Simonoseki or some other eligible port in the inland sea, it shall be at the option of the said foreign governments to accept the same, or insist on the payment of the indemnity in money, under the condition above stipulated.

I read those paragraphs, Mr. Chairman, for the purpose of showing that the American minister in the preliminary negotiations out of which this convention grew, and in the convention itself, expressly stated that a money indemnity was not what was sought.

Now, Mr. Chairman, I call attention again to the fact that this expedition was comparatively an inexpensive one to our Government; in other words, that the indemnity could not in any view of it whatever have been looked upon as compensation for the expenses incurred by our Government in this expedition.

The aggregate claim for all injuries to American citizens and property in Japan was stated by the American minister in December, 1863, after this expedition, at $30,000. Demands were made for $32,000, exclusive of damage done to the Pembroke, which was fixed by the Japanese government at $10,000, and which I may say here was settled as an independent matter and not included in the treaty. So that the whole amount of damages claimed by the United States by way of expenses, or in any other way, as growing out of that expedition, could not have exceeded in any event $42,000. And yet by this treaty (if it is to be insisted upon and we are to hold this money) we have received $750,000.

The Secretary of State, Mr. Seward, says in a communication to the Committee on Foreign Affairs, in a letter of January 8, 1868, that "pursuant to the stipulations of the treaty with Japan of 22d October, 1864, in which the United States was a party, this Government has received from the Japanese government, without substantial equivalent, as its share of the indemnity stipulated to be paid by that government, the sum of $600,000 in gold." And since that period the balance of this indemnity has been paid.

Now, sir, as was stated in the debate one week ago, this matter has before been brought to the attention of this branch of Congress. The Committee on Foreign Affairs at the time this report was made submitted a proposition to remit the payment of the then unpaid installment of this indemnity. After a full discussion the House passed the bill, but it failed to receive the assent of the Senate, and did not of course become a law. It was not acted on in the Senate at all, as I understand.

Mr. TREMAIN. Did that bill provide for retaining anything?

Mr. MYERS. It provided for retaining one-half and releasing the other half.

Mr. WILLARD, of Vermont. I prefer to state the matter myself, and let the gentleman correct me afterward, if he deems it necessary. It provides for relinquishing to the Japanese government the unpaid installment, which I think was one-third of the whole sum.

Mr. STARKWEATHER. If it does not interrupt the gentleman, I would like to put an inquiry to him. Minister Pruyn, in his communication, spoke about receiving a part of this fund, so as to guarantee an annuity to the survivors of the six persons who were killed on board the Pembroke. I want to know whether the gentleman's idea is to give up that part of the minister's claim which seemed to be based upon such an annuity, which is the substance of this bill.

Mr. WILLARD, of Vermont. It is not at all the substance of this bill.

Mr. STARKWEATHER. So far as it goes.

Mr. WILLARD, of Vermont. No, sir. In respect to that I will say that I am not proposing now an entire disposition of this fund. What I am endeavoring to show is that this fund was not given to us for any such purpose as that contemplated by this bill, whatever else may have been the purpose for which it was given. The paragraph to which the gentleman has called my attention, and which I have already read, is contained in a letter from Mr. Pruyn to Mr. Seward, in which he speaks of his interview with the Japanese governers in respect to it, and in which he said that "if the Government were disposed to offer a sum which would provide annuities for the families of the dead and for the wounded of the Wyoming," he "would, for the purpose of giving further proof of friendship and moderation, take the responsibility of settling the entire case on such basis."

Mr. STARKWEATHER. Will not the basis on which the Committee on Foreign Affairs have gone go so far as to give up the whole of this, so that there will be no annuity, on the basis of which that communication was made—no annuity for the survivors of those who lost their lives in that engagement?

Mr. WILLARD, of Vermont. When that question is presented by any bill, whether reported by the Committee on Foreign Affairs or otherwise presented to the House, it will be a proper time to discuss it. I am not questioning here whether a pension should be granted to the widows and orphans of those who were killed upon the Wyoming, or whether anything by way of annuity, which would be kindred to a pension, should be granted to them. I am simply saying that there is nothing in this treaty, nothing in the negotiations out of which it grew, nothing in the situation of the matter as it now stands which warrants us in using this money for such a purpose as is contemplated by this bill.

I am clearly (and I have no hesitation in making the declaration) in favor of paying the larger part of this fund—whether enough should be retained to make some provision, as suggested by the gentleman from Connecticut, or not I am not prepared to say—but I am clearly in favor of returning the larger part of this fund to the Japanese government. I had personal occasion to know, at the time the matter was under discussion in a former session of Congress, that the Japanese representatives here were very earnestly desirous that we should at least not exact the residue of that indemnity. It has been, I think, a recommendation made by every Executive since the treaty was entered into, certainly since the money has been in the custody of this Government, that we should certainly pay it to Japan or do something with it entirely acceptable to Japan. Mr. Seward himself stated in the letter to which I have called attention that we had received this money without substantial equivalent; and therefore, having received it without substantial equivalent, the conclusion would follow as a matter of course that we ought to return it.

Now, Mr. Chairman, the case stands like this, so far as the great bulk of the money is concerned: Here were four strong powers (our Government I admit being but weakly represented) who had their hands upon the throat of this weak power, and they exacted from it as a ransom—the word does not sound pleasantly I know when we are speaking here—as a ransom, as though we held it in subjection, as though the lives and liberty of its people were wholly in our hands, and they could not escape from destruction unless they offered us ransom—that as ransom Japan should give $3,000,000. When we take that in the light of the correspondence which the American minister at that time had with our Government, we see that it was exacted only for the purpose of securing better commercial relations with Japan in the future, that he had not thought at that time this money was ever to be paid to our Government. At one time he was ready to consent to $2,000,000, but afterward went up to $3,000,000 on the suggestion of the French minister, because his object was to secure better commercial relations with Japan in the way of opening their ports, mentioning in particular the port of Simonoseki. I believe it has been the policy of this Government for the past six years to cultivate the most friendly relations with Japan in every particular.

Mr. STARKWEATHER. Let me ask the gentleman a question at this point, as he is a member of the Committee on Foreign Affairs, and of course has studied the question. It appears that England, France, and the Netherlands furnished five hundred or one thousand men and several vessels. Now, let me ask the gentleman whether he thinks the indemnity, so far as they were concerned, was more than it ought to be for furnishing that large body of men? Was it more than their actual expenses, considering the number of vessels and men furnished? Were not our own losses, although we had not as many vessels, quite as great as that of the other powers?

Mr. WILLARD, of Vermont. We had no loss at all.

Mr. STARKWEATHER. I mean loss of men.

Mr. WILLARD, of Vermont. In this expedition not a man was lost.

Mr. MYERS. But the treaty covers both expeditions.

Mr. WILLARD, of Vermont. I understand that; but in this expedition the Americans did not lose a single life.

Mr. STARKWEATHER. I refer to loss of life on board of the Wyoming.

Mr. WILLARD, of Vermont. When the Wyoming was sent out to resent this insult and to chastise the Japanese for having fired upon the United States ship Pembroke, I think four men were killed; but in this expedition out of which this indemnity grew the Americans had only a single chartered Japanese vessel with forty men and three guns. There were, I think, some two thousand men in the expedition on the part of other powers, with two or three hundred guns altogether. I suppose if we had a large force there in that expedition which caused us to spend a large amount of money perhaps we ought to have been indemnified for that expense. As Secretary Seward has said, however, we ought not to have this fund, because the expedition so far as we were concerned was attended with no heavy expense. He further stated that we received this money without any substantial equivalent, and it ought to be returned.

Mr. TREMAIN. I understood the gentleman from Pennsylvania to say that this indemnity was not merely to cover the expenses of

the expedition to which the gentleman from Vermont refers but also the loss of men on board the Wyoming. I should like to know as a matter of fact how that is.

Mr. WILLARD, of Vermont. The terms of the treaty include all claims of whatever nature for past aggressions on the part of the Mikado, which of course covers the loss on the Wyoming.

Mr. TREMAIN. I understand this bill does not provide for pensions in the case of the persons who were killed, but prize-money only.

Mr. WILLARD, of Vermont. Precisely; prize-money.

Mr. MYERS. Permit me to answer that question.

Mr. WILLARD, of Vermont. I would rather not. Now to return to the point on which I was speaking at the moment I was interrupted by the gentleman from Connecticut. I will say we have been endeavoring by treaty stipulations in various ways for the last six years to cultivate closer and more friendly relations with Japan. We have at the same time exacted a large money indemnity, a ransom which, as I have before stated but which cannot be too often repeated in the hearing of the House, has been declared by the chief officer of the State Department we received without any substantial equivalent. Now that certainly is dealing with a power with which we desire to cultivate friendly relations in a very hard and exacting spirit, and a spirit certainly with which I should suppose the American Congress would have no sympathy whatever.

Now, sir, as I do not like to detain the committee, and have already detained it longer than I expected, let me call the attention of the committee to the provisions of the bill. It takes out of this fund $125,000—

To be distributed among the officers and crew of the United States ship Wyoming, and officers and crew who manned the Ta-Kiang on the 5th, 6th, 7th, and 8th days of September, 1864, the same to be distributed as sea-pay to the officers and crew attached to the Wyoming, according to the pay-roll of said ship on the 16th day of July, 1863; and to the officers and crew detached from the United States ship Jamestown, and who manned the Ta-Kiang, according to the pay-roll of said ship on the 5th, 6th, 7th, and 8th days of September, 1864: *Provided*, That the provisions of this act shall be held and taken to be in full satisfaction for all bounty, ransom, or prize-money, or claim therefor, on the part of the officers and crews aforesaid, under any and all existing laws of the United States or regulations of the Navy Department, for the destruction of piratical vessels at Simonoseki, on the 16th day of July, 1863, and bombarding the forts erected at the straits of Simonoseki, in September, 1864. And if any of the officers or crews aforesaid shall have received any bounty, ransom, or prize-money for the service aforesaid, the same shall be deducted from the amount to be paid such officer or seaman under the provisions of this act: *And provided further*, That no money shall be paid to any assignee of the mariner, but only to the mariner or his duly authorized attorney in fact, or, in case of his decease, to his legal representatives, excluding any assignee.

It is said in the report of the Committee on Naval Affairs that—

As these ships were not, strictly speaking, "enemy's ships," the bounty of $200 allowed by the act of July 17, 1862, for each person on board of "any ship or vessel of war belonging to an enemy," sunk or otherwise destroyed in an engagement, if of equal or superior force, cannot be claimed as an absolute right.

So that this bill is based upon the theory that these persons have not any right to any of this money as prize-money; that it cannot be given to them as a matter of absolute right; and, as I understand, the gentleman from Pennsylvania, [Mr. MYERS,] in opening the case, has presented it mainly as a gratuity; in other words, that we have received this large amount of money, that we have it on hand, that nobody is better entitled to it than these men, and therefore that we give it them. I cannot agree to any such logic as that. If these men have a right to this money, very well; then they ought to have it. If they have not a right to this money, it should no more be given to them than any other money. But I claim, Mr. Chairman, that they have no more right to this money than they have to any money that is in the Treasury of the United States. If they have any right to this money it must grow out of the treaty, and the treaty expressly says that this is for the expenses—"the expenses" entailed by the operations of the allied squadron, or for the ransom, if you please, of Simonoseki. I take it that does not give those persons who may have been engaged in that expedition any right to this money because it was given as a ransom for Simonoseki.

If any part of this should be given to anybody other than to the Japanese government, I agree it may be given with some propriety, with some justice, as an annuity to the widows and children of those who were killed on the Wyoming. Of course they are not entitled to a pension unless it should be given to them specially, because this was not a war; although it seemed from some of the remarks made here the other day that it was about the most extensive naval war we had had for many years; and I expected before long to see this chartered steamer Ta-Kiang, with its forty men and three guns——

Mr. BUTLER, of Massachusetts. One gun.

Mr. WILLARD, of Vermont. Three guns.

Mr. BUTLER, of Massachusetts. Only one that could be used.

Mr. WILLARD, of Vermont. I say that I expected before long to see this Ta-Kiang painted by some fine artist, and either adorning one of our panels here or hung up over the approaches to our galleries as matching Perry's Victory on Lake Erie, or some other of the great historic naval achievements which have made our supports on the sea famous for all time. It seemed that gentlemen thought it was one of the most illustrious engagements in which American mariners ever participated.

Mr. STARKWEATHER. I would like to ask the gentleman, while he is belittling this engagement——

Mr. WILLARD, of Vermont. Let the gentleman wait a moment. And I am not certain but it would be a legitimate purpose if we were to take $10,000 or $15,000 or $20,000, and appropriate it for the purpose of making forever famous this splendid achievement of the American Navy.

Mr. STARKWEATHER. Let me ask the gentleman if there was not as large a loss of life on the Wyoming, in proportion to the number of men engaged, as there was on any one vessel, with one exception, during the last war?

Mr. WILLARD, of Vermont. I am speaking of the Ta-Kiang.

Mr. STARKWEATHER. I am speaking of the Wyoming.

Mr. WILLARD, of Vermont. We are speaking of different vessels.

Mr. MYERS. I wish to ask my friend a question. He has read the treaty. Now, does not the treaty, by its provisions, include the acts of aggression in June, 1863; that is, the battle with the Wyoming?

Mr. WILLARD, of Vermont. We have no misunderstanding about the treaty. It does provide for all of those aggressions, and whatever damage was suffered by the Wyoming in that engagement ought to be compensated for out of this fund; and if annuities ought to be paid to the relatives of the deceased soldiers and mariners who were killed in that engagement, they ought to be paid out of this fund. I agree to that. It does cover that aggression, but it does not erect this engagement into a war with an enemy's vessels, by which you can come in here with this fictitious claim for prize-money to be distributed among the crew. I think it very likely that there would be hesitation now if the question were entirely a new one whether prize-money should be given any more on the sea than on land; whether the soldier who risks his life in storming a battery is not as much entitled to receive prize-money for it as the mariner or sailor who risks his life in a conflict with ships upon the ocean. If it were a new question, I think possibly there might be as much reason for granting prize-money in the one case as in the other. Certainly no argument in favor of prize-money would apply to a case like this, because when you attempt to carry the question of prize-money beyond its proper realm, beyond its strict statute of limitation, then the question which I have indicated will at once arise.

Now, sir, to close in brief I have to repeat what I have said, that this fund is not in our hands for any purpose like this. It is in our hands, I believe in justice, for the purpose of returning it to the Japanese government if they will accept it; certainly it is in our hands for no other purpose except to pay the actual losses which the Government sustained or which individuals sustained by reason of these aggressions; and I hold that you cannot with any justice in dealing with this fund say that the men who engaged in this performance of their duties, either as sailors or officers of the United States Navy, are entitled to anything more out of this fund than indemnity for what they actually suffered. I trust you will not carry the doctrine of prize-money beyond its limitations for the purpose of taking from this fund a sum which ought to be returned to Japan, and a very large sum of money. I yield the residue of my time to my colleague on the Committee on Foreign Affairs, its chairman, [Mr. ORTH.]

The following is the report of the committee referred to by Mr. WILLARD:

The Committee on Foreign Affairs, to whom were referred several bills to provide for the appointment of a secretary of legation at the court of Japan; to appoint student interpreters at that court; to compensate the Japanese government for the United States legation buildings in Japan; concerning unpaid installments of the indemnity fund, with several communications from the Secretary of State upon the same subjects, have considered the same, and report them to the House for consideration, with a statement of the origin and character of the Japanese indemnity fund.

Commercial intercourse between Japan and Christian nations was commenced by Commodore Perry's expedition from the United States in 1852. A treaty of peace and amity between the United States and Japan was signed the 31st of March, 1854. This was the first treaty made between Japan and foreign powers. It opened the ports of Simoda, in the principality of Idzu, and Hakodadi, in the principality of Matsai, to American vessels, and secured to Americans the freedom of the country within the limits of seven Japanese miles from an island in the harbor of Simoda. It also authorized the appointment of consuls for the United States at Simoda. After an absolute prohibition of communication with foreign nations for two hundred years, diplomatic intercourse was established by the United States. The Portuguese and Dutch had enjoyed the privilege of sending one or two vessels a year to Japan from an early period, but with very limited trade and no intercourse with the people. The success of the United States led England and Russia to send expeditions to Japan, and in the year following the negotiation of the American treaty the same advantages were granted to England, Russia, and Holland. A convention negotiated by Commodore Perry June 17, 1857, opened the port of Nagasaki, in the principality of Hizen, and secured the right of citizens of the United States to reside permanently at Simoda and Hakodadi. In July, 1858, Mr. Townsend Harris negotiated a commercial treaty for the United States upon the basis of that negotiated between the United States and China in 1854. This treaty permitted the residence of diplomatic agents at Yedo, and the appointment of a minister of Japan, to reside at Washington, and consuls at all ports of the United States. The ports of Kanagawa, Nagasaki, Nee-egata, and Hiogo were opened in succession at different periods of time to American vessels. Americans were allowed to reside at Yedo and at Osaca for purposes of trade. Religious freedom was secured to Americans, and places of public worship were to be protected by the Japanese government.

Intercourse was thus established with the principal Christian nations after an isolation of more than two hundred years. Great opposition was made to the new policy of Japan by some of the native princes, who were sustained by their retainers among the lower orders of the people. The period immediately following the negotiation of the commercial treaty by Mr. Harris was one of violent disorders; the Tycoon was assassinated, one of the principal officers of the foreign legations was murdered, and several legation buildings were burned. The native princes held in their pay masses of the people, who endeavored to intimidate native merchants and destroy the trade with foreigners. Small traders and workingmen were organized against the supporters of the new policy and those engaged in foreign commerce, and some of the most prominent silk merchants were assassinated during the period.

The rebels against the liberal policy of the Japanese government seized the forts, and some of the principal naval posts, and made war upon all foreign vessels. The American frigate Wyoming and the merchant-ship Pembroke were fired upon in 1863. In 1864 Choshu, Prince of Nagato, who ruled the provinces of Suwo and Nagato, having absolute possession of the Japanese fortifications which commanded the straits of Simonoseki, and having with him the person of the Mikado, or spiritual ruler, refused to recognize the validity of the treaties concluded by the Tycoon with foreign powers, and closed by force this chief passage to the principal inland sea of the empire.

In this controversy the Tycoon desired at first to conciliate the anti-foreign party, and was disposed to yield to their demands; but he was relieved from that necessity by the support which the treaty powers gave to his government. At his request the forces of the United States, Great Britain, France, and the Netherlands in Japanese waters jointly determined to open the straits by force. The campaign opened on the 4th of September, 1864, and lasted five days. The fleets destroyed the batteries commanding the straits, blew up the magazines, threw shot and shell into the sea, carried away seventy cannon, and obtained an unconditional surrender from Prince Choshu, who agreed to pay the expenses of the expedition.

The treaties were ratified by the Mikado, as they had been before by the Tycoon, thus uniting the two elements of power existing in the government of Japan, and the liberal foreign policy of the Tycoon was firmly established. The government of the Tycoon, preferring to assume the expenses of the expedition, which Choshu had agreed to pay, entered into the convention of October 22, 1864, stipulating to pay the four powers $3,000,000, "this sum to include all claims, of whatever nature, for past aggressions on the part of Nagato, whether indemnity, ransom for Simonoseki, or expenses entailed by the operations of the allied squadrons." The whole sum was to be paid quarterly, in installments of half a million dollars each.

One million and a half of dollars have been paid under this convention, and one million and a half of dollars remain unpaid. The Japanese government asked to have the payment of the balance deferred until 1872, because of its utter inability to meet the demands made upon it pursuant to the convention; its obligations to the allied governments being, however, fully recognized.

The Secretary of State informed the Committee on Foreign Affairs, by letter dated   , 1872, that the whole amount to be paid under the convention to the four powers was $3,000,000; and it was stipulated that it should be paid in installments of one-sixth of the whole amount. Three installments have been paid to the several powers, amounting to $1,500,000; three remain unpaid, the principal of which amounts to $1,500,000, the share of the United States therein being $375,000.

Of the amount already paid by the government of Japan, one-fourth part has been received by the United States; which, being placed to its credit with Baring Brothers, of London, yielded the sum of £88,881 10*s.* 10*d.* This, transferred to New York, produced in currency the sum of $586,125.06. These funds were invested in 10.40 bonds of the United States at par. The accruing interest has been invested in the same class of bonds. This sum now amounts to $705,000 in registered bonds. The Secretary of State, in a communication, (Senate Executive Document 58, Forty-first Congress, second session,) says that he is not aware of any claims against this fund.

In a letter dated January 8, 1868, addressed to the chairman of the Committee on Foreign Affairs, the Secretary of State (Mr. Seward) made this statement: "That pursuant to the stipulations of the treaty with Japan of the 22d of October, 1864, to which the United States was a party, this Government has received from the Japanese government, *without substantial equivalent*, as its share of the indemnity stipulated to be paid by that treaty, the sum of $600,000 in gold. This amount has been invested in United States registered bonds, and awaits such disposition as Congress may direct."

The aggregate claims for all injuries to American citizens and property in Japan was stated by the American minister in December, 1863, at $30,000. Demands were made for $32,000, exclusive of the damage done to the Pembroke, which was fixed by the Japanese government at $10,000. (Pages 463 and 475, Diplomatic Correspondence 1864–'65, part 3.) So that the whole amount of damages claimed by the United States would not exceed $42,000 up to December, 1863.

The naval force of the United States on the coast of Japan in September, 1864, was the Jamestown, with two hundred and eighteen men and twenty-one guns, and a chartered steamer, Ta-Kiang, with forty men and three guns. The Jamestown was assigned to the defense of the port of Yokohama, and the Ta-Kiang formed part of the expedition to Simonoseki. The French naval force consisted of the Semiramis, Dupleix, and Tancred, with sixty-four guns and eight hundred and fifty men. The English fleet numbered ten war vessels, with one hundred and sixty-four guns and twenty-eight hundred and fifty men, including marines and engineers. The Netherlands had four war-vessels, with fifty-six guns and nine hundred and fifty men.

It appears from this history that the indemnity fund was intended to satisfy "all claims, of whatever nature, for past aggressions on the part of Nagato, whether indemnity, ransom of Simonoseki, or expenses entailed by the operations of the allied squadrons." The Government of the United States has already received a sum which, with the interest thereon, amounts to more than $700,000. All the claims for injuries sustained by this Government in consequence of the operations of Nagato do not amount to $40,000. The expenses incurred by the Government of the United States by the participation of the chartered steamer Ta-Kiang in the operations against Simonoseki in 1864 cost the Government only a few thousand dollars.

The claim is, therefore, as stated by the late Secretary of State, Hon. William H. Seward, substantially without equivalent. It is confidently believed by the Committee on Foreign Affairs, after a very careful consideration of the circumstances of the case, that the United States may wisely remit the unpaid installments of this indemnity fund without injury to the Government or the people. It is believed that such a policy will result in the establishment of more intimate relations between this Government and the government of Japan, and ultimately prove of great benefit to the commerce of the two countries and accelerate the progress of civilization.

The committee unanimously report a bill releasing the government of Japan from the payment of the installments of the indemnity fund remaining unpaid, and recommend its passage.

Mr. BUTLER, of Massachusetts. How much time has the gentleman got to yield?

Mr. WILLARD, of Vermont. I do not know.

Mr. ORTH. It is not my purpose to detain the House at any great length upon this question.

The CHAIRMAN. The Chair understands the gentleman from Vermont to yield the remainder of his time to the gentleman from Indiana.

Mr. WILLARD, of Vermont. Yes, sir; I yield the residue of my time to the chairman of the Committee on Foreign Affairs.

Mr. ORTH. Mr. Chairman, it is not my purpose to enter at any very great length into the merits of the question now before the committee. My colleague on the Committee on Foreign Affairs from Vermont has stated very fully the history of this entire transaction, and I will simply add a very few words in reference to the precise object of the bill now under consideration and the questions of law involved in it. We have received this money, and the questions how we have received it and what we should do with it are merely incidental. The bill before us provides that a certain amount of money shall be paid to the officers and crews of certain American vessels—not as prize-money, because as such they have no legal right to one dollar of this money or to one dollar of the money in the national Treasury. It comes up then by way, as my colleague on the committee has very appropriately said, of a gratuity; and if the officers and crew of the Wyoming are to have any pay whatever from this General Government for what was done in opening of the port of Simonoseki, they ought to be paid out of the general Treasury of the country. If this bill made that provision I doubt whether it would find one-half the advocates that it does now.

Now, in order to do this thing, it is provided in the bill that we shall lay our hands not upon the money in the national Treasury, but upon this Japanese fund. It is a very easy thing to be liberal with other people's money. It is a very easy thing to be charitable when it costs nothing, and hence in that view it is well enough that we should glance at the history of this case and at the manner in which this money was acquired. Seven hundred and fifty thousand dollars is a very large sum of money. It was placed in our State Department, not in the Treasury, and neither this Congress nor any of our predecessors have yet felt themselves authorized to cover it into the Treasury. Why? Because Secretary Seward told us that we have received it without returning any just equivalent. We have from the moment we received it up to this hour regarded it as a sacred trust. What to do with it we have not yet fully made up our minds. In dealing with the government of Japan in this matter we must recollect that we were associated with the governments of Great Britain, France, and the Netherlands. Indemnity came to all these governments at the same time and under the same circumstances. So far as I am informed, the other three governments have never taken any steps with regard to returning this money, but it must be known that the expenses of each one of those governments in this case were one hundred fold more than ours. Great Britain had one hundred and sixty-four guns and twenty-eight hundred and fifty men; France had sixty-four guns and eight hundred and fifty men; the Netherlands had fifty-six guns and nine hundred and fifty men, while we had only forty men and three guns.

Mr. MYERS. I desire to ask my colleague on the committee a question. France had sixty-four guns and eight hundred and fifty men; England had one hundred and sixty-four guns and twenty-eight hundred and fifty men. Does the gentleman think that France should have been paid this indemnity in proportion to the number of men and guns that she employed?

Mr. ORTH. We got an equal share of the money without any distinction as to the number of men and guns employed.

Mr. MYERS. Because the power of the Government was there.

Mr. BUTLER, of Massachusetts. Because our one gun——

Mr. ORTH. There were three guns.

Mr. BUTLER, of Massachusetts. Only one, if you please. It was because our one gun, as the British admiral certified, did as much service as any one fleet.

Mr. ORTH. No doubt about that. But that is not the question here or there.

Mr. BUTLER, of Massachusetts. Yes, it is.

Mr. ORTH. This money came to us. Thus far we may have hesitated in returning it to Japan out of a feeling of delicacy toward the governments connected with us in its acquisition. That the amount exacted from the Japanese government was unconscionable and enormous must strike every just man. Three million dollars for what? Because one of the governors of a portion of Japan, too strong for the power of the Tycoon, had set himself up to disregard the treaties made with our Government and with other governments. We were called upon by the Tycoon to assist in punishing his daimio, and we did so. When the question of money came up the Japanese government said "We will give you $3,000,000." We took it; but under what circumstances? Three of the most powerful nations of this earth were there with their hundreds of guns and hundreds and thousands of men, threatening the weak and semi-civilized nation of Japan, until they had extorted from it a sum of money, the very idea of keeping which puts the blush of shame on the cheek of every man. Now, is this Republic of ours to become a buccaneer, to roam over the world to avenge supposed insults to the American flag and have them wiped out by dollars and cents? Thus far, thank God, in our history no such page has been written.

Mr. BUTLER, of Massachusetts. How with the Barbary powers?

Mr. ORTH. There was war then. But that question is not now before Congress. We have thus far steadily kept this money from going into the public Treasury to be paid out as other moneys are. We have kept it invested and set apart, because for the last twelve years the feeling with every administration, with every Secretary of State, has been that this fund is surrounded by circumstances which make it a little more sacred than ordinary dollars and cents. The question as to what to do with this money will come up in the future.

The question directly before us to-day is whether we shall use this money thus acquired and held by us and hand it over to persons who have no legal claim upon it. That is the whole question to be settled by the passage of this bill. whether we shall take the money thus acquired and thus held and pay it over to officers and a crew who

have no legal claim upon it, and thus put the entering-wedge into the disposition of this fund. Sir, I hope and trust this Government will never permit that to be done.

I promised that I would say but a word or two in this matter, simply in furtherance of the views so clearly set forth by my colleague on the committee, the gentleman from Vermont, [Mr. WILLARD.] I hope and trust that the good sense of this House will see that this bill does not pass.

Mr. BUTLER, of Massachusetts. Before I go on I desire to yield fifteen minutes of my time to the gentleman from Pennsylvania, [Mr. MYERS,] who reported this bill.

The CHAIRMAN. The gentleman from Massachusetts [Mr. BUTLER] is entitled to forty-five minutes, of which he yields fifteen minutes to the gentleman from Pennsylvania, [Mr. MYERS.]

Mr. MYERS. I do not know that even fifteen minutes are needed to reply to the attack on this bill made by my friend from Vermont, [Mr. WILLARD.] There is but one question before the committee. We now have a fund of nearly $1,000,000 secured to us by a solemn treaty, known as the Japanese indemnity fund. This result is due to the sailors who secured it by two hard-fought battles, one in June, 1863, and one in September, 1864, when they were aided by foreign powers. These sailors not only won this fund, but reopened the ports of Japan to us, secured untold benefits to our commerce, and prevented a bloody war. Now, do they deserve to have the equivalent of prize or bounty-money, which if open war had been declared would have been theirs under the law? The Committee on Naval Affairs unanimously say that they do. The House at the last session so said and so voted. The gentleman from Vermont [Mr. WILLARD] tries to persuade us that this question was always held by the Committee on Foreign Affairs as a matter peculiarly pertinent to their jurisdiction. I am a member of that committee, but claim no such peculiar province for them. In the Senate four reports have been made in favor of the bill.

That question being determined, out of what fund should this bounty-money for these sailors come? The argument opposed to us looks to prevent their obtaining it from this fund; and then if they attempt to get it out of the Treasury, they can more readily be beaten, as we all know it would be much more difficult to obtain it in that manner. If their claim be just, as I have already contended, then the money most appropriately should be paid from the very fund which is the result of their exploits and gallantry, the bloodshed and the lives lost, without which it would not be ours to give.

We were virtually at war with Japan. The Mikado, siding with the rebel prince who fired on our vessels in violation of treaty obligations, declared the ports closed against foreigners, and the Tycoon, yielding his authority, joined in the edict, although faintly protesting that he was powerless without the aid of the treaty powers. Our flag was insulted and assaulted from powerful vessels bearing the Japanese flag as well as from forts and batteries on their shore. In volume 2, Executive Documents, page 1106, will be found the Mikado's order to expel the foreigners and sweep them away as with a broom, and the Tycoon's order submitting to it. On page 1124 of the same volume the British chargé d'affaires says this edict "is unparalleled in the history of all nations, civilized or uncivilized;" that it is in fact a declaration of war by Japan itself against the whole of the treaty powers and the United States. Minister Pruyn (page 1121) wrote to the Japanese authorities that "even to propose such a measure is an insult to my country *and equivalent to a declaration of war*."

The treaty itself provides for the "indemnities of war" and recites that the Tycoon was powerless.

No war, indeed, gentlemen say! yet six Americans were killed in a bloody battle fostered by the ruler of Japan and six or seven severely wounded; and forsooth we are not even to retain the indemnities of war paid us, nor the expenses of the expedition stipulated for in the treaty, one of which in honor and equity would be the payment, if need be, out of our Treasury of just such bounty or prize-money as we were giving to men who sunk or captured vessels in our own war of the rebellion.

The treaty recites that this indemnity was to cover the acts of aggression and hostility in June, 1863, the time of the Wyoming fight.

So imminent was a war with Japan, that the Wyoming, the only vessel we could spare at that time, was sent out there, and while our other sailors, those who were engaged against the rebellion, were obtaining bounty and prize-money, frequently under technicalities of law, when they did not even partake in the contest, these brave men, with those of the Ta-Kiang in the subsequent and no less important battles of September, 1864, have as much right to our most grateful consideration.

Gentlemen say we ought to repay this money to Japan. I happen to remember as much about the history of this case as my colleagues upon the Committee on Foreign Affairs. My distinguished colleague, now chairman of the committee, [Mr. ORTH,] was out of Congress at that time; he ought to have been here. Mr. Mori, the Japanese minister, not denying that the rebellious prince had paid a large part of this money, earnestly represented that it would promote good feeling for us to remit the unpaid balance of our half. It is in the stipulation made by Mr. Pruyn that his dominions should be imperialized. Some of them were confiscated. Mr. Fisher, United States consul at Kanagawa, informed me that the money so far as obtained for the first half was chiefly obtained from Nagato, and yet we are now proposing to give this very money, with interest, back to Japan. I am in favor now, as I was then, of remitting the half. What more in reason can be asked? But I do not propose to give back more than Japan asks. This would be an insult rather than an act of friendship.

Mr. ORTH. The remarks just made by my colleague on the committee [Mr. MYERS] may cause an impression that the Japanese government has asked the return of this money. Certainly that government has never made such a request.

Mr. MYERS. I will distinguish the minister from the government in what I am saying. Mr. Pruyn writes to me that—

> The first agreement was made between the Daimio Nagato and the naval officers, and was subsequently assumed by the government of Japan. * * * The Japanese government was of course unwilling to recognize a treaty made with him, as if he were an independent prince. Our war and expeditions against him were justified on the ground that he was a rebel whom the government could not subdue.

By turning to part 3, Diplomatic Correspondence, 1863-'64, page 553, it will be seen the sum was to be paid by the Tycoon "in behalf of Choshu;" and the treaty speaks of the "ransom of Simonoseki," his town—of course paid by him. I am friendly to Japan, and have already spoken highly of their great advance in civilization, largely the result of keeping open their ports; but if we shall ever give back this fund, at least keep all that is due for the wrongs done, all that may compensate for the lives lost, and the achievements of the men of those American vessels.

It is said here, however, that this is a trust fund. Sir, if there was ever a mode in which we have done especial wrong to our citizens, it has been under our treaties. We bartered away their claims for French spoliations. For over seventy years they have knocked at the doors of Congress unsuccessfully; and just as the Senate and House were about to do what was right by them, the Alabama treaty came in, and some one stopped the French spoliation bill, sending it to the Judiciary Committee to inquire whether, if we paid the insurance companies under that bill, we might not commit ourselves and be obliged to pay their claims which footed up dollar for dollar with interest we had presented to and received from Great Britain. Why not give this money back to England? We have not paid it according to the trust. Then there is the Chinese indemnity fund. We recovered $800,000 for the aggressions upon our citizens; $400,000 of this is left for whom? Under the leadership of the gentleman from Vermont we have refused year after year almost the only claim of American citizens that remains upon that fund. Why not offer that back, too? O, yes! It is a "trust fund!" Our duty and our trust here are for the American people. Our duty is not to decry the gallant services of sailors like these, who won brilliant battles. I do not care whether it was with one ship and one gun or with a dozen. To the moral force and power of our Government, which first opened the ports of Japan, we added in the last battles but a few guns, but they were telling ones, and won the thanks and admiration of England and the other treaty powers. Hear what one of these sailors who participated in the Wyoming fight wrote a day or two ago to the gentleman from Maryland, [Mr. ARCHER:]

> We received and returned their fire at pistol-shot range, sustaining the loss of six killed and five wounded, our ship being badly cut up. We fought against great odds, the Wyoming mounting but six guns, while the enemy mounted at least thirty-five. Therefore why should we not receive some notice from our country for this affair? Have not the widows and orphans of these brave men who freely gave up their lives for the country's honor a greater claim upon the indemnity fund than Japan?

How does Japan look at a matter of this kind? But the other day she recovered, not from an enemy, not from rebels, but because of the assaults of Chinese savages in Formosa, $700,000, paid by the Chinese government. One hundred and forty thousand dollars as "consolation money!" I ask gentlemen who oppose this bill what "consolation money" is there here for the widows and orphans of the men killed upon the Wyoming?

England looks more rigidly to the punishment of wrongs upon her citizens. She made Japan pay $100,000 for the murder of Mr. Richardson, a member of her legation, which occurred about the time of the Simonoseki outrages.

Several learned gentleman have read to us very carefully from parts of our treaty that in it the foreign powers say the receipt of money from Japan was not their object. That is true, and they therefore gave Japan the option to open a port at Simonoseki or some other eligible port in the inland sea. Not only did the Tycoon fail to make such an offer, but the ports of Hiago and Osaka, stipulated by the Harris treaty to be opened in January, 1863, were kept closed for five or six years after that time. Let us be just to Japan, but be careful lest we do injustice to our own people, and especially to the defenders of our flag.

I cannot close better than by reading the views expressed to me in a letter by our late minister, Robert H. Pruyn, who, if diplomacy won for us this fund, is certainly entitled to the credit of it. Listen to what Mr. Pruyn says:

> I think the United States have done right in releasing the government of Japan from the obligation to pay the balance. * * * * * * *
> But whatever may be done, provision should be made for our brave seamen whose exposure and blood secured it. They were banished to that distant sea while their associates were securing prize-money at home, and justice and common honesty require this recognition of their services.

The bill is a just one. It comes from a committee which has given it full and fair examination, and has its unanimous sanction. It was

passed by the House in the last Congress, reported favorably by the Senate, but not reached in time for passage. Shall we not stand by that record? Let us do justice to those brave men, and the country will applaud the act.

Mr. BUTLER, of Massachusetts. Mr. Chairman, I would I could get for a few minutes the attention of the House to a matter which, while of small importance when considered by itself, has, from the extraordinary course taken by some portion of the Committee on Foreign Affairs, become a matter of very great importance.

Let me first state the circumstances out of which this money came to us and the grounds of our claim. I admit there is no legal right to this money. If there was, they should not be here to-day asking a law to be passed.

It is talked of as if this was never done before. That is an argument to the prejudice. I have in my hand, which was used on a former occasion, a list of precedents. When the Guerriere was captured by the Constitution Congress allowed $50,000; and for the capture of the Java $50,000. For the capture of the Peacock by the Hornet Congress allowed $25,000. All these were gratuities. For the capture of the brig Detroit the captors were allowed $12,000. In the capture of the Reindeer and Avon by the Wasp, the amount allowed was $50,000 and twelve months' wages. For Le Duc Montebello, Le Petit Chance, and L'Intrepide, captured by Captain Porter, Congress allowed the whole value of the captured vessels. By act of Congress, in the case of the British vessels captured on Lake Erie, Congress allowed $255,000, the value of the vessels, to be distributed as prize-money. In addition, $5,000 was given to Perry, besides his share of the prize-money. Congress also allowed for British vessels captured on Lake Champlain $400,000—the value of the vessels. That was in our infancy, when our expenses outside of war were not more than $2,500,000 a year. In the case of the capture of the Levant by the Constitution the amount allowed was $25,000. For the Algerine vessels captured by Decatur the amount allowed by Congress was $100,000. Here is where your *cestui qui trust* for semi-barbarians comes in. The pirates of Algiers were not treated by our forefathers as though they had any such sacred trust. When they captured our seamen we sent out and captured their vessels, battered down their ports, and paid our seamen for doing it.

Now I have shown what the precedents are. The next point to which I wish to call the attention of the House is what happened here. The Japanese undertook in their savage fury to have their junks run down and burn American vessels. They undertook to control the entrance to the ports of their country through the straits of Simonoseki. We sent a war vessel there to open those ports. This was in the midst of our war, when we had not any war vessels to spare. Under these circumstances the Wyoming went there and engaged these batteries, single-handed and alone, fought and destroyed them, and sunk the Japanese junks, and these peculiar friends of the Committee on Foreign Affairs went down, as they ought, under the water in very great numbers. What happened next? The Wyoming had more men killed and wounded in that expedition in proportion to the crew than the average upon Lake Champlain, Lake Erie, or in any battle which made us famous as a naval nation. Next year all the leading maritime nations of the world made a joint expedition, the French vessels carrying sixty-four guns, the British two hundred and thirty, and the Dutch sixty, I believe. The officers of the allies sent up there to make an attack came to the captain of the American vessel and said, "Won't you take part with us?" He said, "I cannot without the order of our minister;" and our minister there at Japan said, "You take part." Then came another trouble, and that trouble was that the Jamestown, a sailing vessel, drew so much water that she could not get within sight of the batteries of the enemy. The captain said to Lieutenant Pearson, "I am ordered to take a part. Will you not take this little chartered steamer, the Ta-Kiang, armed with a twelve-pound howitzer, which would shoot about half a mile? Won't you go up there and act as tender to the British fleet?" "No," said Pearson, "I will do no such thing; but if you will give me eighteen men from the Jamestown and its thirty-pound gun and Sharp's rifles for each man, I will go there and take a share in the engagement." "Well," says Captain Price, "I am not authorized to do that. But if you choose to do so you may, taking your own risks." Thereupon they took the one gun of the Jamestown, a thirty-pounder, on board the Ta Kiang, a little cockle-shell of a steamer, drawing four feet of water, and Pearson went up on her, and when the action came on he lay by means of his light draught right under the forts, and every shot told. And he did such excellent service that—what happened? Why they sent here the Representative from Vermont to laugh at him and belittle him. That is how he is repaid. They sent a member of the Committee on Foreign Affairs to sneer at him and talk about the little war and the little bravery and the little courage and the little action. It takes little to appreciate little in this world.

But how did the British government appreciate it? I have it here stated in the volume of diplomatic correspondence. The action was so brave, so gallant, the action of our Navy was so illustrious, I have a right to say the British commander came on board that little cockle-shell after the three days' fight was over and personally thanked Lieutenant Pearson for his gallant services. More than that. He sent home and asked the Queen, in consideration of those gallant services, to do what never was done to an American before or a citizen of any other nation fighting beside the British forces. The Queen ordered to be sent to him the decoration of the military division of Knight Companions of the Order of the Bath. But our Constitution forbids our officers to take any foreign order, and the decoration could not be accepted. I will read the dispatch of the British minister on that occasion.

WASHINGTON, *December* 21, 1864.

SIR: I had the honor of addressing you a note on the 17th instant under the instruction which I had received from Her Majesty's government, requesting the United States Government to convey to Lieutenant Pearson the acknowledgment of the lords commissioners of the admiralty for the ready co-operation which that gallant officer afforded to Vice-Admiral Sir A. L. Kuper during the operations in which the combined forces of Great Britain, France, the Netherlands, and the United States had recently been engaged in the straits of Simonoseki, in Japan.

It is now my pleasing duty to state to you that the Queen is desirous of evincing her high appreciation of the zealous co-operation of Lieutenant Pearson, and of the conduct of the United States naval forces on the occasion in question, by nominating Lieutenant Pearson a companion of the military division of the Order of the Bath; and her Majesty trusts that the President of the United States will be pleased to allow that officer to accept the honor which Her Majesty is desirous to confer upon him.

I have the honor to be, with the highest consideration, sir, your most obedient, humble servant,

J. HUME BURNLEY.

Hon. WILLIAM H. SEWARD, &c.

Now, sir, such is the way Great Britain looks upon these services, and such is the way Vermont looks upon them—I beg pardon, I should have said part of Vermont.

Then, sir, what further was done? Although we had but one effective gun there, yet our Navy had done such good service that when the allied powers came to make their treaty they allowed us a full share of one-quarter as a punishment upon these savages for burning American vessels, for shutting out American commerce, and for firing on the American flag. They gave us one-quarter, although we had but one gun there doing duty. And having given us that one-quarter, what happened? It was paid to the State Department; and there has not been power enough in Congress to get it out of the hands of the State Department and into the Treasury, because Mr. Seward said "Don't do it now," and he was received with the highest consideration in Japan because of having kept it out of the Treasury of the United States.

Now I want this to be put into the Treasury of the United States. It is the people's money, earned by the blood of our sailors and earned by the destruction of our ships—earned from the savages that the Committee on Foreign Affairs think we had some trusteeship for. I never undertook the trusteeship of any savage nation, thank God. We have enough savages in our own borders without going outside.

Now that is the condition of things. Nobody denies it. This fund of $700,000, now by interest grown up to $850,000, was paid to us as indemnity for men's lives, for the orphanhood of children, the widowhood of women, the destruction of commerce, and the outrage on our flag; and they tell us we ought to blush for having taken it.

Ay, men that have so little appreciation of valor as to think that our sailors ought to blush when they take money won by their own valor! Money should only be got by carrying on business in a small way in a grocery. That is the only money fit to take.

I insist, sir, that the life of an American seaman, the widowhood of an American woman, the orphanage of an American child, made so by savages, should be paid for by those savages to any amount of money as punishment that we choose to inflict upon them. But, sir, we are told when we go to inflict this punishment with the other civilized nations of the world that these are savages, and we must not defend our sailors and our commerce against them; and when our brave sailors do a good deed, there is some man found to belittle them and bring them down to his own level.

Mr. MYERS. The British government demanded $100,000 for the murder by the Japanese of Mr. Richardson, of their embassy, and they obtained it.

Mr. BUTLER, of Massachusetts. Now, sir, this is a fund got by these men, obtained by their blood and valor, and we come here and ask simply that there may be a small portion of it divided among their orphaned children and widowed wives, and those of them who still live. There is their commander, a man from Pennsylvania, as good a man as ever trod the deck of a ship, a man who distinguished himself everywhere during the war. He has been offered the best decoration known to British heraldry—that of a Knight Companion of the Bath, and whatever the gentleman from Vermont [Mr. WILLARD] may think, he would give more than this whole sum to be enabled to accept that decoration; but the Constitution of the United States forbids his taking it, and unless we give him the right he cannot take it, although the Queen of Great Britain tenders it to him all the time. He comes here now and says "I do not want anything for myself more than the share which the law gives me in this prize-money, but I do ask for the poor men who were my crew something to compensate for the wounds they have received, and something for the widows and children of those who perished in the service of the Government."

And, sir, we are told that this was not a war. I can say to some of my friends that it was a long enough war for them and quite as large as they would have liked to take a part in. It was an action against a barbarous people, and was made in co-operation with other civilized nations. Now, if we choose to take the rest of this fund to educate the Japanese up to the point of civilization, perhaps they will at some time get up to the condition that the Committee on Foreign

Affairs now think they occupy in the world. I will not say what I think of that; but what I desire to be done is that this money shall be paid into the Treasury of the United States, and if you have anything to spare, give it to the men who were injured in this war, make good something of the losses of their blood, or use it to pay for some church burned during the war, some college that was wrecked during the war, some hospital, charitable or otherwise, that was destroyed during the war. If you propose to do that, my word for it you will find the same opposition brought against such a gratuity by the same gentlemen who are opposing this bill, and you will find them voting against it. Does not everybody know that some class of men will be found voting against such a measure?

I say again that here is a fund won by our sailors and given to us by their valor. It is our own property. If the Committee on Foreign Affairs had done its duty this money would have gone into the Treasury of the United States, and we come here and ask from that fund a small amount, $125,000 out of $800,000, for the men by whose blood and valor it was obtained. We are told that this is a sacred trust. Well, where is the bill by which the Committee on Foreign Affairs propose to execute this trust? Why are we here in the expiring days of this Congress without seeing any such bill? If the committee believe that it was their duty to bring in a bill to return this fund, why have they not done it? Why have not the Committee on Foreign Affairs provided either for covering this money into the Treasury or for refunding it to the Japanese government? Why do they keep it as a sweet morsel to be rolled under the tongue of the State Department for their purposes?

Mr. ORTH. The gentleman is aware that this sum is invested in Government bonds and is not used by the State Department at all.

Mr. BUTLER, of Massachusetts. O, yes! I understand that. It is invested in Government bonds, and I want to save the interest upon $125,000 of this amount on which we pay interest day by day. Does the gentleman quite know where these bonds are? I do not. They may be loaned to be the bottom of the circulation of some national bank, for aught I know. I have known bonds to be loaned in that way. I only say this: There it is accumulating and the people are paying interest on this money, and with the threat that after we have paid interest on it long enough the whole money shall be turned over to these barbarians to enable them to build more forts to burn our merchant vessels. I will not do it. I want to stop at least $125,000 of it, if no more, and then trust to the good sense of some future Congress to put the rest into the Treasury. For our part we agreed to an amendment to this bill by which the rest of the money was to be paid into the Treasury of the United States. But the astute gentlemen of the Committee on Foreign Affairs made a point of order upon that portion of the bill, so that the money could not be paid into the Treasury. They will not do anything with it. They are like the dog in the manger; they will not eat, themselves, nor allow anybody else.

The CHAIRMAN rapped to order.

Mr. BUTLER, of Massachusetts. It was not my allusion to that dog, was it? I did not mean by any manner of means to apply the fable too far.

The CHAIRMAN. Gentlemen standing in the aisles will resume their seats, so that there may be order in the committee.

Mr. BUTLER, of Massachusetts. This matter has been twice submitted to Congress; each time it has received the support of the House. We have heard all these arguments before and the House has unanimously insisted upon sustaining our gallant sailors. It has gone to the Senate, and has been four times reported upon favorably there, but it has never been reached so as to have a vote upon it. I want to send it over there once more, in the hope that this time the Senate will act upon it. But whether they will or not, let us do our duty; let us take the same stand in regard to these sailors that our fathers did about the heroes of Lake Erie. Let us sustain them against Japan as our fathers sustained Decatur against Algiers and the Barbary powers generally. Let our seamen know that when they are ordered into action by any one who has the authority to order them into action their country at home is looking on, and if they will do their duty well, if they will carry the flag with its former glory and honor, they will find a grateful country which will take care of them, and of their children when they are orphans, and their wives when widows.

Let us teach that lesson to every Jack Tar that stands on the forecastle; let us say it to every naval officer that stands on the quarter-deck, so that when he is in distant unknown seas, in barbarous lands where his portion may be death, he is still to carry that flag as these men carried it, until our rivals for naval supremacy on the seas shall have extorted from them the great tribute which the Queen of Great Britain is willing to pay to this young commander, not then thirty years old, and who is here, it may be to fail, if fail he must, in the House of Representatives of his own countrymen, and under the Dome of the Capitol and the statue of Liberty, and that, too, on a plea in favor of the very savages against whom his guns were directed and whom he overthrew.

Why do they not tell the whole truth about this matter? We took this money from the Japanese government and the Japanese government levied a contribution on these pirates in order to make them pay their share of it; and nearly or quite one-half of the amount, over $1,200,000 of the amount, which they had to pay the civilized world, they levied on these daimios and the pirates their followers, who were overthrown in the straits of Simonoseki after three days' fight. It was not a holiday fight; but the little Ta-Kiang lay there with the glorious Stars and Stripes floating at her peak, and the gun that did good service threw shot after shot while the missiles of the enemy flew around her and the flag still floated and the glory of the American naval power on the earth was sustained.

We shall not have any more large naval fights; there will be no more large navies brought together in war. Hereafter, on account of steam, fights must be single-handed, ship to ship, or else ships against forts. Therefore, whenever we have the picture of any fight painted, I agree that it would be well, as suggested, to take ten or fifteen thousand dollars of this fund and appropriate it to pay for painting a cartoon of this glorious little fight. And in one corner of that cartoon I would have the Queen of Great Britain offering the Order of the Knight Commander of the Bath to Lieutenant Pearson. And on the other side of the picture I would have a portrait of a member of this House sneering at him for his bravery.

Mr. ORTH. Which one?

Mr. BUTLER, of Massachusetts. There will be no difficulty in picking out the right one. And would you add in another part of the picture the House of Representatives of the United States refusing to honor the bravery and courage of its officers and men, while the Queen of Great Britain is willing to honor even her great naval rival? Is that the voice you are going to send out to your sailors, that even if they win the honors of their great naval rival, Great Britain, and get orders and commendations from her, (under your Constitution they cannot receive them,) the House of Representatives will not give them any tribute, but only belittling speeches and belittling votes? I pray you, gentlemen of the House of Representatives, pause. I said when I began that this thing had got over and beyond the mere money sum of $125,000. It has come to be a question whether the House of Representatives will sustain the United States Navy against barbarians in foreign seas; whether you will recognize the services of your Navy; whether you will inspirit your naval officers and men, or whether you will prefer to them semi-barbarians, and a little more than *semi*, at that. It is for this reason I ask you to pause. It is for this reason I ask the attention of the House—not for myself, not alone for the cause of these men, though that is reason enough, but for the cause of the American Navy and the glory of the American flag upon the high seas, that its career in the future may be as honorable and may make our Navy as much respected as when in the times of Decatur and the war of 1812 it won itself a name among the nations of the earth.

Mr. MYERS. I now move that the bill be laid aside to be reported favorably to the House.

Mr. HALE, of New York. I move to amend the bill by striking out all after the enacting clause down to and including the words "thereof to" in the ninth line, and inserting instead the words "the sum of $125,000 is hereby appropriated out of any moneys in the Treasury not otherwise appropriated, which shall."

Mr. BUTLER, of Massachusetts. I will consent to that if the House will put it in that form.

The CHAIRMAN. Amendments coming from the committee are held to be first in order.

Mr. HALE, of New York. I do not understand the committee to propose any amendments.

Mr. MYERS. There are some formal amendments, but I supposed they were agreed to.

The CHAIRMAN. If there be no objection, they will be considered as agreed to. The question is on the amendment of the gentleman from New York, [Mr. HALE.]

Mr. HALE, of New York. Mr. Chairman, I have attempted by this amendment to separate two matters which are in this bill, and have been in the debate which has taken place upon it, strangely jumbled together, and which I think have no legitimate connection: First, the disposition of the Japanese indemnity fund now in our hands; second, the question of appropriate rewards or gratuities to the gallant sailors of the Republic. The gentleman from Massachusetts [Mr. BUTLER] has waxed exceedingly eloquent upon the merits of the Navy. The gentleman from Pennsylvania [Mr. MYERS] who preceded him was eloquent in the same direction. I have no disposition to take issue with these gentlemen or either of them. If it were in my power to express myself as loftily and with such magnificent eloquence as they discoursed on this subject, I certainly would not fail to do so. But I submit, Mr. Chairman, that between the merits of the United States Navy and the rewards due to our gallant sailors, and the question of the proper disposition of a fund which we hold under a treaty with Japan, there is no proper connection. I have therefore sought by my amendment to separate the two things, so as to bring the committee, and afterward the House, to a direct vote upon the naked question of reward or gratuity to our sailors.

My amendment is to strike out the first eight lines of the bill which provide for the disposition of a part of this Japanese fund, and to substitute the ordinary words of an appropriation out of the Treasury, the effect of which will be to make the bill a bill to reward properly the sailors engaged in these fights, and to separate that from the other question which lies back of it—the question of the good faith and honor of the nation in regard to this fund received through diplomacy.

Now, sir, if we are to do an act either of justice or of generosity to

our sailors, let us in Heaven's name do it like men, out of our own money, about which there is no question—money which is in the Treasury for that purpose, and over which we have control beyond the shadow of a doubt; but let us not take it from a fund as to which there is grave question whether we can do anything with it except to return it to the power from which we received it.

Time does not permit me to go into the discussion of the questions involved under the Japanese treaty and the action of our Government following it, as to what should be the disposition of this fund now in the hands of the State Department. But I believe (and in this I am in accord with the sentiment of I think every head of the State Department, and so far as I know every administrative officer who has had connection with the question from the time the money was paid into our hands to this time) that this money is in our hands without sufficient or proper consideration. I believe that there is but one course for an honorable, high-minded, noble nation to take in regard to it, and that is, at the proper time to return it, or at least the greater part of it, to the government from which it was received.

[Here the hammer fell.]

Mr. HAWLEY, of Connecticut. Mr. Chairman, I think the amendment of the gentleman from New York [Mr. HALE] makes a very proper distinction in this case. Here is a fund as to which our duties are somewhat doubtful, to say the least. To state the matter in the mildest manner, it is not certain what we ought to do with this fund. Here is a claim upon the Treasury in behalf of certain sailors, which is not quite a certain claim. It has not been established to my satisfaction that it is precisely analogous to previous claims which we have paid, though I am not very particular about that. But it is quite evident that if this were a claim standing upon its own merits, as the gentleman from New York desires it to stand, there would be a different class of arguments used in favor of it.

Now the logic of the gentlemen who support the bill in question is, "Here is a fund in regard to which the trust is somewhat doubtful, here is a claim the justice of which is somewhat doubtful, but we will make it all right by taking the doubtful claim out of the doubtful fund." It will very much help the elucidation of the question if the matter can be divided as gentlemen propose.

I desire to add but a word, and that is to put upon the record my protest against any disposition of this money except to return it to Japan. I am not so stubborn as to the manner of paying these sailors if there is anything like a reasonable excuse in the history of our Navy for doing it. I am willing to join in all the music and poetry and bell-ringing and cannon-firing that any man can devise in honor of the history of the Navy. It has chapters which thrill the pulse of every man. We are proud of it and wish the country to be proud of it, but when gentlemen sing its glories in this manner, winding up by saying "Give us so much money," they remind me of the wandering minstrels who sing the beautiful airs of Italy and then pass round the hat at the end of the music. "Glory to the Navy; give us $100,000." That is the song.

Now, sir, they tell us we must teach our Navy to do their duty by paying them. We are in danger of teaching the world quite a different lesson. We run the risk of saying to the world the rule of the United States is "Get what you may and keep what you have got." We made that treaty using these words, "inasmuch as receipt of money has never been the object of the said powers," and then take $3,000,000, confessedly seven times as much as the damage we have suffered.

Mr. MYERS rose.

Mr. HAWLEY, of Connecticut. I cannot yield; I have only five minutes. We have only $50,000 to pay and we take $750,000 to pay it with, and that, too, when we said the object of our operation was not the receipt of money.

The best thing we can do for the honor of civilization in treating with this nation, which has a marvelous history in the direction of civilization—barbarous, as the gentleman from Massachusetts [Mr. BUTLER] calls it—the best thing we can do with it is to say, "We will take no more than is necessary to vindicate our honor. You were fighting with your rebels there; it was one of your rebels who did it. We made you pay the money. It was seven times more than was necessary, and we will give you what remains over." I should like to say and have the historian say that Uncle Sam was always a gentleman.

[Here the hammer fell.]

The question recurred on the amendment of Mr. HALE, of New York.

The committee divided; and there were—ayes 77, noes 22.

So the amendment was adopted.

Mr. HOLMAN. I now move to strike out the enacting clause of the bill.

Mr. MYERS. I hope that will not be done.

Mr. HOLMAN. If any gentleman desires to discuss the bill further in its present form, I am not unwilling to allow the discussion to go on, and will withdraw the motion to strike out the enacting clause.

Mr. PLATT, of Virginia. I hope the gentleman will allow a direct vote to be taken on the bill itself.

Mr. HOLMAN. If it is the purpose of the committee to vote down this measure, the only way to reach a direct vote without further discussion or amendments is to move to strike out the enacting clause. As no gentleman seems disposed further to discuss the question, I renew the motion to strike out the enacting clause.

The committee divided; and there were—ayes 81, noes 60.

Mr. KELLOGG demanded tellers.

Tellers were ordered; and Mr. HOLMAN, and Mr. BUTLER of Massachusetts were appointed.

The committee again divided; and the tellers reported—ayes 74, noes 57.

So the motion was agreed to.

Mr. MYERS. I give notice that when we reach the House I shall demand the yeas and nays.

Mr. BUTLER, of Massachusetts. I move the committee rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair,

Mr. G. F. HOAR reported that the Committee of the Whole on the Private Calendar had under consideration the bill (H. R. No. 782) for the relief of the officers and crew of the United States ships Wyoming and Ta-Kiang, and had directed him to report the same back with the recommendation that the enacting clause be stricken out.

Mr. MYERS. Is it in order to move to disagree with the committee?

The SPEAKER. The first question when a bill is reported from the Committee of the Whole with the enacting clause stricken out is will the House concur. If the House concurs, the bill of course is dead. If the House non-concur, the bill is thereby recommitted to its original place on the Private Calendar. But pending that the gentleman may move to recommit the bill to a standing or select committee of the House with or without instructions.

Mr. HOLMAN. I call the previous question on concurring in the report of the committee.

Mr. MYERS. I desire to say a word.

The SPEAKER. Having entered the Hall just as the committee rose, the Chair does not know who made the motion to strike out the enacting clause.

Mr. HOLMAN. I made that motion.

The SPEAKER. Then the gentleman is entitled to the floor, and to try the sense of the House on the question of concurring with the committee.

The question being put on concurring in the action of the committee in striking out the enacting clause, there were—ayes 98, noes 51.

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

Mr. BUTLER, of Massachusetts. I suggest to the gentleman that he do not insist on that call.

Mr. MYERS. I withdraw the call for the yeas and nays.

Mr. NEGLEY. I renew the call.

Mr. BUTLER, of Massachusetts. I desire to give notice that on Monday I will introduce a resolution to cover the Japanese indemnity fund into the Treasury.

Mr. NEGLEY. I rose in time to renew the demand for the yeas and nays.

On the question of ordering the yeas and nays there were ayes 7; not a sufficient number.

So the yeas and nays were not ordered and the action of the committee was concurred in.

Mr. HOLMAN moved to reconsider the vote concurring in the report of the Committee of the Whole; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRIVATE CALENDAR.

Mr. HAWLEY, of Illinois. I move that the House resolve itself into Committee of the Whole on the Private Calendar.

Mr. YOUNG, of Georgia. I call for a division.

The question being put, there were—ayes 59, noes 71; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. HAWLEY, of Illinois, and Mr. STORM.

The House again divided, and the tellers reported—ayes 87, noes 59.

So the motion was agreed to; and the House resolved itself into Committee of the Whole, (Mr. G. F. HOAR in the chair,) and resumed the consideration of the Private Calender.

D. B. ALLEN & CO.

The next bill on the Private Calendar was the bill (S. No. 439) to provide for the payment of D. B. Allen & Co. for services in carrying the United States mails.

The bill was read. It appropriates the sum of $21,543, out of any moneys in the Treasury not otherwise appropriated, for the payment of D. B. Allen & Co. for carrying the United States mails between New York and San Francisco in 1864 and 1865, during the suspension of the overland-mail service on the overland route, and provides that the same shall be in full payment for said service.

The report of the Committee on Claims was read, as follows:

The Committee on Claims, to whom was referred the bill (S. No. 439) to provide for the payment of D. B. Allen & Co. for services in carrying the United States mails, have had the same under consideration, and now present the following report:

The Senate Committee on Post-Offices and Post-Roads for the present Congress have submitted a report in this case, which was adopted by the Senate, and which your committee here adopt in the following words:

"The Committee on Post-Offices and Post-Roads, to whom was referred the memorial of D. B. Allen & Co., representing the Atlantic Steamship and the Pacific Mail Steamship Companies, for compensation for carrying the United States mails during the suspension of the overland mail service in 1864 and 1865, beg leave to report:

"The suspension of the overland mail service, by reason of Indian hostilities on the plains, took place in 1864; that the amount paid for said service annually was $840,000, while $160,000 annually was paid to said steamship companies for carrying printed matter and such letters as might be marked to be specially sent that way.

"When the suspension occurred, leaving the entire Pacific slope without mails, the Postmaster-General applied to said steamship companies to carry the entire mails during the interruption of the overland route. The companies cheerfully complied, and for a period of about four months all mails of the United States for the Pacific were safely and expeditiously transported by them. For this service compensation is claimed.

"The matter has been submitted to the Postmaster-General, who reports that there is justly due D. B. Allen & Co. the sum of $21,543, in strict conformity to the spirit of the law.

"Your committee believe that said parties are justly entitled to a much larger sum; but that sum having been stated by the Postmaster-General as due, and as the parties mentioned prefer to take that sum rather than to provoke controversy and incur delay, will accept the sum in full discharge of the claim, report a bill for said sum. This claim would have been paid at the time the services were rendered if the Department had been in possession of funds with which to pay the same. A bill passed the Senate during the last Congress for the same purpose."

Your committee also report the additional fact that the same bill passed the Senate during the Forty-first Congress, and received the favorable action of the House Committee on the Post-Office and Post-Roads, and the bill that passed the Senate during the last Congress received the favorable action of the House Committee on Claims.

Your committee report back the bill and recommend that it do pass.

Mr. HAWLEY, of Illinois. I move that the bill be laid aside to be reported favorably to the House.

The motion was agreed to.

PETERS AND REED.

The next business on the Private Calendar was the bill (H. R. No. 565) for the relief of Peters and Reed, naval contractors at the Norfolk navy-yard in the year 1860.

The bill was read. It authorizes and directs the Secretary of the Navy to cause to be paid to Peters and Reed the balances due them for labor done and material furnished at the Norfolk navy-yard, in 1860, upon the contracts with them personally, and the balances due them as the attorneys in fact of the contractors, John E. McWilliams and F. W. Parmenter, in said navy-yard, during the same time, amounting in the aggregate to $15,170.89, as certified by the engineer in charge and approved by the commandant in June, 1860; and for the purpose aforesaid appropriates the sum of $15,170.89 out of any money in the Treasury not otherwise appropriated.

Mr. LAWRENCE and Mr. STORM called for the reading of the report.

The report was read, as follows:

The Committee on Claims, to whom was referred the bill (H. R. 565) for the relief of Peters and Reed, naval contractors at the Norfolk navy-yard in the year 1860, have had the same under consideration, together with the papers and vouchers in the case, and respectfully report:

The chairman of the sub-committee from your committee addressed a letter to the superintendent of Bureau of Yards and Docks of the Navy Department, and received the following reply:

BUREAU OF YARDS AND DOCKS, NAVY DEPARTMENT,
Washington, D. C., February 9, 1874.

SIR: The Bureau has the honor to acknowledge the receipt of your letter of the 24th ultimo, inclosing certain papers, and asking information in reference to the claim of Peters and Reed, as attorney for F. W. Parmenter and John E. McWilliams, contractors for work at the Norfolk navy-yard.

The remote period at which this claim originated, and the incompleteness of the record, caused by the destruction of the yard during the late war, have caused some delay in answering your inquiries. The records of this Bureau have been carefully examined, with the following results:

On the 1st of July, 1859, a contract was made by the Bureau with John E. McWilliams as principal, and A. M. H. Peters, Washington Reed, and Holt Wilson as sureties, all of Portsmouth, Virginia, for the work necessary to complete the masonry of the victualing establishment at the Norfolk navy-yard. The price to be paid was ten dollars per thousand for laying the bricks, to be paid to John E. McWilliams or his attorney.

On the 26th of August, 1859, a contract was made by the Bureau with F. W. Parmenter, of Troy, New York, as principal, and Sidney D. Roberts and Julius H. Kroehl, both of New York, as sureties, for the construction, erection, and completion of an iron roof to the said victualing establishment. The sum to be paid for this roof was $18,000, to be paid to F. W. Parmenter or his attorney.

In both cases Peters and Reed were recognized as the agents and attorneys of the contracting parties.

With regard to the payments made on McWilliams's contract, it appears from the records of the Bureau that bills to the amount of $13,308.25 were made and paid, except a reservation of $2,661.65, and subsequently one-half of this reservation, $1,330.83, was paid. There is no evidence on the files of the Bureau that the bills for $2,758.73, $2,266.63, or the reservation, $1,330.83, have ever been paid.

The aggregate amount of McWilliams's contract is not stated, the price being ten dollars per thousand for laying the bricks, while the number is not stated; nor is there any information in the Bureau by which it could be ascertained, as all the books and papers in the yard were destroyed when the navy-yard was burned.

The only payments on Parmenter's contract for the roof on record in the Bureau are one of $7,200 and one of $3,600, making $10,800, and leaving a balance of $7,200 to make the $18,000.

It also appears from the records of the Bureau that the bill of $777.99, and one of $175, both for extra work on the roof, were authorized by the Bureau to be paid, but there is no evidence that either of these last three bills were paid.

The bill for $661.71, in favor of Peters and Reed, for bricks, is noticed on the books of the Bureau, but there is no evidence of it having been paid.

In February, 1860, the appropriation for this work was exhausted, and the contractors, through the commandant, applied for permission to go on and complete their work and wait for payment until Congress should make appropriations to pay their bills. To this the Bureau interposed no objection and the parties proceeded with the work and completed their contracts in a satisfactory manner.

In the annual report of 1860 the Bureau asked for an appropriation to pay outstanding liabilities, on account of the victualing establishment and to complete the building; the appropriation was made on the 21st of February, 1861, for payment of liabilities and completing the building, but it was not available until the 1st of July, 1861, prior to which time the act of secession was passed, and the navy-yard at Norfolk was taken possession of by the insurgents in April, 1861, and the Navy Department ceased to have a disbursing officer at Norfolk.

The United States again came in possession of the yard in the latter part of May, 1862; the buildings in the yard had been destroyed by fire and the dry-dock disabled, and, under the emergency created by the exigencies of the war, it became necessary for the Department to avail itself of all the unexpended balances of appropriations to the credit of the Norfolk navy-yard; these balances are all condensed in one sum, and the money expended where needed without regard to former special allotment. The dry-dock was repaired and put in working order, and such buildings and wharves as were indispensably necessary to meet the demands of the service during a state of war were put in order; these, with other objects of most imperative necessity, were paid for out of this general fund.

The above is all the information this Bureau has on this subject. It has no knowledge of the payment of or the correctness of the copies of those bills. If any of them have been paid it is probable that a reference to the books of the Fourth Auditor's Office would show it.

The papers are herewith returned.

I have the honor to be, very respectfully, your obedient servant,
C. R. P. RODGERS.

Hon. MARK H. DUNNELL, *of Minnesota,*
House of Representatives, member of Committee on Claims.

On receipt of the above communication from the Navy Department a letter was sent to the Fourth Auditor of the United States Treasury, to which the following reply was made:

TREASURY DEPARTMENT, FOURTH AUDITOR'S OFFICE,
February 11, 1874.

SIR: I have the honor to acknowledge the receipt of your letter of yesterday, inclosing the papers in the claim of Peters and Reed, with a report thereon from the Bureau of Yards and Docks of the Navy Department. The papers and report are herewith respectfully returned.

An examination of the records of this Bureau shows the same result as the report above mentioned, namely: There has been paid on account of work and material on the victualing establishment at Norfolk the sum of $24,108.25 only; and the bills now presented, amounting to $15,170.89, do not appear to have been paid.

I am, very respectfully, &c.,
WM. B. MOORE,
Acting Auditor.

Hon. MARK H. DUNNELL,
House of Representatives, member Committee on Claims.

The amount found due and unpaid in the above communications, as well as the items therein given, exactly agrees with the sworn vouchers found among the papers in the case; and also exactly agrees with the amount named in the bill.

Your committee find that there was due from the Government to the claimant, on the first day of January, 1861, on contracts made in 1859 and 1860, the sum of $15,170.89, and further find that this sum remains unpaid.

This indebtedness existed prior to the rebellion. While the claimants took no part in the rebellion, and voted against the ordinance of secession, it is not claimed that they were free from sympathy in the rebellion; yet as this claim had been recognized by the executive and legislative departments of the Government, and in view of the policy adopted by Congress in making payment of the claims of the census-takers of 1860, your committee recommend the payment of the claim. Your committee deem it the better policy to pay individual claims well sustained in fact and equity than pass a general law at the present time which shall admit a whole class irrespective of the merits of the several cases in the class.

Mr. DUNNELL. I move that the bill be laid aside to be reported favorably to the House.

Mr. STORM. This is a very old claim, and the statement by the Bureau of Yards and Docks is by no means very clear. I ask the gentleman why this claim should have been left hanging so long before any attempt was made to get a bill of this kind, and if the committee had any other evidence before them than is given in the papers embodied in the report?

Mr. DUNNELL. I fear I will not be able to make the matter any plainer than it is made in the report of the committee. This bill came before the Committee on Claims, and as chairman of a sub-committee of that committee I wrote to the Bureau of Construction, and received the reply that has been read. I also wrote to the Fourth Auditor, and the letter of the Fourth Auditor confirmed all that has been said in the letter from the Bureau of Yards and Docks. Those two letters show that there is due to these parties $15,170.89, and that no part of this money has been paid to them. This amount was due to these parties on a contract that was entered into in 1859. The contract was completed in 1860, and, as requested by the Navy Department, Congress, in 1860, made an appropriation to pay this identical sum of money. But prior to the time when the appropriation became payable the rebellion intervened, and these men were not paid because of a quasi participation in the rebellion.

The executive department and the legislative department of the Government have recognized this as a just claim, and the committee have, for reasons which they set out in the closing sentences of their report, deemed it best, on the merits of the case, that are unquestioned, to recommend the passage of this bill. There is not a deviation of one single mill between the amount set out in the petition and the amount shown to be due these parties, and the one letter confirms the other; the first letter confirms to a mill the amount set out in the other.

Mr. HALE, of New York. Mr. Chairman, I beg to say that I am very glad to see precisely the question raised by this bill presented to the committee and to the House, and that is the question whether the United States shall consent or refuse to pay an acknowledged indebtedness on a balance struck to a person who was a resident of the States recently in rebellion, on the ground that he had been a rebel against or an enemy of the United States—an indebtedness occurring before the war. That question I know has heretofore, to some extent, been considered an open one. I believe for one that the time has come to settle it once for all as a matter of principle, and I hope there remains nobody in this House or in this committee who is not in favor of paying the honest debts of the United States, whether the man to whom the debt is due was a rebel or a loyal man.

Mr. STORM. I agree with the gentleman on that point. I only

addressed the question I did to the gentleman from Minnesota because it struck me that this was a very old claim.

Mr. HAWLEY, of Illinois. I desire to state what I understand to be the facts in the case, inasmuch as the gentleman from Minnesota did not strike the right point in the case. As I understood the case in the committee, and as I now understand it, the party making this claim lived in the State of Virginia, and by a law of Congress all persons living within States in rebellion were cut off from applying to the Court of Claims or being paid by any Departments of the Government. It is simply because the statute of limitations runs against the claim that they could not bring it before the Court of Claims; but I understand the fact to be that the parties were loyal.

Mr. HALE, of New York. The report shows that they were disloyal.

Mr. HAWLEY, of Illinois. That was my understanding, and they were simply debarred from prosecuting their claim because they lived within the limits of a State which was in rebellion and the law of Congress deprived them of the right of either bringing suit in the Court of Claims or being paid by a Department.

No objection being made, the bill was laid aside to be reported favorably to the House.

DUNCAN MARR.

The next bill upon the Calendar was the bill (H. R. No. 2683) for the relief of Duncan Marr, a loyal citizen of Montgomery County, Tennessee.

The bill, which was read, authorizes and directs the Secretary of the Treasury to pay to Duncan Marr, out of any money in the Treasury of the United States not otherwise appropriated, the sum of $8,024, the same to be in full satisfaction of his claim for wood and brick taken from him near Clarkesville, Tennessee, the quantity having been ascertained and reported on by the Quartermaster-General of the United States Army.

Mr. HOLMAN. I call for the reading of the report in that case.

The Clerk commenced to read the report.

Mr. HAWLEY, of Illinois. I understand that the gentleman from Massachusetts [Mr. DAWES] desires to bring before the House a question of privilege, and therefore I move that the committee do now rise.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. G. F. HOAR reported that the Committee of the Whole had had under consideration the Private Calendar, and had instructed him to report sundry bills to the House.

D. B. ALLEN & CO.

The first bill reported from the Committee of the Whole on the Private Calendar was the bill (S. No. 439) to provide for the payment of D. B. Allen & Co. for services in carrying the United States mails, with the recommendation that it do pass.

Mr. RANDALL. I was absent, Mr. Speaker, engaged in the performance of duties on the Committee on Banking and Currency, when this bill was considered in Committee of the Whole. This bill has been repeatedly before Congress since I have been a member and has been repeatedly defeated. My memory does not serve me to give accurately to the House the various objections which exist against the claim. I had them at one time and stated them to the House during a former Congress. I considered the reasons against the passage of the bill at that time and the House considered them as sufficient to justify adverse action on the claim. I will move therefore that the bill be recommitted to the committee from which it emanated with a view to have an adverse discussion upon it, at least so far as I am able to make it.

Mr. HAWLEY, of Illinois. The report of the Committee on Claims was presented and read to-day when the bill was before the Committee of the Whole and no member of the committee rose to make any objection to the bill; thereupon it was laid aside to be reported favorably to the House. In answer to what the gentleman says in reference to previous action upon this claim, I think I am well advised when I say that neither House has acted adversely upon it.

Mr. RANDALL. Has it not been before Congress before, and has it not been adversely reported on?

Mr. HAWLEY, of Illinois. Not so far as I can find from the records of the House.

Mr. RANDALL. I know I defeated it twice.

Mr. HAWLEY, of Illinois. If I have the floor, I desire to be allowed to proceed with my remarks. This claim has been reported upon five times favorably in the Senate and has passed the Senate three or four times. It was also acted on favorably by the Committee on the Post-Office and Post-Roads of this House. It was also acted on favorably by the Committee on Claims in the last Congress. It has now been acted on favorably, and I know of no reason why it should be recommitted. I believe the bill is a meritorious one. I have carefully examined it, and I think it ought to pass and ought not to be recommitted now.

Mr. HOLMAN. I wish to ask the gentleman whether the Committee on Claims in the last Congress reported favorably upon this bill.

Mr. HAWLEY, of Illinois. The records of the committee show that they did.

Mr. RANDALL. No; it was gotten out of that committee in some way or other.

Mr. HAWLEY, of Illinois. No, sir; the gentleman is mistaken. I call the previous question.

Mr. RANDALL. I hope the House will not second the previous question.

The SPEAKER. That will test the sense of the House upon the question as well as any other vote.

Mr. RANDALL. I have entered a motion to recommit the bill to the committee which reported it.

The SPEAKER. The gentleman's motion to recommit should be to the Committee of the Whole, from which the bill has been reported.

Mr. RANDALL. The Chair is corect.

The SPEAKER. The first question, if the previous question be seconded, will be upon that motion.

The previous question was seconded and the main question ordered. The question was put on the motion to recommit; and on a division there were—ayes 38, noes 65; no quorum voting.

Tellers were ordered; and Mr. RANDALL and Mr. BURROWS were appointed.

The House again divided; and the tellers reported ayes 25, noes not counted.

So the motion was not agreed to.

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

Mr. HAWLEY, of Illinois, 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.

PETERS AND REED.

The next bill reported from the Committee of the Whole was a bill (H. R. No. 565) for the relief of Peters and Reed, naval contractors at the Norfolk navy-yard in the year 1860.

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

AFFAIRS IN SOUTHERN STATES.

Mr. G. F. HOAR. I have been instructed by the special committee on affairs in the Southern States, of which I have the honor to be chairman, to submit a report in writing, and to move that it be printed and recommitted to the committee. I desire to state further that at the same time that this report was authorized to be made the committee determined to proceed forthwith to the State of Louisiana to continue the investigation.

The motion was agreed to.

SESSION OF TO-MORROW.

Mr. MAYNARD. Will it be in order to move to set aside the order which was made some time since and earlier in the day that when the House adjourn to-day it be to meet on Monday next?

The SPEAKER. The motion to reconsider was agreed to in that case.

Mr. MAYNARD. I do not propose to reconsider the order. But cannot I introduce a substantive proposition to set that order aside and have a session on Saturday?

The SPEAKER. The Chair thinks it might be done in regard to future Saturdays, but not for the Saturday of the current week.

Mr. MAYNARD. If the Chair will entertain such a motion, I will submit it.

The SPEAKER. The Chair will hear the motion of the gentleman.

Mr. MAYNARD. It is that the order made during the session to-day, that when the House adjourns to-day it adjourn to meet on Monday next, be rescinded.

The SPEAKER. The Chair does not know how that can be done. The order was made and the motion to reconsider the vote agreeing to the order was laid upon the table.

Mr. MAYNARD. Is not that a proposition that may be rescinded by subsequent action of the House?

The SPEAKER. The Chair thinks not. The House has taken the only two votes that can be taken upon it, the direct vote affirming the order and then a vote tabling the motion to reconsider.

Mr. MAYNARD. Is there no possible method by which we can have a session to-morrow?

The SPEAKER. It is very difficult to get the House in a condition where it cannot hold a session, if the majority so choose. The House can take a recess till to-morrow, and carry the Friday session up to next Monday noon; but in no other way.

Mr. DAWES. I rise to a question of privilege, but before bringing it before the House I will yield to the gentleman from Pennsylvania, [Mr. ALBRIGHT,] who desires to introduce a bill for reference.

QUARTERMASTER'S DEPARTMENT.

Mr. ALBRIGHT, by unanimous consent, introduced a bill (H. R. No. 4342) in relation to the Quartermaster's Department, fixing its status, reducing its number, and regulating the appointments and promotions therein; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

ORDER OF BUSINESS.

The SPEAKER. Gentlemen who desire to have bills referred should remember that unless it is very necessary to have their bills

before committees on Monday morning, all the States will be called on that day for bills for reference.

Mr. MAYNARD. I rise to a privileged question.

The SPEAKER. The gentleman from Massachusetts is upon the floor on a question of privilege.

RECUSANT WITNESS—RICHARD B. IRWIN.

Mr. DAWES. I regret that I am compelled so frequently to ask the attention of the House to a matter that has consumed so much of our time. But it is due to an officer of this House if we impose upon him an unusual duty, not only to clearly and distinctly define the duty itself, but also to make known to those whom it may affect our determination to protect that officer in the discharge of that duty.

I have a report from him that in obedience to the order of the House made last night he, with counsel, appeared before the judge who had commanded him to produce in court the body of Richard B. Irwin, and there laid before the judge the proceedings of the House on yesterday upon the subject. He made return to the court as he was commanded, and fully set forth that he held Richard B. Irwin under an order of this House, growing out of proceedings wherein he had been adjudged guilty of contempt, and declined to produce his body in court. The judge was willing to hear a reargument of the case, and after deliberation delivered an opinion insisting upon the production of the body of Irwin in court. The case was continued until to-morrow for the purpose of further advisement on the part of the Sergeant-at-Arms. It was argued before the court that the order passed by the House last night did not require of the Sergeant-at-Arms that he should still retain the custody of Mr. Irwin; that it went no further than to command him to make as a part of his return the proceedings of the House under which he held the witness, inasmuch as a portion of the original order which did require him to retain the custody of this person was stricken out by order of the House. The original order was in the following words:

Resolved, That the Sergeant-at-Arms be, and is hereby, directed to make careful return to the writ of *habeas corpus* in the case of Richard B. Irwin that the prisoner is duly held by authority of the House of Representatives to answer in proceedings against him for contempt, and that the Sergeant-at-Arms take with him the body of the said Irwin before said court when making such return and retain said Irwin, and continue to hold him subject to the further order of this House.

It will be remembered that the House struck out of this order all after the word "contempt," so that as adopted by the House it reads in these words:

Resolved, That the Sergeant-at-Arms be, and is hereby, directed to make careful return of the writ of *habeas corpus* in the case of Richard B. Irwin that the prisoner is duly held by authority of the House of Representatives to answer in proceedings against him for contempt.

The counsel for Mr. Ordway construed this order as commanding him to make substantially that return and no more, and still to retain the body of Mr. Irwin. I so understood it, and it was not until my attention was called to it by counsel themselves that it occurred to me there could be any doubt on the point. I said to the counsel that I thought they, upon reading the proceedings of the House last evening, would entertain no doubt upon the subject; and they have proceeded to-day upon that construction.

It is due, however, to the Sergeant-at-Arms that, if we order him to hold the body of this man, we should say so in so many words. Under the advice of that officer's counsel the gentleman from Iowa [Mr. KASSON] has a resolution which he proposes to offer, which will make the duty of the Sergeant-at-Arms perfectly clear if the House shall determine to adhere to what was intended, I believe, to be its decision last evening.

I do not desire to discuss again the merits of this case. I would simply call the attention of the House to a single authority—a case decided by the Supreme Court of the United States—in which that tribunal expressly declares that it is the duty of such an officer as this, when a writ of *habeas corpus* is served upon him from another jurisdiction, to make known in his return that he holds the party in custody under the authority of the United States; and it is his duty thereupon to disobey the order of any other jurisdiction that seeks to take the party out of his custody. I read from the head-note in the case of Abelman *vs.* Booth and The United States *vs.* Booth, 21 Howard, 506:

3. When a writ of *habeas corpus* is served on a marshal or other person having a prisoner in custody under the authority of the United States, it is his duty, by a proper return, to make known to the State judge or court the authority by which he holds him. But, at the same time, it is his duty not to obey the process of the State authority, but to obey and execute the process of the United States.

In delivering the opinion of the court, Chief Justice Taney uses this language:

In the case before the supreme court of Wisconsin, a right was claimed under the Constitution and laws of the United States; and the decision was against the right claimed; and it refuses obedience to the writ of error, and regards its own judgment as final. It has not only reversed and annulled the judgment of the district court of the United States, but it has reversed and annulled the provisions of the Constitution itself and the act of Congress of 1789, and made the superior and appellate tribunal the inferior and subordinate one.

We do not question the authority of State court, or judge, who is authorized by the laws of the State to issue the writ of *habeas corpus*, to issue it in any case where the party is imprisoned within its territorial limits, provided it does not appear, when the application is made, that the person imprisoned is in custody under the authority of the United States. The court or judge has a right to inquire in this mode of proceeding for what cause and by what authority the prisoner is confined within the territorial limits of the State sovereignty. And it is the duty of the marshal or other person having the custody of the prisoner to make known to the judge or court, by a proper return, the authority by which he holds him in custody. This right to inquire by process of *habeas corpus*, and the duty of the officer to make a return, grows, necessarily, out of the complex character of our Government, and the existence of two distinct and separate sovereignties within the same territorial space, each of them restricted in its powers, and each within its sphere of action prescribed by the Constitution of the United States, independent of the other. But, after the return is made and the State judge or court judicially apprised that the party is in custody under the authority of the United States, they can proceed no further. They then know that the prisoner is within the dominion and jurisdiction of another government, and that neither the writ of *habeas corpus* nor any other process issued under State authority, can pass over the line of division between the two sovereignties. He is then within the dominion and exclusive jurisdiction of the United States. If he has committed an offense against their laws, their tribunals alone can punish him. If he is wrongfully imprisoned, their judicial tribunals can release him and afford him redress. And although, as we have said, it is the duty of the marshal, or other person holding him, to make known, by a proper return, the authority under which he detains him, it is at the same time imperatively his duty to obey the process of the United States, to hold the prisoner in custody under it, and to refuse obedience to the mandate or process of any other government.

Mr. HALE, of New York. I understood the gentleman from Massachusetts [Mr. DAWES] to say that Judge MacArthur had delivered a written opinion on this question. I ask the gentleman whether a copy of that opinion is in his possession?

Mr. DAWES. I did not mean to say a written opinion. I understand that it is an oral one.

Now, Mr. Speaker, if there is anything clear in judicial decisions it is that where a court has made a judgment upon a question of contempt, there is no appellate court, no superior court, that can revise its decision; in that respect it is the highest and the only tribunal that can pass upon the question; every other tribunal is in reference to that court and that question an inferior and a foreign tribunal.

Now, this supreme tribunal, *quoad hoc*, so far as this matter is concerned, having no superior, there being no court or power competent to review its decision, has decided that this man Irwin is in contempt, and has issued its warrant in obedience to its judgment, to hold him. Another tribunal, a foreign tribunal, has issued a writ of *habeas corpus* upon his petition. Now, whether his petition disclosed the fact that he was so held by the officer or not, the Supreme Court of the United States has decided that it is the duty, and the only duty, of the officer to disclose in a proper return that he does so hold the man by such a judgment, in making which we are accountable to no other tribunal whatever; and upon making it appear in his return, it is his duty to hold and retain this person and to disobey any mandate that requires him to release that custody.

Now, the Supreme Court has also said that if you bring this man into court in obedience to that writ, you do thereby and at that moment release him from your custody and lose all control over him. The Supreme Court has declared that it is the duty of the Sergeant-at-Arms to disobey any mandate of a court the effect of which is to release his hold of this prisoner: and therefore, if this House desires the further custody of its witness, the Supreme Court has told you how to retain that custody.

I have in my hand a copy of the petition for the writ of *habeas corpus* and also a copy of the return made to it, both of which I ask to have printed in the RECORD.

The documents are as follows:

To the honorable the Supreme Court of the District of Columbia:

The petition of Richard B. Irwin, a citizen of the State of California, respectfully represents, that he is now restrained of his liberty and detained in confinement by N. G. Ordway, Sergeant-at-Arms of the House of Representatives of the Congress of the United States; that the said N. G. Ordway claims to act under the authority of the House of Representatives and by virtue of an order issued to him by the Honorable JAMES G. BLAINE, Speaker of the House of Representatives, commanding him, the said Ordway, to take your petitioner into his custody and confine him in the jail of this District.

Your petitioner further shows that the material facts concerning his detention, as he understands them, are that he was summoned before the Committee on Ways and Means of the House of Representatives and questioned concerning certain matters alleged, but erroneously, to be relative to an investigation of an alleged improper use of money to obtain from Congress a subsidy for the Pacific Mail Steamship Company, which questions petitioner declined to answer, because the committee had no authority or legal right to propound them; that your petitioner was then taken into custody by the Sergeant-at-Arms of the House of Representatives, and on the 7th day of January, A. D. 1875, brought to the bar of the House, where certain questions were propounded to him, which he refused to answer, because the House of Representatives had no legal right to propound such questions; and on his refusal he was again ordered into custody and confinement, to the end that proceedings in due course of law might be instituted against him by the district-attorney of the United States for this District, under the act of January 24, 1857. (11 United States Statutes-at-Large, 155, 156.)

Your petitioner respectfully represents that his arrest and confinement are contrary to law and in violation of his constitutional and legal rights as a citizen of the United States.

Wherefore he prays, the premises being considered, that your honor will be pleased to issue a writ of *habeas corpus ad subjiciendum*, directed to the said N. G. Ordway, Sergeant-at-Arms of the House of Representatives, commanding him, at such time and place as your honor may signify, to have before you the body of the petitioner, to the end that the cause of his detention may be investigated, and that he be discharged from further detention, or such other relief be entered in the premises as to law and justice may pertain. And as in duty bound, &c.,

RICHARD B. IRWIN.

Richard B. Irwin, being first duly sworn, deposes and says that the facts set forth in the foregoing petition are true.

RICHARD B. IRWIN.

Subscribed and sworn to before me this 8th day of January.

CHARLES WATTER, *J. P.*

DISTRICT OF COLUMBIA, to wit:

THE PRESIDENT OF THE UNITED STATES:

To N. G. ORDWAY, Sergeant-at-Arms of the House of Representatives of the Congress of the United States of America, greeting:

You are hereby commanded to have the body of Richard B. Irwin, detained under your custody, as it is said, together with the day and cause of his being taken and detained, by whatever name he may be called in the same, before one of the justices of the supreme court of the said District, at the city hall, in the city of Washington, in the District of Columbia, on Tuesday, the 12th day of January, 1875, at twelve o'clock (noon) of said day, to do and receive whatever shall then and there be considered of in this behalf; and have then there this writ.

Witness Arthur MacArthur, one of the justices of said court, the 9th day of January, 1875.

By order of Justice MacArthur.

[L. S.] R. J. MEIGS, *Clerk.*

To Hon. ARTHUR MACARTHUR,
Justice of the Supreme Court of the District of Columbia:

The undersigned, Nehemiah G. Ordway, Sergeant-at-Arms of the House of Representatives of the United States of America, respectfully represents, that in obedience to the command of the within writ of *habeas corpus ad subjiciendum* the undersigned makes the following return, to wit:

That ever since the first Monday in the month of December, in the year of our Lord 1873, the undersigned has held and still continues to hold; the office of Sergeant-at-Arms of the House of Representatives aforesaid; that the said House of Representatives was in session at the time of the arrest of Richard B. Irwin, the relator named in said writ, and was for a long time before that, and also thereafter, and at all the times hereinafter mentioned, lawfully in session.

That prior to the 21st day of December, A. D. 1874, and when said House was duly in session in the city of Washington and District of Columbia, the said House duly referred to one of its standing committees, to wit, to the Committee on Ways and Means, the investigation of a certain matter coming within the constitutional and legal cognizance of said House and within its power to make inquiry, and among which was investigation into, that is to say, the subject matter of the use and employment of money for the purpose of procuring legislation by the Congress of the United States in aid of the Pacific Mail Steamship Company; and that in order to facilitate and make effectual said investigation and inquiry when so duly in session as aforesaid, passed an order or resolution in the words following, to wit:

"*Resolved*, That the Committee on Ways and Means are hereby authorized and empowered to send for persons and papers and administer oaths in all matters from time to time pending and under examination before said committee."

And that afterward, and in virtue and pursuance of the authority of said resolution and of the power of the said committee acting as the duly-constituted organ of said House, the said committee duly summoned and caused to appear before it the said Richard B. Irwin to give testimony before said committee touching certain matters pertinent to the aforesaid subject-matter of inquiry then pending before said committee, and that the said Richard B. Irwin was then and there duly sworn according to law to give testimony before said committee pertinent to said subject-matter then and there under investigation as aforesaid before said committee, and that the said Richard B. Irwin was then and there required by said committee to disclose the names of the persons whom he employed to aid him in procuring the subsidy from Congress in 1872 for the Pacific Mail Steamship Company, and was asked by said committee what was the largest sum paid by him to any one person to aid him in procuring that subsidy; and that the said Richard B. Irwin, then being under examination as such witness as aforesaid, wholly refused to answer said question and to make said disclosure so required of him by said committee as aforesaid; which conduct and refusal to answer as aforesaid was by the said committee afterward, to wit, on the 21st day of December, 1874, and while the said House was duly in session, reported to the said House for its action thereon; and that the House of Representatives aforesaid thereupon then and there, in the exercise of its constitutional and legal jurisdiction and power and touching the subject-matter so reported to it by said committee, made and passed the following order, that is to say:

"*Ordered*, That the Speaker issue his warrant directed to the Sergeant-at-Arms attending this House or his deputy, commanding him to take into custody forthwith, wherever to be found, the body of Richard B. Irwin and him bring to the bar of the House to show cause why he should not be punished for contempt, and in the mean time keep the said Irwin in custody to await the further order of the House."

And that in pursuance of the order of said House last aforesaid this respondent, as Sergeant-at-Arms as aforesaid, by virtue of a warrant to him duly issued in pursuance of said last-mentioned order, brought before the bar of said House on the 6th day of January, 1875, and while said House was in session as aforesaid, the said Richard B. Irwin, who was then and there fully heard by said House upon the matter named in said order last mentioned, on which he was required to show cause as in said order stated; and that thereupon the said House adopted the following order, that is to say:

"*Resolved*, That the Speaker propound to the witness at the bar the following questions:

"First. Give the names of the persons whom you employed to aid you in procuring the subsidy from Congress in 1872 for the Pacific Mail Steamship Company.

"Second. What was was the largest sum paid by you to any one person to aid you in procuring that subsidy?"

And that upon and after the adoption of said last-mentioned order by the said House, to-wit, on said 6th day of January, 1875, and while the said House was in session, and the said Richard B. Irwin was so present at the bar thereof in pursuance of the action of said House in causing him to be brought before the bar of said House to show cause as aforesaid, the Speaker of said House propounded to him, the said Richard B. Irwin, the interrogatories in said last-mentioned order contained; and the said Richard B. Irwin then and there refused to answer the first interrogatory contained in said last-mentioned order; and that the said House, after having heard and considered the causes then and there shown by said Richard B. Irwin why he should not be punished for contempt of the authority of said House, and after the said Richard B. Irwin had refused to answer said first-named interrogatory in said last-mentioned order contained, to wit, on said 6th day of January, 1875, and after he had refused to answer the same before said committee as aforesaid, adopted in the premises aforesaid the order following, that is to say:

"*Resolved*, That Richard B. Irwin, having been heard by the House of Representatives pursuant to an order heretofore made, requiring him to show cause why he should not answer the questions propounded to him by the committee and by the Speaker of this House in obedience to its order, has failed to show cause why he should not answer the same; and that said Richard B. Irwin be considered in contempt of the House for failure to make answer thereto."

And that the said House of Representatives afterward, on the said 6th day of January, 1875, and while said House was still in session and in the exercise of its constitutional and lawful powers as the House of Representatives of the Congress of the United States of America, and in execution of the order and judgment of said House declaring "that said Richard B. Irwin be considered in contempt of the House for failure to make answer," passed the order following, that is to say:

"*Resolved*, That Richard B. Irwin be remanded to the custody of the Sergeant-at-Arms, to abide the further order of this House, and while in such custody he be permitted to be taken by the said Sergeant-at-Arms before the Committee on Ways and Means if he should declare himself ready to answer such questions as may be lawfully put to him, including those asked of him by order of this House; and while he shall so remain in custody, the Sergeant-at-Arms shall keep the witness in his custody in the common jail of the District of Columbia."

And that afterward, to wit, upon the same 6th day of January, 1875, in pursuance and execution of the order contained in the resolution last aforesaid, and in virtue of the authority and power thereby conferred and of all the premises aforesaid, JAMES G. BLAINE, he the said JAMES G. BLAINE then and there being the Speaker of said House of Representatives, executed, and Edward McPherson, he the said Edward McPherson then and there being the Clerk of said House, attested, the warrant of said Speaker, under the seal of said House, and prior to the arrest and detention of the said Richard B. Irwin delivered the said warrant to this respondent, as Sergeant-at-Arms of the said House, and that in obedience to the warrant aforesaid and the order and command of the House of Representatives of the United States of America, duly and lawfully made in open session of said House, this respondent, as Sergeant-at-Arms as aforesaid, and as in duty bound to do, did, on said 6th day of January, 1875, arrest and now holds the body of the said Richard B. Irwin in custody, and now here produces and exhibits the said warrant, precept, and order as the cause of the caption and detention by him as aforesaid of the body of the said Richard B. Irwin as part of this respondent's return.

And this respondent herewith also submits a duly-certified copy of the order of said House, passed on the 21st day of December, 1874, hereinbefore referred to, with a duly-certified copy of the warrant of the Speaker of said House issued thereon, as also duly-certified copies of the resolutions of said House passed on the 6th day of January, 1875, hereinbefore referred to.

The respondent having answered fully the said writ and shown that the legal custody of said Richard B. Irwin is in the said House of Representatives, under the due exercise of its constitutional jurisdiction, prays that this proceeding be dismissed, and the said custody of said House, and of this respondent as its officer, shall in nowise be interfered with by virtue of this proceeding.

NEHEMIAH G. ORDWAY,
Sergeant-at-Arms House of Representatives,
United States of America.

Subscribed and sworn to this 14th January, 1875, before

R. J. MEIGS,
Clerk.
By E. J. MIDDLETON,
Assistant Clerk.

FORTY-THIRD CONGRESS,
Second Session.

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES, *December* 21, 1874.

On motion of Mr. DAWES,

Ordered, That the Speaker issue his warrant, directed to the Sergeant-at-Arms attending this House, or his deputy, commanding him to take into custody forthwith, wherever to be found, the body of Richard B. Irwin, and him bring to the bar of the House to show cause why he should not be punished for contempt and in the mean time keep the said Irwin in his custody to wait the further order of the House.

Attest: EDWARD McPHERSON,
Clerk.
By ISAAC STROHM,
Assistant Clerk.

OFFICE OF THE HOUSE OF REPRESENTATIVES UNITED STATES,
December 21, 1874.

To NEHEMIAH G. ORDWAY, Esq.,
Sergeant-at-Arms, House of Representatives, United States.

SIR: The following order was this day adopted in the House of Representatives:

"*Ordered*, That the Speaker issue his warrant, directed to the Sergeant-at-Arms attending this House, or his deputy, commanding him to take into custody forthwith, wherever to be found, the body of Richard B. Irwin, and him bring to the bar of the House to show cause why he should not be punished for contempt, and in the mean time keep the said Irwin in his custody to wait the further order of the House."

Now, therefore, I, JAMES G. BLAINE, Speaker of the House of Representatives of the United States, do hereby command you to execute the foregoing order of the House.

In witness whereof I hereunto set my hand and caused the seal of the House of Representatives to be hereto affixed the day and year first above written.

[L. S.] J. G. BLAINE,
Speaker.

Attest:
EDWARD McPHERSON, *Clerk.*
By CLINTON LLOYD, *Chief Clerk.*

FORTY-THIRD CONGRESS,
Second Session.

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES, *January* 6, 1875.

On motion of Mr. DAWES,

Resolved, That the Speaker propound to the witness at the bar the following questions:

First. Give the names of the persons whom you employed to aid you in procuring the subsidy from Congress in 1872 for the Pacific Mail Steamship Company.

Second. What was the largest sum paid by you to any one person to aid you in procuring that subsidy?

Attest:

EDWARD McPHERSON,
Clerk.
By ISAAC STROHM,
Assistant Clerk.

FORTY-THIRD CONGRESS,
Second Session.

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES, *January* 6, 1875.

On motion of Mr. DAWES,

Resolved, That Richard B. Irwin, having been heard by the House pursuant to the order heretofore made requiring him to show cause why he should not answer the questions propounded to him by the committee and by the Speaker of this House in pursuance of its order, has failed to show sufficient cause why he should not answer the same, and that said Richard B. Irwin be considered in contempt of the House for failure to make answer thereto.

Attest:

EDWARD McPHERSON,
Clerk.
By ISAAC STROHM,
Assistant Clerk.

FORTY-THIRD CONGRESS,
Second Session.

CONGRESS OF THE UNITED STATES,
IN THE HOUSE OF REPRESENTATIVES, *January* 6, 1875.

NEHEMIAH G. ORDWAY, Esq.,
Sergeant-at-Arms House of Representatives of the United States:

SIR: Whereas the House of Representatives this day passed a resolution as follows, to wit:

"*Resolved*, That Richard B. Irwin be remanded to the custody of the Sergeant-at-Arms to abide the further order of this House, and while in such custody he be permitted to be taken by the said Sergeant-at-Arms before the Committee on Ways and Means, if he shall declare himself ready to answer such questions as may be lawfully put to him, including those asked of him by order of this House; and while he shall so remain in custody the Sergeant-at-Arms shall keep the witness in his custody in the common jail of the District of Columbia."

Now, therefore, I, JAMES G. BLAINE, Speaker of the House of Representatives, do hereby command you to execute the order of the House as contained in said resolution, and the body of the said Richard B. Irwin to safely keep in your custody pursuant to the said order of the House of Representatives.

In witness whereof I have hereunto set my hand and caused the seal of the House of Representatives to be affixed the day and year first above written.

[L. S.] JAMES G. BLAINE, *Speaker.*

Attest:
EDWARD MCPHERSON, *Clerk.*
By CLINTON LLOYD, *Chief Clerk.*

Mr. CESSNA. I want to put a question to the gentleman from Massachusetts, [Mr. DAWES.] Suppose that Judge MacArthur, after a full hearing of all the facts and a full examination of the law, should decide to remand Irwin to the custody of the Sergeant-at-Arms, do we thereby lose control of him?

Mr. DAWES. We should thereby regain control of him. But suppose the judge should decide otherwise?

Mr. CESSNA. Very well; is not the gentleman willing to trust the courts of the country to decide this question upon full examination of all the facts and the law?

Mr. HALE, of New York. I ask the chairman of the Committee on Ways and Means whether he has any information as to the grounds on which Judge MacArthur claims to act. My desire is to obviate any unseemly clashing between the jurisdiction of the two authorities.

Mr. DAWES. It is due to the court that I should say that neither the counsel for Mr. Ordway nor the committee nor anybody else has any opinion that this judge is desirous of doing anything beyond what seems to him to be his plain duty.

There is no intimation from any quarter I know of that the judge is acting otherwise than according to his convictions. So far as we learn his opinion it is this: that although the petition for the writ of *habeas corpus* may substantially set out the fact this man is held because of proceedings for contempt against him by the House of Representatives, and although he might be willing to concede if that stood alone upon the paper he would not go behind that, yet that the petition also contains an allegation that the proceedings for contempt were of such a character as ought not to have resulted in a judgment for contempt, namely: The allegation is that we put questions to him, both the committee and the House, which neither the committee nor the House was authorized to put to him, and therefore a refusal to answer those questions was not a contempt. The answer to that, made by the learned counsel who appeared for Mr. Ordway, and which seems to me to be conclusive, is that the House are the sole judges of what does constitute a contempt, and they have entered up judgment that they were authorized to put these questions, and refusal to answer them is a contempt, and therefore this man is properly adjudged in contempt. Therefore, whether it was frivolous for the judge of this inferior court to go behind or to be asked to go behind it and judge of the sufficiency of it, is to concede the whole case upon which the House of Representatives stands, namely, that they are the sole judges of what constitutes a contempt.

Mr. BUTLER, of Massachusetts. I ask my colleague to yield to me.

Mr. DAWES. Perhaps before my colleague speaks to the question it will be better to allow the gentleman from Iowa [Mr. KASSON] to offer his resolution, so that it may be before the House.

Mr. BUTLER, of Massachusetts. Certainly.

Mr. KASSON. Mr. Speaker, before sending up the resolution or it is read, in order it may be more readily understood, I wish to say that owing to the language of the statute, which seems imperative, in the opinion of the judge, that at the time of making the return the body should be produced, it has been thought expedient we should provide for the facts upon our record to be presented respectfully to the judge in person, under the advice of his counsel, when it is believed by the counsel and by the members of the committee who have considered the subject, the judge will then have before him the record of this tribunal, which meets any question of doubt which may arise on the allegations of the petition, while at the same time, not being a formal technical return, it does not raise the question of the production of the body. The object of these orders, therefore, is twofold: first, to make the duty of the Sergeant-at-Arms specific; and secondly, to treat with all proper respect the judge who has the question before him by having these facts presented to him. I wish to answer it upon careful consideration, and with the approval of his counsel, who I believe are well known to the members of this House as competent to give a sound opinion.

Mr. DAWES. Now let the resolution be read.

The Clerk read as follows:

In the matter of the proceedings against the Sergeant-at-Arms of this House for the production of the body of Richard B. Irwin, held in his custody for contempt of the House of Representatives.

Ordered, That the Sergeant-at-Arms, with the aid of counsel, make known to the judge issuing the writ of *habeas corpus* requiring the body of Richard B. Irwin to be brought before the said judge, that he, the said Sergeant-at-Arms, has said Irwin in his custody pursuant to an order of this House upon its judgment that the said Irwin was in contempt of the House of Representatives, and for no other reason. That the House of Representatives requires of him to retain the body of said Irwin in his custody until the said Irwin shall offer to purge himself of said contempt, as provided by the order of this House, and that he respectfully inform the judge that, as an officer of this House, he cannot disobey the orders thereof in this respect by releasing in any way or transferring said Irwin from his custody; and further

Ordered, That he exhibit to the said judge a copy of the order of this House, duly certified by the clerk, adjudging the said Irwin in contempt, and the warrant of the Speaker in execution thereof, together with a copy of this order.

Mr. KASSON. It is proper I should add that there is a clause in the petition falsely asserting the witness is held to await further proceedings under the statute of 1867, which requires the intervention of a court and grand jury. We understand the point which is made upon the mind of the judge. Hence the language here which we think both the Sergeant-at-Arms and the judge are entitled to have in due form that it was for contempt and for no other reason. I believe that is all I have to say.

Mr. DAWES. Before I yield to my colleague, as this discussion was somewhat protracted last night, now, in order that it may be as brief as possible, I ask him to specify the time he wishes to occupy.

Mr. BUTLER, of Massachusettss. I am not going to take a long time.

Mr. DAWES. When we get to talking, and I do not mean my colleague particularly, but all of us, it is hard to put a stop to it. Will my colleague be content with five or ten minutes?

Mr. BUTLER, of Massachusetts. Let me go on in my own time.

Mr. DAWES. Very well.

Mr. BUTLER, of Massachusetts. I had supposed, when the question of personal liberty, the question of the action of the writ of *habeas corpus* was to be discussed, we might at least have had it calmly, carefully, and fully discussed. And the reason why I thought so was that precedents that arise from the passions of men very frequently interfere, as precedents, with judgments of men long afterward; and I think there is no better illustration of this than the fact that is before the House that a radical republican quotes the decision of Chief Justice Taney in Booth's case as a rule of guidance in a republican House. If there was anything that was especially denounced at the time—I thought wrongfully then and I think wrongfully now——

Mr. DAWES. Will my colleague include in the criticism of that precedent a criticism of a decision of the present court in 13 Wallace, where it has been unanimously reaffirmed?

Mr. BUTLER, of Massachusetts. I understand that courts follow precedents, and I am glad to see that my colleague has got so good a shelter as he has.

But the case of Booth does not touch this case at all. Let us examine it a moment, free from all heat and passion. I certainly have not any. And I think, after the disclosures of the other day, it is very evident that I had no desire that Irwin should hold his tongue, in order to shield certain persons who have now been shown to have got a part of this money. They were not such friends of mine that I would undertake to interpose for them. But I speak for personal liberty, the right of the citizen at all times. What is the writ of *habeas corpus*? It is a great writ, a prerogative writ, not of the king but of the citizen, that wherever he is restrained of his liberty he may be brought before a judicial tribunal and have the cause of his restraint inquired into. That is the writ of *habeas corpus*, and when it is issued under the law, it is the bounden duty of the marshal of the United States to take the person before the proper tribunal and examine into the legality of his commitment. It was decided in the matter of Keeler—United States *vs.* Coolidge 1 Gallison—by one of the ablest judges, Judge Washington, that ever sat in a court, that it is in the nature of a writ of error to examine into the legality of the commitment; and the first requisite is that the body of the party, before any examination can be made, shall be brought into the court, and there be subject to the jurisdiction of the court for that purpose. For it would be idle for the court to proceed without having the body before the court. It is a writ of *habeas corpus*—"Have you the body? see that you have the body before the court." That is the very meaning of the name of the writ. And therefore the writ of *habeas corpus* is to have the body before a court of competent jurisdiction.

Now in the case *Ex parte* Booth the State court undertook to interfere with the jurisdiction of the United States court. There were two separate jurisdictions, separate, distinct, and foreign, one undertaking to interfere with the proceedings of the other—two governments undertaking to interfere with each other. Here there is no case of two governments. Here we are all parts of the United States Government. The court is a United States court and the case of Booth does not apply in any of its features. The case of Booth only settles that where a State court undertakes to interfere with a United States court by a writ of *habeas corpus*, it cannot do it any more than a writ of error can be brought into a State court from the decision of a United States court and *vice versa*; a United

States court cannot interfere with the jurisdiction of a State court on a State question, any more than a writ of error can be brought from a State court into a United States court. That case therefore does not at all apply.

Now, what is this case? Admit we are a court for this purpose—but that I should deny, if I were called upon for an opinion on that question—admit we are a court for this purpose; we adjudge a man to be guilty of contempt; if we have adjudged him guilty of contempt rightfully under the laws of the land, and it is to be presumed that we have done so, then the judge brings the man before him, and having him before him looks over our proceedings. If he says they are rightful, the man is to be remanded to our custody. If he finds them wrongful, then it is his bounden sworn duty to discharge him.

Now I want just to call the attention of the House to another point to show how the *habeas corpus* operates. There is another writ of *habeas corpus*. This is the writ of *habeas corpus ad subjiciendum*. But suppose it was a writ of *ad testificandum*. Suppose it was necessary to get Irwin before the court to get his testimony in a case of life and death. The court can send for him and take him from our custody, hear him as a witness, and remand him back. There is no difference in the action of the two writs, the writ *ad subjiciendum* and the writ *ad testificandum*.

Mr. LAWRENCE. The action of the latter writ is not to control the custody at all.

Mr. BUTLER, of Massachusetts. Pardon me; it is to control the custody of the witness for a particular purpose.

Mr. LAWRENCE. In subjection to the power that imprisons.

Mr. BUTLER, of Massachusetts. Pardon me; this is in subjection to the power that imprisons until that power is shown to be wrongful. Now in our State of Massachusetts, where some of our Massachusetts lawyers here have got their impressions, we have provided that the writ of *habeas corpus* shall not be qualified, in that it shall not issue *ex debito justitiæ;* that the writ shall not issue, but that the question shall be determined on petition, but after the writ has issued then there is never any power to interfere unless it be in troublous times. The Constitution of our country provides that the whole power of the Government cannot suspend the writ of *habeas corpus*, cannot interfere with its action; it provides that the privilege of the writ of *habeas corpus* shall not be suspended unless in case of rebellion or invasion the public safety requires it.

Mr. G. F. HOAR. I desire to ask my colleague a question.

Mr. BUTLER, of Massachusetts. I will hear it.

Mr. G. F. HOAR. Suppose a court of competent jurisdiction issues a writ of *habeas corpus ad testificandum*, and, when the man is taken before that court for the purpose of testifying, another court having the power to issue a writ of *habeas corpus* does it and takes that witness off the witness-stand out of the power of the court that is examining him and takes him into the other court to show cause for what he is doing. Is not that this case? Is not the House of Representatives detaining a witness in the course of its judicial proceedings until he will testify?

Mr. BUTLER, of Massachusetts. Now let me deal with that very point.

Mr. DAWES. I ask my colleague to be brief.

Mr. BUTLER, of Massachusetts. How can I get along when one colleague asks me a question and another wishes me to close my remarks? Suppose this man were actually testifying, and if he was wrongfully imprisoned by the first power, the one having possession of him, a writ of *habeas corpus* should issue for his body to take him before a court which would rightly decide that question. It is the very same question that was put to me by the learned gentleman from Ohio [Mr. LAWRENCE] in reference to a writ of *habeas corpus ad testificandum*. I say that you in order to get rid of the commitment could take the witness anywhere. The only question I want to raise here is whether one branch of Congress will attempt to suspend the writ of *habeas corpus*. There is no lawyer here who will look me in the face and say that the body of the man must not be brought before the court when the writ issues so as to have the right to his imprisonment inquired into.

Mr. LAWRENCE. Is there not a difference between suspending the writ of *habeas corpus* and allowing it to be carried into a case where the court has no jurisdiction, to defeat the judgment of the court that has jurisdiction?

Mr. BUTLER, of Massachusetts. Pardon me; that is a large question. The question whether the court has jurisdiction is one that you have no right to try. A judicial court has a right to try it, and we are to assume that that court will rightly determine it. Some one asks me, suppose they decide it wrong? Well, sir, courts may always decide questions wrong.

Mr. LAWRENCE. Is not this House the sole judge of the questions it shall put to a witness?

Mr. BUTLER, of Massachusetts. Certainly.

Mr. LAWRENCE. In 1675 the House of Commons directed the lieutenant of the Tower to make no return to any writ of *habeas corpus*, and again in 1704 similar directions were given to the sergeant-at-arms. This will be found in May's Parliamentary History, page 76. And the author goes on to show that an order of imprisonment for contempt by either house of Parliament is final and conclusive and no court can go back of it. The power to imprison for contempt is an incident of legislative power. It is essential to its exercise. A judicial court can exercise no legislative power, neither as a principal or incidental authority. A court cannot therefore interfere with, or inquire into, or take control of legislative power. If it do so, it exercises our power—a legislative power. Can our decision in regard to the questions a witness shall answer be revised by a co-ordinate branch of the Government?

Mr. BUTLER, of Massachusetts. By no means.

Mr. LAWRENCE. That is what Judge MacArthur proposes to do.

Mr. BUTLER, of Massachusetts. No; he does not. He proposes to bring him forward and see whether you put any questions to him.

Mr. LAWRENCE. Then he proposes to go back of our sentence, and that he cannot do.

Mr. BUTLER, of Massachusetts. Pardon me; he does not do that He wants to see if there is any sentence, and he cannot adjudicate on that question until he has the body of the man before him. That is the whole of it.

Now, I would like to ask my colleague, the chairman of the Committee on Ways and Means, [Mr. DAWES,] if his committee did not send for the Surgeon-General of the Army and the Surgeon-General of the Navy to examine Mr. Irwin and see if he was in such a condition of health that he could be safely imprisoned in the common jail, and if both these eminent surgeons did not report on that question to the committee that he is not in a fit condition, and if the committee did not refuse to report that fact to the House?

Mr. DAWES. I will say to my colleague——

Mr. BUTLER, of Massachusetts. Just answer that question; I do not want anything else.

Mr. DAWES. Well——

Mr. BUTLER, of Massachusetts. How is it?

Mr. DAWES. My colleague——

Mr. BUTLER, of Massachusetts. No; answer my question.

Mr. DAWES. At the proper time I will report all the facts to the House.

Mr. BUTLER, of Massachusetts. If the man should die, it would be too late.

Mr. DAWES. I now yield to the gentleman from New York [Mr. TREMAIN] for ten minutes.

Mr. TREMAIN. There is no member of this House who has a higher regard for the writ of *habeas corpus* than myself. That writ was imported from England, and we took it with all its incidents. It was a part of the common law.

I took occasion yesterday to say that there were limitations to that writ beyond which it was not proper for any court to pass. I claimed that according to the well-settled law in England, and in America as determined by the Supreme Court of the United States, and in England as it was well settled at the time of the Revolution, the writ of *habeas corpus* could never be used to inquire into the validity of a commitment for contempt by a tribunal of competent jurisdiction. And I challenge any gentleman who assails that position to find a case in England or America where a prisoner has been discharged upon *habeas corpus* when he has been adjudged guilty of contempt by either house of Parliament or by the Senate or the House of Representatives of the Congress of the United States.

Mr. BUTLER, of Massachusetts. Will the gentleman——

Mr. TREMAIN. I have but ten minutes, and cannot yield for interruptions. The Supreme Court of the United States has deliberately determined that they would not grant a writ of *habeas corpus* where a prisoner was imprisoned for contempt. I refer to a case in 7 Wheaton, where the unanimous judgment of the Supreme Court was pronounced upon that question. From the petition of the petitioner it appeared that he was in jail, in the custody of the marshal of his district, under a commitment of the court for contempt. And the Supreme Court of the United States, in an unanimous judgment, declared that they could not and would not issue a writ of *habeas corpus* in such a case, because the judgment of a court upon a question of contempt was absolutely final and conclusive, because every presumption existed in favor of the validity and regularity of their proceedings, and because the writ of *habeas corpus*, if it could lie, would be in the nature of a writ of error to review the final judgment of a court of competent jurisdiction. In that case, *Ex parte* Kearney, the head-note is—

> The court will not grant a *habeas corpus* where a party has been committed for a contempt adjudged by a court of competent jurisdiction. In such a case the court will not inquire into the sufficiency of the cause of commitment.

In a most elaborate opinion the court says:

> If, then, we are to give any relief in this case, it is by a revision of the opinion of the court given in the course of a criminal trial, and thus asserting a right to control its proceedings and take from them the conclusive effect which the law intended to give them. If this were an application for a *habeas corpus*, after judgment on an indictment for an offense within the jurisdiction of the circuit court, it could hardly be maintained that this court could revise such a judgment, or the proceedings which led to it, or set it aside and discharge the prisoner. There is, in principle, no distinction between that case and the present; for when a court commits a party for a contempt, their adjudication is a conviction, and their commitment in consequence is execution; and so the law was settled upon full deliberation in the case of Brass Crosby, lord mayor of London. (3 Wilson, 133.)

In the case there referred to Lord Chief Justice De Grey said:

> When the House of Commons adjudged anything to be a contempt or a breach of privilege, their adjudication is a conviction, and their commitment in consequence is execution; and no court can discharge, on bail, a person that is in execution by the judgment of any other court. The House of Commons, therefore, having an authority to commit, and that commitment being an execution, what can this court

do? It can do nothing when a person is in execution by the judgment of a court having competent jurisdiction. In such a case this court is not a court of appeal.

The lord chief justice further said:

The courts of king's bench or chief barron bench never discharged any person committed for a contempt in not answering in the court of chancery, if the return was for a contempt. If the admiralty commits for a contempt, or one be taken up on *excommunicato capiendo*, this court never discharges the persons committed.

Mr. Justice Blackstone said:

All courts, by which I mean to include the two houses of Parliament and the courts of Westminster Hall, can have no control in matters of contempt. The sole adjudication of contempt and the punishment thereof belong exclusively, and without interfering, to each respective court. Infinite confusion and disorder would follow if courts could by writs of *habeas corpus* examine and determine the contempt of others.

The United States Supreme Court continues:

The argument of inconvenience has been pressed upon us with great earnestness. But where the law is clear this argument can be of no avail, and it will probably be found that there are also serious inconveniences upon the other side. Wherever power is lodged it may be abused. But this forms no solid objection against its exercise. Confidence must be reposed somewhere, and if there should be an abuse, it will be a public grievance, for which a remedy may be applied by the Legislature, and is not to be devised by courts of justice. This argument was also used in the case already cited, and the answer of the court to it is so satisfactory, that it would be useless to attempt any further refutation.

In the State of New York we have had this question up, and it received the decision of Judge Kent, where the court of chancery decided that a lawyer was guilty of contempt. Judge Spencer, a judge of the supreme court, issued a writ of *habeas corpus* to inquire into that committal.

Mr. BUTLER, of Massachusetts. And had him brought before him, did he not?

Mr. TREMAIN. He brought him up and discharged him. What next? The chancellor put him back in commitment.

Mr. BUTLER, of Massachusetts. As we might do.

Mr. TREMAIN. The chancellor treated the whole proceeding of Judge Spencer as absolutely void for want of jurisdiction. In the opinion of the court, delivered by Chancellor Kent, overruling the decision of Judge Spencer, one of his own brethren on the bench, he stated that the action of the judge inquiring into that commitment was wholly unauthorized and void. And afterward when the man Yates, who was the attorney who had been adjudged guilty of contempt, brought an action under our statute against the chancellor for ordering him back, (because there was a statute making it a penal offense to do so,) the court of error, by an almost unanimous judgment, decided that the proceedings of Judge Spencer in discharging him were absolutely void and without jurisdiction, and that no action would lie for that sentence.

I will refer, in the first place, to a few remarks of Judge Kent, (4 Johnson, page 69.) He quotes various cases showing that the court had no jurisdiction over a commitment for contempt adjudged by the House of Commons, saying that if there was an abuse of power it was only a case where confidence must be reposed somewhere, and that it could not be more fitly reposed in any body than in the highest judicial department of the Government. He refers to numerous cases in England concerning the exact point. He says, quoting a decision of Mr. Justice Blackstone:

That the sole adjudications of contempts and the punishments thereof belonged exclusively, and without interfering, to each respective court. That infinite confusion and disorder would follow if every court should have the power to examine the commitments of the other courts for contempts. That the judgment and commitment of each respective court as to contempts must be final and without control. It was a confidence that might with perfect safety be reposed in the judges and the houses of Parliament. That the objection as to abusive consequences proved too much, because it was applicable to all courts of *dernier resort*, and general convenience must always outweigh partial inconvenience.

Then Chancellor Kent concludes by saying:

I entertain the most perfect conviction that the law, as they declared it in this case, was well understood and definitely established as part of the common law of England at the time of our Revolution.

And then when the case came before the court of appeals upon the question whether or not the chancellor was liable to an action at the suit of the officer, it was decided in the case of Yates *vs.* Lansing (9 Johnson) that—

A person who has been regularly committed by the chancellor for a contempt, and afterward is improperly set at large, may be recommitted by an order of the court of chancery, reciting the original writ or attachment.

* * * * * * *

The Supreme Court of the United States will not grant a *habeas corpus* where a party has been committed for a contempt by a court of competent jurisdiction.

Now in this case the writ was obtained either by improvident or intentional misrepresentation. The petition (which I have read) charges that Irwin was committed "to the end that he might be proceeded against before the criminal court of the District." That statement is entirely false. It suppresses, either intentionally or improvidently, the fact that this House had adjudged him to be guilty of contempt, which is the very gist of the whole matter, the essence of the whole thing. Now I submit that if you take this man there upon your return, you yield the entire jurisdiction over him. This House is the supreme and final judge of this matter. I have no feeling whatever about this question. If the House thinks proper to send the body before this judge, the judge may perhaps discharge the case on the ground that he is entirely without jurisdiction; and then the House might order Irwin into its custody again. But why go through the useless form of thus retaking the body instead of showing to that judge how he has been imposed upon, how he has been misled by the petition, as he would see from an authentic copy of the proceedings of the House showing that Irwin has been adjudged guilty of contempt. Hence I am in favor of the resolution of the gentleman from Iowa, [Mr. KASSON.]

Mr. DAWES. I yield to my colleague on the committee [Mr. BURCHARD] for five minutes; and then I will call the previous question.

Mr. BURCHARD. Mr. Speaker, believing that the Sergeant-at-Arms ought to obey the order of the judge in this case and that in obedience to the writ of *habeas corpus* he ought to produce the prisoner in court, I wish to say a word or two in reply to some of the remarks that have been made.

This is not a question as to the power of the House to punish for contempt. We all admit that; we all agree that the House has the power to punish for contempt, and to hold a witness in custody for contempt in accordance with its orders. But the question is whether, when a writ of *habeas corpus* has been issued under the statutes of the United States directed to the Sergeant-at-Arms, it is not the duty of the officer to produce the body of the prisoner before the judge in obedience to the writ.

The case of Abelman *vs.* Booth, in 21 Howard, has been quoted here. That does not decide this question. That decision related to the respective jurisdictions of the State and the United States. In that case it was held that the jurisdiction of the United States and of the State were each as distinct and exclusive, although both had jurisdiction over the whole territory of the State, as the jurisdiction of two contiguous States each within its own territorial limits. If it appeared that the prisoner was held under and in pursuance of the authority of the United States, the Supreme Court held that the State courts and authorities had no right to require the production of his body, and that the officer should simply make written return setting forth the Federal jurisdiction by virtue of which he, the prisoner, was in custody. But in this case the prisoner being held under color of the authority of the United States, it appears to me the case comes within the statute read yesterday by the gentleman from Iowa, [Mr. KASSON,] that his body is required to be produced in court by express provision of law.

I do not care for this matter so far as Irwin is concerned. I would prefer to hold him in jail until he shall make a full disclosure. I do not speak from any sympathy for him. But this is a question that rises above any such consideration. It is a question which I think this House ought to deliberately consider before passing upon it; for by our action now we establish an important precedent in relation to the rights of citizens, as well as the powers of the House of Representatives.

I call attention to Tarble's case, (13 Wallace, 397,) where the Supreme Court in reviewing the decision in the case of Abelman *vs.* Booth say:

All that is meant by the language used is that the State judge or State court should proceed no further when it appears from the application of the party or the return made that the prisoner is held by an officer of the United States under what, in truth, purports to be the authority of the United States.

* * * * * * *

Their courts and judicial officers are clothed with the power to issue the writ of *habeas corpus* in all cases where a party is illegally restrained of his liberty by an officer of the United States, whether such illegality consists in the character of the process, the authority of the officer, or the invalidity of the law under which he is held. And there is no just reason to believe that they will exhibit any hesitation to exert their power when it is properly invoked.

There is a broad distinction between the case now before us and the case there cited. That was a question of jurisdiction between two governments, one of which actually held the prisoner under its own laws. This relates to the method of presenting to the court the fact that the prisoner is in custody by order of one branch of the legislative department of the same Government. When there is imminent danger of a collision between two co-ordinate branches of the Government, the legislature and the judiciary, we may well pause to see that we are right in our action; because if the resolution authorizing the Sergeant-at-Arms to hold this prisoner as against the writ is passed, and we are satisfied that our authority cannot be questioned or even inquired into in regard to any order of imprisonment we make, we must carry out that determination to the utmost, and assert and maintain the authority and prerogatives of the House and of legislative bodies at all hazards.

Several MEMBERS. Let us vote.

Mr. ELDREDGE. We on this side of the House have not been heard.

The SPEAKER. The Chair understands that the gentleman from Massachusetts [Mr. DAWES] declines to yield further, and demands the previous question.

Mr. CESSNA. I desire to offer an amendment, or at least to have it read.

Mr. ELDREDGE. I think that this matter is of too much importance to be passed upon without a single word from this side of the House. We are required to vote on the question, and we are entitled to say something upon it.

Mr. DAWES. I would be very glad to let this subject be discussed.

Mr. ELDREDGE. The gentleman from Massachusetts has not allowed a single man on this side of the House to speak.

Mr. DAWES. That is because the gentlemen here have taken up so much time.

Mr. ELDREDGE. This is an important question and we wish to be heard.

Mr. DAWES. I appreciate the remark of the gentleman from Wisconsin, but he sees the impatience of the House. If the majority desire to continue this discussion they can say so by voting down the demand for the previous question and I will not say a word.

Mr. ELDREDGE. I cannot believe there is impatience on the part of this House when the question of personal liberty is concerned and when it is proposed to suspend the writ of *habeas corpus*. I cannot believe that there is impatience in deliberating upon such a question.

The SPEAKER. The question recurs on seconding the demand for the previous question.

Mr. ELDREDGE. I hope the previous question will not be sustained.

The House divided; and there were—ayes 56, noes 73.

So the House refused to second the demand for the previous question.

Mr. MAYNARD. I move the House take a recess until twelve o'clock to-morrow.

The SPEAKER. The Chair recognizes the gentleman from Wisconsin [Mr. ELDREDGE] as the parliamentary sequence of the last vote.

Mr. CESSNA. I hope the gentleman will allow me to offer my amendment.

Mr. ELDREDGE. I believe the amendment of the gentleman from Pennsylvania is one to which I will agree.

Mr. CESSNA. I ask to have it read.

The Clerk read as follows:

Strike out all after "Sergeant-at-Arms" and insert "be directed to produce the body of the prisoner before the court as commanded by its order and to obey its judgment in the premises."

Mr. ELDREDGE. Mr. Speaker, I am very much obliged to the House for this courtesy and favor. I am glad gentlemen are not as impatient as they were represented to be by the gentleman from Massachusetts, [Mr. DAWES,] and I think it is becoming that they are not impatient or hasty over so grave and all-important a question as the suspension of the writ of *habeas corpus* by this House. My democratic friends certainly cannot have forgotten the intense feeling and alarm which was created throughout the entire length and breadth of this country when they claimed that the President of the United States had illegally or inconsiderately suspended the writ of *habeas corpus*. The President of the United States may have had the right under some circumstances to suspend that great writ of liberty, but this House of Representatives has no power, right, or authority, under the Constitution or under any law whatever, to suspend or to interfere in any manner with it. It is a writ above and beyond the legal powers and jurisdiction of either branch of Congress.

I do not propose to occupy more than two or three minutes of the time of this House in what I shall say, though much of the time of all of us might be well spent in considering this grave subject. We cannot afford to determine this great question under a feeling of passion or excitement such as was exhibited last evening when this same question was being considered.

The gentleman from New York [Mr. TREMAIN] has argued the question as though the merits of it were before the House. He has shown that courts have decided correctly, in his judgment, in many instances. He has shown high authority where judges were trusted, and where they ought to have been trusted, and when their judgments were right and proper and according to the law. We have another occasion now before us where the judge ought to be trusted, in my judgment, with the full determination of the legal rights of this petitioner.

The only question, as I understand it, before the House at this time is what is the proper legal duty of the executive officer of this House, the Sergeant-at-Arms, in obedience to the writ commanding him to bring before the judge the body of Richard B. Irwin; what is the proper return for him to make to it? That is the only question now here; the only one with which we have anything to do.

With the merits, with all the questions that may be raised upon the return of the writ, with all the questions of legality or illegality of the imprisonment we have nothing at this time to do. The House has acted, and its work is done. There is no proposition to reverse or change its action. If it be legal or illegal, we are not now to consider. What is it that causes all this uneasiness, this sensitiveness? Are gentlemen afraid of what they have done? Do they fear the scrutiny of the judge? Is there any wrong done they would not have brought to the light? All the legal questions involved are to be passed upon by one of your own judges. The republican party created his office and made him judge, and you ought not to fear to trust him. And what has he done?

He has held, as it is represented, that he will require that there shall be a *proper* return to the writ of *habeas corpus*, and that as a part thereof the body shall be brought into court. Wherever was there any other, or *can there be any other, proper* return to the writ of *habeas corpus?* The statute is explicit, and there is no chance for cavil or mistake. *"The persons making the return shall at the same time bring the body of the party before the judge who granted the writ."* The person to whom the writ is directed shall certify the true cause of the detention and bring the body before the judge.

That is the law of the land. That is a statute not adopted by this House in an hour of passion and excitement, but by the deliberate action of the entire legislative power of this country.

I care not what the decision may have been in the Wisconsin case. It was much criticised at the time, and the State was in open revolution to the Government of the United States. If not the State, the entire party which sustained that action of the State court was considered at the time and was in fact in open declared rebellion and revolution against the Federal Government. The decision, however, does not conflict at all with the view which we take of this question now. The statute is subsequent. The law is now, whatever it was then, that the return shall be made by representing the facts and taking the body before the judge. I apprehend that statute was passed in order it might be made perfectly clear what should be the duty of the officer or the person holding the prisoner for whose benefit the writ was issued.

But further and beyond that and without regard to the statute, I undertake to say there never was either in England or America a proper return made to a writ of *habeas corpus* where the body, if in possession, was not taken before the officer who issued the writ. This is the very nature and office of the writ, and it is the only true and consistent execution of it. As early as 1771 the lord mayor of London was committed for contempt. I have the case here in the third volume of Wilson's Reports, page 188; and it is recited in the proceedings as a part of the return that the body is now here in the court before the judge issuing the writ.

And now here, at this day, (to wit,) Monday next, after three weeks from Easter-day, in this term cometh the said Brass Crosby in his proper person, under the custody of Charles Rainsford, esq., deputy lieutenant of the Tower of London, brought to the bar here; and the said deputy lieutenant then here returneth, that before the coming of the said writ, (to wit,) on the 27th day of March last, the said Brass Crosby was committed to the Tower of London by virtue of a certain warrant under the hand of Sir Fletcher Norton, knight, speaker of the House of Commons, which follows in these words:

"Whereas the House of Commons have this day adjudged that Brass Crosby, esq., lord mayor of London, a member of this house, having signed a warrant for the commitment of the messenger of the house for having executed the same warrant of the speaker, issued under the order of the house, and held the said messenger to bail, is guilty of a breach of privilege of the house; and whereas the said house hath this day ordered that the said Brass Crosby, esq., lord mayor of London and a member of this house, be for his said offense committed to the Tower of London: these are therefore to require you to receive into your custody the body of the said Brass Crosby, esq., and him safely keep during the pleasure of the said house, for which this shall be your sufficient warrant. Given under my hand the 25th day of March, 1771;" and that this was the cause of the caption and detention of the said Brass Crosby in the prison aforesaid, the body of which said Brass Crosby he hath here ready, as by the said writ he was commanded, &c. Whereupon, the premises being seen and fully examined and understood by the justices here, it seemeth to the said justices here that the aforesaid cause of commitment of the said Brass Crosby, esq., to the king's prison of the Tower of London aforesaid, in the return above specified, is good and sufficient in law to detain the said Brass Crosby, esq., in the prison aforesaid; therefore the said Brass Crosby, esq., is by the court here remanded to the Tower of London, &c.

And now what are we doing? What is the real question between this House and the judge? The judge requires that your statutes shall be obeyed; that your Sergeant-at-Arms shall do just what the Congress by its law says he shall do. He requires that the common law and common practice of the courts of England and this country in all such cases shall be followed and carried out. He demands that before he shall decide upon the question of the proper or improper imprisonment of this man he shall be in his presence and under his jurisdiction so that when he comes to a decision he shall be able to dispose of the case as he ought to dispose of it; that he shall be able to do what the law requires. And that is the only question we have to determine on the resolutions pending before us, unless we intend to prejudge the matter and determine what the judge himself shall decide when he comes to consider the case itself.

The gentleman from Massachusetts [Mr. BUTLER] has handed me May's Parliamentary Law, and referred me to page 76, where *habeas corpus* is treated of, and asked me to read the passage. May says:

The *habeas corpus* act is binding upon all persons whatever who have prisoners in custody, and it is therefore competent for the judges to have before them prisoners committed by the houses of Parliament for contempt.

I will not read any further. I suppose what follows is in the same line. Now, the question is can we, composing only one branch of the legislative body, holding a little brief authority, place ourselves above the Constitution and law? Can we, in contempt of the most sacred provisions of the law for the protection of life and liberty, take any persons that we please, imprison them as we will, condemn them to any punishment we see fit; and is there no power by which the prisoner sentenced and adjudged to punishment or imprisonment by us can have an inquiry into whether we have any law or jurisdiction or not? Is it to be tolerated that, whatever the functions of this House may be, when it can pass no law and has no power to change or alter any law, we can rise up and contemn all law? Is our jurisdiction above question or inquiry, when it is an axiom almost that the jurisdiction of all courts and tribunals are open at all times to be ascertained and determined? And shall it be conceded to the House of Representatives alone to strike down at its pleasure this great writ of right and liberty?

The gentleman from Massachusetts told us last night that if he were sitting as judge of the court and had adjudged somebody guilty of contempt, and some other court should say to him that it wanted to determine that question, he would tell that court that he had not got through with the individual; and he supposed that what he would do acting as a judge he would do acting as a member of

Congress. But it seemed to me he conceded all that is claimed by this prisoner when he determined after the writ was issued to remove the prisoner. It should indeed be a matter of no concern to us how the case should be determined, only so that it be according to law and for the preservation of the liberty of the citizen.

I do not know what Judge MacArthur will do. I had almost said I do not care what he shall do. I do not know this man Irwin. I never saw him until he was brought before the bar of the House. But it were better, far better, a thousand Irwins, guilty of a thousand contempts, should go unwhipped and unpunished altogether, or even sunk at once to the bottom of the sea, than that we of this House of Representatives, in a moment of anger or passion, should strike down this immortal writ of English and American liberty. Those of you who would here and now give away, impair, or suspend the writ of *habeas corpus*, cease your cry and denunciation of the President for whatever he has done or may do. He has, as I have remarked already, or may have, a right in some cases or under some circumstances to suspend it. But this House of Representatives cannot, without a violation of all law, under any circumstances or in any case.

The gentleman from Kentucky [Mr. BECK] desires me to yield a few moments to him, which I do.

Mr. BECK. I desire to offer a substitute for the pending resolution. I send it to the desk to be read, and will occupy only a minute in speaking to it.

The Clerk read as follows:

Resolved, That the Sergeant-at-Arms be, and he is hereby, directed to make careful return to the writ of *habeas corpus* in the case of Richard B. Irwin that the prisoner is duly held by authority of the House of Representatives to answer in proceedings against him for contempt, and that the Sergeant-at-Arms take with him the body of the said Irwin before said court when making such return as required by law.

Mr. BECK. I only want to say that that is the resolution adopted yesterday down to the word "contempt." The addition simply requires compliance with the statute, that the person making the return shall at the same time bring the body of the party before the judge who granted the writ. That is the law, and the resolution adopted yesterday has nothing added to it except what is required by that law in the very words of the law itself.

I desire a vote upon that proposition as a substitute for the resolution offered by the gentleman from Pennsylvania, [Mr. CESSNA.] I want to say just this: that the question is not up now as to the power of this court over our action. The gentleman from New York [Mr. TREMAIN] seemed to labor as though that grave question was up. It is not. The judge has taken this authority. He has granted the writ. If anybody is in contempt, he is in contempt for granting it. The prisoner is not in contempt for asking for it, and you cannot assume that the judge is in contempt for granting the prayer of that petition. The petition of Mr. Irwin is not before the House. We do not know what he alleged in it. He may have said that the House had judged him in contempt and ordered his ears to be cut off, or that he should be maimed or mutilated or to have inflicted upon him some other cruel and unusual punishment. This House does not know what he alleged in his petition. We do not know it officially, but the law says this: that the court of justice or judge to whom such application is made shall forthwith award a writ of *habeas corpus*, unless it appears from the petition itself that the party is not entitled thereto.

Now, sir, not knowing what this party alleged in his petition, we are not able to say that this judge has acted either in violation of his duty or corruptly in issuing this writ; and not proposing to interfere with the judge, I see nothing left for the House to do, if it proposes to obey the law, but to order that the body of this man, as required by law, shall be taken before the court. I have not had time to look up the discussion attending the adoption of the law of 1867, but in all human probability it was passed because a court or officer having a man in custody refused to bring the body before the court. The very difficulties that have been suggested in this discussion may have required this law to be passed. But since 1867 the law has been made so that in the case of a writ of *habeas corpus* the body of the party shall be brought before the court. That is the law. No man can dispute it. If it is not a good law, let Congress repeal it and say that when a man is in contempt of the House of Representatives his body shall not be taken before the court; but while the law stands as it does, I want for one to obey it.

Mr. BUTLER, of Massachusetts. Will the gentleman from Kentucky allow me to ask him a question?

Mr. BECK. With pleasure.

Mr. BUTLER, of Massachusetts. I desire to ask him the same question that I put to my colleague, who is the chairman of the Committee on Ways and Means, and which he did not answer. Did the Committee on Ways and Means authorize the Surgeon-General of the Army and the Surgeon-General of the Navy to examine this man Irwin and see if his health and life would be endangered by being imprisoned in the common jail, and did those officers examine him and report that in their judgment, as professional men, it was the fact that it would?

Mr. BECK rose.

Mr. DAWES. I call my colleague on the committee to order if he discloses the proceedings of the committee.

Mr. BECK. I am compelled to decline to answer that question, because the Committee on Ways and Means have taken no action on that matter.

Mr. DAWES. I suggest to my colleague that he wait a little while until we do act upon it.

Mr. BUTLER, of Massachusetts. It will be too late if you wait until the man is dead.

Mr. DAWES. I agree with my colleague in that.

Mr. ELDREDGE. I yield now to the gentleman from Ohio, [Mr. FINCK.]

Mr. FINCK. Mr. Speaker, what is the precise question before the House? One of the committees of this House, under its authority, is engaged in the investigation of an important question. They have power to bring before them witnesses. This man Irwin being before them in accordance with this authority, and undergoing examination, declined to answer questions propounded to him by the committee. He was brought before the bar of the House, the House then acting in a judicial capacity. He was found in contempt of the House, and was put in the custody of the Sergeant-at-Arms, who was ordered to place him in the common jail of the District until he should answer the questions propounded. Now, if the House has jurisdiction in the case, if the witness was legally brought before that committee, and if the action of the House in finding him guilty of contempt was in accordance with the Constitution and the law, if these acts were correct, if we have the power to do what we have done, then the witness is still in our custody. He has refused to answer, and is held for contempt. Now what power is there to take him out of our hands? There is no jurisdiction in any court to disturb the imprisonment of that man so long as this House continues, until the 4th of March next. He may at any time purge himself by coming before the House and answering the questions which have been propounded to him.

Suppose there were a case pending before the Senate of the United States of impeachment of the President or any other officer, and that during the trial a witness was brought there who declined to answer the questions propounded to him by the Senate, and he was committed for contempt until he made answer; is it possible that there is power in any court in this District or elsewhere to take him out of the hands of the Senate and release him from imprisonment? Sir, I deny the jurisdiction of this court. It had no power to issue this writ. When the facts are placed in possession of the House, it will be found that this judge has exceeded his jurisdiction.

Sir, I am in favor of the liberty of the citizen; I am in favor of the right of *habeas corpus* as much as any man can be, and I will vindicate it and uphold it on all proper occasions; but I hold that this is a case in which we cannot obey the order of the judge.

Mr. ELDREDGE. I am sorry to see the gentleman from Ohio so wrong-headed on this question. He has endeavored to call the attention of the House back to the real question under discussion, and I apprehend he has failed as thoroughly as did the gentleman from New York, [Mr. TREMAIN.] Like the gentleman from New York, he discussed every question surrounding the real one and all but the real question. The gentleman from Ohio makes a similar mistake to that made by the gentleman from New York. He says that if we have jurisdiction and legally hold this man; if we have, according to the Constitution and law, committed him for contempt, then there is no power that can take him out of our hands. That is the very question, let me say to the gentleman from Ohio, [Mr. FINCK,] that this court will determine; and knowing Judge MacArthur as I have known him for many years as a circuit judge in Wisconsin, I have perfect faith that he will decide it according to the Constitution and the laws. But my friend says there is no power to take this man out of our hands. Temporarily, under a writ of *habeas corpus*, the court has the power to take him out of our hands. When an application is made to the judge for a writ of *habeas corpus*, he cannot deny that writ. It is an American right; it is an English right; a constitutional right; it is a right that we cannot and dare not deny.

Mr. TREMAIN. Allow me to ask the gentleman a question.

Mr. ELDREDGE. Not just now. Let me say further, this House has acknowledged the jurisdiction of the court by several resolutions, one or two of yesterday, and by its action of to-day, by its direction to its Sergeant-at-Arms to make a proper and respectful answer to this writ. As I said before, the only question is as to the return of the writ he ought to make. There was some misapprehension as to what the resolution is; some discussion in the court, as I understand, whether the House by that resolution refused to let the Sergeant-at-Arms take the body before the court. The resolution is silent upon the question. Some gentlemen seem to have understood it one way and some another way. I repeat again, the real question is, what is the proper return for our officer to make to this writ, properly, legally, and constitutionally issued? I will now hear the gentleman from New York, [Mr. TREMAIN.]

Mr. TREMAIN. I understood the gentleman to say that there was no power on the part of the judge to withhold the writ of *habeas corpus* upon the application for it.

Mr. ELDREDGE. I say unless the petition shall show that the petitioner is legally held.

Mr. TREMAIN. I want to call attention to the act of Congress. After providing that the petitioner shall set out by virtue of what claim or authority he is detained, it states that the court or judge shall order the writ unless it shall appear from the petition that he is not entitled thereto. Now this petitioner did not tell the truth, or he never would have got the writ. He has obtained it by fraud, and the question is whether he shall have advantage of the fraud.

Mr. ELDREDGE. The gentleman in his speech last night, and in the speech which he made to-day, has acknowledged the jurisdiction of the court to issue the writ. Now, unless some other gentleman desires to discuss this question further, I will call the previous question.

Mr. BURROWS. I desire to say a word or two.

Mr. ELDREDGE. I will yield to the gentleman from Michigan for five minutes.

Mr. BURROWS. I do not desire that time. I hold in my hand the first volume of Kent's Commentaries, where this question is discussed. Reference is made in it to the decisions of the various courts of the country, and among them a decision of the supreme court of Massachusetts in a case which seems to be very similar to this. I have sent for the authority referred to, but have been unable to obtain it. The Massachusetts house of representatives, the supreme court held, can commit for contempt a party who refuses to attend as a witness to testify before a committee of the house.

Mr. BUTLER, of Massachusetts. I know that case.

Mr. BURROWS. The case is like this precisely. The court held in that case—

And the supreme court of the State can inquire on *habeas corpus* into the propriety of the commitment.

Mr. ELDREDGE. I yield to the gentleman from Pennsylvania, [Mr. CESSNA,] who desires to move an amendment.

Mr. CESSNA. I offered an amendment some time since which has been read. In order to simplify proceedings, if it is desirable, I am willing to withdraw it at the point where it was offered and allow the gentleman from Kentucky [Mr. BECK] to offer his substitute, and then I will move to amend it by adding the following:

And that he be further directed to obey the judgment of said court in the premises.

I agreed to do this only if it met with the approbation of the gentleman from Wisconsin [Mr. ELDREDGE] in whose right I obtained the floor. I do not wish to argue the question.

Mr. KASSON. I wish to perfect the order which I offered, as I believe I have the right to do. I propose to insert after the words "that the said Irwin is in contempt of the House of Representatives in refusing to give testimony as a witness" the words "and is detained pending such examination."

The SPEAKER. The gentleman from Kentucky [Mr. BECK] moves to substitute for the proposition of the gentleman from Iowa [Mr. KASSON] that which will be read by the Clerk.

The Clerk read as follows:

Resolved, That the Sergeant-at-Arms be, and is hereby, directed to make careful return to the writ of *habeas corpus* in the case of Richard B. Irwin that the prisoner is duly held by authority of the House of Representatives to answer in proceedings against him for contempt; and that the Sergeant-at-Arms take with him the body of said Irwin befor the said court when making such return, as required by law.

The SPEAKER. The gentleman from Pennsylvania [Mr. CESSNA] moves to amend the substitute of the gentleman from Kentucky [Mr. BECK] by adding thereto the words—

And that he be further directed to obey the judgment of said court in the premises.

Mr. BECK. I hope that will be voted down.

Mr. CESSNA. I desire to change the word "judgment" to "order;" so that it will read:

And that he be further directed to obey the order of said court in the premises.

The question was taken upon the amendment to the amendment; and upon a division—ayes 32, noes not counted—it was not agreed to.

The question recurred upon the substitute moved by Mr. BECK; and being taken, upon a division there were—ayes 72, noes 65.

Before the result of the vote was announced,

Mr. DAWES called for the yeas and nays.

The yeas and nays were ordered.

Mr. DAWES. Before the vote is taken I ask that the proposition of the gentleman from Iowa [Mr. KASSON] be read.

The Clerk again read the motion.

The question was then taken on agreeing to the substitute of Mr. BECK; and there were—yeas 107, nays 64, not voting 117; as follows:

YEAS—Messrs. Adams, Arthur, Ashe, Atkins, Averill, Banning, Barrere, Beck, Bell, Berry, Blount, Bowen, Bright, Brown, Buckner, Burchard, Benjamin F. Butler, Roderick R. Butler, Cain, Caldwell, Cason, Cessna, John B. Clark, jr., Clements, Stephen A. Cobb, Cook, Corwin, Crittenden, Crossland, Crounse, Davis, Dunnell, Durham, Eames, Eldredge, Field, Giddings, Glover, Gooch, Gunter, Hagans, Hancock, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hatcher, Joseph R. Hawley, Hereford, Houghton, Hubbell, Hunton, Kasson, Kellogg, Knapp, Lamar, Lamison, Leach, Lofland, Lowe, Luttrell, Magee, Alexander S. McDill, McKee, McNulta, Milliken, Mills, Myers, Neal, Negley, Niblack, Orth, Hosea W. Parker, Isaac C. Parker, Parsons, Pelham, Pendleton, Rainey, Ransier, Ray, Robbins, Rusk, Sawyer, Henry B. Sayler, Schell, Shanks, Sheats, H. Boardman Smith, Snyder, Southard, Standiford, Stone, Strait, Sypher, Charles R. Thomas, Christopher Y. Thomas, Thornburgh, Todd, Vance, Waddell, Jasper D. Ward, Whitehead, Whitthorne, George Willard, William Williams, William B. Williams, and Willie—107.

NAYS—Messrs. Albright, Barber, Begole, Biery, Bland, Bromberg, Buffinton, Burleigh, Cannon, Amos Clark, jr., Crutchfield, Dawes, Donnan, Finck, Fort, Foster, Gunckel, Eugene Hale, Hamilton, John B. Hawley, Gerry W. Hazelton, John W. Hazelton, George F. Hoar, Holman, Hyde, Hynes, Lawrence, Lawson, Lewis, Lynch, Marshall, Martin, Maynard, Merriam, Monroe, Morrison, Packer, Page, Phillips, Pike, Randall, Ellis H. Roberts, James W. Robinson, Lazarus D. Shoemaker, Small, A. Herr Smith, John Q. Smith, Sprague, Stanard, Starkweather, St. John, Storm, Strawbridge, Taylor, Thompson, Townsend, Tremain, Tyner, Marcus L. Ward, Wells, Wilber, John M. S. Williams, Ephraim K. Wilson, and James Wilson—64.

NOT VOTING—Messrs. Albert, Archer, Barnum, Barry, Bass, Bradley, Bundy, Burrows, Carpenter, Chittenden. Freeman Clarke, Clayton, Clymer, Clinton L. Cobb, Coburn, Comingo, Conger, Cotton, Cox, Creamer, Crooke, Curtis, Danford, Darrall, DeWitt, Dobbins, Duell, Eden, Farwell, Freeman, Frye, Garfield, Robert S. Hale, Harmer, Hathorn, Havens, Hays, Hendee, Herndon, Hersey, E. Rockwood Hoar, Hodges, Hooper, Hoskins, Howe, Hunter, Hurlbut, Kelley, Kendall, Killinger, Lamport, Lansing, Loughridge, Lowndes, McCrary, James W. McDill, MacDougall, McLean, Mitchell, Moore, Morey, Nesmith, Niles, Nunn, O'Brien, O'Neill, Orr, Packard, Perry, Phelps, Pierce, James H. Platt, jr., Thomas C. Platt, Poland, Potter, Pratt, Purman, Rapier, Read, Richmond, William R. Roberts, James C. Robinson, Ross, Milton Sayler, John G. Schumaker, Scofield, Henry J. Scudder, Isaac W. Scudder, Sener, Sessions, Sheldon, Sherwood, Sloan, Sloss, Smart, George L. Smith, J. Ambler Smith, William A. Smith, Speer, Stephens, Stowell, Swann, Waldron, Wallace, Walls, Wheeler, White, Whitehouse, Whiteley, Charles W. Willard, Charles G. Williams, Jeremiah M. Wilson, Wolfe, Wood, Woodworth, John D. Young, and Pierce M. B. Young—117.

So the motion was agreed to.

During the roll-call,

Mr. KASSON (having voted in the negative when his name was called) said: I change my vote to "ay," for the purpose of moving at the proper time a reconsideration, owing to the importance of this question as a precedent. I make this announcement that gentlemen may withhold the usual motion to reconsider and table, and I do not propose to interfere with the judgment in this particular case, but desire to bring up the question on Monday, so that it may be decided deliberately.

Mr. ELDREDGE. I shall, immediately after the result is announced, submit the motion to reconsider and table.

Mr. KASSON. I regard the precedent to be established by this action as very dangerous.

The result of the vote was announced as above stated.

Mr. ELDREDGE. I move to reconsider the vote just taken, and also move that the motion to reconsider be laid on the table.

The SPEAKER. That motion at this point is premature. The substitute of the gentleman from Kentucky [Mr. BECK] has been agreed to; but the House has not yet voted to agree to the original proposition as amended by the adoption of the substitute.

The question being taken on agreeing to the motion of Mr. KASSON, as amended by the substitution of the resolution offered by Mr. BECK, it was agreed to.

Mr. SMITH, of Ohio. I move that the House adjourn.

Mr. ELDREDGE. I move to reconsider the vote just taken, and also move that the motion to reconsider be laid on the table.

Mr. MAYNARD. I move that the House take a recess till half-past twelve o'clock to-morrow.

The SPEAKER. During the pendency of a vote, where the decision of the question has not been announced, though the division upon it has been announced, a motion for a recess or an adjournment cannot be interpolated; but it can be between the announcement of the result of a vote and a motion to reconsider. The Chair will therefore have to put the question on the motion to adjourn, which has precedence.

Mr. HOLMAN. What effect will the adoption of the motion to adjourn have upon the right to submit the motion to reconsider the last vote?

The SPEAKER. The right to reconsider will continue until the end of the next legislative day. But the Chair desires that members may perfectly understand this matter. If a motion to reconsider were entered and not decided, the operation of the resolution would be suspended. But this resolution has been agreed to; and now if the House should adjourn, the resolution will become operative because the motion to reconsider is not really pending, the motion to adjourn having necessarily been recognized by the Chair before the motion to reconsider was made. If the House now adjourns, it will be precisely tantamount to reconsidering the vote on this resolution and laying the motion to reconsider on the table; because the resolution is imperative upon the Sergeant-at-Arms, and will be operative upon him in his return to the court to-morrow.

Mr. ELDREDGE. I suppose that my motion to reconsider and table was made in good time.

The SPEAKER. The gentleman from Wisconsin [Mr. ELDREDGE] first undertook to submit that motion when the Chair was about to put the question upon agreeing to the original proposition as amended by the adoption of the substitute. When that question had been put and decided, the gentleman from Ohio [Mr. SMITH] moved to adjourn; and this motion was of so high a character that the Chair was obliged to recognize it before the motion to reconsider.

Mr. ELDREDGE. Was not my motion a privileged motion?

The SPEAKER. The gentleman's motion was on substitution merely, not upon the final adoption of the proposition.

Mr. ELDREDGE. I rose, however, and remained on my feet for the purpose of making the motion.

The SPEAKER. But the gentleman from Ohio moved to adjourn first.

Mr. MAYNARD. I rise to a parliamentary inquiry—whether a motion to adjourn or a motion to take a recess has precedence?

The SPEAKER. Undoubtedly the motion to adjourn.

Mr. MAYNARD. Is it not in order to make a motion for a recess?

The SPEAKER. Not while a motion to adjourn is pending, because this motion is the highest recognized in the proceedings of the House. The Chair will again announce that if the House should now adjourn, the Sergeant-at-Arms will be instructed in accordance with the resolution offered by the gentleman from Kentucky, [Mr. BECK.]

Mr. CESSNA. But, Mr. Speaker, suppose the court should be in session all day to-morrow and Monday; could not the gentleman from Iowa make the motion to reconsider on Monday?

The SPEAKER. He could; and if the reconsideration should then be agreed to, further progress under the resolution might be arrested.

Mr. CESSNA. I hope, then, we shall finish this question to-night.

Mr. LAWRENCE. I wish to make a parliamentary inquiry. If the House refuses to adjourn——

The SPEAKER. If the House should refuse to adjourn, the first question will be to submit the motion of the gentleman from Wisconsin [Mr. ELDREDGE] to reconsider the vote by which the House agreed to the resolution, and to lay that motion on the table.

Mr. CESSNA. Let us do that.

Mr. MAYNARD. Would not the motion for a recess be higher than that?

Mr. LAWRENCE. If we take a recess until to-morrow, may not this whole subject come up again, so that the House might reverse the decision it has made?

The SPEAKER. If the majority desire it, of course they can.

The House divided; and there were—ayes 92, noes 34.

So the motion was agreed to; and accordingly (at six o'clock and forty minutes p. m.) the House adjourned till Monday next.

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. ALBERT: Memorial of the yearly meeting of Friends for the western shore of Maryland and adjacent parts of Pennsylvania and Virginia, held in Baltimore, in favor of settling national differences by arbitration instead of war, to the Committee on Foreign Affairs.

By Mr. ARMSTRONG: Memorial of the Legislative Assembly of the Territory of Dakota, for an appropriation to erect a prison, to the Committee on Public Buildings and Grounds.

Also, memorial of the Legislative Assembly of the Territory of Dakota, for the establishment of a post-route from Yankton, via Jamesville, to Childstown, in Dakota Territory, to the Committee on the Post-Office and Post-Roads.

By Mr. BARRY: Papers relating to the claim of Allen White, to the Committee on Claims.

Also, the petition of J. H. Estes, for additional pay for carrying the mails in the State of Louisiana, to the Committee on Claims.

By Mr. CESSNA: The petition of citizens of Blair County, Pennsylvania, that Government guarantee the bonds of the Texas and Pacific Railroad Company, to the Committee on the Pacific Railroad.

By Mr. COBURN: The petition of the Indianapolis Academy of Medicine and other medical societies of Indiana, in behalf of the Medical Corps of the Army, to the Committee on Military Affairs.

By Mr. COTTON: The petition of Mary D. Spackman, M. D., and Mary A. Parsons, M. D., of the District of Columbia, that the charter of the Medical Society of the District of Columbia be so amended as to allow all persons graduates from any regularly-chartered medical institution, to practice the profession legally, to the Committee on the District of Columbia.

By Mr. COX: The petition of William Kleingoelz, for a pension, to the Committee on Invalid Pensions.

By Mr. FOSTER: The petition of 400 citizens of Ohio, asking Congress to aid the construction of the Continental Railway, to the Committee on Railways and Canals.

By Mr. HAVENS: Papers relating to the claim of William M. Neece, of Marionville, Missouri, for the pay and allowances of a second lieutenant of cavalry, to the Committee on Military Affairs.

By Mr. HAWLEY, of Illinois: The petition of 500 citizens of Bureau County, Illinois, for the passage of the bill for the construction of the proposed canal from Hennepin to Rock Island, to the Committee on Railways and Canals.

Also, the petition of 300 citizens of Rock Island County, Illinois, of similar import, to the Committee on Railways and Canals.

By Mr. KELLEY: Petitions of citizens of Schuylkill County, Pennsylvania, for the restoration of the 10 per cent. duty taken off leading products in 1872, and for the passage of the currency bill of Hon. W. D. KELLEY, providing for the issue of 3.65 convertible bonds, to the Committee on Ways and Means.

By Mr. LEWIS: Petitions of citizens of the United States, for the refunding of the cotton tax paid in 1865, '66, '67, and '68, to the Committee on Ways and Means.

Also, the petition of sundry colored citizens of the South, praying that a Territory may be set apart where they may be safe from outrage and enjoy their civil and political rights, to the Committee on Freedmen's Affairs.

By Mr. NEAL: The petition of Jacob Weaver and others, for the passage of a law to equalize bounties, to the Committee on Military Affairs.

By Mr. O'NEILL: The petition of Greble Post, No. 10, Grand Army of the Republic, that seamen, firemen, coal-passers, and marines in service of the United States during the rebellion may receive a bounty of $8.33 per month for time of service, payable in money or land, to the Committee on Invalid Pensions.

By Mr. PACKARD: The petition of Enoch L. Folsom, for a pension, to the Committee on Invalid Pensions.

By Mr. SCOFIELD: The petition of A. C. Rhind, captain United States Navy, to be restored to his proper position on the list of captains in the United States Navy, to the Committee on Naval Affairs.

By Mr. STRAWBRIDGE: The petition of 13 medical societies of the State of Pennsylvania, representing over 600 members, asking increase of rank according to length of service for medical officers of the Army, to the Committee on Military Affairs.

By Mr. WELLS: The petition of the Match Manufacturers' Association, for repeal of the tax on matches, to the Committee on Ways and Means.

IN SENATE.

SATURDAY, *January*, 16, 1875.

Prayer by Rev. E. D. OWEN, D. D., of Washington, District of Columbia.

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

PETITIONS AND MEMORIALS.

Mr. SCHURZ presented a petition of citizens of Saint Louis, Missouri, praying the passage of a law defining what shall constitute a gross of matches and providing for uniform packages thereof; which was referred to the Committee on Finance.

Mr. CLAYTON. I beg leave to present a memorial from 204 citizens of Arkansas who served as officers and soldiers in the Army of the Union. As the petition is short, I will read it:

We, the undersigned, Union soldiers in the late war of the rebellion, do hereby heartily indorse and approve the course of Lieutenant-General Sheridan in Louisiana. We are residents of Arkansas, and know the statements made by him concerning the condition of Union men and the terrorism existing in this State to be true in every particular; and that we, the men who served the cause of the Union, carry our lives in our hands to-day, as we have done for the past ten years. We ask the soldiers of the Union who live north of Mason and Dixon's line, irrespective of party, who love the Union cause and revere the Government they so freely offered their lives to save to stand by the cause of the Union, the Constitution, and the laws. With the same feelings and governed by the same motives we are to-day the devoted adherents of human liberty, law, and order as we were then. We denounce the statement made in the Little Rock Gazette of the 10th instant as infamously untrue as regards the sentiments of the Union soldiers of Arkansas.

I move that the petition lie on the table.

The motion was agreed to.

Mr. MORRILL, of Vermont. I ask leave to present the memorial of James Crutchett, Charles Rousseau, J. E. W. Thompson, John Carroll Brent, and numerous other property-holders of Washington, representing that the Baltimore and Ohio Railroad Company use and occupy the streets and obstruct the avenues on the north and northeast of the Capitol, and obstruct various streets: First street and Delaware avenue, from K street north to the foot of Capitol Hill; the crossing of Massachusetts avenue and North Capitol street; the occupancy of D street from Delaware to New Jersey avenue as a general freight depot for the loading and unloading of freight, cattle, hogs, and passengers in the streets on both sides, thereby stopping the filling and grading of said avenues and streets; also preventing the building of an improvement on any of the squares within this large and desirable portion of the city, and many other pretty strong circumstances against the Baltimore and Ohio Railroad. I move its reference to the Committee on Public Buildings and Grounds.

The motion was agreed to.

Mr. CAMERON presented a petition of 125 American merchants and seamen of the port of New York, a petition of 127 merchants and seamen of Norfolk, Virginia, and a petition of 31 seamen of Norfolk, Virginia, praying such legislation as will secure to the sailors and seamen the benefits and advantages of the marine hospital service; which was referred to the Committee on Commerce.

Mr. HITCHCOCK presented a petition of the Free Young Men's Benevolent Association of the District of Columbia, praying to be given authority to sell, in lots, abandoned cemetery grounds, square No. 272 of Washington, District of Columbia, the proceeds to be applied to the expense of providing and maintaining a new place of burial for the bodies removed from said square and for future interments in the new place of burial provided by the association; which was referred to the Committee on the District of Columbia.

Mr. PRATT presented the petition of William Royal, an invalid pensioner, praying to be rated in the second class; which was referred to the Committee on Pensions.

He also presented the petition of Joseph H. Kavanagh, an invalid pensioner, praying to be rated in the second class; which was referred to the Committee on Pensions.

WITHDRAWAL OF PAPERS.

On motion of Mr. SHERMAN, it was

Ordered, That Abraham Palmer have leave to withdraw from the files his invalid-pension discharge.

REPORTS OF COMMITTEES.

Mr. PRATT, from the Committee on Public Lands, to whom was referred the bill (S. No. 1083) granting the right of way for a railroad and telegraph line to the Puyallup Valley Coal Company, and for other purposes, reported it with amendments.