that the House be notified that the Senate has determined the objection and is ready to meet the House in joint meeting.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Secretary will execute the order of the Senate.

CREDENTIALS.

Mr. HARVEY presented the credentials of Preston B. Plumb, elected by the Legislature of Kansas a Senator from that State for the term beginning March 4, 1877; which were read and ordered to be filed.

ORDER OF BUSINESS.

Mr. SHERMAN. I ask unanimous consent of the Senate to allow me now to report a bill, with a view to have it printed.

The PRESIDENT *pro tempore*. The Chair cannot entertain any business.

Mr. SHERMAN. Not by unanimous consent?

The PRESIDENT *pro tempore*. No legislative business can be transacted until the commission resumes its session, or the count is concluded.

PERSONAL EXPLANATION.

Mr. DORSEY. Mr. President, I ask unanimous consent to make a brief statement. I was unexpectedly called away yesterday about the beginning of the session, hoping to be able to return before the vote was taken upon the question involving the count of the vote of Louisiana, but unfortunately I was not able to get back. Had I been here I should have voted to sustain the action of the commission.

MESSAGE FROM THE HOUSE.

At five o'clock and thirteen minutes p. m. Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar and said:

Mr. President, I am directed by the House of Representatives to inform the Senate that the House has passed the following:

Whereas the fact being established that it is about twelve years since the alleged ineligible elector exercised any of the functions of the office of United States commissioner, it is not sufficiently proven that at the time of his appointment he was an officer of the United States: Therefore,

Resolved, That the vote objected to be counted.

Mr. ALLISON. I move that the Senate proceed to the House of Representatives.

The PRESIDENT *pro tempore*. The Chair will observe that the House has given the Senate no notice of its readiness to receive it.

Mr. HAMLIN. Well, we are ready to go.

Mr. SARGENT. They have resolved that the vote ought to be counted; and of course the joint meeting proceeds at once.

The PRESIDENT *pro tempore*. At the suggestion made, the Senate will repair to the House of Representatives.

The Senate (at five o'clock and fourteen minutes p. m.) accordingly proceeded to the Hall of the House of Representatives.

The Senate returned to its Chamber at five o'clock and forty-six minutes p. m., and the President *pro tempore* resumed the chair.

ELECTORAL VOTE OF NEVADA.

The PRESIDENT *pro tempore*. The Senate having withdrawn from the joint meeting on objection being submitted to the certificate from the State of Nevada, the Chair will lay the objection before the Senate to be read by the Secretary.

The Secretary read as follows:

The undersigned, Senators and Representatives, object to the vote of R. M. Daggett, as an elector from the State of Nevada, upon the grounds following, namely:

That the said R. M. Daggett was on the 7th day of November, 1876, and had been for a long period prior thereto, and thereafter continued to be a United States commissioner for the circuit and district courts of the United States for the said State, and held therefore an office of trust and profit under the United States, and as such could not be constitutionally appointed an elector under the Constitution of the United States:

Wherefore the undersigned say that the said R. M. Daggett was not a duly appointed elector and that his vote as an elector should not be counted.

And the undersigned hereto annex the evidence taken before the committee of the House of Representatives on the powers, privileges, and duties of the House, to sustain said objection.

W. H. BARNUM, Connecticut;
WM. A. WALLACE, Pennsylvania;
FRANK HEREFORD, West Virginia;
Senators.

J. R. TUCKER, Virginia,
JOHN L. VANCE, Ohio,
WM. A. J. SPARKS, Illinois,
JOHN S. SAVAGE,
LEVI MAISH,
G. A. JENKS,
WM. M. SPRINGER,
Representatives.

The PRESIDENT *pro tempore*. What is the pleasure of the Senate?

Mr. COCKRELL. Is there any evidence accompanying the objection?

The PRESIDENT *pro tempore*. There is testimony accompanying the objection, and it was not read in the joint meeting.

Mr. COCKRELL. Let it be read here.

The Secretary proceeded to read the testimony, and before concluding was interrupted by

Mr. ALLISON. As we have the substance of this witness's statement now, I ask unanimous consent to waive the reading of the remainder of this paper.

Mr. INGALLS. With the understanding that the whole shall be printed in the RECORD.

The PRESIDENT *pro tempore*. Is there objection to the further reading being dispensed with? The Chair hears none.

Mr. CRAGIN. I would like to inquire who is the gentleman who examines this witness as appears by this record?

The PRESIDENT *pro tempore*. The Chair is informed that the examination was conducted by different members of the House, Mr. FIELD, Mr. BURCHARD, and others. The further reading will be dispensed with, unless there be objection.

Mr. DAVIS. With the understanding that the whole paper shall be printed in the RECORD.

The PRESIDENT *pro tempore*. The understanding is that it be printed in full in the RECORD.

Mr. MCMILLAN. I desire to ask whether there is any authentication to what purports to be testimony taken before the House committee attached to this objection?

The PRESIDENT *pro tempore*. None.

The testimony is as follows:

COMMITTEE ON PRIVILEGES,
Washington, February 9, 1877.

R. M. DAGGETT sworn and examined.

By Mr. TUCKER:

Question. Were you a candidate for the office of presidential elector in the State of Nevada at the presidential election in November, 1876?

Answer. I was.

Q. Were you present in the college at the time of the vote for President and Vice-President?

A. Yes.

Q. Did you cast a vote for President and Vice-President?

A. I did.

Q. For whom did you vote?

A. I voted for Hayes and Wheeler.

Q. Mr. Hayes for President and Mr. Wheeler for Vice-President?

A. Yes, sir.

Q. Are you the messenger who brought the vote to Washington by the appointment of the college?

A. I am.

Q. Did you hold any office under the United States prior to the election?

A. Yes.

Q. What office was that?

A. I was clerk of the Federal courts, the district and circuit courts of the State of Nevada.

Q. When were you appointed?

A. I think in 1868.

Q. Was that under the State government?

A. Yes. Nevada became a State in 1864, I believe.

Q. Do you hold that office now?

A. I do not.

Q. Who holds that office?

A. I think it is a man named McLean.

Q. When was he appointed?

A. I don't know exactly when he was appointed.

Q. By whom were you appointed?

A. I was appointed first by Associate Justice Field, of the circuit court, and subsequently by Judge Sawyer, of the circuit court, and by Judge Hillyer, for the district.

Q. The appointment was made not by the judge, but by the court; was it not?

A. Made by the judge.

Q. In court?

A. No; I believe not. It may have been.

Q. Where were you when you received the appointment?

A. I was in Virginia City, for the circuit court.

Q. How was the appointment notified to you?

A. It was sent to me by mail.

Q. Did you appear in court and take the oath and give the bond required by law?

A. Yes, sir; subsequently.

Q. You were the keeper of the records of the court; was not your appointment made a matter of record in that court?

A. I presume so.

Q. And your qualification was also entered upon the record?

A. Yes, sir.

Q. When did you cease to be the clerk of the court or cease to perform its duties?

A. I ceased on the 6th day of November, the day before the election.

Q. What made you cease to perform its duties?

A. Because it was a question in my mind whether I would be eligible as an elector if I continued to hold the office, and I therefore resigned.

Q. How did you resign?

A. I resigned by telegraph.

Q. A telegram to whom?

A. To Judge Sawyer, in San Francisco, and also to Judge Hillyer, in Carson. I was then living in Virginia City.

Q. Where is Virginia City?

A. It is about twelve miles from Carson.

Q. Carson is the capital where the Federal court holds its sessions?

A. Yes, sir.

Q. Where is the telegram which you sent to either of those judges?

A. I do not know. It is not with me. I did not bring it.

Q. Have you a copy of the telegram?

A. I think not.

Q. Who has? To whom did you send it?

A. I sent it to Judge Sawyer.

Q. Directed to what point?

A. To San Francisco.

Q. Does he live in San Francisco?

A. Well, he is judge of the district comprising those three States, California, Nevada, and Oregon.

Q. Does he reside in San Francisco?

A. Most of the time.

Q. You say you sent a telegram to another judge. Whom?

A. Judge Hillyer, of Carson, the district judge.

Q. And you have no copy of that telegram?

A. I have not. I did not think of saving it.

Q. Did you ever receive an answer to that telegram?

A. I received an answer from Judge Sawyer the same day, about an hour afterward.

Q. Where is that telegram?

A. I left it in Virginia City. I did not think of bringing it; I believe I have it.

Q. Why did not you bring it?

A. Well, I did not know that there would be any question about it.
Q. Did not you know what you were sent for?
A. I was only subpœnaed here two or three days ago.

By Mr. FIELD:

Q. You telegraphed Judge Sawyer on the 6th of November?
A. Yes, sir.
Q. Can you not give the exact words of the telegram?
A. I think I can.
Q. Give the exact words, then.
A. I think the telegram read this way: "Honorable Alonzo Sawyer, San Francisco: I have this day filed my resignation as clerk of the circuit court of the ninth circuit, and request the acceptance of my resignation." I, at the same time that I sent that telegram to Judge Sawyer, sent to Carson my resignation.
Q. No, don't say you sent your *resignation*. I am only asking about the telegram to Judge Sawyer; have you given the whole of that?
A. Yes, sir. I think that is about the substance of it, and I think pretty nearly the words.
Q. You received from him an answer?
A. Yes, sir.
Q. On the same day, about an hour afterward?
A. An hour or two afterward.
Q. That you have got, I suppose?
A. I think it is among my papers in Virginia City.
Q. Do you remember the exact words of that?
A. Pretty nearly.
Q. Give them.
A. "Your resignation as clerk of the circuit court is accepted. Alonzo Sawyer."
Q. Have you ever had any other communication with Judge Sawyer on the subject?
A. I have not.
Q. You have never written him?
A. I never have.
Q. Nor received a letter from him?
A. Never.
Q. You did not send to him a copy of your written resignation?
A. By telegraph?
Q. No. You say you wrote something; you did not send him a copy of that?
A. No. Do you mean send it by mail?
Q. Yes, or any way?
A. I did send it.
Q. How?
A. I sent it to Carson the same day.
Q. I am talking about Judge Sawyer. Did you send to Judge Sawyer any copy or any paper?
A. Yes.
Q. What did you send him?
A. My resignation.
Q. In what form?
A. In the usual form of resignations.
Q. You sent him a copy of your written paper?
A. My written paper; my resignation, you mean?
Q. Yes; don't you understand me? Did you send Judge Sawyer anything in the world but the telegram?
A. Yes.
Q. What else?
A. I sent him my resignation.
Q. You mean a written paper?
A. Yes, sir.
Q. Did you send him the original that was filed, or a copy?
A. I sent him the original; I only made one.
Q. You made one; then you did not file it?
A. I sent it down to be filed.
Q. You sent it to him to file, by mail?
A. I did not send it to San Francisco.
Q. Where did you send it?
A. I sent it to Carson.
Q. Now, I think I got an answer. Did you send anything to Judge Sawyer?
A. Yes.
Q. What?
A. I sent that resignation.
Q. That paper?
A. Yes.
Q. To Judge Sawyer, at San Francisco?
A. I did not say that I did send it to San Francisco.
Q. Well, he was there, was he not?
A. He was there that day, I think.
Q. Then that day did you send it? Did you send it to San Francisco the next day?
A. I did not send it to San Francisco.
Q. At all?
A. Not at all.
Q. Did you ever send the original paper anywhere?
A. Yes.
Q. Where did that go?
A. To Carson.
Q. How did you send that?
A. I sent it by mail.
Q. You mailed it in Virginia City direct to Carson, did you?
A. Yes, sir.
Q. When did you mail it in Virginia City?
A. I mailed it on the 6th.
Q. What time, or hour, on the 6th?
A. Along about eleven o'clock in the day.
Q. When did the next post leave Virginia City for Carson?
A. At about half past two in the afternoon.
Q. You say you telegraphed to Judge Hillyer?
A. Yes, sir.
Q. Have you that telegram?
A. They were very much alike, except the change of the name.
Q. As near as you can remember, were they exactly the same?
A. Yes, sir; precisely the same, with such changes as there would necessarily be in telegraphing to a different person.
Q. Did you receive an answer from him?
A. I did not.
Q. He never answered you at all?
A. No.
Q. By letter or telegraph?
A. No.
Q. Has the circuit court ever been in session since that time?
A. Yes.
Q. When?
A. On the 6th of November.
Q. In session where?
A. In Carson City.
Q. Were you there?
A. I was not.
Q. When were you, next after the 6th of November, in the court?
A. I have not been there since.
Q. Personally, therefore, you do not know who transacted the business, as clerk, in the circuit court on the 7th day of November?
A. I do not.
Q. Did you yourself give any directions about the business of the court to be transacted on that next day?
A. I did not.
Q. Have you ever since?
A. I have not.
Q. Who is doing the business of the clerk?
A. There is a clerk there, Mr. McLean; I have forgotten his first name.
Q. Do you know whether he has been appointed by the circuit court?
A. Yes; I am certain he has.
Q. Well, you understand that he has?
A. Yes, sir.
Q. When was he appointed?
A. That I do not know exactly.
Q. What month?
A. O, he was appointed in November.
Q. Do you know that?
A. Yes.
Q. You know that.
A. Well, I do not *know* it, because I never saw the appointment.
Q. And you have never seen any record of his appointment?
A. No, I never have.
Q. Was Mr. McLean your deputy?
A. No, he was not.
Q. Did your deputy make the entries and keep the minutes of the court until Mr. McLean took possession of the office?
A. I presume he did; I do not know. I never was there afterward.
Q. Did you make any communications to him?
A. I did not.
Q. Where is the paper that you call your written resignation?
A. It must be on file in Carson, in the clerk's office.
Q. That is to say, as far as you know?
A. So far as I know.
Q. Give the language, as near as you can, of that written paper which you call your resignation?
A. I think it was addressed to Judge Sawyer, and ran about in this style: "Having been nominated a presidential elector, I hereby tender my resignation as clerk of the circuit court, ninth circuit, and trust the resignation may be immediately accepted." I think that is about the purport of it.
Q. You inclosed that in an envelope, did you?
A. Yes.
Q. Directed to whom?
A. To Judge Sawyer.
Q. At Carson City?
A. At Carson City.
Q. It was sealed up, directed to Judge Sawyer, and put into the mail?
A. Yes.
Q. Judge Sawyer was then in San Francisco?
A. Yes; he was then in San Francisco.
Q. Do you know of your own knowledge that Judge Sawyer has ever been in Carson City since?
A. Yes.
Q. Were you there?
A. I was not.
Q. Do not you know what I mean by your own knowledge? Did you see him?
A. No, I did not see him.
Q. Very well; you do not know of your own knowledge that he has ever been there since?
A. Not by seeing him.
Q. That is your knowledge. You do not know, then, of your own knowledge that Judge Sawyer ever saw that package or letter?
A. I do not.
Q. You do not know of your own knowledge that it is not now in the post-office?
A. I do not.
Q. Have your accounts as clerk ever been settled?
A. Yes; I think so.
Q. You think so; do you know?
A. I did not attend to the business much; my deputy always did it.
Q. What deputy?
A. Mr. Edwards.
Q. Is he still there?
A. He is in Carson.
Q. Is he still in the office of the clerk?
A. I do not know.
Q. Do you know whether he has ever been out of it?
A. I do not know; I presume he was out of it after I resigned.
Q. Do you know that he was ever out of it? Were you there? Do you know whether he did not attend in court every day and transact business?
A. I do not of my own knowledge.
Q. Did not you as clerk receive money to be deposited to your credit in bank?
A. Frequently.
Q. In what bank?
A. I have forgotten where the deposits were made. We shifted them around quite often.
Q. In different banks?
A. Yes, sir.
Q. Give us the names of some of them?
A. The Bank of California and Wells, Fargo & Co.
Q. What amount of money had you standing in your name or to your credit as clerk of the circuit court of the United States?
A. I think not a dollar.
Q. It had all been previously paid out?
A. Yes.
Q. Paid out for what purposes?
A. Paid out in the regular course of business.
Q. You think there were no moneys on deposit to your credit as clerk at that time?
A. I think not; I am not positive.
Q. Has your bond ever been discharged?
A. Not that I know of.
Q. I repeat now what I asked you before: have your accounts as clerk to your knowledge ever been settled?
A. We made our quarterly settlement.
Q. That is not an answer to my question.
A. You mean since that time.

Q. Have your accounts ever been finally settled?
A. Well, I do not know that there was any accounts to settle.
Q. You received fees?
A. I received fees.
Q. And you were paid through fees?
A. Paid through fees.
Q. Up to a certain amount, or all the fees?
A. Up to a certain amount.
Q. Very well, then, there must have been, of course, an account to be kept of the amount of fees received, and so far as they exceeded the limit you paid them over to the Treasury, didn't you?
A. I should have done so had they ever exceeded the amount.
Q. When were your periodical accounts regularly settled?
A. They were settled semi-annually.
Q. In what months?
A. In June and December, the 31st.
Q. Then you settled an account on the 31st of June, 1876?
A. Yes.
Q. Have you ever settled an account since?
A. I have not.
Q. Could you state, if you were asked, the items on different sides of the account?
A. O, no; I could not.
Q. Have you ever had any communication with Mr. Edwards since the 6th of November?
A. I have not; I have never been in Carson since but once; that was at the meeting of the college, and I did not see him.
Q. Did you have any communication with him on the 6th of November?
A. No, sir; I was in Virginia City.
Q. When first after the 6th of November did you visit Carson City?
A. Not until the meeting of the college.
Q. That was on the 6th of December?
A. I think so.
Q. In what business have you been engaged since?
A. Well, I am in the mining business principally, and always have been.
Q. Do you say that the circuit court has been in session since the 6th of November?
A. Yes.
Q. Was it not the district court?
A. The circuit court was in session also.
Q. Are you sure?
A. I am pretty positive.
Q. What are the times for the meeting of the circuit court in Nevada?
A. I don't remember just now; they made some changes, I think, in the last Congress.
Q. As the law stood on the 1st of November, what was the time for the meeting of the court; not the district, but the circuit court?
A. My opinion is that the circuit court was to meet on the 6th of November. That is my impression now and that is what I thought at the time.
Q. Your impression from what?
A. From the law. The first Monday, I think, in November.
Q. You can easily tell, can you not, by looking at the law?
A. Yes, I can tell.
Q. I wish you would tell us, then, before you leave the city.
A. I will do so.

By Mr. TUCKER:

Q. You did not file the paper that you call your resignation in the clerk's office on the 6th of November?
A. I transmitted it for filing, or rather to the judge.
Q. To Judge Sawyer, at Carson?
A. Yes.
Q. He was that day at San Francisco?
A. I understood that he was.
Q. Well, you got a telegram from him from there?
A. Yes.
Q. How long would it take Judge Sawyer to come by the quickest route from San Francisco to Carson?
A. Twenty hours, I believe.
Q. Coming by steamer?
A. No; by rail.
Q. You do not know when he did come?
A. I do not.
Q. Then if he had left San Francisco on the 6th, he would not get to Carson until what time?
A. He could have got there on the 7th.
Q. What time on the 7th?
A. It would have been along in the evening.
Q. When you communicated with the judges as you say, on the 6th, did you communicate to your deputy, Edwards, that you were no longer clerk of the court?
A. I did not.

By Mr. BURCHARD:

Q. You did not exercise the duties of the clerk since the time of your telegram?
A. I have not.
Q. And they have been performed, as I understand, by a successor appointed by the court?
A. Yes, sir.
Q. Your recollection is, that the district and the circuit court were then in session that day at Carson City?
A. I believe that was the day fixed for it.
Q. Where do I understand you to say Judge Sawyer was?
A. He was in Carson.
Q. Is there a railroad from Virginia City to Carson?
A. Yes, sir.
Q. How far is it in time by rail?
A. Well, the railroad is a little long and pretty crooked, about twenty-four miles; they make it generally in about two hours and a half, sometimes at little less.
Q. The telegram was sent at what time to Judge Hillyer?
A. I think along about noon some time.
Q. You did put your resignation in the mail before the hour of sending the mail from Virginia City to Carson?
A. Yes, in order that it might reach there on that day, the 6th.
Q. Do you remember whether the envelope was addressed to your deputy, or a clerk, or to the judge himself?
A. It was addressed to the judge himself.
Q. And you sent a resignation to each judge, if I understand?
A. To each.

By Mr. FIELD:

Q. Not a written paper to each?
A. Yes, I sent a resignation to each?
Q. The telegram, you said, you sent to each?
A. I sent the resignation also.

By Mr. BURCHARD:

Q. Then you sent a resignation to each of the judges through the mail on the 6th?
A. Yes, and at the same time I telegraphed them that I had so sent it.
Q. And Judge Hillyer was then, as I understand, holding court at Carson City?
A. The circuit court, I think, was to meet.

By Mr. MAISH:

Q. He was the district judge?
A. Yes, sir; but I had understood that Judge Sawyer was in San Francisco. I had learned it from some source and therefore telegraphed to him there.

By Mr. BURCHARD:

Q. In the absence of the circuit judge who holds the circuit court?
A. The district judge.

By Mr. FIELD:

Q. Let me see if I understand you about this resignation directed to the district judge. Did you send exactly the same paper to the district judge that you had sent the circuit judge?
A. Not the same paper.
Q. Was it a copy of the same paper?
A. Pretty nearly.
Q. Can you give the contents of the paper?
A. A moment ago I gave it, and the other was pretty nearly a copy of it, with the exception of such changes as would necessarily be made.
Q. Did you put that in an envelope directed to somebody?
A. I did.
Q. How was it directed?
A. To Judge Hillyer.
Q. Give the direction altogether?
A. "Hon. E. W. Hillyer, U. S. District Judge, Carson City."
Q. Was the inside also directed in the same way to Judge Hillyer?
A. Yes.
Q. With the same designation of office and everything else as in the other?
A. Yes.
Q. You do not know whether he ever received that letter or not?
A. I think he told me he had received it.
Q. That is not evidence; do you *know* it in any way?
A. O, no.
Q. You think that he afterward told you he had received it?
A. Yes, in Virginia City.
Q. When do you think he told you?
A. Well, probably a week after, or possibly two weeks.
Q. You do not know that Judge Hillyer was in Carson City on the 6th or 7th of November, do you? *Knowledge* is what I ask for.
A. I was not there.
Q. Well, you do not *know* then in any way that they were received, either of them?
A. That seems to be the kind of information you want. I do not.
Q. And if he did receive that letter to him, you do not know when he received it?
A. Of course not; I don't know that he received it at all unless I take his word for it.
Q. And you have no information of his having received it within two weeks?
A. What kind of information?
Q. From him?
A. I tell you, I thought he told me so.
Q. Within two weeks he told you that he had received it; that was the information, was it not?
A. Yes, sir. He talked about sending the bankruptcy letters down—they were in Virginia City; that is the reason I happened to be there. He said he would send Mr. McLean up and remove the bankruptcy records. They had been in Virginia City for seven years and I had been attending to that branch of the business.

By Mr. TUCKER:

Q. In your possession?
A. In my possession.

By Mr. FIELD:

Q. And remained in your possession until when?
A. They were locked up until Mr. McLean came up two or three days afterward.
Q. They remained in your possession until two or three weeks after?
A. No, not so long.
Q. For how long?
A. Well, some days.
Q. Some days after the 7th of November they remained in your possession?
A. Yes, sir.
Q. And then you gave them up?
A. Yes.
Q. Were those records locked up on the 6th of November?
A. Yes, they were always locked up.
Q. Did they remain locked—had they been touched?
A. Not that I know of.
Q. Who had charge of them?
A. I had.
Q. Nobody else under you?
A. Mr. Strother, the register in bankruptcy, had an office in the same place, and sometimes he had access to the documents.
Q. Was that bankruptcy business going on all the time from the 6th of November to the 6th of December?
A. It was not. There was no work done in the office or in any part of the office.
Q. Where was that bankruptcy business going on?
A. It was not going on at all.
Q. There was none?
A. There was none.
Q. But Mr. Strother remained there, did he not?
A. He was a register in bankruptcy in the same office.
Q. And he was there all the time?
A. Not all the time.
Q. Well, he was off and on?
A. Off and on.
Q. From the 6th until the present time?
A. Yes, sir.
Q. Was he kept in office by Mr. McLean?
A. He is a register in bankruptcy, appointed by the judge.

By Mr. TUCKER:

Q. When did you mail your letter to Judge Hillyer?
A. I mailed it about the time I sent the dispatch, or pretty soon afterward.
Q. What time did you send the dispatch?
A. Somewhere about twelve o'clock, between eleven and one sometime.

Q. When did the mail leave Virginia City for Carson?
A. I think there are two mails; one in the morning and one at two-thirty p. m. or at one-thirty; I am not sure which—along in the afternoon.

By Mr. BURCHARD:

Q. Is there any special provision of law in regard to the appointment of district or circuit clerk in Nevada?
A. No.
Q. Nothing but the general provision that the clerk shall be appointed for each district court by the judge thereof, and that the clerk shall be appointed for the circuit court by the circuit judge of the same?
A. Yes.
Q. Your appointment was made by the judge?
A. Yes.

By Mr. LAWRENCE:

Q. Did you put on to the two letters that you sent to Carson City the proper postage-stamps?
A. Yes.
Q. What time would those letters reach Carson in the ordinary course of the mail?
A. They ought to have reached there along in the evening of the 6th, about five or six o'clock.
Q. Did the fees of the office or either of your offices ever exceed the limits fixed by law?
A. No. I lost $500 a year running the office for eight years.
Q. At the time you resigned was there any excess of fees above the limit prescribed by law?
A. O, no.
Q. You would owe the Government nothing, then?
A. O, no.

By Mr. BURCHARD:

Q. What do you mean?
A. Well, there was nothing in the office. I had to pay the rent—the Government did not, that is what was the matter—and I kept it on to accommodate a deputy.

By Mr. MCLEAN:

Q. You have spoken of the time of mailing those letters; are you certain you mailed them in time for the evening mail on the 6th?
A. That was my purpose in putting them in; I presumed so at the time; I did not doubt it at the time; exactly at what time the cars went I am now unable to say, but I put them in the office on the supposition that I would get them there in time.

By Mr. LAWRENCE:

Q. You signed your name to both resignations?
A. I did.

By Mr. TUCKER:

Q. How many hours does it take the mail to go from Virginia City to Carson?
A. About two hours and a half, sometimes a little less; it is twenty-four miles by rail.

Mr. JONES, of Nevada. I submit the following resolution:

Resolved, That the vote of R. M. Daggett be counted with the other votes of the electors of Nevada, notwithstanding the objections made thereto.

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

The resolution was agreed to.

Mr. HAMLIN. I move that the proper message be sent to the House of Representatives informing them that we are ready to meet that body.

The PRESIDENT *pro tempore*. The Senator from Maine moves that the House of Representatives be notified that the Senate has determined the objection in relation to the elector from Nevada and is ready to meet the House and continue the count.

The motion was agreed to.

The PRESIDENT *pro tempore*. The Secretary will execute the order of the Senate.

Mr. WHYTE, (at six o'clock and twelve minutes p. m.) The House of Representatives having taken a recess until to-morrow morning at ten o'clock, as I presume there can be no further business to-day, I move that the Senate take a recess until that hour.

Mr. EDMUNDS. We do not know that fact.

Mr. MCMILLAN. I am advised that the House have not taken a recess.

Mr. DAVIS. What can we do here if the House has taken a recess?

Mr. HAMLIN. I understand they voted down the motion to take a recess by a majority of twenty.

Mr. WHYTE. I met several gentlemen who told me the House had taken a recess.

Mr. EDMUNDS. Evidence is pretty doubtful these days, Mr. President.

The PRESIDENT *pro tempore*. The Senator from Maryland moves that the Senate take a recess until to-morrow at ten o'clock.

Mr. SARGENT. I hope we shall first ascertain whether the House has taken a recess.

Mr. EDMUNDS. Let us vote down the motion.

The PRESIDENT *pro tempore*. The Chair will state that the Secretary is on his way to the House and will soon be back.

Mr. WHYTE. Very well.

Mr. EDMUNDS. Question.

The PRESIDENT *pro tempore*. Action will be suspended.

Mr. EDMUNDS. I do not want it suspended. I want the motion either voted on or withdrawn.

The PRESIDENT *pro tempore*. The Senator from Maryland has withdrawn his motion.

Mr. STEVENSON. The Clerk informs me that the House have taken a recess, and I move that the Senate also take a recess until to-morrow at ten o'clock.

Mr. EDMUNDS. I hope not. We want to hear from the Secretary of the Senate and find out what the fact is.

The PRESIDENT *pro tempore*. The Senator from Kentucky moves that the Senate take a recess until to-morrow at ten o'clock.

The motion was not agreed to.

Mr. SARGENT. I am informed by the Secretary of the Senate that the House has taken a recess.

Mr. EDMUNDS. Wait and let us hear from the Chair, and let it go into the RECORD in the regular way.

Mr. SARGENT. It is not customary for the Secretary of the Senate to make an official announcement to the body.

Mr. EDMUNDS. I do not expect him to do it, but he will inform the Chair, who sent him, and the Chair will inform us, and it will then be entered in the Journal in the regular way.

The PRESIDENT *pro tempore*. The Chair is informed by the Secretary that the House had taken a recess before he reached the Hall of the House of Representatives.

Mr. SARGENT. Then I move that the Senate take a recess until to-morrow at ten o'clock.

The motion was agreed to; and (at six o'clock and fifteen minutes p. m.) the Senate took a recess until to-morrow, Wednesday, February 21, at ten o'clock a. m.

HOUSE OF REPRESENTATIVES.

TUESDAY, *February* 20, 1877.

The SPEAKER. The Chair decides that a new legislative day has been reached, and the Chaplain will now offer prayer.

Prayer by the Chaplain, Rev. I. L. TOWNSEND.

The SPEAKER. The Journal of yesterday will now be read.

Mr. WILSON, of Iowa. I think that under our amended rule the intention was that the reading of the Journal should not be had, because it provides that nothing shall take place which might interfere with the meeting of the two Houses.

The SPEAKER. This is not a meeting of the two Houses.

Mr. WILSON, of Iowa. The reading of the Journal would prevent that meeting.

The SPEAKER. The Chair cannot prevent that.

Mr. WILSON, of Iowa. The amended rule says that the Journal shall not be read and that nothing shall be done which will interfere in any way with the meeting of the two Houses. We cannot therefore occupy time in the reading of the Journal.

The SPEAKER. The Chair thinks that nothing except a call of the House is in order before the reading of the Journal, and the House will be compelled to take up the business they have just left immediately after the reading of the Journal as unfinished business.

Mr. WILSON, of Iowa. The Chair will see that the provision in the amended rule says that nothing shall transpire that shall delay the meeting of the two Houses.

The SPEAKER. That surely is not a correct construction of the rule, because it might be the want of a quorum or other matters might delay the meeting. The Chair thinks that the moment a new day is entered upon, the Journal of necessity has to be read and then the unfinished business will come up. This has been the uniform practice.

Mr. WILSON, of Iowa. The amended rule says explicitly that nothing shall be done for the purpose of preventing the meeting of the two Houses or that will prevent the meeting of the two Houses.

The SPEAKER. The Chair overrules the point of order; in fact he thinks that there is no point in it.

Mr. WILSON, of Iowa. With all due deference to the Chair I submit that there is a great deal of point in it.

The SPEAKER. The Chair regrets to differ with the gentleman from Iowa. The Journal will be read.

The Journal of yesterday was then read and approved.

COUNTING THE ELECTORAL VOTE.

The House resumed the unfinished business of yesterday.

Mr. ELLIS obtained the floor, and yielded five minutes to the gentleman from Massachusetts, [Mr. PIERCE.]

Mr. PIERCE. Mr. Speaker, the bill to regulate the counting of the votes for President and Vice-President provides that when the decision of the commission is received upon the returns referred to it, the counting shall proceed in conformity therewith, unless, upon objection being made by a certain number of members, the two Houses shall concur in ordering otherwise, in which case the concurrent order shall govern. Objection having been made in due form to the report of the commission on the returns from Louisiana, we are brought face to face with the question whether the vote of that State shall be counted at all or whether it shall be counted for Hayes or Tilden.

I would gladly avoid the responsibility of passing upon this question if, consistently with the duty which devolves upon me as a member of this House, I could do so; but the responsibility is one which cannot be avoided. It is as great and as solemn as that which rested upon the members of the commission whose report is now before us. We are prevented by constitutional limitations from shifting the burden of our responsibility in this matter to other shoulders. It must

be sustained by each one of us, and so sustained as to satisfy his conscience and his sense of duty to his country.

It is with great diffidence that I venture to dissent from the decision, or rather the recommendation, of the commission; but the rule which it has laid down for the determination of this question is one that I cannot conscientiously indorse. The commission declares that it is not competent to take any evidence to show that persons other than those certified to by the governor of the State, on and according to the determination of the returning officers for elections in a State, had been appointed or that the determination of the returning officers was not in accordance with the truth and the fact.

It could never have been intended by those who established this system of government that there should be no examination, no scrutiny of the returns of the electoral votes as certified by the State authorities. The most careful conservator of State rights would never have objected to an examination by Congress, or by any other national authority, so far as to ascertain whether the electors who sent their votes here to be counted had been chosen and were qualified in the manner provided by the constitution and laws of their State and of the United States.

In the case now under consideration, an offer of evidence was made to show the commission that the returning board of Louisiana was not legally constituted; that the action of the board in canvassing the votes for presidential electors was not in accordance with the laws of the State; that certain of the electors certified to have been chosen were disqualified, both under the provisions of the State constitution and the Federal Constitution. That gross frauds were committed in the canvass of votes is admitted, I believe, by both parties; and it is also admitted that the returning board acted in the discharge of their duties in an arbitrary and illegal manner. If these are not matters which the representatives of all the people, authorized by the Constitution to count the votes and declare the result, can inquire into, then this Government stands on a very insecure foundation. I cannot give my assent to any such declaration. It is contrary to good government; it is contrary to good morals; it tends to weaken the hold of the Government upon the respect and confidence of the people; and the party which gets office by its adoption will be a party founded on a principle dangerous to the perpetuity of the Government.

The evidence which has been presented here, and which the commission by a bare majority refuses to consider, shows a condition of things which justifies and, in my judgment, requires the exclusion of Louisiana from participating in the presidential election. It shows if possible a higher justification for such a course at this time than was shown in 1872, when the vote of the State was excluded by a republican Congress. I am aware, Mr. Speaker, that in the action I now take I stand almost alone among my political associates here, but I should be recreant to my convictions if I neglected to place on the imperishable records of the House my dissent from the rule which it is proposed to establish.

Mr. ELLIS. Mr. Speaker, I have been unavoidably absent during the progress of this debate this morning, and I am not aware of its drift, and therefore cannot be expected to respond to any arguments that may have been uttered by gentlemen on the other side. But this I do know, sir, that at the election held on November 7, 1876, as fair, as full, as peaceable, and as quiet as has ever characterized the elections of any State North or South, Louisiana, by the free voice of six thousand majority of her people, voted for Samuel J. Tilden for President of the United States. But I find to-day, by the voice of this commission, her electoral vote cast for Mr. Hayes. In arriving at that decision, in overthrowing the will of the people of Louisiana, that commission decided, in the first place, that it would not examine into the unconstitutionality of the law creating this returning board; in the second place, it refused to go into the question of fraud; and in the third place, having sworn to decide according to the Constitution of the United States, they, the chosen ministers, the high priests of that Constitution, sat and closed their ears against the expressed voice and will of that Constitution against any proof as to the ineligibility of two of those electors, well known, undisputed, and undoubted.

In the first place, Mr. Speaker, as regards the constitutionality of the election law, it violates grossly—and no lawyer has ever doubted it, and no lawyer will dispute it—articles 10, 73, 94, and 103 of the constitution of the State; and it is a principle of law familiar, known to every neophyte in the profession, that whatever is done in opposition to the declared will of the people through their constitution is an absolute nullity.

But again, sir, the commission refused to hear any proof of fraud. Fraud! it vitiates, it poisons everything; it unclasps the clutches of the most stringently drawn mortgage act from around the realty; it vitiates even the sanctity of the marriage tie. And yet this great Government which was able to summon three millions of men in its defense, which was able to shake the world by the very earthquake of its agony and struggle for self-preservation, nevertheless must fall helpless, puny, and paralyzed before the poison and fraud commended to it by four men whose hands are black with crime, whose souls are scorched with perjury, ay, blacker than Judas Iscariot's, and whom it were base flattery to call villains.

In the last place, as to the eligibility of these electors under the Constitution. These commissioners had sworn to decide according to the Constitution. As I said before, they sat there, its high priests, its chosen ministers, with the sword which is held by this House and by the Senate placed in their hand to guard that Constitution and to guard this Government against all illegal votes in this electoral college. Yet they sate there and refused to hear the most positive and convincing testimony of the ineligibility of two of the pretended electors from Louisiana.

Sir, the deed is done, the crime is accomplished. For four years from the 4th of March next the republican party will hold the shadow of executive power. I say the shadow, because the substance of usurped power is never and can never be realized. The immortal pencil of Gustave Doré has illustrated the legend of the Wandering Jew. You have all seen it. In all the dreary march of years he found no rest, no peace from his crime and its memories. Whether amid the busy haunts of men or in the dim aisles of the forest, whether upon the mountain-top or amid the roar and spray of the ocean storm, there was ever the memory of the crime, the specter of the pale suffering face of the Redeemer, and the accusing voice forever in the wanderer's ear. So it must be with the republican party forever. The spoils of office will not compensate it; the splendors of presidential receptions and levees will not banish its presence; the silence and gravity of cabinet meetings will not banish or hush its accusing voice.

And in four years more this great American people, this wronged and outraged people, will rise in their majesty and will hurl these "drunken guests" at this Thyestean feast from power everywhere, and brand with the indelible brand of infamy these man who have aided, countenanced, abetted, and defended this monstrous crime. [Applause.]

Mr. KELLEY. Mr. Speaker, with you, in common with the overwhelming majority of your party friends in both Houses, and against the wishes and views of most of my party friends in the Senate and this House, I supported the bill which created the electoral commission. And had Judge Davis not been elected to the United States Senate, and in that event had it so happened that my convictions were overruled by the tribunal, I would have acquiesced as the majority of your party friends now propose to do. And I feel that my first duty, brief as is the time allowed me, is to thank the gentlemen, late of the Confederate States, for the conservative tone they are reported to have adopted in your party caucus.

I rejoiced in the adoption of that bill because it averted possible tumult and war. But I now rejoice more fervently because its action is likely to withhold the Presidency, its honors, and the emoluments it dispenses, from becoming now and hereafter a reward to crime. The democratic canvass in republican parishes of Louisiana was one vast series of concerted crimes, and it was such under the directions of the State democratic committee, which recommended the organization of mounted clubs which should mark their power by riding through such parishes. Let me read from the confidential circular of the democratic-conservative State central committee some of its instructions:

> You cannot convince a negro's reason, but you can impress him by positive statements continually repeated.
>
> We recommend * * * that occasionally the ward clubs should form at their several places of meeting and proceed thence to the central rendezvous. Such meeting would tend to produce harmony, besides being an occasion for amusement and interesting ceremonies. Proceedings of this character would impress the negroes with a sense of your united strength.

These instructions were obeyed, and the amusements largely indulged in by the members involved larceny, robbery, arson, rape, and murder. And I reverently thank God that by the probable result under the electoral bill these amusements are not to be incorporated in our future political machinery.

I will mention to gentlemen familiar with the details of the campaign in Louisiana the names of a few of the sufferers there: Dr. Dinkgrave, Benjamin James, Cora Williams, Merriman Rhodes, James Jackson, Randall Driver, Henry Pinkston, Eliza Pinkston. [Laughter on democratic side, checked by the Speaker.] Ay, laugh; it is part of your game to sustain these crimes; I mean of those of you who laugh at and deride him who mentions the names of that murdered man, that mutilated woman, that poor babe. Other names that recall terrible crimes are Primus Johnson and Fred Byrum, and I could give a score of others who are dead or in a condition that they had better be dead, who were the victims of these "amusements and interesting ceremonies."

Neither age nor sex was spared by these clubs when in pursuit of the amusement suggested by the circular of the State committee. The white hairs of Randall Driver, venerable man that he was, did not protect him from the lash, and his slowly cicatrising back showed that it had been lacerated from hips to neck. The yet toothless babe of Eliza Pinkston, torn from her arms, was not too young for the knife of the democratic reformer. [Renewed laughter on democratic side, at once checked by the Speaker.] You may laugh, gentlemen, but the terrible story of the Pinkston family depends upon the testimony of no one witness; there are many collateral facts to sustain it; other witnesses who had fled before the club were concealed where they heard and saw what happened in that scene of horrible brutality and crime. Nor did their sex protect Eliza Pinkston and Cora Williams from the knife, the ax, the bullet, and the lash. They were women and had not the right to cast votes, but they had husbands who were registered republican voters and therefore they suf-

fered. And, sir, if the question were between peaceful fraud and such deeds of violence, I freely admit that I prefer that peaceful fraud shall prevail.

But that sad alternative is not before us. Posterity will vindicate this action of the commission; and I appeal to the gentleman from Massachusetts [Mr. SEELYE] to say at another time whether the decision of that commission is not sustained by the Constitution, is not sustained by the logic of the case, is not sustained by precedents of the most overwhelming and authoritative character, and whether being so sustained it can be fraudulent or even erroneous.

Mr. Speaker, though I may object to hearing the devil quote the Scriptures, I have great respect for the church; and I propose to call the attention of my friend from New York [Mr. COX] to a few words recently written by the democratic chief-justice of the court of appeals of the State of New York, Sandford E. Church, who, while recently qualifying utterances attributed to him, made this statement of his judicial opinion:

I have always expressed the opinion that the authentication of the election of presidential electors, according to the laws of each State, is final and conclusive, and that there exists no power to go behind them.

Mr. COX. According to the law.

Mr. KELLEY. Ay, "according to the law;" and it was a tribunal to decide according to the law that we created. With the Constitution, the law precedents, and the opinion of every well-instructed lawyer, not influenced by the partisan excitement of the hour approving their action, who need defend the reputation of the judges who as members of the bar have overruled the minority of their brethren? The lawyers of our country, of England, and of the British Colonies study our leading cases; and Justices Strong, Miller, and Bradley will find that before six months have passed they will hear the opinion of posterity in the undivided opinion of the bench and bar vindicating the judicial propriety of their judgment.

[Here the hammer fell.]

Mr. PRATT. Mr. Speaker, the Constitution of the United States has again, as in the case of Florida, been vindicated by the decision of the electoral commission now before the House. Again, as in the case of Florida, is this triumph of the Constitution denounced as the victory of fraud and corruption. All the powers of argument and oratory are employed by gentlemen on the other side of the House in the attempt to make it appear that those who sustain this decision are supporting a gigantic fraud, are the champions of a monstrous corruption, and are reaching out their hands to grasp the fruits of successful villainy.

Unjust, unreasonable, and futile as this effort is, it is not altogether unnatural, and ought not, perhaps, to be unexpected. The history of political contests shows that it is a very common thing for a political party, stung by disappointment and maddened by defeat, to resort to the only revenge that is left it by crying fraud and charging corruption upon its successful rival. If the political majority of this House imagines that by this puerile and spiteful answer to the decision of the commission it can weaken the force of the decision or impair the strength and character of the republican party or make for itself a better title to public confidence and respect, then, sir, that party is destined to another disappointment, to another and a worse defeat. The country is not accustomed to listen when a party simply raves over its defeat. This burst of "righteous" indignation from the democratic side of the House will neither surprise nor deceive anybody. That party has for a long time been holding up its hands in "holy horror" at the pretended frauds and corruptions of the republicans, forgetful that the privilege of throwing stones belongs to the party that "is without sin." But, sir, the people have become too accustomed to the stale tableau to be moved or alarmed by it, and it will excite in their minds only the emotion of pitying scorn for the party that has the weakness to publicly exhibit its rage and temper over its defeat.

The democratic party opened the presidential campaign in this Hall more than a year ago by charging fraud and corruption upon the republicans. They have fought it out on that line ever since. They went to the country and were defeated. Then came fresh charges of fraud and new specifications of corruption. Upon these they are now defeated by the decision of the tribunal whose aid they joyfully invoked in the settlement of these questions. And now we have heard on this floor and in this debate the electoral law and commission denounced as one of the frauds and snares of the republican party, an insinuation for which there is not even the shadow of foundation, and made in the very wantonness of injustice, of unfairness, and of spleen.

What is the decision upon which gentlemen have poured out all the vials of their wrath and bitterness? In brief, sir, it is this: that it is not competent for the two Houses of Congress to receive evidence *aliunde* the certificates laid before them by the President of the Senate, for the purpose of impeaching the appointment of electors by a State, and, therefore, that the persons whose appointment as electors was regularly certified by the governor of Louisiana in accordance with the canvass of the votes are the constitutional electors for Louisiana and their votes must be counted.

This decision is the triumph of that provision of the Constitution which reserves to each State the sole right to appoint her electors in the manner directed by her Legislature; a right which constitutes one of the leading features of our constitutional system. A right which the National Government cannot invade without crossing the broadly marked limitations of its power, a right which the democratic party in this House sought to trample under foot and destroy by insisting upon the power and duty of Congress to set aside and nullify the action of Louisiana in the appointment of her electors. Who that is not blind with party fury does not see that a power to penetrate the action of the State of Louisiana, to revise and reverse the result arrived at by the State in the appointment of her electors, is a power to invade, to deny, to destroy the right of the State to appoint her own electors? By what authority will Louisiana he counted for Hayes and Wheeler? By the authority of the State of Louisiana. But suppose Congress should declare the appointment of the Hayes electors void, that the Tilden electors were entitled to cast the vote of the State, and that the State should be counted for Tilden and Hendricks; by what authority would the State be so counted? By the authority of the State? No, sir; she has sent no such a result here. It would not be her voice. If done at all, it could only be done through the usurped authority of Congress. Such a step could only be taken in shameless defiance of the rights of Louisiana and over the ruins of the Constitution we have sworn to support and maintain.

Gentlemen say it is necessary for Congress to exercise this power to prevent fraud. The answer is, we have not the power. We are required to accept the result the State sends here. She has the power to prevent fraud and it is her duty to preserve the purity of her elections. The alleged perpetration of an outrage upon the purity of the ballot-box in a State will not justify us in the perpetration of a greater outrage upon the Constitution of the United States.

Bad and loathsome as fraud is, much as it is to be deplored and condemned wherever it exists, yet I do not hesitate to say that the remedy urged upon us by the democratic party for the alleged frauds in the recent election is worse than the disease. By as much as cool, deliberate, premeditated murder is worse than a local irritation or temporary disease in the human system, by so much is this remedy of the democratic party—a remedy which is the destruction of the Constitution itself—worse than the malady for which it is proposed.

Mr. Speaker, it is well known that to change the result which the State of Louisiana has sent to us is to change the result of the presidential election and to insure the victory of the democratic party. In the presence of this great temptation a desperate effort is being made by that party to smother the voice of that State. We are asked to set aside the votes of Louisiana and to assume and exercise her functions for her. The vote which is about to be taken in this House upon that proposition will disclose to the House and to the country whether gentlemen have within them that virtue which will enable them in this great crisis of the nation's history to rise superior to the influence of party prejudice and feeling, to pursue the simple path of duty amid the bitterness of disappointment and the allurements of political power and of party supremacy, and to set a conspicuous example of that severe fidelity and unhesitating obedience to the law, the Constitution, and public duty, which is the hope, the safety, and the strength of the Republic.

Mr. WOOD, of New York. Mr. Speaker, when this House consented to the passage of a bill to provide for an electoral commission, it was understood in both Houses, by both sides, and generally throughout the country that the questions in dispute between the two great political parties would be judicially and impartially investigated and determined. This was the sole object of that measure; otherwise there would have been no necessity for either House to delegate its powers. Having failed to examine into and to decide those questions by refusing to consider the most important of them, the commission has nullified the object of its creation. Under the circumstances I doubt whether either House of Congress is bound legally or morally to abide its action; and yet while under no obligation I hope it will not refuse to submit.

It may be well asked, whether where a power delegated has not been executed, the duty of executing it as well as the authority to do so does not remain in the original possessor of it. If it were true that the people of the United States had a doubt as for whom or as for what candidates the people of Louisiana and Florida had cast their votes for President and Vice-President, certainly this doubt has not been removed by anything the electoral commission has done. They are as much in the dark on this question as before the commission was instituted. This House had no doubt of the fact when consenting to this tribunal, and so confident was it that the electoral vote of those States had been given for Tilden and Hendricks, it was willing to defer the inquiry and settlement of the question to an arbitration which in its character should be disinterested, impartial, judicial, and non-partisan.

It was to such a body that the House of Representatives supposed it was transmitting its authority. But, sir, we have been mistaken. This court has determined the matter against us without a hearing. The integrity of the elections as conducted and declared has not been inquired into. The *prima facie* case as certified has been accepted as valid without knowing whether the persons who signed and transmitted the certificates purporting to represent the votes of those States had been appointed electors according to the constitution and laws of those States, and the Constitution and laws of the United States. Without desiring to express a harsh judgment upon this omission of a clear duty, as a representative of the people I am compelled to charge that the commission has disregarded the law which

gave it existence, and disappointed general public expectation. It has proved itself to be partisan in character and insufficient in judgment, and without those elevated attributes and that high moral sense which the world had the right to expect from men whose previous reputations justified their selection for this trust.

The judgment of history will record its condemnation of this strange conduct. Indeed I fear these men will not have to wait so long for that decree. It would be charitable to them to hope that posterity, and posterity alone, would deal with acts like these. The present generation, so deeply interested, will not and cannot omit its loud condemnation. A voice will go up from every extremity of this broad land in deprecation and denunciation of those who have thus ignored the rights and interests of the American people.

The patriotism of this House which induced it to forego the exercise of a constitutional right in submitting to an arbitration by which to secure justice, truth, and internal quiet, has been treacherously rewarded by an act of public infamy as criminal in character as it will be far-reaching and universal in its effects. I protest against it. As a Representative I denounce the treachery practiced upon me and my constituents.

Fraud vitiates all contracts, all compacts, all contracts, all compromises, and all agreements, written, moral, or legal. The votes of the so-called electors who sent certificates from the States of Florida and Louisiana, and which have been accepted, are fradulent and false, and hence are void. These men were not chosen electors for those States. Everbody knows this. It has been proven by testimony that has not been and cannot be disputed. The proof is accessible to every person, and was offered to this commission and was rejected; that body would not accept the proof to show this fact. It had the right and power to do so. Under the law as understood by those who framed it, it was constructed for this very purpose; and yet in disregard of the object of its creation, and its plain duty, it accepted the fraudulent certificates covered all over with corruption and forgery, thus becoming parties to an atrocious swindle. The men who have perpetrated this wrong by sanctioning it, sustaining it, and giving it their official indorsement have made themselves participants to the greatest political crime of modern times. Why have they done this? This House demands to know why; the American people demand to know why; and history will ask, with wonder and amazement, why?

Sir, I deeply deplore that within my life-time it has been ascertained that there is no power or authority in this country so high and so pure that the virus of partisan bias cannot infect it; that we have nowhere to flee from this moral pestilence which taints and destroys everything it touches. Though republican in form, ours is a Government of party in spirit and practice. Party is to be found everywhere—in our social organization, our system of education, in our literature, in our religion, in the jury-box, and on the bench. A lifetime of judicial office offers no security against its invasion. Its controlling and all-ruling influence overshadows everything everywhere, at all times, and under all circumstances. God help our country! God preserve our institutions! and God protect what is left of the blessed inheritance derived from the wisdom and virtues of our forefathers!

The SPEAKER. The time allowed for debate having expired, the question will now be taken on the amendment of the gentleman from Illinois, [Mr. HURLBUT.]

Mr. HURLBUT. I withdraw the amendment.

The question recurring on the motion submitted by Mr. GIBSON, it was read, as follows:

Ordered, That the votes purporting to be electoral votes for President and Vice-President which were given by William P. Kellogg, J. Henri Burch, Peter Joseph, Lionel A. Sheldon, Morris Marks, Aaron B. Levissee, Orlando H. Brewster, and Oscar Joffrion, claiming to be electors for the State of Louisiana, be not counted.

Mr. COX and Mr. HOLMAN called for the yeas and nays on agreeing to the motion.

The yeas and nays were ordered.

The question was taken; and there were—yeas 173, nays 99, not voting 18; as follows:

YEAS—Messrs. Abbott, Ainsworth, Anderson, Ashe, Atkins, Bagby, John H. Bagley, jr., Banning, Beebe, Bell, Blackburn, Bland, Bliss, Blount, Boone, Bradford, Bright, John Young Brown, Buckner, Samuel D. Burchard, Cabell, John H. Caldwell, William P. Caldwell, Campbell, Candler, Carr, Cate, Chapin, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cowan, Cox, Culberson, Cutler, Davis, De Bolt, Dibrell, Durham, Eden, Egbert, Ellis, Faulkner, Felton, Field, Finley, Forney, Franklin, Fuller, Gause, Gibson, Glover, Goodin, Gunter, Andrew H. Hamilton, Robert Hamilton, Hancock, Hardenbergh, Henry R. Harris, John T. Harris, Harrison, Hartridge, Hartzell, Hatcher, Haymond, Henkle, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Holman, Hooker, Hopkins, House, Humphreys, Hunton, Hurd, Jenks, Thomas L. Jones, Kehr, Knott, Lamar, Franklin Landers, George M. Landers, Lane, Le Moyne, Levy, Lewis, Luttrell, Lynde, Mackey, Maish, McFarland, McMahon, Meade, Metcalfe, Milliken, Mills, Money, Morgan, Morrison, Mutchler, Neal, New, O'Brien, Odell, Payne, Phelps, John F. Philips, Pierce, Piper, Poppleton, Powell, Rea, Reagan, John Reilly, James B. Reilly, Rice, Riddle, William M. Robbins, Roberts, Miles Ross, Savage, Sayler, Scales, Schleicher, Schumaker, Seelye, Singleton, Slemons, William E. Smith, Southard, Sparks, Springer, Stanton, Stenger, Stevenson, Stone, Swann, Tarbox, Teese, Terry, Thomas, Thompson, Throckmorton, Tucker, Turney, John L. Vance, Robert B. Vance, Waddell, Charles C. B. Walker, Gilbert C. Walker, Walling, Walsh, Ward, Warner, Warren, Watterson, Erastus Wells, Whitthorne, Wigginton, Wike, Alpheus S. Williams, James Williams, Jere N. Williams, Willis, Wilshire, Benjamin Wilson, Fernando Wood, Yeates, and Young—173.

NAYS—Messrs. Adams, George A. Bagley, John H. Baker, William H. Baker, Ballou, Banks, Belford, Blair, Bradley, William R. Brown, Horatio C. Burchard, Cannon, Cason, Caswell, Conger, Crapo, Crounse, Danford, Darrall, Davy, Denison, Dobbins, Dunnell, Eames, Evans, Flye, Fort, Foster, Freeman, Frye, Garfield, Hale, Haralson, Benjamin W. Harris, Hathorn, Hays, Hendee, Henderson, Hoar, Hoge, Hoskins, Hubbell, Hunter, Hurlbut, Hyman, Joyce, Kasson, Kelley, Kimball, King Lapham, Lawrence, Leavenworth, Lynch, Magoon, McCrary, McDill, Miller, Monroe, Nash, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Plaisted, Platt, Potter, Pratt, Robinson, Sobieski Ross, Rusk, Sampson, Sinnickson, Smalls, A. Herr Smith, Strait, Stowell, Thornburgh, Martin I. Townsend, Washington Townsend, Tufts, Van Vorhes, Wait, Waldron, Alexander S. Wallace, John W. Wallace, G. Wiley Wells, White, Whiting, Willard, Andrew Williams, Charles G. Williams, William B. Williams, James Wilson, Alan Wood, jr., Woodburn, and Woodworth—99.

NOT VOTING—Messrs. Bass, Burleigh, Buttz, Caulfield, Chittenden, Douglas, Durand, Goode, Frank Jones, Lord, MacDougall, Purman, Rainey, John Robbins, Sheakley, Stephens, Wheeler, and Whitehouse—18.

So the motion of Mr. GIBSON was agreed to.

During the roll-call the following announcements were made:

Mr. CABELL. My colleague, Mr. DOUGLAS, is absent by leave of the House. If he were here he would vote "ay." My colleague, Mr. GOODE, is detained from the House by indisposition. If he were here he would vote "ay."

Mr. J. H. BAGLEY. My colleague, Mr. LORD, is absent on account of a death in his family. If present he would vote "ay."

Mr. BURLEIGH. On this question I am paired with the gentleman from New Hampshire, Mr. JONES, who, if present, would vote "ay," while I should vote "no."

Mr. RAINEY. On this question I am paired with the gentleman from Virginia, Mr. DOUGLAS. If he were present he would vote "ay" and I should vote "no."

The result of the vote was announced as above stated.

Mr. GIBSON offered the following; which was read, considered, and adopted:

Ordered, That the Clerk inform the Senate of the action of this House, and that the House is now ready to meet the Senate in this Hall.

COUNTING THE ELECTORAL VOTE.

At one o'clock and thirty-five minutes p. m. the Doorkeeper announced the Senate of the United States.

The Senate entered the Hall, preceded by its Sergeant-at-Arms and headed by its President *pro tempore* and its Secretary, the members and officers of the House rising to receive them.

The PRESIDENT *pro tempore* of the Senate took his seat as Presiding Officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

Senators INGALLS and ALLISON, the tellers appointed on the part of the Senate, and Mr. COOK and Mr. STONE, the tellers appointed on the part of the House, took their seats at the Clerk's desk, at which the Secretary of the Senate and the Clerk of the House also occupied seats.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses acting separately have considered and decided upon the objections to the decision of the commission upon the certificates from the State of of Louisiana. The Secretary of the Senate will read the resolution of the Senate.

The Secretary of the Senate [Mr. GORHAM] read as follows:

Resolved, That the decision of the commission upon the electoral vote of the State of Louisiana stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding.

The PRESIDING OFFICER. The Clerk of the House will now read the resolution of the House of Representatives.

The Clerk of the House [Mr. ADAMS] read as follows:

Ordered, That the votes purporting to be electoral votes for President and Vice-President which were given by William P. Kellogg, J. Henri Burch, Peter Joseph, Lionel A. Sheldon, Morris Marks, Aaron B. Levissee, Orlando H. Brewster, and Oscar Joffrion, claiming to be electors for the State of Louisiana, be not counted.

The PRESIDING OFFICER. The two Houses not concurring in a contrary opinion, the decision of the commission stands, and the counting will now proceed in conformity therewith. The tellers will announce the vote of the State of Louisiana.

Senator ALLISON, (one of the tellers.) The State of Louisiana casts 8 votes for Rutherford B. Hayes, of Ohio, for President, and 8 votes for William A. Wheeler, of New York, for Vice-President.

The certificates of Maine, Maryland, and Massachusetts were opened by the Presiding Officer and read; and the electoral votes of those States, no objection being made, were then counted.

The PRESIDING OFFICER. The Chair hands to the tellers the certificate of the electoral vote of the State of Michigan, received by messenger, and the corresponding one received by mail.

Senator ALLISON (one of the tellers) read the certificate *in extenso*.

Mr. TUCKER. I offer objections, signed by Senators and Representatives according to law, to the electoral vote of Daniel S. Crossman, of the State of Michigan, and also send up a duplicate.

The PRESIDING OFFICER. The objection presented by the Representative from Virginia will be read by the Clerk of the House.

Mr. ADAMS, Clerk of the House of Representatives, read as follows:

The undersigned, Senators and Representatives, object to the vote of Daniel L. Crossman as an elector for the State of Michigan upon the grounds following, to wit:

That a certain Benton Hanchett, of Saginaw, Michigan, was voted for and certified to have been elected and appointed an elector for the State of Michigan. That the said Benton Hanchett was on the 7th day of November, 1876, the day of the presidential election and for a long period prior thereto had been, and, up to and after the 6th day of December, 1876, the day on which the electors voted, according

to law, continued to be an officer of the United States, and held the office of United States commissioner under and by appointment of the United States court for Michigan, which was an office of trust and profit under the United States, and that as such officer he could not be constitutionally appointed an elector under the Constitution of the United States.

And further, that by the laws of the State of Michigan there is power to fill vacancies in the office of electors under and by virtue of the following statute, and not otherwise:

"The electors of President and Vice-President shall convene at the capital of the State on the first Wednesday of December; and if there shall be any vacancy in the office of an elector occasioned by death, refusal to act, neglect to attend by the hour of twelve o'clock at noon of that day, or on account of any two of such electors having received an equal and the same number of votes, the electors present shall proceed to fill such vacancy by ballot and plurality of votes, and when all the electors shall appear or vacancies shall be filled as above provided, they shall proceed to perform the duties of such electors as required by the Constitution and laws of the United States."—*Compiled Laws of* 1871; compiler's section, 115.

And the undersigned further state that there was no vacancy in the office of elector for which said Hanchett was voted and to which he was not appointed by reason of the disqualification aforesaid; nor was any vacancy therein occasioned by the death, refusal to act, or neglect to attend of any elector at the hour of twelve o'clock at noon of the 6th day of December, 1876, nor on account of any two electors having an equal vote, nor in any manner provided for by the statute aforesaid. And the undersigned therefore object that the election of Daniel L. Crossman by the electors present at Lansing, the capital of Michigan, on the 6th day of December, 1876, was wholly without authority of law, and was void, and he was not appointed an elector in such manner as the Legislature of Michigan directed.

Wherefore they say that said Daniel L. Crossman was not a duly appointed elector for the State of Michigan, and that his vote as an elector should not be counted.

And the undersigned hereto annex the evidence taken before the committee of the House of Representatives on the powers, privileges, and duties of the House to sustain said objection.

T. M. NORWOOD, Georgia;
WILLIAM A. WALLACE, Pennsylvania;
W. H. BARNUM, Connecticut;
FRANK HEREFORD, West Virginia;
Senators.

A. S. WILLIAMS, Michigan;
J. R. TUCKER, Virginia;
JOHN L. VANCE, Ohio;
J. A. McMAHON,
A. V. RICE,
WILLIAM A. J. SPARKS,
JOHN S. SAVAGE,
LEVI MAISH,
FRANK H. HURD,
Representatives.

COMMITTEE ON PRIVILEGES, *January* 30, 1877.

BENTON HANCHETT sworn and examined.

By Mr. TUCKER:

Question. Where is your residence?
Answer. Saginaw, Michigan.
Q. Were you a candidate for the position of presidential elector in Michigan at the late election?
A. I was.
Q. On what ticket?
A. On the republican ticket.
Q. Were you elected?
A. I was.
Q. Did you vote in the college of electors?
A. I did not.
Q. Were you present?
A. No, sir; I was not present.
Q. Did you absent yourself?
A. I remained away; I did not attend.
Q. For what reason did you remain away?
A. The facts are these: In the spring of 1863, when I was living at Owassee, in the county of Shiawassee, Michigan, some statements were made to me in reference to a man living in an adjoining town, who, I think, sold liquor and paid no taxes under the revenue law. The parties desired me to write to the district attorney, living in Detroit, in reference to the matter. I did so. I received a reply from the district attorney saying that he would have me appointed a commissioner by the United States court, and he inclosed to me instructions what to do in the case. About the same time that I received that I received a letter from the clerk of the court saying that I had been appointed, and, I believe, inclosing the form of oath for me to take as commissioner, and, I believe, I took it and returned it to him. I have no recollection on the subject, but I suppose I did of course. I forwarded instructions to the district attorney in reference to the matter and issued a warrant for the man. He came in and paid it, the matter dropped, and there my services as commissioner ended, to the best of my recollection. It was not an office which I wanted to hold, but I performed that duty. In the fall of 1865 I went from that county to where I now reside, in Saginaw. The matter had entirely passed out of my mind. I have never acted since. Two or three days before the time appointed for the meeting of the electors, my attention was called to the subject in two ways. One was that some person spoke to me and said, "You are a United States commissioner;" and the other was that I had noticed that an objection had been made to one of the electors in New Jersey on that ground. This called my mind to the circumstances which I have related to you, and in order to avoid any doubt that might arise on the subject, I determined not to meet with the electors and did not.
Q. You were, then, duly appointed United States commissioner in 1863, and acted under the appointment by issuing a warrant against a party. Have you ever resigned it?
A. No, sir, I never made any resignation. I declined to act, and that was all there was to it.
Q. How did you decline to act?
A. Some persons applied to me to do further duties as commissioner, and I stated that I would not act.
Q. And you never resigned your position?
A. I never resigned my position formally.
Q. Then you failed to perform the duties of the office after the particular case mentioned?
A. Yes, sir.
Q. But you never resigned the position?
A. I never resigned the position.
Q. Do you know who was appointed in your place in the college of electors?
A. I know by hearsay.
Q. Who was he?
A. Mr. Daniel L. Crossman, of Williamstown.

By Mr. LAWRENCE:

Q. Did you resign the office of elector?
A. No, sir.
Q. You just failed to attend?
A. I just failed to attend.

The PRESIDING OFFICER. Are there further objections to the certificate from the State of Michigan?

There was no further objection.

The PRESIDING OFFICER. An objection having been submitted by the member from Virginia, the Senate will now withdraw to its Chamber that the two Chambers may separately consider and decide upon the objection.

The Senate accordingly withdrew to its Chamber at two o'clock and twenty-five minutes p. m.

The SPEAKER called the House to order.

Mr. SOUTHARD. I move that the House take a recess till ten o'clock to-morrow.

Mr. HALE. I rise to a point of order.

The SPEAKER. The gentleman from Maine rises to a point of order. The gentleman will state it.

Mr. HALE. I make the point of order for the purpose of getting the ruling of the Chair upon it at this stage, it being the first case that has arisen of an objection where there is but one set of certificates. My point is that the House should proceed at once and consider the objection, and at the end of two hours' debate pass upon it by a vote.

The SPEAKER. The gentleman from Maine will be kind enough to point to the part of the law on which he relies.

Mr. HALE. The Chair asked that question before and I give the answer that I gave heretofore—when the point of order was overruled at another stage—that it is found, if at all, in section 4 of the act. I do not need to go over what I have already said upon that point; that I make the point of order upon the general spirit and intent and scope of the act which is intended to prevent delay, which is intended to insure speedy action. And I make the appeal now all the more because of the little time intervening between this time and the 4th of March next, there being but ten legislative days remaining; and if a recess shall be allowed or taken upon each objection in the case of States where there is but one set of returns the whole machinery and operation of the electoral bill is paralyzed and destroyed.

The SPEAKER. The Chair desires to say in reply to the gentleman from Maine that he has nothing to do with the general scope, intent, or purpose of the bill except in so far as he is compelled to rule by the language of the act. The Chair, therefore, having previously ruled upon a similar point, rules now that the motion of the gentleman from Ohio [Mr. SOUTHARD] to take a recess is in order at this stage; and that he believes, as far as he individually can understand it, is the true intent and purpose and scope of the act.

Mr. O'BRIEN. I call for the regular order.

Mr. SAYLER. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. SAYLER. I understand that by the action of the House this evening was set apart for the consideration of reports from the Committee on Invalid Pensions. I rise to inquire whether, under the present circumstances, it is competent for the House to take a recess until half past seven o'clock for the exclusive purpose of considering reports from that committee?

The SPEAKER. The Chair intended at the instance of the gentleman from Illinois, [Mr. BAGBY,] and now of course at the instance of the gentleman from Ohio, [Mr. SAYLER,] to suggest that the recess should be until seven and one-half o'clock this evening, so that the pension bills might be considered as it was previously determined that they should be considered by the House. This requires unanimous consent.

Mr. McCRARY. I desire to make a parliamentary inquiry upon that point, and it is whether it is competent for the House to proceed to other business until something has been referred to the commission? That portion of the bill upon which my question is based is to be found at the end of the fifth section of the bill; it provides that—

While any question is being considered by said commission either House may proceed with its legislative or other business.

I apprehend that the Chair will not hesitate to hold that unless something has been referred to the commission neither House can proceed with its other business.

Mr. HALE. That is an additional argument, if the Chair will allow me, that if we go on now and finish up the matter in the two hours some question may be referred to the commission, and then the House can proceed with the business which has been assigned for this evening's session.

Mr. WILSON, of Iowa. I would like to call the attention of the Chair to a ministerial duty imposed upon him under this clause of the first section under which we are operating:

When all objections so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw, and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision, &c.

The SPEAKER. If the motion to take a recess is voted down, the Chair would, of course, in compliance with the act, immediately submit to the House the objection which has been raised in joint meeting.

Mr. WILSON, of Iowa. Yes; but can the Chair allow any busi-

ness or motion to intervene between the discharge of that minsterial duty and the presentation of the objection?

The SPEAKER. The gentleman raises in another form the same question which the gentleman from Maine raised. The Chair thinks there can be.

Mr. HALE. Let us have a vote.

Mr. HOLMAN. I rise to a parliamentary inquiry. In the midst of this confusion it was impossible to hear what the ruling of the Chair was.

I wish to inquire whether the Chair rules that we may proceed with legislative business when the commission is not in session?

The SPEAKER. The Chair will cause to be read the concurrent resolution of the two Houses on this subject.

The Clerk read the resolution, as follows:

Resolved by the Senate, (the House of Representatives concurring,) That during the sessions of the commission appointed under the act to provide for and regulate the counting of votes for President and Vice-President, and the decision of questions arising thereon, for the term commencing March 4, A. D. 1877, each calendar day when legislative business shall have been transacted shall, by each House when in session, be considered a day for legislative purposes, and the Journals of the two Houses shall be so kept and dated.

The SPEAKER. The Chair rules that legislative business cannot intervene at this stage of the electoral count except by unanimous consent.

Mr. HOLMAN. One other inquiry; if this motion to take a recess were voted down would it be in order at once, and only in order, to proceed with the consideration of the objection filed upon which the joint meeting separated?

The SPEAKER. The Chair thinks that by unanimous consent the House can take a recess until to-night at 7.30 o'clock to execute the former order of the House. But the Chair rules that, should the House take a recess, when the House shall again assemble, then the objection made to the counting of the vote of the State of Michigan will immediately come up.

Mr. HOLMAN. The language of the original act, the last clause of the fifth section, is as follows:

And while any question is being considered by said commission, either House may proceed with its legislative or other business.

The implication from that would seem to me to be that when the commission is not in session legislative business cannot be transacted.

The SPEAKER. If that construction were correct the majority of the House could interpose legislative business at any time, which would, it seems to the Chair, be an absolute denial of the execution of the law.

Mr. WOOD, of New York. It is unquestionably the fact that the spirit of this law is that when objections are interposed, as at this stage, each House shall proceed to consider those objections, and I do not think it was designed that there should be any interposition of legislation.

Now if the gentlemen who have made these objections, who have filed them and presented them to the joint meeting, are ready to proceed and to state to the House in detail the grounds on which they object, I think we had better wait and determine that question now. I therefore hope that the House will not take a recess so early in the day as this, but that we will remain in session and settle this objection within the two hours allotted to us under the law.

Mr. SOUTHARD. There are many gentlemen in this House who desire to participate in this important discussion. Many of them first learned of this objection when it was read at the desk to-day. [Cries of "Regular order!"] I insist upon my motion for a recess.

Mr. HOLMAN. I call for a division upon that motion. I hope no recess will be taken.

The SPEAKER. The Chair desires to state that he has no volition in this matter; he must entertain motions when made by members if in order. In compliance with that requirement he recognizes the gentleman from Ohio [Mr. SOUTHARD] who moves that the House now take a recess until to-morrow morning at ten o'clock.

Mr. TUCKER. I desire to say in reference to this matter that the motion for a recess does not come from me; that I am prepared to present before the House now my objections and to maintain them. The principles of the electoral bill I think are very clear that where objections are made (and that is the question that now arises) it is competent for either House to take a recess. But I do not desire the recess on my own account, nor did I offer the objection in joint meeting with a view to any dilatory proceeding in this matter. I disclaim any purpose by dilatory action to prevent the execution of this law. [Cries of "Good!" "Good!"] I am prepared to maintain the objections which I with other gentlemen have presented to the House and to the Senate in the joint meeting of the two Houses, and I am prepared to go on now. But if there are other gentlemen in this House who desire time to consider the objection, that is a question for them to consider. I only mean to say that I have nothing to do with the motion for a recess.

Mr. CONGER. Mr. Speaker——

Cries of "Regular order!" "Regular order!"

The SPEAKER. The Chair desires to hear the gentleman from Michigan, if he speaks to a point of order.

Mr. CONGER. "The gentleman from Michigan" can always wait the will of the House, he has been accustomed to that so long. I believe that those who maintain that the vote of the State of Michigan was correctly and legally given are prepared to go on and meet the objection to it at this time.

Mr. SOUTHARD. As I made this motion, I trust I will be indulged to make a single remark further. We are all aware of the great importance of the questions which are now before us; they relate to the succession to the presidential office. The House is composed of a large number of gentlemen; they ought to have time to consider these questions fully, to discuss them fully before the House, in order that the country may know their records, that the record may be made complete and perfect. I for one desire such time; and whether I discuss the question or not I desire this time for consideration. I for one am in no haste to declare through the processes of fraud a man entitled to the presidential chair several days before the Constitution would require the office to be filled——

Cries of "Regular order!" on the republican side.

The SPEAKER. Gentlemen on the left are making the disorder.

Mr. TOWNSEND, of New York. I submit——

The SPEAKER. The Chair is glad the gentleman submits.

The question was then taken upon the motion for a recess; and upon a division there were—ayes 86, noes 163.

Before the result of this vote was announced,

Mr. O'BRIEN, Mr. SOUTHARD, and others called for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and there were—yeas 57, nays 192, not voting 41; as follows:

YEAS—Messrs. Ashe, Banning, Blackburn, Boone, Cabell, John H. Caldwell, William P. Caldwell, Cate, John B. Clarke of Kentucky, Cochrane, Cook, Cowan, Davis, Dibrell, Ellis, Forney, Fuller, Andrew H. Hamilton, Hartridge, Hooker, Humphreys, Hurd, Thomas L. Jones, Knott, Franklin Landers, Lane, Levy, Lynde, McMahon, Meade, Milliken, Money, Morrison, Mutchler, O'Brien, Odell, John F. Philips, Poppleton, Rice, Miles Ross, Sayler, Sheakley, Slemons, William E. Smith, Southard, Sparks Terry, Thomas, Thompson, Throckmorton, Turney, John L. Vance, Walling, Walsh, Whitthorne, Wigginton, and Benjamin Wilson—57.

NAYS—Messrs. Abbott, Adams, Ainsworth, Anderson, Bagby, George A. Bagley, John H. Bagley, jr., John H. Baker, William H. Baker, Ballou, Banks, Beebe, Belford, Bell, Blair, Bland, Bliss, Blount, Bradford, Bradley, Bright, John Young Brown, William R. Brown, Buckner, Horatio C. Burchard, Samuel D. Burchard, Burleigh, Buttz, Campbell, Candler, Cannon, Carr, Cason, Caswell, Chapin, Chittenden, John B. Clark, jr., of Missouri, Clymer, Collins, Conger, Crapo, Crounse, Culberson, Cutler, Danford, Davy, De Bolt, Denison, Dobbins, Dunnell, Durham, Eames, Evans, Faulkner, Felton, Finley, Flye, Fort, Foster, Franklin, Freeman, Frye, Garfield, Gause, Glover, Hale, Robert Hamilton, Hancock, Haralson, Hardenbergh, Benjamin W. Harris, Henry R. Harris, John T. Harris, Harrison, Hartzell, Hatcher, Hathorn, Haymond, Hendee, Henderson, Abram S. Hewitt, Goldsmith W. Hewitt, Hill, Hoar, Hoge, Holman, Hopkins, Hoskins, House, Hubbell, Hunter, Hyman, Jenks, Kasson, Kehr, Kelley, Kimball, King, Lamar, George M. Landers, Lapham, Lawrence, Leavenworth, Le Moyne, Lewis, Lynch, Mackey, Magoon, McCrary, McDill, McFarland, Metcalfe, Mills, Monroe, Morgan, Nash, Neal, New, Norton, Oliver, O'Neill, Packer, Page, Payne, William A. Phillips, Pierce, Piper, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Rea, John Reilly, James Reilly, Riddle, William M. Robbins, Robinson, Sobieski Ross, Rusk, Sampson, Savage, Scales, Schleicher, Seelye, Singleton, Sinnickson, Smalls, A. Herr Smith, Springer, Stenger, Stevenson, Stone, Stowell, Strait, Swann, Tarbox, Teese, Thornburgh, Martin I. Townsend, Washington Townsend, Tucker, Tufts, Van Vorhes, Robert B. Vance, Waddell, Wait, Alexander S. Wallace, John W. Wallace, Ward, Warner, Warren, Watterson, Erastus Wells, G. Wiley Wells, White, Whiting, Wike, Willard, Alpheus S. Williams, Charles G. Williams, James Williams, Jere N. Williams, William B. Williams, Willis, Wilshire, James Wilson, Alan Wood, jr., Fernando Wood, Woodburn, and Yeates—192.

NOT VOTING—Messrs. Atkins, Bass, Caulfield, Cox, Darrall, Douglas, Durand, Eden, Egbert, Field, Gibson, Goode, Goodin, Gunter, Hays, Henkle, Hunton, Hurlbut, Frank Jones, Joyce, Lord, Luttrell, Maish, MacDougall, Miller, Phelps, Purman, Reagan, John Robbins, Roberts, Schumaker, Stanton, Stephens, Waldron, Charles C. B. Walker, Gilbert C. Walker, Wheeler, Whitehouse, Andrew Williams, Woodworth, and Young—41.

So the motion for a recess was not agreed to.

ELECTORAL VOTE OF MICHIGAN.

Mr. TUCKER submitted a resolution; which was read, as follows:

Resolved by the House of Representatives, That Daniel L. Crossman was not appointed an elector by the State of Michigan as its Legislature directed, and that the vote of said Daniel L. Crossman as an elector of said State be not counted.

Mr. TUCKER. Mr. Speaker, the Constitution of the United States provides in the first section of article 2 that—

The Congress may determine the time of choosing the electors and the day on which they shall give their votes.

Congress has determined the day on which electors shall be chosen, and has further provided by the act of 1792 that—

Each State may by law provide for the filling of any vacancies which may occur in its college of electors, when such college meets to give its electoral vote.

That is to say the act of 1792 provided for filling vacancies occurring in the college when it meets—vacancies by death, resignation, absence, or refusal to act. Then in the act of 1845 it was provided that—

Whenever any State has held an election for the purpose of choosing electors and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such manner as the Legislature of such State may direct.

Thus the constitutional provision has been carried into execution by two acts of Congress, one providing for the filling of a vacancy occurring when the electoral college meets, and the other providing for a vacancy occurring, as Mr. Evarts argued the other day before the commission, by the office being vacant; that is, not being filled, whether by reason of nobody being appointed, or by a vacation of the office after having been filled.

It will be seen that the point now arising is not the case of a vacancy occurring at the time the college met, for it made no difference whether Mr. Hanchett was there or not. He had no right to be there; that is the point. He was disqualified for election. The State could not appoint him, for he was a United States officer. The consequence was that the act of the State was futile, in that it did not appoint anybody; and the question of filling the vacancy occasioned by the non-appointment of anybody comes under the act of Congress of 1845, which provides that—

Whenever any State has held an election for the purpose of choosing electors and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such manner as the Legislature of such State may direct.

Now the Legislature of Michigan, in the law which will be found in the first volume of the compiled laws of that State, section 84, page 126, has provided as follows:

The electors of President and Vice-President shall convene at the capitol; and if there should be any vacancy in the office of elector, by death, refusal to act, neglect to attend by the hour of twelve o'clock noon on that day—

Up to that point we have cases where the vacancy arises from the non-assumption of the office by a man entitled—

or on account of any two of such electors having received an equal and the same number of votes.

That is a case when neither is elected; there is a failure to appoint. That is provided for in this law. But that is not Hanchett's case. It will be seen that the Legislature of Michigan provided for filling a vacancy occurring at the meeting of electors by death, resignation, or refusal to act on the part of a man who had been actually appointed, and it has provided for the failure to appoint only in the case where there is an equal vote for two electors. It has made no provision for the failure to appoint a genuine constitutional elector because of the disqualification of the man voted for to hold the office.

Giving to the State the fullest power to regulate this matter of who shall be her electors, I submit that the State of Michigan has made no provision in such a case as that of Hanchett for the appointment of an elector by the college of electors when they meet. In the case of the attempted appointment of a disqualified person by the people to be an elector, there is no provision of law in the State of Michigan for filling such a vacuum as occurred there. I use the term "vacuum" as contradistinguished from "vacancy." A vacancy occurs where a man is once in office or entitled to be in, and has vacated; a vacuum is where the office has never been filled. Now there is no provision in the law of Michigan for a vacuum in the office except in the case where there are two persons who have an equal vote; and that case did not occur here. Hanchett had the certificate of the governor; *and we cannot go behind that.* He had the certificate of the governor that he was appointed. He "smelt a rat," knew he was disqualified, and failed to attend. The college of electors appointed a man in his place, without any authority under the law of Michigan to do so. Now, is Crossman, who was thus chosen, an elector? Shall he be allowed to vote for President and Vice-President?

Whatever may be said at the other end of the Capitol, whatever may be said amidships before the commission, let us of this House say that no man shall have a voice in the election of a President when the Constitution says that he shall be silent. How dare we to permit a man to speak who the Constitution has said shall not speak? How is it that we are to be silent when a man comes up here with such a title as this—that we are to be silent with the oath to support the Constitution resting upon our consciences, because the State chooses to appoint a man an elector who has no right to be one?

Mr. Speaker, I have stated the case very briefly and comprehensively. I believe I have stated the whole of it. The statute of Michigan is incorporated as part of the objection. The evidence in the case is clear and conclusive that Hanchett was appointed United States commissioner a long time ago. He has never resigned; he admits that he has never resigned. He is a United States commissioner so far as we know to this day. He held a Federal office, and was disqualified as an elector.

Gentlemen say, "O, that is a technical matter." A technical matter! A United States commissioner is competent under the law of the United States to be appointed a supervisor of elections; he may therefore under the law of the United States, in exercising such supervision, summon a force to control the very election in which he is a candidate. Federal interference in the appointment of electors by the States was a matter intended to be very carefully guarded against in the Constitution. It has been. Shall we now throw down the barriers that the Constitution has erected and allow any man who has been appointed to an office under Federal influence to cast his vote for the Federal Executive? Why, sir, the man who is President at the other end of the Avenue might be a candidate; he might appoint officers all over the land who would be candidates for the position of elector, and thus he might elect himself through his own subordinates. It is vitally important that Federal interference through the Federal Executive and his appointments should not enter as a virus into the presidential election. Therefore I submit that this is a case in which we are bound to vote that this man has no right to cast an electoral vote.

[Here the hammer fell.]

Mr. CONGER. Mr. Speaker, I do not believe from what the gentleman from Virginia [Mr. TUCKER] has said he himself places any particular reliance upon these objections. I think he endeavors by zeal and warm language and earnest manner to make it appear there is some force in the objection, and would almost make some one not acquainted with him believe he had some confidence in his objection. Sir, it is not the first time great statesmen as well as great lawyers have jumped at a conclusion without knowing the law. My friend reads the Constitution of the United States as to an appointment by the Legislatures of the States and under their direction of electors, and he jumps to the conclusion, red-handed, violently, that the vote of the voters on the day of the election is the constitutional appointment by the Legislature. This assumption is an absurdity——

Mr. TUCKER. The gentleman must not attribute to me that absurdity. He may utter it himself, but he must not attribute it to me.

Mr. CONGER. He jumps to the conclusion that the appointment provided for in the Constitution of the United States is determined under the legislation of the State of Michigan by voters on the day of election.

A MEMBER. That is the law.

Mr. CONGER. That is the fatal error of the gentleman and his very learned colleagues in this House, not only in this but in some other cases.

Mr. SPRINGER. Does not the statutes of the United States require that the electors of President and Vice-President shall be appointed on the first Monday in November in every fourth year succeeding every election of a President and Vice-President?

Mr. CONGER. Let the gentleman possess his soul in patience and I will enlighten him in a moment. [Laughter.]

Mr. SPRINGER. That will be a difficult thing to do, with such a law as that before us.

Mr. CONGER. There are four processes which the Legislature of Michigan have directed in the appointment of electors. One is the vote of the voters on the day of election. That is the principal primary step. Another is the meeting of the board of canvassers, receiving the returns and declaring who has received most votes, and certifying their determination.

Mr. WARREN. Will the gentleman allow me a question?

Mr. CONGER. Allow me my ten minutes in quiet.

Mr. WARREN. I only want to understand whether the gentleman considers that a part of the election process?

Mr. CONGER. I may be thrown off my track by this obstruction from the gentleman from Massachusetts. Now let me proceed. Section 74 provides that for the purpose of canvassing and ascertaining the votes given for President and Vice-President of the United States the board of State canvassers shall meet on a given day for the purpose of ascertaining and determining and recording the votes and results of the election of the electors.

Section 75 provides, and it is the third step, that the secretary of state shall without delay cause a copy of the certified determination of the board of state canvassers declaring the persons elected as such electors—not appointed, but elected as such electors—to be transmitted and delivered by special message or otherwise to each of the persons so declared to be elected, which copy shall be certified under his hand and seal of office.

Then comes the fourth step. The first is the action of the voters; the second the meeting of the board of State canvassers, and their determination; the third the copy of the certified determination of the board of canvassers as to who was elected, and the fourth, the last and final act provided for by our Legislature, is to declare who are, according to the constitutional provisions of the United States, appointed. All the rest is preliminary to the certificate of the determination of the election, and then the electors are to meet, and the process will be found in the law which has been quoted:

The electors for President and Vice-President shall convene at the capitol of the State on the first Wednesday in December, and if there shall be any vacancy in the office of elector, occasioned by death, refusal to act, neglect to attend by the hour of twelve at noon of that day, * * * then the electors shall proceed to fill such vacancy by ballot and plurality of votes, and when all the electors shall have been—

We come now to the time when, under the law of Michigan, the appointment provided for in the Constitution of the United States is complete—

when all the electors shall appear and vacancies shall have been filled as above provided, they shall proceed to perform the duty of such electors as required by the Constitution and laws of the United States.

Now, all these processes the learned gentleman forgot to refer to, but he says the election itself is a final and perfect appointment under the Constitution, or perhaps the determination of the canvass is an appointment, or perhaps the certificate of the secretary of state is an appointment. These, together with the action of the electors when they have met in the electoral college, are all necessary to qualify those persons who have been elected to perform the duties of such electors as required by the Constitution, and that makes the appointment complete.

The State of Michigan was entitled to eleven electors. The office of eleven electors was to be filled by the law. If not filled by election under the return of the canvassers, or by the certified determination of the secretary of state, the law goes on to provide how the offices shall be filled and the appointment under the constitution completed. Will the gentleman pretend that there were not eleven

electoral offices? Will the gentleman pretend that when the electors were assembled there should not have been eleven persons to fill those electoral offices? But one person staid away. He failed to attend, as the returns sent to the President of the Senate show; he failed to attend the electoral college up to the hour of twelve o'clock noon on the day when the electors were to meet.

[Here the hammer fell.]

Mr. BUCKNER obtained the floor.

Mr. CONGER. Mr. Speaker, if the gentlemen on the other side please, I do not know that any other gentleman on our side wishes to speak on this subject, and I suggest that they allow me to finish what I have to say.

Mr. TUCKER. I have no objection myself. I only want to say this——

Mr. CONGER. I will not, then, ask the indulgence of the House further.

Mr. TUCKER. I beg the gentleman's pardon. I only want to give my reason. I understand the rule under the act to be that no member can by leave of the House occupy more than ten minutes. That was my apprehension, and therefore I confined myself to the ten minutes.

Mr. CONGER. I have said all I care to say. The law is plain enough.

Mr. BUCKNER. If the gentleman desires, I will yield him a portion of my time.

Mr. PAGE. I object to any yielding.

The SPEAKER *pro tempore*, (Mr. CLYMER.) It can only be done by unanimous consent if at all, of which the Chair is in doubt.

Mr. BUCKNER. The proposition of the gentleman from Michigan [Mr. CONGER] who has just taken his seat, that the appointment of an elector is made by the governor, is a proposition that I undertake to say never was heard of, never was advanced, never was known or decided, and in fact never was dreamed of until now. And not only so; it is against all the reason, all the propriety of the provision of the Constitution so to hold.

Now, sir, it is a very remarkable fact that this enlightened commission evaded this question when there was no proof of the ineligibility of the elector Humphreys, and when they are called upon to face the facts in Louisiana then it is that they suddenly find out that the appointment of electors is not made by the people, but by the governor and canvassing officers.

Let me say, Mr. Speaker, to the credit of the profession elsewhere and the honor of the judiciary of Rhode Island, where three of the judges were republicans and two were democrats, that they put their seal of condemnation unanimously upon this dogma and this doctrine of this high commission by which they expect to elect Rutherford B. Hayes. That was at a time when there was no motive on the part of these judges to pervert the law to unholy and nefarious purposes. The gentleman says that all this canvassing of returns made the appointment and not the election upon the day of the election by the people. Now, sir, this question came up, as we all know who have read the recent history of this country, before the supreme court of Rhode Island, composed of five judges; the very question that is here involved; and on that question, in opposition to what the gentleman from Michigan now asserts with so much positiveness as being the law, every judge held that the appointment is the election by the people. And not only that, but they say that an ineligible appointment by the people cannot be filled, and the Legislature was called in that State to fill that appointment.

Mr. FOSTER. How was it in Missouri?

Mr. BUCKNER. No such case arose in Missouri. I want to read that opinion for the enlightenment of the gentleman from Michigan; and I am sorry that the very distinguished gentleman from Massachusetts [Mr. HOAR] and the gentleman from Ohio [Mr. GARFIELD] who sit upon this commission are not here. I hope they will read it and inwardly digest it at some future time.

We think—

I read from the opinion in that case—

We think a centennial commissioner who was a candidate for the office of elector and received a plurality of the votes does not, by declining the office, create such a vacancy as is provided for in General Statutes, chapter 11, section 7. Section 7 is as follows—

Let me say that this section is as broad as the Michigan statute—

"If any electors chosen as aforesaid shall, after their said election, decline the said office or be prevented by any cause from serving therein, the other electors, when met in Bristol in pursuance of this chapter, shall fill such vacancies, and shall file a certificate in the secretary's office of the person or persons by them appointed."

Now, in another part of this opinion, it had been decided that the office of United States centennial commissioner was an office of profit and trust under the General Government. The opinion proceeds:

Before any person can decline under this section he must first be elected, and no person can be elected who is ineligible, or, in other words, incapable of being elected. "Resignation," said Lord Cockburn, C. J., in The Queen *vs.* Blizard, Law Rep. 2 Q. B., 55, "implies that the person resigning has been elected into the office he resigns. A man cannot resign that which he is not entitled to and which he has no right to occupy."

We think the disqualification is not removed by the resignation of the office of trust unless the office is resigned before the election. The language of the Constitution is that no person holding an office of trust or profit under the United States shall be *appointed* an elector. Under our law (Gen. Stats., chapter 11, sections 1 and 2) the election by the people constitutes the appointment.

And, sir, under your law, too; and you never heard anything else until it was necessary to make an adverse opinion in order to fraudulently elect Rutherford B. Hayes.

The duty of the governor is to "examine and count the votes and give notice to the elector." He merely ascertains—he does not complete—the appointment. A resignation therefore after the election is too late to be effectual.

We think the disqualification does not result in the election of the candidate next in vote, but in a failure to elect.

Now, further, the American Law Register, from which I am quoting this opinion and which is edited by some of the most distinguished lawyers of the United States, among them Judge Cooley, says in reference to this very question:

The presidential electors being elected by the people derive their title to the office from the vote given on the day of the election. If not qualified to be chosen then they cannot afterward qualify. The certificates they receive of their election confer no title to the office, nor authority to exercise its prerogatives.

They may compel the issuance of the certificates by an appeal to the courts, but it will hardly be said that the courts can confer upon them the title to the office; neither can the governor or other officer who issues the certificate, since the law has not conferred upon him the power of appointment. Not being capable of being chosen at the time the choice was to be made, the candidate could by no after-act give validity to the choice. The Constitution does not say that no person holding an office under the United States shall vote, as an elector, for President and Vice-President, but that no such person shall "be *appointed* an elector." If at the time of the appointment the candidate is holding an office under the United States, the appointment is in violation of this provision of the Constitution, and is void. The language is not that he shall not hold, but that he shall not "be appointed," and operates upon the very first step in the process of holding. He can hold only by appointment, and the Constitution says he shall not be appointed. The ruling in the principal case upon this point seems to be clear both on principle and on authority.

And yet in the face of this opinion of a Rhode Island supreme court, composed of three republicans and two democrats, delivered under circumstances when there was no inducement to swerve them from the path of honesty, of truth, and of law, and corroborated and confirmed by every respectable authority in Europe and America, we witness the melancholy and alarming spectacle of three judges of our highest judicial tribunal, selected by a large majority of both Houses of Congress because of their supposed honesty, learning, impartiality, and freedom from partisan bias, refusing to hear evidence to prove that two of the Louisiana electors were ineligible under the Constitution, and thus in effect deciding that the State can nullify a plain and positive requirement of the Constitution. A more infamous judgment was never made in the history of American jurisprudence.

Well, gentlemen, I do not wonder that you upon the other side of the House hang your heads in shame when you see such attempts made by judges of the Supreme Court to wrest the law from its true purpose and to nullify the Constitution of the United States in order to serve a partisan end.

[Here the hammer fell.]

Mr. CHITTENDEN. Mr. Speaker, the question before the House seems to me to be absolutely free of all difficulty. The law of Michigan provides that the electors shall fill the vacancies of such "as refuse to act." The law of Michigan does not provide that under the Constitution of the United States electors can or shall undertake to determine the eligibility of those who refuse to act. I ask the gentleman from Virginia, [Mr. TUCKER,] who is one of the ablest lawyers in this House, to recognize the fact that the law of Michigan provides that the electors shall fill the vacancies of such as refuse to act, for whatever else there is in the law, there is no qualification of the language quoted which is broad enough to cover the whole ground. There is no question of the eligibility of the elector who refuses to act that can possibly under the Constitution of the United States be brought into the case. I beg pardon of the two hundred lawyers of this House for having ventured to say a word upon this subject; but I appeal to the common intelligence whether the question is worth discussing for one moment. If we have not got through with the commission, if we want to vent our wrath or our compliments upon the commission, let us like straightforward men have the commission before us. But in regard to the rightful authority of the electors of Michigan to fill a vacancy in the case under consideration there can be no question.

Mr. BRIGHT. Mr. Speaker, I desire to say a word upon this subject. It is all embraced in a nutshell. I think that there is no confusion in relation to the legal proposition, if gentlemen will give their attention to well-settled and well-defined legal principles. There are three things which are necessary to constitute a valid election: first, a plurality of votes by legal voters; second, an eligible person to be elected; third, the observance of the forms of law in relation to the election. If there has been a failure in either one of these legal propositions there must be a failure in the election. There may be legal voters, they may cast their votes for an ineligible person, but by so doing they fail to transmit a trust to a person that is capable of taking and capable of exercising the trust. When the vote is once legally given and the trust legally deposited in one capable of executing it, then the law provides that the trust shall not die with the trustee, that the trustee shall not defeat the will of the people, but that the trust shall be transmitted by law into the hands of some other person to be executed.

Then, Mr. Speaker, to come directly to the point. If in this case of Mr. Hanchett, he was ineligible and incapable of holding the trust, why there was no trust created by voting for him, and of course no

trust which could be transmitted to any other person by any other appointment that could be made and known to the law.

Now if there be any legal gentleman either here or elsewhere who can answer this proposition I would like to hear him. He surely can produce, in that case, some legal book that will sustain the adverse proposition that a person incapable of receiving a trust has power to transmit that which the law does not intrust him with. If that be so it is conclusive of this question. Mr. Hanchett never was vested with the trust of the people, and being ineligible, incapable of casting the vote, why the appointing power remained unexercised in the people; it was not transmitted by law to the governor; it was not transmitted by law to the electoral college. They had no power of appointment; they were only the depositaries of the trust which had been vitalized and derived from the people in the appointment which they had made, and not otherwise. I repeat, if that be so, it is conclusive of the question.

Then the question comes up, Mr. Speaker, can we reach the matter here? Why not? The return of the certificate does not reach the eligibility of the elector; it is the Constitution of the United States that reaches that. It is the Constitution which lays the ax to the root of the tree; it is the Constitution which deposits the trust with us to see that it be faithfully executed, and if so we can go behind and there is no bulwark in State laws that can prohibit the exercise of that power.

The law which we have passed, permit me to remark, is plain in its intendment in relation to evidence. What is it? The first proposition is directory and mandatory to the President of the Senate. The second proposition is directory, and as I maintain, mandatory upon the electoral commission. And although the term "may" is used in connection with petitions, depositions, and other papers, that term is a legal term and denotes privilege, power, duty. It is a legal and not an *arbitrary* discretion that is to be exercised. As a legal discretion the term "may" is just as mandatory as the term "shall." An appellate court will reverse just as quickly for an erroneous exercise of a legal discretion as it will reverse for the violation of law in any other particular.

Now, whenever this commission refused to go behind the certificates they violated a provision of the law under which they were acting and nullified it as much as if it had been repealed. According to a well-established principle, whenever any part of a law which is incorporated in an act and is necessary to its existence and without which the will of the Legislature would not have sanctioned any part of the law, it renders the whole law void. (Cooley's Const. Lim., 177.) That being so, the previous findings of the commission were without warrant of law and in violation of the law under which they pretended to be acting. The law intended to open all the doors and invited them to explore all the fields of evidence and find the truth for themselves, instead of stopping at the *presumption* of truth from the certificates of a returning board whose moral putrescence filled the land with its stench and scandalized the very name of republican liberty.

But I intended simply to call the attention of the House to this important fact in the case at present under consideration, that the people by their votes create the electoral trust, but that they did not and could not in this instance, because it is asserted the party was ineligible and incapable of taking and transmitting the trust. It was, therefore, a failure to communicate the trust, and the case was simply a *non-election*, without any curative power in the certificate of the governor or the legal members of the electoral college to create an elector whose predecessor did not derive a legal authority from the people. This an ineligible elector could not do. As he could take nothing, he could give nothing; and the vote should not be counted.

Mr. FOSTER. The remarks that I propose now to submit I expected to make during the pendency of the discussion on the Louisiana question.

Mr. Speaker, the gravity of the present condition of the country as it relates to the selection of a President is such as to create in the minds of the thoughtful and patriotic the deepest solicitude.

By the patriotic action of Congress the joint high commission was created, which is to determine questions of law and of fact in relation to the count of the electoral vote of the States when more than one certificate of election had been sent up to be counted.

This commission has now decided that the eight votes of the State of Louisiana shall be counted for Hayes and Wheeler. That decision is before this House for consideration.

The friends of Tilden and Hendricks honestly believe this decision to be contrary to the law and the facts. They express themselves as believing that a great wrong has been done them.

The friends of Hayes and Wheeler are equally honest in their belief that the decision of the commission is right and just.

It was clear from the beginning that one side must be victorious, and the other side defeated.

For one, I looked upon the passage of the act creating this commission as the grandest act of American history.

I intended to stand by it, whether Hayes won or lost. If Governor Tilden had been successful, I should have heartily and honestly acquiesced in the finding, and his administration would have had my support in all things when it was consistent for me to support it. It is equally the duty of Mr. Tilden's friends, especially those who supported the measure creating the commission, now to carry out its findings in good faith. To this course all good men will agree they are bound by the sacred tie of personal honor.

Mr. ATKINS. Will the gentleman allow me to ask him a question?

Mr. FOSTER. Certainly.

Mr. ATKINS. Does the gentleman maintain that the question is now closed and that Hayes is elected?

Mr. FOSTER. I was arguing in favor of carrying out the finding of the commission in relation to Louisiana.

Mr. ATKINS. The question is not yet fully settled; Oregon is to be heard from.

Mr. FOSTER. This is not a time for mere party exultation. The exultation of the patriot over our escape from the dangers that threatened the peace, prosperity, and happiness of the people of this great country is fitting and proper. In the triumph of peace over disorder and possible civil war, both the successful and defeated parties can unite in exultation. While I do not rejoice simply in a party sense, I do rejoice that one of the purest and most patriotic of our fellow-citizens is to guide the affairs of the people for four years to come.

Representing as I do the district in which Governor Hayes resides, and being a life-long acquaintance of his, I but speak the opinion of all persons who know him when I say that his administration will be wise, patriotic, and just. Notwithstanding whatever else may be said to the contrary here or elsewhere, the people of all sections of the country may confidently expect from him not only fair but generous consideration.

His letter of acceptance is the expression of a man of the broadest and loftiest patriotism. I feel certain I shall be sustained by his acts when I say that his highest ambition will be to administer the Government so patriotically and wisely as to wipe away any and all necessity or excuse for the formation of parties on a sectional basis and all traces of party color lines; that thereafter and forever we shall hear no more of a solid South or a united North. The flag shall float over States, not provinces; over freemen, and not subjects.

When Governor Hayes appealed to the people of the South in his letter of acceptance he addressed them as "my countrymen," and why not his countrymen? And is not the South an integral part of the nation? Are not Southern States the equal of those in the North, East, or West?

It has been said sneeringly and for the purpose of stirring the wild passions of the human heart to bad actions, "that the South under Governor Hayes must submit to an unconstitutional surrender to the republican party." No, sir; no such demand will be made. All that will be expected is the patriotic co-operation of southern patriots in the great work of restoration through the Union, the Constitution, and the enforcement of the laws.

In this great work the representative men of the South have already distinguished themselves for patriotism and statesmanship during the pendency of the present crisis in our history.

Mr. WARREN. I desire to say a single word upon this question. I begin by the admission that I think in equity and in fairness the State of Michigan ought to have her whole vote counted, the vote of all her electors, for Mr. Hayes. But we are here under an oath which requires us to support the Constitution of the United States. Much as I desire that the vote of this elector, Crossman, should be received, I cannot see how it can be consistently with the Constitution and laws. It is not denied, but it is fully admitted, that Mr. Hanchett was a commissioner of the United States and was ineligible as an elector.

Mr. CONGER. That admission has never been made; it is denied entirely.

Mr. WARREN. I have not heard anybody say that that man was not appointed a commissioner.

Mr. CONGER. It is denied in the record, and denied by all.

Mr. WARREN. I do not know but the gentleman from Michigan now denies it, but I did not hear him deny it when he was upon the floor and objected to my asking him a question.

Mr. CONGER. If the gentleman will allow me——

Mr. WARREN. I cannot yield further. I understand the proof is clear and complete from the man's own testimony that he was a United States commissioner. If so, he was ineligible by the express declaration of the Constitution. If that be so, then the office of elector in his case never was filled by the votes of the people at the time and in the manner provided by the Legislature of the State pursuant to the Constitution. The State therefore chose one less elector than it was entitled to.

The question is, how may that defect be remedied? There was no difficulty in pursuing the course marked out by the supreme court of Rhode Island in a substantially similar case. The Legislature acting upon the subject, having been called together for the purpose, could have provided for filling the vacancy; I call it a vacancy for convenience. In Vermont exactly the same course was pursued.

In the State of Michigan there is no provision in the statute for filling out the whole number of electors where there is a failure to elect one or more of them because of the ineligibility of the persons voted for. The only way, therefore, was for the Legislature to do it by special law, and it failed to do it. The electoral college of that State, without the slightest authority of law, has treated this case as coming within one of the contingencies provided by the statutes of Michigan, and, as I understand, put one Mr. Crossman in the place of the ineligible Mr.

Hanchett. That they had no right or authority to do; and the consequence is that Mr. Crossman is not a legal elector, and we, acting under our oaths, have no right to count his vote, for I hold it to be unquestionable, the decision of the electoral commission to the contrary notwithstanding, that the determination of the qualifications of an elector, the determination of the question whether a person borne on the roll of the electoral college is a minor or an alien or a United States officer-holder, must rest with the Houses of Congress that count the vote. There being, therefore, no doubt that we are bound to go into the question—the House having gone into the question—the result being clearly proved, we cannot vote otherwise than to exclude this man's vote; and much as I regret to do it, much as I dislike to have any question of the result of this election determined upon technicalities or even upon so high a matter as a constitutional disqualification which the people of the State have accidentally failed to observe, still I have no alternative but to give my vote in that way unless the discussion shall disclose some defect in the proof of the fact of Mr. Hanchett's ineligibility. I should be only too glad to discover such defect of proof and give the State the benefit of the doubt.

Mr. LAWRENCE. Mr. Speaker, we are dealing now with a naked question of law, and it ought to be determined by this House, not with a view to any particular emergency, but with a view to subserving the public interests and adopting a rule of sound policy.

It is assumed that there was an elector in the State of Michigan, receiving a majority of the votes of the people, who was ineligible, and that by reason of his ineligibility his election was a nullity, and that because there was no election there was no vacancy, there having been no incumbent; and that the Legislature has failed to provide for such a case as this.

Mr. Speaker, the Constitution of the United States devolves upon the Legislature of each State the duty of appointing electors. An act of Congress has determined the time when the election shall be held in the States; and inasmuch as vacancies may afterward occur by resignation, by death, by failure to act, by a tie vote upon the choice of electors, the act of Congress provides that the Legislature of each State may provide for vacancies occurring after the day of the election. The Legislature of Michigan then had power to provide for filling vacancies; and the question which we have to consider is simply this: Upon a fair reading of the statutes has the Legislature of Michigan provided for filling such a vacancy as this, or rather is this a vacancy for which the Legislature has provided?

The statute of Michigan provides for an election of electors of President and Vice-President by popular vote. Section 74 of the general law of that State provides a canvassing board whose duty it is to count the votes as sent up from the several counties and to declare the result. Section 75 provides that—

> The secretary of state shall, without delay, cause a copy of the certified determination of the board of State canvassers, declaring the persons elected as such electors, to be transmitted and delivered by special message or otherwise, to each of the persons so declared to be elected, which copies shall be certified under his hand and seal of office.

It is important to be borne in mind in this case that the canvass was made and this elector alleged to be ineligible was declared to be elected. Following the provision I have already read, section 84 of the General Statutes of the State of Michigan declares:

> The electors of President and Vice-President shall convene at the capital of the State on the first Wednesday of December; and if there shall be any vacancy in the office of an elector, occasioned by death, refusal to act, neglect to attend by the hour of twelve o'clock at noon on that day, or on account of any two of such electors having received an equal and the same number of votes, the electors present shall proceed to fill such vacancy by ballot and plurality of votes.

The language of the statute is, "If there shall be any vacancy in the office of an elector occasioned by death, refusal to act, neglect to attend." This refers to the electors who have been declared elected by the canvass authorized by the statute, no matter whether they are eligible or ineligible. This statute was intended to cover every case of vacancy that could arise, without regard to the cause of the vacancy or the manner in which it had arisen.

Mr. HUBBELL. The gentleman will allow me to ask whether there is any evidence before this House to prove that the elector Hanchett was ineligible?

Mr. LAWRENCE. I will come to that. Of course there is no such proof, because this House is incapable of taking the proof; and more than that the board of canvassers in the State of Michigan was not clothed with the judicial power to take proof upon that question; and because they were not, the statute says they shall declare elected that person who shall have received a majority of the votes cast for electors.

Mr. HUBBELL. Does the gentleman think that the fact of an elector testifying that sixteen years ago he acted as an officer is any evidence that he is now an officer?

Mr. LAWRENCE. Why, Mr. Speaker, the House is not authorized to inquire into the qualifications of electors. It is not competent for us as a returning board (for that is all we are) to make the inquiry at all. Of course, then, there is no legal proof before us.

Mr. SAVAGE. Does the gentleman mean to say that the provision of the Constitution which declares that certain officers shall be ineligible to act as presidential electors is a dead letter?

Mr. LAWRENCE. I mean to say that it is a directory provision, and that, if a person shall be elected notwithstanding the constitutional provision, he is a good officer and his acts are valid. I mean to say what every court in this country has said and what no one has ever controverted. I here defy any gentleman upon this floor to produce a single respectable case in this country which controverts the position that, if an ineligible person takes an office and acts, his acts are valid. And I now here defy any gentleman upon this floor to produce a single respectable case in this country which controverts the position, and that an ineligible officer, if he takes office and acts, that his acts are invalid. There is but one court that has ever held the inquiry can be made by the governor or canvassing officer, and there is a uniform current of authority against that so overwhelming it sinks into utter insignificance and is utterly valueless.

Mr. SAVAGE. Will the gentleman show one respectable authority which says that a disqualified person under the Constitution could hold an office an exercise its functions?

Mr. LAWRENCE. I will; several of them. The gentleman needs enlightenment, and I am glad to enlighten him. Yes, sir; I say that it has been decided in Missouri, in Pennsylvania, in California. Does the gentleman want any more cases?

Mr. SAVAGE. Will the gentleman state one case?

Mr. LAWRENCE. I have them here.

Mr. SAVAGE. Well state them.

Mr. LAWRENCE. I will.

Mr. SAVAGE. Read and tell us what has been decided.

Mr. LAWRENCE. In the case of St. Louis County *vs.* Sparks, 10 Mo., 121—and I commend this to the attention of my friend from Missouri, (Mr. BUCKNER,) who seems to have overlooked the law of his own State as determined by the courts—the court says:

> A statute prescribing qualifications to an office is merely directory, and, although an appointee does not possess the requisite qualifications, his appointment is not therefore void unless it is so expressly enacted.

In Commonwealth *vs.* Cluley, 56 Pa. State Reports, 270, it is shown Cluley received a majority of votes as a candidate for sheriff against McLaughlin, the minority candidate. McLaughlin instituted *quo warranto* proceeding to oust Cluley on the ground that he was ineligible. His honor Judge Strong, now upon this commission, one of the ablest and best men in this country, said in deciding that case:

> The votes cast at an election for a person who is disqualified from holding an office are not nullities; they cannot be rejected by the inspectors, nor thrown out by the return judges; the disqualified person is a person still, and every vote thrown for him is formal.

The SPEAKER. The gentleman's time has expired.

Mr. SAVAGE. Every authority the gentleman has quoted is for me and against him.

Mr. WILSON, of West Virginia. Mr. Speaker, will the American people accept that iniquitous decision rendered by the electoral commission, founded, as it is claimed to be, upon the technical ground of a want of power to inquire into the existence of frauds conceded by the record, which are the most infamous, glaring, and offensive ever perpetrated upon a free people?

The returning board of Louisiana is under the law of that State a close corporation, authorized to perpetuate itself in power by filling any vacancies that may occur among its members. The four members of that board who officiated in counting the vote at the late presidential election are men who have been shown in repeated investigations to be of the most depraved, despicable, and abandoned characters and have received the merited condemnation of both Houses of Congress and of the entire country. Their proceedings in canvassing the returns at the late election are shown by incontrovertible evidence to have been conducted without any regard to truth or justice or law; and the result which they reached, sustained as it has been by a partisan majority of the electoral commission, will select the President of the United States; it is conceded by every fair man to be a willful falsification of the actual vote of the State and a wicked and deliberate lie.

The counsel before the commission representing the democratic party, in a formal offer of evidence, proposed to prove this and more than this. They proposed to prove that certain of the papers upon which the board professed to act were forgeries, conceived and designed by the board itself, and perpetrated by men they had employed for that purpose. They also proposed to prove that the affidavits upon which the board professed to act were deliberate perjuries, committed by men engaged by that board and their co-conspirators to commit them. They also proposed to prove the board transcended even the broad limit of the Louisiana statute by which it was created, and acted without any jurisdiction whatever. They also proposed to prove that the members of this board went into the open political market, and offered to make up the returns in the interest of either party that would pay for them.

All this evidence the commission refused to hear, alleging that it was without power to examine into any of the questions to which it related, admitting that, although true, it would not affect their conclusions and thus proclaiming to the world that the great Republic of the United States was compelled to hug the fraud of these villains to its bosom, and accept as its Chief Magistrate a man whose claim to the presidential position was founded upon this festering iniquity. Such a conclusion will be a disgrace to the country, the consciousness of which in the hearts of the people will make the administration connected with it hateful to every honest man, and present us to the civilized world as a disgraced and dishonored Government.

Our country can stand against the world in arms, and neither foreign attack nor reckless internecine strife can give us any just cause

of alarm for the permanency of our institutions; but when the vile outcasts of society in an unfortunate State of the Union are upheld in their possession of political power, and their frauds in a presidential election are accepted by the Federal Government as justly controlling the election, we have abandoned all adhesion to those great moral principles the observance of which can alone preserve the form or substance of American freedom.

The decision of this commission is a libel upon the Government and a deliberate falsification of its laws and of its powers; and the high and distinguished men who made it will find that it has power enough to drag them and their characters down to the level of the miserable wretches whose action they approve and commend. In the better days of the Republic Judge Story said, in a solemn opinion in the Supreme Court of the United States:

Fraud will vitiate any, even the most solemn, transaction; and an asserted title to property founded upon it is utterly void."

But that was in a day when returning boards were unknown, when military despotisms had not suspended legitimate State authority, and political passions had not soiled the pure ermine of our judges. The law now is the same that he pronounced it to be. Title acquired to any kind of property by fraud, whether to lands or tenements, goods or chattels, or title acquired by fraud to the office of justice or judge, constable or governor, are simply void, and none of them could stand for a moment in a court of justice; but title acquired, says this commission, to the office of President of the United States by fraud, no matter how plainly that fraud may be proved, no matter how infamous may be the character of the men by whom it is perpetrated, and no matter how enormous that fraud may be, is a perfectly valid title to be observed and respected by all men, and the fraud is to be sanctified and embalmed in the political history of the country.

Sir, as an American citizen I spurn such a doctrine and trample this base and infamous decision under my feet. I voted against giving it the approval of this House, for if I voted otherwise I could not look my honest constituency in the face.

Had this commission heard the facts, as they were ordered to do, according to my understanding of the bill under which they were organized, had they taken the evidence offered to them and then decided upon that evidence, I should have felt constrained to give my acquiescence to whatever conclusion they might have reached; but the fact that they have refused to hear any evidence whatever, together with their systematic partisan votes upon every proposition, has satisfied me that their conclusions had been reached before they were qualified as members of the commission.

The leaders of the radical party may, through such means, enjoy a temporary triumph. They will probably inaugurate their candidate, but his seat will not be an easy one, for the receiver of stolen goods is as bad as the thief, and an honest people will visit the men who have thus outraged law, right, justice, and honor, by such measure of retributive justice as was never yet experienced by any political party on the face of the earth.

The Supreme Court of the United States has ever been regarded in this country and Europe as a conspicuously wise, dignified, and impartial tribunal. It has been looked up to as almost sacred. When the country learned that the electoral commission was to be in part composed of judges taken from that court, joy and satisfaction filled the hearts of the people and the conspirators shrank with fear, believing that justice and right were about to triumph. The belief was universal that those judges would give the great questions to be submitted to them as members of the commission an elevated, conscientious consideration; that if fraud existed it would be exposed and condemned; that a conclusion would be reached which every man would be compelled to acknowledge honest and equitable. But to the surprise and disgrace of the country that belief, that sanguine expectation has proved a delusion, and the fact is apparent that the decisions of the commission have been partisan and mercenary.

It is the merest mockery to assert that the electoral vote of Louisiana was rightfully cast for Hayes and Wheeler. Every intelligent man who is at all conversant with the history of the late election in that State knows full well that their claim to that vote is unfounded and fraudulent. As well might it be said that the vote of Massachusetts had been cast for Tilden or that the vote of Maryland had been cast for Hayes. The result of the election in Louisiana was a clear, decided democratic majority. The vote was the largest by 16,000 ever polled in the State. A greater per cent. of the population voted on the 7th day of November last in Louisiana than in any other State in the Union. This is to some extent to be accounted for by the illegal votes cast through the fraudulent manipulations of republican supervisors; but the chief reason why the great body of the people voted is obvious and unmistakable. They were impelled by a sense of wrong, of injustice, and of an oppression which had taxed their forbearance to the utmost extremity. A drunken judge by his midnight order in a cause in which he had no jurisdiction had forced upon them a governor who has since been kept in power against their protest by the military arm of the Government.

It does not lie in the mouth of the republican party to charge that murder, riot, and intimidation prevented a free and fair election. That party had full control of the State. An extreme radical governor was at the head of affairs, a tool in the hands of vicious advisers, and was ever ready to do their bidding and carry out their nefarious schemes. He was aided and sustained by the State constabulary, and these were backed up by United States soldiers. In addition to this force United States deputy marshals were scattered all over the State, eight hundred or more being on duty in New Orleans alone. But this is not all. The courts of the State and their officers were in the hands of the republicans. They had full power and authority to make arrests, institute prosecutions, and secure the conviction of guilty parties. If the various offenses of which gentlemen talk so eloquently on this floor have been committed, I demand to know why the offenders have not been arrested; I demand to know why the records fail to show that prosecutions have been put on foot for their punishment. The imputation that democrats have by intimidation, riot, and murder prevented a peaceful and fair election falls to the ground a malicious slander upon the people of that unhappy and outraged Commonwealth.

Not only did the republicans have control of the civil and military power of the State, but they had control of its entire election machinery also. The governor appointed the supervisors of registration and election for the several parishes, and we have the authority of the special committee of which Hon. WILLIAM R. MORRISON is chairman for the statement that many of the supervisors were appointed from the police and custom-house employés—men of the most disreputable character; so disreputable indeed that even Governor Kellogg disavowed their appointment and saddled the responsibility upon his lieutenant-governor. These men were sent to the various parishes with instructions to register and vote the full strength of their party. Here is a circular that was sent to every supervisor in the State. This one was addressed to the parish of Assumption. The animus that prompted it is so apparent that it needs no comment.

HEADQUARTERS REPUBLICAN PARTY OF LOUISIANA,
ROOMS JOINT COMMITTEE ON CANVASSING AND REGISTRATION,
MECHANICS' INSTITUTE, *September* 25, 1876.

DEAR SIR: It is well known to this committee that, from examination of the census of 1875, the republican vote in your parish is 2,200 and the republican majority is 900.

You are expected to register and vote the full strength of the republican party in your parish.

Your recognition by the next State administration will depend upon your doing your full duty in the premises, and you will not be held to have done your full duty unless the republican registration in your parish reaches 2,200 and the republican vote is at least 2,100.

All local candidates and committees are directed to aid you to the utmost in obtaining the result, and every facility is and will be afforded you; but you must obtain the results called for herein without fail. Once obtained, your recognition will be ample and generous.

Very respectfully, your obedient servant,

D. J. M. A. JEWETT,
Secretary.

SUPERVISOR OF REGISTRAION,
Parish of Assumption, Louisiana.

They were not content with a registration of the actual voters, so that a fair expression of public opinion might be obtained. Their purpose was to secure the election of Hayes and Wheeler at all hazards, by fair means or foul. To this end they made up registration-lists of the living and the dead; of men who were not then and never had been citizens of Louisiana. They even swelled the registration of colored voters to the number of nearly twenty thousand more than resided in the State.

Money and troops were used, frauds were practiced, and the unbridled passions of bad men had full sway. Nothing was left undone to consummate the unholy purpose those wicked conspirators had engaged to accomplish. The election came and passed and to their utter horror the face of the returns in the hands of republican officials showed that the Tilden and Hendricks electors had been appointed by majorities ranging from six to nine thousand.

On the 7th, 8th, and 9th of November it was apparent to every one that the democratic candidates had been triumphantly elected. The country had been thoroughly canvassed and the contest had been characterized by more earnestness and bitterness than had ever been witnessed before. The people settled down into quiet and repose, satisfied then as they always had been theretofore with the popular choice, and awaited the inauguration of the successful candidates. But this repose was of short duration. Party leaders and political schemers commenced plotting to defeat the popular will and by the most shameful and disreputable manipulations to induct the defeated candidate into the Chief Executive office of this Government.

They foresaw that if their party failed then it would be a failure for all time; that it would go down to oblivion's grave, never again to be resurrected.

In their desperation and as a last resort they proclaimed that Louisiana and Florida had appointed Hayes and Wheeler electors, and at once began the work of producing that result, in the face of existing facts which would have caused most men to shrink from such an undertaking as immoral and dishonest.

The election returns of Louisiana went into the hands of the returning board showing on their face a majority of nearly 8,000 for the Tilden electors. They came from the hands of that board showing a majority of nearly 4,000 for the Hayes electors. What brought about this change? Can any honorable man doubt that it was the result of fraud, forgery, and perjury? By it Rutherford B. Hayes is to be made President of the United States. Contemplate the Chief Magistrate of this great country—successor to Washington, Jefferson, Jackson, and Lincoln—holding title to that exalted position through fraud, and through fraud alone!

One word as to the *personnel* of the returning board of Louisiana which threw out 13,000 votes in that State for no other reason than to manufacture a majority for the Hayes electors, an irresponsible board created by an usurping Legislature and made self-perpetuating for party purposes. We saw the members of that board arraigned at the bar of this House for contempt. It may well be doubted whether any tribunal or other body of officials in this or any other country can be pointed out of whom more that is bad and less that is good can be truthfully said.

Wells, Anderson, and Kenner, a trio who will live in history as the most nauseating festers of republican corruption—a perpetual sorrow and humiliation to every American patriot—Wells, a defaulter to his State, a man without character for truth and veracity, who has covered himself all over with infamy by his conduct as a member of that board; Anderson, without character for integrity, branded by a special committee of this House with having defrauded his State while serving her in a representative capacity; Kenner, of whom it were superfluous to say more than that he was indicted for larceny and secured a dismissal of the prosecution after admitting his guilt, when he was promptly made a member of the returning board. This trio and the negro Casanave, whose docile ignorance and stupidity peculiarly fit him for the position of an instrument in their hands, constitute the board who are authorized, as it is claimed, to pass upon the election returns of one of the States of this Union, and to determine what shall and what shall not be counted.

The following table taken from certified copies of duplicate returns made by commissioners of election at each voting-place in the State shows how the vote stood when it went to the hands of the returning board:

Tilden electors received the following votes, to wit:

McEnery	83,712
Wickliffe	83,880
St. Martin	83,676
Poché	83,529
De Blanc	83,667
Seay	83,842
Cobb	83,579
Cross	83,652

and the Hayes electors received the following votes, to wit:

Kellogg	77,152
Burch	77,154
Joseph	74,889
Sheldon	74,844
Marks	75,221
Levissee	75,370
Brewster	75,457
Joffrion	75,597

The board entered upon its duty of canvassing and compiling the vote with a purpose to change the result of the election in Louisiana by throwing out a sufficient number of parishes and polls for that purpose. Previous to its first meeting, the following dispatch passed over the wires from the attorney of the board:

NEW ORLEANS, *November* 16, 1876.

Hon. J. R. WEST, *Washington, D. C.:*

Returns to date leave us majority, throwing out five parishes.

JOHN RAY.

And on the next day the United States marshal, a republican, sent the following dispatch:

The witnessing committee so selected by the President having refused to co-operate with a committee of their political opponents in an effort to have the vacancy in said board filled, and in other efforts to see that the board of canvassers made a fair count of the vote actually cast, the United States marshal sent the following dispatch to the administration United States Senator of Louisiana:

NEW ORLEANS, *November* 17, 1876.

Hon. J. R. WEST, *Washington, D. C.:*

Louisiana is safe. Our northern friends stand firmly by us. The returning board will hold its own.

J. R. G. PITKIN.

And on the 3d of December the United States Marshal Pitkin sent the following dispatch in cipher, and, on oath, says he derived the information as to the result from J. Madison Wells:

NEW ORLEANS, *December* 3, 1876.

Hon. J. R. WEST, *Washington, D. C.:*

Democratic boast entire fallacy. Have northern friends on way North. Answer telegram of this morning; also, have Senate anticipate House on sending committee to investigate outrages. Have seen Wells, who says: "Board will return Hayes sure. Have no fear."

J. R. G. PITKIN.

And this board, faithful to the predictions and promises thus made and faithful to the conspiracy that had for its object the election of Hayes and Wheeler, in utter disregard of right, without the semblance of law or authority, nullified the popular will by rejecting the votes of 13,000 voters in that State. The act was wanton, vicious, and wholly inexcusable, and yet a partisan majority of the electoral commission sanctioned the fraud and approved the wrong. This House did a righteous act that the country will appreciate and applaud when it repudiated and condemned that erroneous and outrageous decision.

I regard the present as the most critical and dangerous period in the country's history. Never before have our republican institutions been put to as great a test as they are now undergoing. Never before have they been so boldly menaced. Gentlemen may sugar-coat the pill as they please; they may present the issue in any form, dressed in any garb that may suit their taste, but the truth is not to be disguised that this is a conflict between constitutional liberty and centralism. We cannot, if we would, shut our eyes to the fact that there is in this country a powerful party who seek the overthrow of our institutions. We see the evidences of it on every hand. Prominent members of the republican party have foreshadowed that policy by various resolutions in this House and in the Senate during the present Congress. They have even ingrafted the idea in the Cincinnati platform upon which Governor Hayes stands and to which he is committed.

It is but a few years since a newspaper styled the Imperialist, as I remember, was published in the city of New York. Its title fully explains its hostility to our present form of government. The projectors of the scheme, finding the people not in a frame of mind to join in the proposed conspiracy against the Government, withdrew it from circulation. Yet, notwithstanding its withdrawal, the policy it proclaimed continues to have advocates, and to-day has the sanction of the leaders of the republican party of the country.

So much has been written and said upon this subject by various gentlemen that I cannot refer to all in the limited time allotted to me, but must content myself with mentioning a few of the most remarkable utterances. I hold in my hand a published letter by William Giles Dix, of Massachusetts, to President Grant in the year 1875, in which the following language is used:

You became President in consequence of the national victory in which you bore a share so honorable and eminent; but, Mr. President, let me entreat you to consider that it was a national, not a federal, victory you won, and that national victory signified the defeat of the Federal Constitution.

Here we have the declaration of a gentleman of scholarly attainments, who avows his hostility to federalism. He names the issue fairly and discusses it ably. But I quote another and more significant passage from the same letter:

Mr. President, since you will not lead, I challenge you to follow. If you will not accept the challenge, then if I shall live I will do all that honorably and earnestly I can to make *a national Government and a national Constitution* the watchwords of a triumphant national party at the next presidential election.

I do not know how far Mr. Dix was authorized to speak for the republican party, but it is evident that by this letter he foreshadowed its policy. The Cincinnati convention, by which Governor Hayes was nominated, announces, among other things, that—

The United States of America is a nation, not a league.

This was the first time, so far as I have been able to ascertain, that any one of all the various parties ever existing in this country had the temerity to declare that this Government was not a league. What is a league?

It is an alliance or confederation between sovereign states. That is what the fathers and founders of this Government intended and claimed to have established, and their work as such has since received the sanction of mankind and excited the admiration of the world until the republican party rejected it.

The distinguishing feature of this Government is that it is a government of checks and balances; that it is a union of States, not a union of the people. The Constitution was adopted by a majority of States in convention assembled, and not by a majority of the popular vote; and to each one of these States is guaranteed a republican form of government, with the power to regulate and control its own affairs in its own way, provided always they do nothing to violate late the Federal Constitution.

Mr. Speaker, what is the object of this new departure? It is the overthrow of our present form of government; that and nothing else.

These are the features of our government that have excited the deadly hostility of the leading spirits of the republican party. They are jealous of the large liberty and sovereign power the people exercise. They see that the only hope they can have of retaining control of the government is to withdraw from the people their sovereignity, to obliterate State lines, abolish local government, and to centralize power in the hands of the rulers, by whatever name they may be called. Already have they commenced the agitation of this question. The National Republican, the organ of the extreme wing of the republican party, in its issue of the 2d of February, referring to the late war, holds the following language:

But since that day there has been a marked change in the sentiment of the people in this respect, and it may be safely asserted that there is now a large majority in favor of a strong National Government, with powers acting directly upon the people, without regard to State lines and limits, whose jurisdiction shall extend to the control of every interest of a national character, unimpeded and unaffected by considerations arising from claims of State sovereignty—a thing which cannot exist in the way of the common welfare, but must yield to the will of the true sovereign.

* * * * * * *

And in view of the sad experiences of the past and the present, it will not be cause for surprise if, upon proceeding to the task of establishing a permanent adjustment of powers between the States and the nation, early to be made, there is decreed such a distribution and modification as will clothe the General Government with full jurisdiction of the election proceedings and all matters appertaining to the Presidency, and a considerable extension of the term of that office.

When the opportunity shall be offered I propose to discuss this question further. The people may as well look the issue squarely in the face. Their rights are imperiled. The Government of their fathers is menaced by an insidious and dangerous foe. If it be not restrained we are to have a centralized, quasi-republican government first and monarchy afterward.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. GORHAM, its Secretary, notified the House that that body was now ready to meet the House and proceed with the counting of the electoral votes for President and Vice-President.

Mr. BURCHARD, of Illinois. Mr. Speaker, the objections submitted in the joint meeting to the vote of the elector Crossman present several questions for the consideration of the House. Under the law of the State of Michigan was there a vacancy to which the elector Crossman could be appointed? Was Hanchett, the elector voted for on the 7th of November, ineligible? Did he hold an office of profit or trust under the United States, and did the vacancy to which Crossman was appointed by the college arise from Hanchett's non-attendance or from his ineligibility? If ineligible to appointment, what effect can it have upon the vote of the college?

Under the Constitution and law, what power in counting has either House to make judicial investigation and decide upon the right of an elector whose vote has been cast and duly certified and returned according to law?

What statements or evidence will each House consider sufficient proof to justify its rejection of a vote thus cast and certified?

In considering some of these questions let me first call attention to the testimony presented to the House in regard to the ineligibility of Hanchett. There is no legal or competent evidence, none which would be admitted or be considered by any respectable court to show that Hanchett held any office of trust. There is the mere verbal statement that Hanchett was appointed; there is no evidence of any commission, nor that he qualified as required by law, no record evidence of any appointment, no copy of the record of the court has been produced. Hearsay and verbal statements cannot be made competent or legal evidence by the vote of a majority of the committee on the privileges, powers, and duties of the House. Disregarding the rules of law, papers, hearsay statements and incompetent testimony may go upon the record and be submitted to the House, but they do not thereby become legal proof or entitled to be considered competent evidence by either House.

If Mr. Hanchett's appointment had been shown, the fact is clearly proved that he did not for a long time perform the duties of the office and did not consider himself as such commissioner.

But laying aside these considerations, which, I think, ought to be decisive of this question, I hold there is no power in this House under the Constitution and laws of the United States to go into a judicial inquiry as to the competency or the ability of the electors to exercise their office. You have no more right than have the inspectors or judges of an election when, after the polls are closed, they count all the votes which have been put into the ballot-box. They have no right to throw out or reject votes actually cast unless the constitution and law of their State expressly invests them with such power. The duty of canvassers, say the courts, is simply to count, not to decide upon the legality of the votes that have been cast.

Where in the law, where in the Constitution do you find any power in this count of the electoral votes to throw out votes that had been actually cast and certified to the President of the Senate, by the electors of a State, and by the executive authority as required by the law?

Mr. SPRINGER. Will the gentleman allow me to answer his question? If a member of Congress were returned as an elector——

Mr. BURCHARD, of Illinois. I will not stop for that. That has been repeated half a dozen times in other places. I challenge you to find such power conferred in any law of the United States. The judicial power of the United States is by express terms of the Constitution vested in the Supreme Court and inferior courts. The law may authorize the counting. It may be performed by the Houses or by a tribunal authorized for that purpose, or by the President of the Senate, or whoever is authorized under the Constitution and the law to count. The constitutional duty here performed is not a canvass even. It is a count which means the enumeration of the votes that are cast, and not a judicial inquiry into the right of the electors to cast the votes.

Did not the supreme court of Florida, which you on your side applaud, decide that under the law and constitution of Florida the canvassing board must canvass the votes that were cast and had no power to exercise judicial functions? And if the canvassing board of a State in counting the votes after they are cast can exercise no judicial power, where in the Constitution do you find the right to exercise that power? You are simply to make an arithmetical enumeration of the votes that are certified by the proper authorities and are sent up here to be counted as appears upon their face.

Mr. SPRINGER. Will the gentleman allow me to answer his question? I would ask the gentleman whether he could have voted as an elector himself, while at the same time he was a member of Congress?

Mr. BURCHARD, of Illinois. That is foreign to the question.

Mr. SPRINGER. It is the question.

Mr. BURCHARD, of Illinois. The question is not whether I could properly act and might not be restrained by legal process from acting, but what can be done by the two Houses under the law when the alleged ineligible elector has voted in the college of his State. Can you invade the secrecy intended by the Constitution in requiring the vote to be by ballot? Can you arraign the electors at your bar and require them each to disclose for whom he voted? Can you make a judicial investigation as to the eligibility of electors?

Upon the question as to the effect of an ineligible elector's vote I desire to cite two other authorities in addition to those presented by the gentleman from Ohio [Mr. LAWRENCE] a few moments ago.

The principle of colorable election holds not only in regard to the right of electing but of being elected. A person indisputably ineligible may be an officer *de facto* by color of election. (Baird *vs.* Bank of Washington, 11 S. and R., 414.)

It is a general principle of the law that ministerial acts of an officer *de facto* are valid and effectual when they concern the public and the rights of third persons, although it may appear that he has no legal or constitutional right to the office. (People, 1 Gil., 529; 5 Gil., 107.)

And this principle is applicable to all cases, unless in the law and the constitution under which the officer or body is acting there is an express provision that the act shall be absolutely void. The Constitution prescribes certain qualifications for an elector. It does not declare that the vote of a disqualified elector shall be void.

Mr. Speaker, I turn to the Constitution itself, and I ask what power is given to decide disputed elections except in cases of contest before either House for a seat therein, when each House is the judge of the election and return of its own members? Do you find any power anywhere in the Constitution authorizing this House to go into an inquiry and decide upon the rights of a citizen to hold an office? Can a legislative body perform judicial functions? Does the presidential count imply the examination of witnesses on the one side and the other? Can mere canvassers—counters—weigh and decide and, as the canvassing board, it is alleged, in Florida attempted to do, throw out votes after such consideration and hearing? We have no such power. This Congress, this House, the two Houses, are not omnipotent. They are bodies created by the Constitution and have no power only as conferred by the Constitution, and their acts are void like the acts of any other body when unauthorized by the Constitution.

If Mr. Hanchett was ineligible—to show which I deny there is any competent proof before the House—his exercise of the duties of the office would not have invalidated his vote so far as this count is concerned. Under the Constitution and laws of the United States there would have been no legal right in this House at this count to have inquired into his eligibility, and no right to reject his vote if he had acted with the college instead of Crossman, who was appointed to fill the vacancy occasioned by his absence.

[Here the hammer fell.]

Cries of "Vote!" "Vote!"

Mr. COCHRANE. Mr. Speaker, I cannot allow this occasion to pass without denouncing in the strongest terms the action of the majority of the joint commission in giving the electoral vote of Louisiana to Hayes and Wheeler. I voted for the electoral bill and I did so with no little pleasure and satisfaction. The people of the whole country hailed the measure as a harbinger of peace. The business interests of the country were suffering by reason of the uncertainty arising out of the late election. Civil war was thought by many to be imminent. Under these alarming circumstances the joint committee of the two Houses presented the electoral bill signed by every member of the committee except Mr. MORTON. Such democrats from the House as Mr. PAYNE, Mr. HEWITT, and Mr. HUNTON, and from the Senate Mr. THURMAN and Mr. BAYARD gave to the bill their most earnest and cordial support. The discussion upon the bill, now a part of the record of Congress, was one of the most remarkable in the history of the House and Senate. The bill was passed by a very large majority, and a sigh of relief went up from our whole people. The dark clouds had disappeared and honest men of all political parties rejoiced in the thought that the commission soon to be created would determine who had been fairly elected President of the United States, Tilden or Hayes. The animus of the republican leaders however soon became apparent. Instead of selecting unbiased conservative men to serve upon the commission they selected, at least in two instances, the most bitter partisans—men who had opposed the bill, denied its constitutionality, and were in every way hostile thereto. The democratic party did not follow this vicious example, but selected men recognized as among the most conservative of the party and all of whom had earnestly advocated the bill. I have neither the time nor inclination to follow the action of the commission in detail. The vote of Florida was given to Hayes by the decision of the eight republican commissioners. Standing upon the merest technicalities and ignoring and disregarding the facts, they gave to Mr. Hayes the electoral vote of a State the majority of whose people had voted for the Tilden electors. This action of the commission merited and received the condemnation of all honest men; but better things were hoped for when Louisiana was reached. All of these hopes, however, have been blasted. The partisan majority upon the commission have again declared that the voice of the majority of the people of a State shall be disregarded and that a premium shall be placed upon corruption and fraud. Fraud and villainy on the part of the returning board were alleged, but evidence of the same was excluded. Perjury, forgery, and bribery were alleged, proof of the same offered. But no; the eight partisan commissioners were there to declare Hayes elected and they proposed to carry out that purpose, although in so doing they trampled upon the Constitution of the United States, disregarded the constitution and laws of the State of Louisiana, and violated the letter and spirit of the law by which the commission was created. They have done their work; counted the vote of Louisiana for their Presi-

dent, but in so doing have blackened the page of American history and cast a shadow upon the civilization, intelligence, and honesty of our day. In the name of the great democracy of my State, and not democracy alone, but of all who love truth and honesty, I do here solemnly enter of record my protest against the outrage which these eight partisans have committed.

In conclusion, I only desire to repel the statement made by some republican papers that the democratic party means to resort to revolutionary measures. I desire to assure gentlemen upon the other side, in spite of the garbled statements of newspapers as to what they allege has occurred in caucus, that neither the democratic party nor any of its members will resort to revolutionary action. If there is any one thing which has marked the career of my party, it is its adherence to the Constitution of the United States and obedience to law. It will be in the present what it has been in the past. A few words more, Mr. Speaker, and I will close. The American people will never ratify or indorse the gigantic fraud which has been perpetrated. Four years of usurped power yet remain for the republican party and then its scepter will depart from it forever.

Mr. BANKS. It does not appear to me, although I am not as well acquainted with the merits of this question and the law upon which it rests as other gentlemen, that there is any substantial proof of the appointment of Mr. Hanchett as a commissioner of the United States. If I heard the testimony rightly as it was read, there is nothing that relates to such an appointment but what he says himself. He states that he was notified that he would be appointed, and subsequently that he had been appointed, and he thinks a form of oath was inclosed to him which he supposes he must have taken, but of which he has no recollection whatever.

There is no testimony, no proof at all that he qualified as a commissioner, or that he ever received a commission; not the slightest.

Mr. LAWRENCE. There is no proof that the court appointed him.

Mr. BANKS. That is shown by the testimony that is presented in support of the objection; but in addition to that there is no proof that he ever qualified if he was even appointed or received a commission. Now, the gentleman from Illinois [Mr. SPRINGER] asks if his colleague, Mr. BURCHARD, could have been appointed an elector, he being a member of Congress. Well, I suppose if a man was told by somebody that he was or would be a member of Congress thirteen years afterward he should say that he thought he might have served, that on that statement of facts, which is precisely the case before us, the gentleman's colleague would not be disqualfied for a presidential elector if he was properly elected to that office. The fact is that there is no proof at all, not a shadow of proof, that this man was appointed or that he accepted the office of commissioner and was qualified for that position by taking the oath prescribed by law for that office. If he did he terminated his office when more than nine years since he refused to serve in that capacity. Being told that he was appointed thirteen years ago, or being appointed for a temporary purpose he terminated his appointment more than nine years ago by refusing to serve in that office. Now, he was appointed a commissioner for a special purpose, and nine years ago refused to serve on the ground that he was not a commissioner, which he was not, and so far as the testimony shows never had been, and if moreover he had moved into another part of the State that was a termination of his official career. There is no proof however, at all, that this man ever was a commissioner of the United States for the State of Michigan, or that he had any right to act. There is not a scintilla of evidence to show that he would now have a legal right to act as a commissioner of the United States in the State of Michigan.

Now in regard to his appointment as elector. The gentleman from Virginia [Mr. TUCKER] has stated as a legal proposition that he was not appointed an elector. Well, sir, what was done by the State of Michigan in regard to his appointment as an elector? The people of Michigan voted for him as a candidate for elector. He had 25,000 majority for that office over his competitor. He was declared elected by the proper officers. He was commissioned as an elector by the governor of the State. That constitutes an appointment so far as the State is concerned. I do not mean to say that upon those facts alone he would be qualified to cast a vote for President and Vice-President. It might have happened that after his appointment by the people of Michigan it was found that he in some manner was disqualified for holding the office. But that disqualification must be shown. It has not been shown, and there is no allegation here that his disqualification is shown and that he ceased to be an elector because he was found to be disqualified. If he had gone on, having been appointed by the people of Michigan and commissioned by the governor, he had acted as an elector and voted for a candidate who was found to be elected, in such a case his disqualification as an elector would have no effect at all, because it was not shown. But it does not seem to have been the fact in this case. No disqualification has been shown, if it ever existed, as I say it did not.

Then, upon this ground alone, he being regularly appointed, commissioned, and recognized by the Government, it was for him to appear or not to appear at the place and time appointed. He did not appear. He refused to serve. He neglected to give his vote or to attend at the time appointed. Then, under the law of Michigan, as several gentlemen have stated, the electoral college of that State had a perfect right to fill the vacancy thus occasioned. The college of electors having authority to fill vacancies in case the persons appointed did not appear at the time appointed by law, the electors who were present would have an undoubted right to decide whether or not a vacancy existed, and if found to exist to take the proper measures to fill it as provided by law.

There is nothing to show, not a particle of evidence, not a scintilla of proof, that this man was ever appointed to the office of commissioner of the United States, except the admission that he makes himself, that he thinks that he was informed that he would be appointed, and that he thinks he may have taken the oath according to the form sent to him, but that he has no recollection of it. Beyond that there is no testimony to prove that he was appointed or had ever qualified as a commissioner, or became under the law an officer of the United States. If that had been the facts the record of his appointment and qualification could be easily produced. It has not been produced. On these grounds I have no hesitation in voting against the objection.

Cries of "Vote!" "Vote!"

Mr. SPARKS. I did not expect to detain the House with any remarks of mine upon the question now under consideration, and would not have done so except for remarks which have been made by the gentleman from Ohio, [Mr. FOSTER.] I was forcibly impressed by the remarks and fully believe the statement made by the gentleman from Michigan [Mr. CONGER] that it is not expected that anything will or can be accomplished by the objections offered in the present case. In fact, sir, it seems to me that nothing is accomplished by any objection offered in any case. It makes no difference what the basis of the objection is, it is ignored, dodged, or evaded, and the court goes on to the consummation of a gigantic fraud, while truth and the honest votes of the people are denied a hearing. The case now under consideration has this of substance in it: A man in Michigan held an office under the Government of the United States and admitted before one of the select committees of this House that such was the fact; that at the time of his appointment and now he was and is a United States commissioner. The Constitution says that "no man shall be appointed an elector who was then holding an office of trust or profit under the Government of the United States." But this is a light case. It seems to make little difference when it is predetermined that the object is to be accomplished, that is, that Hayes is to be inaugurated, whether the Constitution stands in the way or not.

The gentleman from Ohio [Mr. FOSTER] has given us quite a little dissertation upon the patriotism of the republican candidate for the Presidency, and he tells us that he will make an excellent, good President. My opinion is that he *will be* inaugurated; and if he is we all, of course, would like for him to make a good officer. But, sir, I doubt the patriotism of any man who will take the highest office in the Republic when it is thrust upon him by fraud, and this man knows that if he gets the Presidency it comes to him by and through undisguised fraud. He may make an excellent President notwithstanding all this, but he has to wade through too much filth in attaining it to inspire the confidence that he will do so.

I was struck some time ago by the remarks of the gentleman from New York, [Mr. TOWNSEND,] who in speaking of Governor Tilden sneeringly alluded to him as the "little man of Gramercy Park." Now, sir, after this patriotic citizen (Mr. Hayes) is inaugurated let us picture the "little man of Gramercy Park" visiting him. The White House and its surroundings are duly appreciated. The distinguished honors of the high office, are commented upon, its emoluments and powers fully discussed, and all that. But when the visitor takes up his hat to go he says: "Sir, one quarter of a million more of the people of this country (your fellow-citizens and mine) voted that all this should be mine than voted that it should be yours." Now, Mr. Speaker, on an occasion like this whose shoes would you rather fill, those of the man in possession or those of the visitor? I confess, sir, that I would rather be in those of "the little man of Gramercy Park." And, sir, further and stronger than that, he could say to his host "I had a clearly defined and unmistakable majority of the electoral votes of this country but through your rascally, scoundrelly, fraudulent returning boards you have defrauded me of them and thereby taken my honestly won office from me."

Sir, have I overdrawn this picture? Am I not right in this? And has not the gentleman from Ohio [Mr. FOSTER] told us so through a report of his concurred in by his political associates? Has he not told us that this identical Louisiana returning board is a fraud? Has he not declared that its "acts were illegal, arbitrary, &c.?" And has he not insinuated that its members were a villainous, unprincipled set of scoundrels? I am not using his language, but in substance I insist that he has done this.

Why, sir, look at it; this man Wells, the president of that board, the soul and spirit of the whole thing, is shown in this report—signed by Mr. FOSTER, of Ohio, and Mr. Phelps, of New Jersey, leading republicans, and indorsed, I believe, by one of the eminent commissioners, [Mr. HOAR]—to have been a perjurer. It is not said in these words, but it is fairly deducible from the language of the report. I have no time to read it, but will simply direct attention to the report known as the Foster report, second session of the Forty-third Congress. Now let any man read it and he will see that these republicans in that report clearly indicate their conviction that this man Wells committed perjury in making an affidavit that was false in respect to intimidation, &c., in a certain parish, Rapides, I think.

Mr. WELLS, of Mississippi. Will the gentleman allow me to ask him a question?

Mr. SPARKS. No, sir, of course not; I have not time, and if I should answer you it would do you no good. You would still go it blindly and vote wrong anyhow.

I pass now, sir, to another authority in relation to the infamy of this president of the Louisiana returning board. It is the letter of Lieutenant-General Sheridan, which was read in the House some time ago at the instance of my friend from Ohio, [Mr. BANNING,] chairman of the Committee on Military Affairs, in which General Sheridan denounces him as a "dishonest, corrupt man," a "trickster," and "a man without one honest friend," &c. And, sir, the Lieutenant-General is a well-known republican, a gentleman whose acts do not all meet my approval, and yet among his faults, whatever they have been, lying is not one of them.

And again, sir, it is proven that the presiding genius of this board is a forger, for the proof of which I refer to the testimony taken before the committee of the House on the "privileges, powers," &c., of the House. Littlefield, one of the clerks of the board, positively swears that by Wells's order the original return from Vernon Parish was secretly changed and altered by erasing 128 votes from the Tilden electors and adding them to the Hayes electors, besides other alterations and forgeries committed upon that return. This original return I now have on behalf of that committee in my possession for safe-keeping, and it clearly shows all that I have alleged with respect to the alterations and changes. And that it was done by Wells or by his connivance or direction is shown not only by Littlefield's testimony but by certified statements and copies of papers from the board accompanying it.

Again, sir, it is charged that he is a swindling, corrupt scoundrel, and that he corruptly attempted to sell out the vote of Louisiana for money. I refer to the testimony of Maddox, taken before that same committee, in which he positively swears to these facts and is corroborated partly by other testimony, but specially by Wells's genuine letters (admitted to be such) now in possession of the committee; two of them addressed to Maddox, and one addressed to his friend Senator WEST.

Sir, I challenge any man to read these letters, taken in connection with Maddox's testimony, and come to any conclusion other than that he was corruptly attempting to put up the vote of Louisiana in the market to the highest bidder.

It is also shown, sir, that in that board, whose final count and determination was secret and closed to all persons but the members and their chosen tools as clerks, four of said clerks were then under indictments (three of them being for perjury) and an additional one charged with murder.

Such is a fair statement of one of these returning boards whose acts are decided by our "high commission" to be beyond scrutiny or investigation, and the result of which, aided by the certificate of a pretended governor who according to the report of a republican congressional committee is himself a usurper and the creature of a gigantic fraud, is to inaugurate this patriotic gentleman into the Presidency; and he and his friends who have urged it now accept the situation without a blush.

[Here the hammer fell.]

Mr. W. B. WILLIAMS. I desire to occupy a few minutes upon this question. It is quite surprising to me to witness the ease with which our friends on the other side roll the word fraud under their tongue, at the very time they are attempting to defraud the people of the State of Michigan of one of its electors who received a majority of 25,000 votes; and that, too, upon the purest and most naked technicality that was ever submitted to a tribunal of this kind, if this House is a tribunal.

It is claimed that the electoral college of Michigan had no power to fill the vacancy occasioned by the absence of Mr. Hanchett on the day appointed for the electoral college to meet and cast its votes. That is the whole question before the House, a pure naked legal question. It is conceded here by the evidence produced, evidence provided by the laws of the United States—here permit me to say that there is no law of the United States providing for any other evidence—it is conceded and proved by the evidence provided for by the law of the United States that Hanchett was duly elected an elector of the State of Michigan and duly authorized and qualified, so far as the legal evidence before this House is concerned, that is, the certificate of the governor of the State, to act as such elector.

This certificate of the governor verifies and authenticates the action of the State board of canvassers.

What evidence is there, then, to disqualify him from exercising that right? Upon what evidence are we discussing the question here? The supreme court of the State of Michigan has held, and it is the settled law of that State, that the certificate of the board of canvassers is *prima facie* evidence of the right of a person to hold the office, and that it cannot be controverted except by a judicial tribunal, or by the voluntary surrender of the office. I will read an extract from a decision in 16 Michigan Reports:

> The certificate of election, whether *rightfully* or *wrongfully* given, confers upon the person holding it the *prima facie* right of *holding* for the term; and this *prima facie* right is subject to be defeated *only* by his voluntary surrender of the office, or by a judicial determination of the right.

Assuming for the sake of argument that Mr. Hanchett was ineligible, which I deny, he received that certificate; and the evidence before the electoral college was that he was entitled to act as an elector. In his absence the electoral college exercised the power which had been conferred upon it by the Legislature—a power which cannot be questioned by this House, because it is a matter of constitutional right—and elected to this office Mr. Crossman, whose vote is here objected to.

Now, the proceedings there were all regular. The evidence provided for by law, the evidence recognized by our supreme court as evidence of the right of Mr. Hanchett to hold the office, had been granted, and he was entitled to exercise the franchises of the office. He absented himself, and another person was duly elected in the manner prescribed by the statute. Therefore I insist that, whether Mr. Hanchett was ineligible or eligible, the question does not and cannot arise here.

But let us glance for a moment at the evidence submitted here to show his ineligibility. What is it? That in 1863 for a special purpose he accepted an authority from the circuit court of the eastern district of the State of Michigan to act as commissioner; that he performed the duty for which he accepted the office, the only duty he ever did perform in regard to the office. He was appointed for a particular locality—for the city of Owasso, in the county of Shiawassee—under the provision of the act of 1817 which authorized the circuit courts to appoint officers for different localities. He performed that duty in 1863; but in 1865 he left that county; he removed to another portion of the State, and from that time to this has never exercised or performed any of the duties of the office of circuit court commissioner in that district. The question is then, is he ineligible? Was he ineligible on the 7th day of November last? I claim that he was not, under the law. He was appointed for a particular duty in a particular place; he performed that duty and removed from that place; and he has not held the office, exercised its franchises, or performed its duties since 1863. If the evidence brought here can be used at all, if there is any mode by which that evidence can be brought in here, any rule which will permit it to come in, still it does not prove that on the 7th day of November last he was holding and *de facto* exercising the office of circuit court commissioner for the eastern district of Michigan.

I claim, therefore, that in fact there is no evidence here to warrant the assumption that Mr. Hanchett was ineligible. I claim, further, that even if he was ineligible his certificate, regularly issued, was sufficient evidence for the electoral college to act upon; that the office of elector to which he was chosen was vacant when he did not appear at the time and in the manner specified by law, and therefore the other electors had a legal and just right to do exactly what they did: to elect Mr. Crossman as his successor; and Mr. Crossman's vote is just as much entitled to be counted by the two Houses of Congress as any other vote from the State of Michigan.

[Here the hammer fell.]

Mr. SPRINGER. I yield for a few moments to my colleague, [Mr. CAMPBELL.]

Mr. CAMPBELL. Mr. Speaker, I gave a cheerful and earnest support to the bill creating the electoral commission, believing it the best way of escape out of what seemed an inextricable difficulty in which the result of the late presidential election had become involved. The composition of the commission was well calculated to inspire the hope that fraud should not be shielded by mere legal technicalities, and that we should have an equitable and unpartisan judgment, accompanied by such good and sufficient reasons for the conclusions reached as to meet the approval of fair-minded men of all parties.

But, Mr. Speaker, I confess that the action of the commission in refusing to consider the evidence of fraud in the election in the State of Louisiana has not met my hopes and expectations. My disappointment is not that by the judgment of the commission the candidate of the one or other of the parties is placed in the presidential chair, but because from all the information I have in reference to the election in that State, I am forced to the conclusion that it is not only tainted with fraud, but so saturated with corruption that equity and good conscience demand that the vote of that State should be excluded from the count—to count it for either candidate is to offer a premium for corruption and fraud. Mr. Speaker, while I accept as a finality and shall acquiesce in the judgment of the commission, I cannot, in view of all the facts connected with the case and of my sense of duty, sanction by my vote the conclusions reached by the commission.

Mr. SPRINGER. I wish to say a few words in reply to the remarks of the gentleman from Michigan, [Mr. CONGER.] He advanced the position that the appointment of an elector consists of various acts: first, the election by the people; second, the canvass of the votes by the returning board; and, thirdly, the certificate of the governor.

To show the absurdity of that proposition, it is only necessary to call the gentleman's attention to the act of Congress which provides that—

> Electors of President and Vice-President shall be appointed in each State on the Tuesday next after the the first Monday in November in every fourth year succeeding every election of President and Vice-President.—*Revised Statutes*, section 131.

This is the time provided by law for the appointment of electors, and no other time is provided for their appointment except in a subsequent section (134) providing for the contingency of a failure to make a choice on the day prescribed by law. In such a contingency the electors may be appointed on a subsequent day in such manner as the Legislature of the State may direct.

Not only does the statute fix the appointment upon the day of the popular election, but the decisions of all the courts that have ever passed upon this question are to the same purport, and particularly the decision of the supreme court of Rhode Island in the case of Mr. Corliss, an elector voted for at the last election. The court in that case held:

The language of the Constitution is that no person holding an office of honor, trust, or profit under the United States shall be appointed an elector. Under our law the election of the people constitutes the appointment. The duty of the governor is to examine and count the votes and give notice to the electors. He merely ascertains; he does not complete the appointment.

This is the unanimous decision of the supreme court of Rhode Island; and it is in harmony with the law that has always been recognized in this country that the appointment of electors is made by the people, and not by returning boards.

Mr. CONGER. But that is a different statute from ours in Michigan.

Mr. EAMES. Will the gentleman yield to me for a moment?

Mr. SPRINGER. Yes, sir.

Mr. EAMES. The case of Rhode Island has been referred to by the gentleman from Massachusetts [Mr. WARREN] and the gentleman from Missouri [Mr. BUCKNER.]

Mr. SPRINGER. I yielded for a question; not for a speech.

Mr. EAMES. Then I will simply make this statement: there were two questions determined by that court——

Mr. SPRINGER. I cannot yield unless the gentleman desires to ask me a question.

Mr. EAMES. The gentleman will allow me to say that the statements made on the floor as to the decision in Rhode Island are not entirely accurate. The language of the statute of Rhode Island upon which the decision was made differs from the law of Michigan.

Mr. SPRINGER. Well, if the gentleman desires it he can have the whole decision printed in the RECORD and then every gentleman can read it for himself.

Now, one word in reference to the election of ineligible persons to office. The Senate of the United States in the case of General Shields, who was chosen a Senator from the State of Illinois, held that his election was entirely void for the reason that the Constitution of the United States provided that no person shall be a Senator who shall not have been nine years a citizen of the United States when elected. General Shields not having been, when elected, a citizen of the United States for nine years, the Senate declared the election void and the seat vacant. (1 Bartlett, 606.)

I wish to make one further remark in reply to my colleague from Illinois, [Mr. BURCHARD,] who has expressed such a horror of going behind the returns, and thinks it wholly unconstitutional to do so.

In the year 1800 a bill passed both Houses of Congress, but failed to become a law on account of a disagreement between the Houses as to whether it should require both Houses to reject an electoral vote or both to count it. It received the sanction, however, of both Houses of Congress in its main features. Several of the leading members of Congress at that time were members of the Federal convention that framed the Constitution of the United States or members of the State Legislatures that ratified it. John Marshall, afterward Chief-Justice of the Supreme Court of the United States, was also a member of Congress at that time, which was only eleven years after the adoption of the Constitution; and he with others equally distinguished as expounders of the Constitution supported the bill of 1800, which provided a mode of counting the votes for President and Vice-President, and created a grand committee similar to the electoral commission and with like powers. Section 8 of that bill is as follows:

SEC. 8. *And be it further enacted*, That the grand committee shall have power to inquire, examine, decide, and report upon the constitutional qualifications of the persons voted for as President and Vice-President of the United States; upon the constitutional qualifications of the electors appointed by the different States, and whether their appointment was authorized by the State Legislature or not or made according to the mode prescribed by the Legislature; upon all petitions and exceptions against corrupt, illegal conduct of the electors, or force, menances, or improper means used to influence their votes, or against the truth of their returns, or the time, place, or manner of giving their votes.

The powers of this grand committee were the powers of the two Houses of Congress, and were such powers and such only as the Constitution of the United States conferred on them, for the act of legislation could neither enlarge nor limit the powers which the Constitution conferred.

This bill, although it did not become a law, for the reasons I have stated, was nevertheless a legislative interpretation and recognition of the power of the two Houses to go behind the certificates of the governor and the action of the returning boards, when counting the electoral vote. The grand committee had expressly power to compel the attendance of witnesses and to punish witnesses for refusing to appear when summoned. This bill received the sanction of both Houses of Congress in the year 1800, and for seventy-seven years neither House of Congress has, by formal action, sanctioned a different doctrine until the Senate approved the decision of the electoral commission in the Florida case, and subsequently in the Louisiana case yesterday. The doctrine that no evidence can be received by the two Houses *aliunde* the papers laid before them by the President of the Senate is a new heresy, invented for a particular purpose and for this occasion only. If the governor of Illinois and the canvassing board of that State had from partisan motives thrown out the votes of a half dozen counties in my colleague's district, and had certified to the election of the Tilden electors, we should have heard such a demand from republicans for going behind the returns as would have aroused the moral sentiment of the nation, and would have caused even judges of the Supreme Court to read the Constitution and to determine the powers of the two Houses quite differently from what is laid down in the decisions in the Florida and Louisiana cases.

But, further, the gentleman from Illinois [Mr. BURCHARD] has himself gone behind the returns in voting to reject the electoral votes of one of the States of this Union. In the case of Georgia four years ago my colleague on the joint committee, [Mr. HOAR,] now a commissioner of this joint commission, offered the following resolution:

Resolved, That in the judgment of the House of Representatives the votes reported by the tellers as having been cast by the electors of the State of Georgia for Horace Greeley, of New York, for President of the United States ought not to be counted, the said Horace Greeley having died before the said votes were cast.

Mr. BURCHARD, of Illinois. There was no such person.

Mr. SPRINGER. How did my colleague find that out? He did not learn it from the face of the returns. O, no, that fact was *aliunde* the papers laid before the two Houses. He had to go to the graveyards of the country and there upon the tombstone of Horace Greeley read the date of his death. That was the only evidence he had. It was a historical fact, as the gentleman from Massachusetts [Mr. HOAR] remarked at the time. The gentleman from Massachusetts and my colleague [Mr. BURCHARD] took cognizance of that fact then without proof, although it did not appear upon the face of the certificate, and voted against counting 3 votes from the State of Georgia for Horace Greeley.

Mr. BURCHARD, of Illinois. How did I vote on the Louisiana case?

Mr. SPRINGER. I will come to the Louisiana case. The gentleman asked how he voted in the case of Louisiana four years ago. I will tell him. When the vote of Louisiana was reached Senator Boreman of West Virginia submitted the following objection:

I object to counting any votes from the State of Louisiana for reasons set forth in the report of the Committee on Privileges and Elections submitted to the Senate on the 10th instant, and printed as Report No. 417 of Forty-Second Congress, third session.

The report of the Committee on Privileges and Elections of the Senate was *aliunde* the papers laid before the two Houses by the President of the Senate.

The gentleman from Ohio, [Mr. GARFIELD,] when the two Houses separated, offered a resolution in the House, as follows:

Resolved, That in the judgment of this House none of the returns reported by the tellers as electoral votes of the State of Louisiana should be counted.

And this resolution was adopted without division; but before it was adopted, Mr. Speer, of Pennsylvania, offered a substitute, as follows:

Resolved, That the vote of the electors of the State of Louisiana, certified to by H. C. Warmoth, governor, should be, in the judgment of this House, counted.

On the vote on Mr. Speer's substitute there were yeas 59, nays 85, and among the nays I do not find the name of my colleague from Illinois, [Mr. BURCHARD,] but I do find the name of the gentleman from Ohio [Mr. GARFIELD] and that of the gentleman from Massachusetts, [Mr. HOAR.] I find nearly all the republican members of the House at that time voting to reject the votes of the State of Louisiana, and thus going behind the returns to do so. The yeas and nays on Mr. Speer's resolution may be of interest at this time to illustrate how easy and constitutional it was only four years ago for gentlemen to go behind the returns and reject the vote of a State, duly certified so far as the face of the returns was concerned, and upon evidence *aliunde* the papers laid before the two Houses by the President of the Senate. The vote on agreeing to Mr. Speer's resolution was as follows:

YEAS—Messrs. Acker, Adams, Ambler, Archer, Arthur, James B. Beck, Boles, Braxton, Burchard, Carroll, Crossland, Dodds, Dox, DuBose, Duke, Farnsworth, Finkelnburg, Getz, Giddings, Golladay, Haldeman, Hancock, Handley, Hanks, Hay, Hereford, Herndon, Hibbard, Holman, Kerr, Ketcham, McIntyre, Manson, McClelland, McHenry, McKinney, Merrick, Morgan, Silas L. Niblack, Perry, Potter, Price, Randall, Read, Ellis H. Roberts, William R. Roberts, Sion H. Rogers, Shober, Slocum, Speer, Storm, Terry, Voorhees, Waddell, Warren, Wells, Willard, Williams of New York, and Winchester—59.

NAYS—Messrs. Averill, Barry, Beatty, Bigby, Bingham, James G. Blair, Buckley, Buffinton, Bunnell, Burdett, Roderick R. Butler, Coburn, Coghlan, Conger, Cotton, Darrall, Dawes, Donnan, Dunnell, Eames, Elliott, Farwell, Charles Foster, Wilder D. Foster, Frye, Garfield, Hale, Halsey, Harmer, Harper, George E. Harris, John B. Hawley, Joseph R. Hawley, Hays, John W. Hazelton, Kellogg, Lamport, Lowe, Maynard, McJunkin, McKee, Merriam, Moore, Morey, Morphis, Leonard Myers, Orr, Packard, Palmer, Isaac C. Parker, Peck, Pendleton, Perce, Peters, Platt, Poland, Porter, Prindle, Rainey, Rusk, Sargent, Sawyer, Scofield, Sessions, Sheldon, Shoemaker, H. Boardman Smith, John A. Smith, Sprague, Starkweather, Stevenson, Stoughton, Stowell, St. John, Sypher, Thomas, Washington Townsend, Turner, Twichell, Tyner, Upson, Wakeman, Waldron, Wallace, and Williams of Indiana—85.

NOT VOTING—Messrs. Ames, Banks, Barber, Barnum, Erasmus W. Beck, Bell, Biggs, Bird, Austin Blair, Boarman, Bright, Brooks, Benjamin F. Butler, Caldwell, Campbell, Clarke, Cobb, Comingo, Conner, Cox, Crebs, Creely, Critcher, Crocker, Davis, Dickey, Duell, Eldredge, Ely, Esty, Forker, Henry D. Foster, Garrett, Goodrich, Griffith, Hambleton, John T. Harris, Havens, Gerry W. Hazelton, Hill, Hoar, Hooper, Houghton, Kelley, Kendall, Killinger, King, Kinsella, Lamison, Lansing, Leach, Lewis, Lynch, Marshall, McCormick, McCrary, McGrew, McNeely, Benjamin F. Meyers, Mitchell, Monroe, Negley, William E. Niblack, Packer, Hosea W. Parker, Edward Y. Rice, John M. Rice, Ritchie, Robinson, John Rogers, Roosevelt, Seeley, Shanks, Shellabarger, Sherwood, Slater, Sloss, Worthington C. Smith, Snapp, Snyder, Stevens, Sutherland, Swann, Taffe, Dwight Townsend, Tuthill, Van Trump, Vaughan, Walden, Wheeler, Whiteley, Whitthorne, Jeremiah M. Wilson, John T. Wilson, Wood, and Young—96.

So the resolution was not agreed to; but the question recurring on the resolution of the gentleman from Ohio [Mr. GARFIELD] to reject the vote of Louisiana, it was passed in the affirmative without division. A similar resolution was passed in the Senate. Senator Trumbull, of Illinois, offered at that time the following as an amendment:

Resolved, That the votes of the electors declared to have been elected as aforesaid by the governor of the State of Louisiana are entitled to be counted.

The resolution, to which Senator Trumbull's was an amendment, was offered by Senator Carpenter, of Wisconsin, and is as follows:

Resolved, That, all the objections having been considered, no electoral vote purporting to be that of the State of Louisiana be counted.

The proceedings in the Senate on the Trumbull amendment and the Carpenter resolution were brief but are nevertheless instructive at this time. I quote from the House compilation on Counting the Electoral Vote, page 405:

Mr. TRUMBULL. I ask for the yeas and nays. It is an important question whether a return in all respects in conformity with law shall be received.

Mr. EDMUNDS. That is debate.

The yeas and nays were ordered; and being taken, resulted—yeas 20, nays 35; as follows:

YEAS—Messrs. Bayard, Casserly, Cooper, Fenton, Ferry of Connecticut, Hamilton of Maryland, Johnston, Kelly, Machen, Ransom, Rice, Saulsbury, Schurz, Sprague, Stevenson, Stockton, Thurman, Tipton, Trumbull, and Vickers—20.

NAYS—Messrs. Ames, Anthony, Boreman, Caldwell, Carpenter, Chandler, Clayton, Cole, Conkling, Corbett, Cragin, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Gilbert, Hamlin, Harlan, Hill, Hitchcock, Howe, Logan, Morrill of Maine, Morrill of Vermont, Morton, Norwood, Nye, Pool, Ramsey, Robertson, Sawyer, Scott, Sherman, Stewart, and West—35.

ABSENT—Messrs. Alcorn, Blair, Brownlow, Buckingham, Cameron, Davis, Goldthwaite, Hamilton of Texas, Lewis, Osborn, Patterson, Pomeroy, Pratt, Spencer, Sumner, Wilson, Windom, and Wright—18.

So the amendment was rejected.

The VICE-PRESIDENT. The question recurs on the resolution of the Senator from Wisconsin, [Mr. Carpenter.]

Mr. THURMAN. I call for the yeas and nays on that.

The yeas and nays were ordered; and being taken, resulted—yeas 33, nays 16; as follows:

YEAS—Messrs. Ames, Anthony, Boreman, Caldwell, Carpenter, Chandler, Cole, Conkling, Corbett, Edmunds, Ferry of Michigan, Flanagan, Frelinghuysen, Gilbert, Hamlin, Harlan, Hill, Hitchcock, Howe, Logan, Morrill of Maine, Morrill of Vermont, Morton, Norwood, Nye, Pool, Ramsey, Robertson, Sawyer, Scott, Sherman, Stewart, and West—33.

NAYS—Messrs. Bayard, Casserly, Cooper, Ferry of Connecticut, Hamilton of Maryland, Johnston, Kelly, Machen, Ransom, Saulsbury, Sprague, Stevenson, Stockton, Thurman, Tipton, and Vickers—16.

ABSENT—Messrs. Alcorn, Blair, Brownlow, Buckingham, Cameron, Clayton, Cragin, Davis, Fenton, Goldthwaite, Hamilton of Texas, Lewis, Osborn, Patterson, Pomeroy, Pratt, Rice, Schurz, Spencer, Sumner, Trumbull, Wilson, Windom, and Wright—24.

The VICE-PRESIDENT. The resolution is agreed to; and the Secretary will at once communicate to the House of Representatives this action of the Senate.

An examination of these votes will reveal the fact that every republican member of the present electoral commission four years ago went behind the returns, voted to reject the votes of Louisiana or Georgia, regularly certified as were the Kellogg returns of this election, and upon evidence *aliunde* the papers laid before the two Houses by the President of the Senate.

The republican members being in a large majority in both branches of Congress said then upon their oaths that the votes of the State of Louisiana should not be counted, and went behind the certificate from that State, regular in form, in order to do that.

Mr. BURCHARD, of Illinois. Why did you not say how I voted?

Mr. SPRINGER. I have already exonerated my colleague from voting against counting the vote of Louisiana, but he did go behind the returns in the case of the State of Georgia, and voted to throw out the three votes from that State cast for Horace Greeley. That is enough to convict my colleague of inconsistency on this point. Republicans then went behind the returns, and my colleague went behind them to exclude votes cast for a dead man, but now he objects on constitutional grounds to going behind the returns to count votes for a live man whose electors were truly and fairly chosen by the people of Louisiana, but fraudulently counted out by a corrupt, illegal, and infamous returning board.

I yield whatever time I have remaining to the gentleman from Pennsylvania, [Mr. JENKS.]

Mr. JENKS. I desire to offer as a substitute for the proposition of the gentleman from Virginia the following:

The Clerk read as follows:

Whereas the fact being established that it is about twelve years since the alleged ineligible elector exercised any of the functions of a United States commissioner, it is not sufficiently proven that at the time of his appointment he was an officer of the United States: Therefore,

Resolved, That the vote objected to be counted.

Mr. JENKS. Mr. Speaker, with reference to that resolution I have only this to say, that the law as announced by the gentleman from Virginia [Mr. TUCKER] and those who have corresponded with him in views, I fully corroborate without any abatement or qualification whatever. But when it appears this man whose vote is objected to has not for twelve years exercised any of the functions of the office of United States commissioner and himself doubtless had forgotten he had been such until after the election, it seems to me the spirit of the Constitution does not require we should exclude the count of that vote. Upon these grounds, and not because I do not approve and fully sustain the position legally taken by the gentleman from Virginia, I offer this substitute.

The question being taken on the substitute offered by Mr. JENKS, it was agreed to.

The question was then taken on the resolution as amended, and it was agreed to.

Mr. CONGER. I object to the preamble.

The SPEAKER. That has already been voted upon as part of the substitute. The Chair thinks the objection of the gentleman from Michigan comes too late.

Mr. WILSON, of Iowa. I desire a separate vote on the preamble.

The SPEAKER. The preamble and resolution would have been susceptible of a separation if the demand had been made in time. But the demand is made too late.

Mr. JENKS 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.

Mr. CONGER. I ask that the Senate be notified of the action just taken by the House.

The SPEAKER. The Chair has directed that that shall be done. The law is very explicit on that point.

LEAVE TO PRINT.

Mr. WILSON, of West Virginia. I was prevented by the fall of the hammer from completing the remarks which I had intended to address to the House on the subject of the electoral vote of Louisiana. I ask that I may be allowed to extend my remarks when they are printed in the CONGRESSIONAL RECORD.

There was no objection, and it was so ordered.

SUNDRY CIVIL APPROPRIATION BILL.

Mr. HOLMAN. I rise to make a parliamentary inquiry: Whether in the present condition of the business of the House it would be competent for the House to receive a report of one of the regular appropriation bills from the Committee on Appropriations at this time?

The SPEAKER. That would not be in order unless unanimous consent is given.

Mr. HOLMAN. I ask for unanimous consent. My only object in making this request is to have the bill printed. I have been seeking to obtain the floor for this purpose.

The SPEAKER. The Chair will at any time and at all times recognize the gentleman from Indiana when he thinks he is permitted to do so under the rules of the House. Yesterday there was objection made to the Chair laying before the House a report from the Committee on Enrolled Bills that certain bills had been duly enrolled.

Mr. HOLMAN. I ask unanimous consent that the Committee on Appropriations be permitted to report the sundry civil appropriation bill for printing only.

Mr. WADDELL. Can that be done, even by unanimous consent, without violation of the law?

Mr. WILSON, of Iowa. I object. The law forbids it. I think we can go on and finish the pending business and then pass the appropriation bills.

Mr. COX. We do not want an extra session.

Mr. HOLMAN. I will then ask that by unanimous consent the sundry civil bill, without being reported from the Committee on Appropriations, be printed in the CONGRESSIONAL RECORD for the information of the House, so that it may be taken up at the earliest moment.

The SPEAKER. The gentleman from Indiana asks unanimous consent that the sundry civil bill now agreed upon by the Committee on Appropriations may be printed in the CONGRESSIONAL RECORD for the information of the House.

Mr. WILSHIRE. I object.

The SPEAKER. Objection is made.

Mr. HOLMAN. Who objects?

The SPEAKER. The Chair stated there was objection.

Mr. HOLMAN. It is well for the House to know who objected.

The SPEAKER. The gentleman from Arkansas [Mr. WILSHIRE] rose in his place and objected.

Some time subsequently,

Mr. WILSHIRE said: I desire to withdraw my objection to printing the sundry civil appropriation bill in the RECORD. I was not aware till after I had made the objection that there was no appropriation for printing it in the usual way to be put upon the files.

The SPEAKER. If there be no further objection, authority is given for the publication in the CONGRESSIONAL RECORD of the sundry civil appropriation bill as agreed upon by the Committee on Appropriations. The gentleman from Indiana will notice that the Chair is compelled to put it in that way, because the bill has not been reported to the House.

Mr. HOLMAN. That is true. The objection was to making the report. I desire to say that, as soon as legislative business can be proceeded with in the House, I will ask permission to report this bill and that its consideration be proceeded with at once.

There being no further objection, the sundry civil appropriation bill, as agreed upon by the Committee on Appropriations, was ordered to be printed in the RECORD. It is as follows:

A bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1878, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums be, and the same are hereby, appropriated for the objects hereinafter expressed, for the fiscal year ending June 30, 1878, namely:

PUBLIC PRINTING AND BINDING.

For the public printing, for the public binding, and for paper for the public printing, including the cost of printing the debates and proceedings of Congress in the CONGRESSIONAL RECORD, and for lithographing, mapping, and engraving for both Houses of Congress, the Supreme Court, the Court of Claims, and the Departments, and for the necessary materials, $1,300,000; and out of the sum hereby appropriated, printing and binding may be done by the Congressional Printer to the amounts following, namely:

For printing and binding for the State Department, $15,000; for the Treasury Department, $180,000; for the War Department, $72,000; for the Navy Department, $39,000; for the Interior Department, $135,000; for the Agricultural Department, $9,000; for the Department of Justice, $6,000; for the Post-Office, $105,000; for the Congressional Library, $15,000; for the Supreme Court of the United States, $20,000; for the Court of Claims, $10,000; and for debates and proceedings of Congress, $694,000; and of the sums hereby appropriated for the several Departments, the courts, and for the debates and proceedings in Congress, there shall only be used for the several purposes herein provided the sums specified, and the unexpended balances shall not be used for any other purposes; and there shall be taxed against the losing party in each and every cause pending in the Supreme Court of the United States, or in the Court of Claims of the United States, the cost of printing the record in such case, which shall be collected, except when the judgment is against the United States, by the clerks of said courts respectively, and paid into the Treasury of the United States; but this shall only apply to records printed after the 1st day of October next.

To purchase of the proprietors of the Congressional Globe all the stereotyped plates, the bound and unbound volumes of the said Globe and the copyright of the same, together with the fire-proof building, (located in the rear of the building situated on Pennsylvania avenue and known as the Globe office,) $100,000.

TREASURY DEPARTMENT.

For life-saving and life-boat stations:

For salaries of ten superintendents and one assistant superintendent of the life-saving stations at the following points, namely: On the coasts of Long Island and Rhode Island, $1,500; and on the coast of New Jersey, $1,500; assistant to the superintendent on the coasts of Long Island and Rhode Island, $500; for superintendents on the coast of Massachusetts, on the coasts of Maine and New Hampshire, on the coasts of Virginia and North Carolina, on the coasts of Delaware, Maryland, and Virginia, on the coasts of Lakes Erie and Ontario, on the coasts of Lakes Huron and Superior, and on the coast of Lake Michigan, and for superintendent for the houses of refuge on the coast of Florida, each $1,000, $8,000; in all, $11,500.

For one hundred and fifty keepers of stations, at $200 each, $30,000.

For five keepers of houses of refuge on the coast of Florida, $2,400.

For pay of crews of experienced surf-men at such stations and for such periods as the Secretary of the Treasury may deem necessary and proper, $146,000.

For compensation to volunteers at life-boat stations, $8,160.

For fuel for one hundred and fifty-five stations and houses of refuge, repairs and outfits for the same; supplies and provisions for houses of refuge and for shipwrecked persons succored at stations; traveling expenses of officers under orders from the Treasury Department; and contingent expenses, including freight, storage, repairs to apparatus, medals, stationery, advertising, and miscellaneous expenses that cannot be included under any other head of life-saving stations, life-boat stations, and houses of refuge on the coasts of the United States, $40,000.

Revenue-cutter service:

For the pay of captains, lieutenants, engineers, and pilots, and for rations for the same, and for pay of petty officers, seamen, cooks, stewards, boys, coal-passers, and firemen, and for rations for the same, and for fuel for vessels, repairs and outfits for same, ship-chandlery and engineers' stores for same, traveling expenses of officers traveling on duty under orders from the Treasury Department, commutation of quarters, and contingent expenses, including wharfage, towage, dockage, freight, advertising, surveys, labor, and miscellaneous expenses which cannot be included under special heads, $874,891.10.

JUDICIARY.

For defraying the expenses of the Supreme Court and circuit and district courts of the United States, including the District of Columbia; and also for jurors and witnesses and expenses of suits in which the United States are concerned, of prosecutions for offenses committed against the United States; for the safe-keeping of prisoners, and for defraying the expenses which may be incurred in the enforcement of the act of February 28, 1871, relative to the right of citizens to vote, or any acts amendatory thereof or supplementary thereto, $2,500,000.

For the support and maintenance of convicts transferred from the District of Columbia, $8,000.

For detecting and punishing violations of the intercourse acts of Congress, and frauds committed in the Indian service, in allowing such increased fees and compensation of witnesses, jurors, and marshals and in defraying such other expenses as may be necessary for this purpose, $8,000.

For the detection and prosecution of crimes against the United States, $25,000.

For payment of the necessary expenses incurred in defending suits against the Secretary of the Treasury or his agents for the seizure of captured or abandoned property, and for the examination of witnesses in claims against the United States pending in any Department, and for the defense of the United States in the Court of Claims, $25,000.

Reform School of the District of Columbia:

For the superintendent, assistant superintendent, matron, two teachers, for medicines and physicians' fees, gardener, farmer, baker, night-watchman, seamstress, laborer, and laundress, and four female servants, and for fuel, clothing, and incidentals, $10,000.

For improvements and repairs, $5,000, no part of which shall be expended in the purchase of land.

Metropolitan police:

For salaries and other necessary expenses of the Metropolitan police for the District of Columbia, $150,000: *Provided*, That a like sum shall concurrently be paid to defray the expenses of the said Metropolitan police force out of the treasury of the District of Columbia. The duties devolved and the authority conferred upon the board of Metropolitan police by law, for police purposes in said District, shall extend to and include all public squares or places; and said board is hereby authorized and required to make appropriate rules and regulations in relation thereto.

DISTRICT OF COLUMBIA.

That the Secretary of the Treasury shall reserve of any of the revenues of the District of Columbia not required for the actual current expenses of schools, the police, and the fire department, a sum sufficient to meet the interest accruing on the 3.65 bonds of the District during the fiscal year beginning July 1, 1877, and apply the same to that purpose; and in case there shall not be a sufficient sum of said revenues in the Treasury of the United States at such time as said interest may be due, then the Secretary of the Treasury is authorized and directed to advance from any money in the Treasury not otherwise appropriated a sum sufficient to pay said interest, and the same shall be re-imbursed to the Treasury of the United States from time to time as said revenues may be paid into said Treasury, until the full amount shall have been refunded.

For payment of judgments heretofore rendered in the Court of Claim in favor of the following-named persons, and for the amounts respectively following their names, to wit: Thomas W. Sweeney, $768.81; Horatio Page, $4,453.22; Francis Cole, $208.25; John Campbell, $102.47; Albert Gittings, $133 57; Edward M. Schaeffer, $200; E. S. Houston, for the use of J. H. Bemis, $425.79; in all, $6,292.11.

INTERIOR DEPARTMENT.

For casual repairs of the Interior Department building, $5,000.

Government Hospital for the Insane:

For the support, clothing, and medical and moral treatment of the insane of the Army, Navy, and Marine Corps, and Revenue Cutter service, and of all persons who may have become insane since their entry into the military or naval service of the United States and who are indigent, and of the indigent insane of the District of Columbia, in the Government Hospital for the Insane, $145,000; and one-half of the expense of the indigent persons who may be hereafter admitted from the District of Columbia shall be paid from the treasury of said District: *Provided*, That hereafter such indigent persons shall be admitted only upon order of the executive authority of the said District.

That all sums herein appropriated, or that may be hereafter appropriated, for the support, in whole or in part, of any asylum, charitable or reformatory institution, or society in the District of Columbia, shall be expended under the authority and control of the commissioners of said District, who shall have power to make such regulations in respect thereto as they may deem expedient.

For general repairs and improvements absolutely necessary for the buildings of the institution, $5,000.

Columbia Institution for the Deaf and Dumb:

For the support of the institution, including salaries and incidental expenses, the maintenance of the beneficiaries of the United States, and $500 for the books and illustrative apparatus, $48,000. And the accounting officers of the Treasury are hereby authorized, in the settlement of the accounts of the disbursing agent for the said institution, to give credit for voucher No. 5 in the first quarter of 1876, and for vouchers Nos. 41 and 48 in the second quarter of the same year; said vouchers being receipts for moneys paid for fuel for the use of said institution, if the said accounting officers shall find that said vouchers were for expenditures made for the benefit of said institution.

For the completion of the work on the erection, furnishing, and fitting up the buildings of the institution in accordance with plans heretofore submitted, and for repairs on buildings already completed, $40,000.

Columbia Hospital for Women and Lying-in Asylum:

For the support of the Columbia Hospital for Women and Lying-in Asylum, over and above the probable amount which will be received from pay patients, $16,000.

To complete the iron railing and general repairs, $2,000.

CAPITOL EXTENSION.

Capitol extension: For work on the Capitol, and for general care and repair thereof, $40,000.

For improving the Capitol grounds and for paving roadway and footwalks in the Capitol grounds, $100,000.

For lighting the Capitol, and grounds about the same, including Botanical Garden; for gas, pay of lamp-lighters, gas-fitters, plumbers and plumbing, lamps, lamp-posts, matches, materials for the electrical battery, and repairs of all kinds, $30,000, to be expended under the direction of the Architect of the Capitol.

SURVEYS OF PUBLIC LANDS.

For survey of the public lands and private land claims, $50,000: *Provided*, That the sum hereby appropriated shall be expended in such surveys as the public interest may require, under the direction of the Commissioner of the General Land Office, with the approval of the Secretary of the Interior, and at such rates as the Secretary of the Interior shall prescribe, not exceeding the rate herein authorized: *Provided*, That no lands shall be surveyed under this appropriation, except, first, those adapted to agriculture without artificial irrigation; second, irrigable lands, or such as can be redeemed and for which there is sufficient accessible water for the reclamation and cultivation of the same not otherwise utilized or claimed; third, timber lands bearing timber of commercial value; fourth, coal lands containing coal of commercial value; fifth, exterior boundary of town sites; sixth, private land claims. The cost of such surveys shall not exceed $10 per mile for standard lines, (and the starting point for said survey may be established by trian gulation,) $7 for township and $6 for section lines, except that the Commissioner of the General Land Office may allow for the survey of standard lines in heavily timbered land a sum not exceeding $13 per mile.

That an accurate account shall be kept by each surveyor-general of the cost of surveying and platting every private land claim, to be reported to the General Land Office with the map of such claim; and that a patent shall not issue nor shall any copy of any such survey be furnished for any such private claim until the cost of survey and platting shall have been paid into the Treasury of the United States by the party or parties in interest in said grant or by any other party: *And provided further*, That before any land granted to any railroad company by the United States shall be conveyed to such company, or any persons entitled thereto under any of the acts incorporating or relating to said company, unless such company is exempted by law from the payment of such cost, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same by the said company or persons in interest.

CONTINGENT EXPENSES OF SURVEYORS-GENERAL.

For rent of office of the surveyor-general of Louisiana, fuel, books, stationery, and other necessaries, $1,000.

For rent of office of surveyor-general of Florida, fuel, books, stationery, and other necessaries, $1,000.

For rent of office of surveyor-general of Minnesota, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Dakota, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Colorado, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of New Mexico, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of California, fuel, books, stationery, and other incidental expenses, $2,000.

For rent of office of surveyor-general of Idaho Territory, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Nevada, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Oregon, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Washington Territory, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Nebraska and Iowa, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Montana Territory, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Utah Territory, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Wyoming Territory, fuel, books, stationery, and other necessaries, $1,500.

For rent of office of surveyor-general of Arizona Territory, fuel, books, stationery, and other necessaries, $1,500.

EXPENSES OF THE COLLECTION OF REVENUE FROM SALES OF PUBLIC LANDS.

For salaries and commissions of registers of land offices and receivers of public moneys, at ninety-eight land offices, $365,483.21.

For incidental expenses of the land offices, $40,175.

For expenses of depositing money received from the sale of public lands, $10,000.

To meet expenses of suppressing depredations upon timber on the public lands, $5,000.

Miscellaneous charitable institutions:

For the support of the National Soldiers' and Sailors' Orphans' Home, Washington City, District of Columbia, including salaries and incidental expenses, to be expended under the direction of the Secretary of the Interior, $10,000.

To aid in the support of the Children's Hospital, Washington, District of Columbia, $5,000.

For the National Association for the Relief of the Colored Women and Children of the District of Columbia, $10,000.

For the Freedmen's Hospital and Asylum in Washington, District of Columbia, namely: For subsistence, $18,000, salaries, and compensation, as follows: Of surgeon, $1,400; of one surgeon and dispensary clerk, $1,000; of engineer, $720; matron, $216; nurses and cooks, $1,800; fuel and light, $3,000; clothing, $3,500; rent of hospital buildings, $2,000; medicines and medical supplies, $1,500; and miscellaneous expenses, $1,000; in all, $34,136.

Smithsonian Institution:

For preservation and care of the collections of the national museum, $13,000.

For fitting up the Armory building for storage of articles belonging to the United States, including those transferred from the international exhibition, and expense of watching the same, $2,500.

Geological and geographical surveys:

For the continuation of the geological and geographical survey of the Territories of the United States, under the direction of the Secretary of the Interior, by Professor F. V. Hayden, $50,000, to be immediately available.

For the completion of the geographical and geological survey of the Rocky Mountain region, including the preparation and publication of maps, charts, and other illustrations necessary for the reports of said survey, by J. W. Powell, under the direction of the Secretary of the Interior, $20,000, to be immediately available.

UNDER THE TREASURY DEPARTMENT.

Public buildings:

Court-house and post-office, Atlanta, Georgia: For continuation of the building, $15,000.

Subtreasury and post-office, Boston, Massachusetts: For purchase of additional land condemned by the courts of the State of Massachusetts, including interest and expenses incident, $181,554.

Custom-house and post-office, Cincinnati, Ohio: For continuation of building, $325,000.

Custom-house and post-office, Fall River, Massachusetts: For purchase of additional land, and continuation of building, $20,000.

Custom-house and post-office, Hartford, Connecticut: For continuation of building, $50,000.

Custom-house and subtreasury, Chicago, Illinois: For continuation of building, $400,000.

Court-house and post-office, Grand Rapids, Michigan: For completion of the building, $20,000.

Court-house and post-office, Trenton, New Jersey: For completing, grading, fences, and furnishing the building, in full for the same, $14,000.

Post-office and court-house, Philadelphia, Pennsylvania: For continuation of building, $325,000.

Court-house and post-office, Raleigh, North Carolina: For completion of building and furnishing, $5,300.

Appraisers' stores, San Francisco, California: For continuation of building, $50,000.

Subtreasury building, San Francisco, California: For completion of building, including additional story, $20,000.

Court-house and post-office, Saint Louis, Missouri: For continuation of building, $400,000.

Court-house and post-office, Parkersburgh, West Virginia: For completion of building, fences, grading, approaches, and furniture, $5,000.

Court-house, custom-house, and post-office, Evansville, Indiana: For completion of building, $20,000.

Court-house, custom-house, and post-office, Nashville, Tennessee: For continuation of building, $13,000.

Custom-house and post-office, Port Huron, Michigan: For fencing, grading approaches, and entire furniture, $10,000.

Treasury building, Washington, District of Columbia: For annual repairs, $20,000.

Repairs and preservation of public buildings: For repairs and preservation of public buildings under control of the Treasury Department, $100,000.

LIGHT-HOUSE ESTABLISHMENT.

Salaries of keepers of light-houses: For salaries of nine hundred and ninety-one light-house and light-beacon keepers and their assistants, $594,600.

Expenses of light-vessels: For seamen's wages, rations, repairs, salaries, supplies, and incidental expenses of twenty-three light-ships and seven relief light-vessels, $230,000.

Expenses of buoyage: For expenses of raising, cleaning, painting, repairing, removing, and supplying losses of buoys, spindles, and day-beacons, and for chains, sinkers, and similar necessaries, $300,000.

Expenses of fog-signals: For repairs and incidental expenses in renewing, refitting, and improving fog-signals and buildings connected therewith, $40,000.

Inspecting lights: For expenses of visiting and inspecting lights and other aids to navigation, including rewards paid for information as to collisions, $4,000.

Supplies of light-houses: For supplying the light-houses and beacon-lights on the Atlantic, Gulf, Lake, and Pacific coasts with oil, wicks, glass chimneys, chamois skins, spirits of wine, whiting, polishing powder, towels, brushes, soap, paint, and other cleansing materials, and for expenses of gauging, testing, transportation, delivery of oil, fuel, and other supplies for light-houses and fog-signals, for books for light-stations, and other incidental and necessary expenses, $350,000.

Repairs of light-houses: For repairs and incidental expenses of refitting and improving light-houses and buildings connected therewith, and for expenses of repairing and keeping in repair illuminating apparatus and machinery, $275,000.

Lighting and buoyage of the Mississippi, Missouri, and Ohio Rivers: For maintenance of lights on the Mississippi, Ohio, and Missouri Rivers, and such buoys as may be necessary, $125,000, to be expended under the direction of the Chief of Engineers of the United States Army.

Light-houses, beacons, and fog-signals.

For erection of pier-head lights on the northern and northwestern lakes, $10,000.

For protecting the site at Grosse Point light near Chicago, Illinois, $5,000.

For establishing a day-beacon on Anita Rock, San Francisco Harbor, California, $2,300.

For establishing day-beacons on the coasts of Maine, New Hampshire, and Massachusetts, $10,000.

For commencing the construction of a light-house at Stannard's Rock, Lake Superior, Michigan, $25,000.

For purchase of additional land, and moving the light-house at Egg Island, New Jersey, $5,000.

For establishing and replacing day-beacons on the coasts of New Hampshire, Maine, and Massachusetts, $10,000.

For rebuilding light-house at Muscle Bed Shoal, Rhode Island, $6,000.

For light-station at Conimicut, Rhode Island, $5,000.

For protecting the site of light-house at Absecom, New Jersey, $5,000.

For rebuilding the frame beacon erected near main light at Tybee Island, Georgia, $3,000.

For building a dwelling and repairing a station at Cape Canaveral, Florida, $4,000.

For protecting the site of Cape Saint Blas light-station, Florida, $2,000.

BUREAU OF ENGRAVING AND PRINTING.

For labor and expenses of engraving and printing, namely: For labor, (by the day, piece, or contract,) including labor of workmen skilled in engraving, transferring, plate-printing, and other specialties necessary for carrying on the work of engraving and printing notes, bonds, and other securities of the United States, the pay for such labor to be fixed by the Secretary of the Treasury at rates not exceeding the rates usually paid for such work; and for other expenses of engraving and printing notes, bonds, and other securities of the United States; for paper for notes, bonds, and other securities of the United States, including mill expenses, boxing, and transportation; for materials other than paper required in the work of engraving and printing; for purchase of engravers' tools, dies, rolls, and plates, and for machinery and repairs of the same, and for expenses of operating macerating machines for the destruction of the United States notes, bonds, national-bank notes, and other obligations of the United States authorized to be destroyed, $800,000.

COAST SURVEY.

Survey of the Atlantic, Pacific, and Gulf coasts: For every purpose and object necessary for and incident to the continuation of the survey of the Atlantic and Gulf coasts and the western coast of the United States, and the Mississippi River to the head of ship navigation, with soundings and observations of deep-sea temperatures in the Gulf Stream and the Gulf of Mexico, and observations of currents along the same coasts, the continuation of the survey of the Pacific coasts of the United States, with soundings and observations of deep-sea temperatures in the branch of the Japan Stream off, and observations of other currents along, the same coasts, and the preparation, engraving, lithographing, and issuing of charts, the preparation and publication of the Coast Pilot and other results of the coast survey, the purchase of materials therefor, and including compensation of civilians engaged in the work, and pay and subsistence of engineers for the steamers engaged on those coasts, $350,000.

Repairs of vessels, Coast Survey: For repairs and maintenance of the complement of vessels used in the Coast Survey, $30,000.

Publishing observations, Coast Survey: For continuing the publications of observations, and their discussion, made in the progress of the coast survey, including compensation of civilians engaged in the work, the publication to be made at the Public Printing Office, $6,000.

General expenses, Coast Survey: General expenses of the Coast Survey, in reference to the Atlantic, Gulf, and Pacific coasts of the United States, namely: For rent of buildings, (excepting the workshops for standard weights and measures,) for offices, workrooms, and workshops, $13,600.

For rent of suboffice in San Francisco, California, $2,000.

For rent of fire-proof buildings, for the safe-keeping and preservation of the original astronomical, magnetic, hydrographic, and other records, the original topographical and hydrographic maps and charts, the engraved plates, instruments, and other valuable articles of the Coast Survey, $5,000.

For fuel for all the offices and buildings, $2,000.

For the transportation of instruments, maps, and charts, the purchase of new instruments, books, maps, and charts, and for gas and other miscellaneous expenses, $9,400.

Metric standard of weights and measures: For construction and verification of standard weights and measures for the custom-houses of the United States and for the several States, and of metric standards for the same, $3,000.

For rent of workshops in building No. 215 South Capitol street, $400.

For rent of fire-proof rooms in building for the safe-keeping and preservation of finished weights, measures, balances, and metric standards, $1,000.

For fuel and lights, $300.

MISCELLANEOUS OBJECTS.

Transportation of United States securities: For transportation of notes, bonds, and other securities of the United States, $25,000.

Expenses of national currency: For paper, engraving, printing, express charges, and other expenses, $150,000.

To enable the Secretary of the Treasury to have the records of captured and abandoned property examined and information furnished therefrom for the use and protection of the Government, $2,500.

For expenses in detecting and bringing to trial and punishment persons engaged in counterfeiting Treasury notes, bonds, national-bank notes, and other securities of the United States, and the coinage thereof, and for detecting other frauds upon the Government, $100,000, to be disbursed under the direction of the Secretary of the Treasury.

For compensation in lieu of moieties in certain cases under customs-revenue laws, $100,000.

Propagation of food-fishes: For introduction of shad into the waters of the Pacific and Atlantic States, the Gulf States, and of the Mississippi Valley, and of salmon, whitefish, and other useful food-fishes into the waters of the United States to which they are best adapted, and for continuing the inquiry into the causes of the decrease of food-fishes of the United States, $40,000.

Illustrations for report on food-fishes: For preparation of illustrations for the Report of the United States Commissioner of Fish and Fisheries, $1,000.

For fuel, light, water, and miscellaneous items required by the janitors and firemen in the proper care of the buildings, furniture, and heating-apparatus, such as brooms, mops, brushes, buckets, wheelbarrows, shovels, saws, hatchets, hammers, &c., for all public buildings under control of the Treasury Department, $280,000.

For furniture and repairs of furniture and carpets for all public buildings under control of the Treasury Department, $75,000.

For heating, ventilating, and hoisting-apparatus, and repairs of same, for all public buildings under control of the Treasury Department, $50,000.

For pay of custodians and janitors for all public buildings under control of the Treasury Department, $75,000.

For vaults, safes, and locks, and repair of same, for all public buildings under control of the Treasury Department, $25,000.

For photographing, engraving, and printing plans for all public buildings under control of the Treasury Department, $1,000.

UNDER THE WAR DEPARTMENT.

Armories and arsenals:

For repairs and preservation of grounds, buildings, and machinery of the arsenal at Springfield, Massachusetts, $10,000.

Rock Island arsenal: For a rolling-mill and forging-shop (shop F) for the armory at Rock Island arsenal, Rock Island, Illinois, $50,000.

For an iron-working and finishing shop (shop G) for the arsenal, $30,000.

For general care, preservation, and improvement of sewers, new roads, care and preservation of water-power, of permanent buildings and bridges, including painting, building fences, and grading grounds, and repairs and extension of railroads, and for care and preservation of the Rock Island bridge, and expense of operating and maintaining the draw, $20,000.

For repairs of arsenals, and to meet such unforeseen expenditures at arsenals as accidents or other contingencies during the year may render necessary, $30,000.

Surveys of northern and northwestern lakes and Mississippi River:

For continuing surveys of Lakes Erie and Ontario; determination of points in aid of State surveys and construction of maps; continuation of triangulation south from Chicago and east to Lake Erie; survey of the Mississippi River; and miscellaneous, $75,000: *Provided*, That the proceeds of the sale of the steamers belonging to the survey of the northern and northwestern lakes shall be placed in the Treasury to the credit of the appropriation for said survey, and the whole amount shall be immediately available.

That upon the happening of the contingency on which the Secretary of the Treasury is authorized to issue bonds of the United States in payment to James B. Eads on account of the improvement by a system of jetties at the mouth of the Mississippi River, under and by virtue of the provisions in the act of March 3, 1875, entitled "An act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes," the Secretary of the Treasury is hereby authorized to pay the sum that shall become due to the said James B. Eads in money instead of the issue of such bonds, and the sum necessary for said purpose is hereby appropriated.

BUILDINGS AND GROUNDS IN AND AROUND WASHINGTON.

Improvement and care of public grounds: For filling in and improving grounds south of Executive Mansion, $3,000.

For ordinary care and extension of greenhouses at the nursery, $1,000.

For ordinary care of Lafayette Square, $1,000.

For care of and improvement of reservation No. 3, (monumental grounds,) $1,000.

For annual repair of fences, $1,000.

For manure, and hauling of the same, $1,000.

For painting iron fences, $2,000.

For repair of seats, $500.

For purchase and repair of tools, $500.

For trees, tree-stakes, lime, and whitewashing, $1,000.

For removing snow and ice, $1,000.

For flowers, pots, twine, and Italian lycopodium, $500.

For abating nuisances, $500.

For care of and repairs to fountains in the public grounds, $500.

For improving various reservations, $2,000.

For purchase of stock for the nursery, and care of the same, $500.

For ordinary repairs to Benning's and the Anacostia and Chain bridges, $1,000.

For pedestal for the statue of General George H. Thomas, the unexpended balance of the sum appropriated for this purpose in the act of July 31, 1876, is hereby re-appropriated and rendered available.

For the naval monument, the unexpended balance of the sum appropriated to be expended under the direction of the Secretary of the Navy for the purpose of completing the statue of "Peace," platform, steps, and circular basin of the naval monument contracted for by the officers of the Navy with Franklin Simmons, by act of July 31, 1876, is hereby re-appropriated and rendered available.

For repairs of the Executive Mansion, refurnishing the same, and fuel for the same, and for care and necessary repairs of the greenhouses, $17,000.

For lighting the Executive Mansion, namely, for gas, pay of lamp-lighters, gas-fitters, plumbers and plumbing, lamps, lamp-posts, matches, and repairs of all kinds, fuel for watchmen's lodges, and for greenhouses at the nursery, $15,000: *Provided*, That the superintendent of meters at the Capitol shall hereafter take the statement of the meters of the several Department buildings in the city of Washington, and render to the proper accounting officers of the Treasury Department the consumption of gas each month in said buildings respectively.

For repairing and extending water-pipes, purchase of apparatus to clean them, and for cleaning the springs that supply the Capitol, Executive Mansion, and War and Navy Departments, $3,000.

Washington aqueduct: For engineering, maintenance, and general repairs, $15,000.

For repairs and care of the telegraph to connect the Capitol with the Departments and the Public Printing Office, $500.

Signal Office:

For expenses of the observation and report of storms by telegraph and signal for the benefit of commerce and agriculture throughout the United States; for manufacture, purchase, or repair of meteorological and other necessary instruments for telegraphing reports; for expenses of storm-signals, announcing probable approach and force of storms; for continuing the establishment and connection of stations at life-saving stations and light-houses; for instrument shelters; for hire, furniture, and expenses of offices maintained for public use in cities or ports receiving reports; for river reports; for books, periodicals, newspapers, and stationery; and for incidental expenses not otherwise provided for, $300,000.

Construction, maintenance, and repair of military telegraph lines: For the construction and continuing the construction, maintenance, and use of military telegraph lines on the Indian and Mexican frontiers; for the connection of military posts and stations, and for the better protection of immigration and the frontier settlements from depredations, especially in the State of Texas and the Territories of New Mexico and Arizona, and the Indian Territory, under the provisions of the act approved March 3, 1875, $15,000.

For geographical surveys of the territory west of the one hundredth meridian, and for preparing, engraving, and printing the cuts, charts, plates, and atlas-sheets for geographical surveys west of the one hundredth meridian, $20,000; which shall be immediately available.

Collection and payment of bounty, prize-money, and other claims of colored soldiers and sailors: For salaries of agents and clerks; rent of offices, fuel, lights, stationery, and similar necessaries; office furniture and repairs; transportation of officers and agents; telegraphing and postage, $10,000.

For payment of costs and charges of State penitentiaries for the care, clothing, maintenance, and medical attendance of United States military convicts confined in them, $15,000.

For publication of the official records of the rebellion, both of the Union and confederate armies, $10,000; to be paid to persons only who are not otherwise employed by the Government.

For care and support and medical treatment of seventy-five transient paupers, medical and surgical patients, in the city of Washington, under a contract to be made with such institutions as the Surgeon-General of the Army may direct, $15,000; to be expended under his direction.

Support of National Home for Disabled Volunteer Soldiers:

For current expenses, including construction and repairs, namely, for Central branch, Eastern branch, Northwestern branch, Southern branch, and for outdoor relief and incidental expenses, $880,000.

For the support of the Leavenworth military prison, at Leavenworth, Kansas, $40,000.

State, War, and Navy Department building:

For continuation of the east wing of the building, and for working-material for the north wing, $350,000; which shall be immediately available, and expended under the direction of the Secretary of War.

For furnishing artificial limbs or appliances, or commutation therefor, and for transportation, $100,000.

For providing surgical appliances for the relief of persons disabled in the military or naval service of the United States not otherwise provided for, $3,000.

For preparation of illustrations to complete the second edition of the Medical and Surgical History of the War, Part III, $25,000.

Navy-yards and stations:

For repairs at the different navy-yards and stations, and preservation of the same, $150,000.

Department of Agriculture:

For labor, manure, repairing concrete walks and laying new concrete walks, purchase of trees for arboretum, and for tools and repairs of mowing-machines; in all, $5,000.

GENERAL MISCELLANEOUS.

To pay Shepherd S. Everett for clerical services in the Committee on War Claims of the House of Representatives, rendered necessary by reports of the commissioners of claims, $400.

To pay Frank W. Millar, page to Sergeant-at-Arms room, House of Representatives, from the 4th day of December, 1876, to March 4, 1877, at the rate of $2.50 per day, $227.50.

That the proper accounting officers of the Treasury Department be, and are hereby, authorized and directed to audit and pass the accounts of such newspapers as published an advertisement for proposals for Indian goods, medical supplies, and groceries, in August and September, 1876, on the basis of the agreements made with the publishers of those newspapers by the Commissioner of Indian Affairs at the time the insertion of the advertisement was ordered; and that the amounts thus found to be due be paid out of the appropriations for the support of the Indian service for the current fiscal year available for payment for advertising.

To pay William C. Nicholls, late assistant treasurer at Chicago, Illinois, at the rate of $5,000 per annum, for the first twenty-seven days in July, 1875, less the amount paid him as cashier for that period, at the rate of $2,500 per annum, $184.94.

To enable the clerk of the Committee on the Public Lands of the House of Representatives to revise, correct, and continue the land map (known as the Centennial map) prepared for the use of said committee, $1,000, and said clerk shall supervise the publication and sale of said map at cost price.

To pay S. S. Strachan for services under the Doorkeeper of the House for the month of August, 1874, to be paid out of the contingent fund of the House, $111.60.

That the sum of $375,000, or so much thereof as may be necessary, be appropriated to pay the amount due to mail contractors for mail service performed in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Texas, Tennessee, and Virginia in the years 1859, 1860, 1861, and before said States respectively engaged in war against the United States; and the provisions of 3480 of the Revised Statutes of the United States shall not be applicable to the payments herein authorized: *Provided*, That any such claims which have been paid by the Confederate States government shall not be again paid.

The total sum appropriated by this bill is $14,948,595.46.

MICHIGAN ELECTORAL VOTE.

Mr. HOLMAN. I believe a message has been sent to the Senate notifying that body of the action of the House on the objection to one of the electoral votes of the State of Michigan.

The SPEAKER. The Chair has directed the Clerk to communicate to the Senate the resolution adopted by the House.

Mr. HALE. Has the Senate been notified that the House is ready to receive the Senate to proceed with the counting of the electoral vote?

The SPEAKER. The Chair has directed that the Senate be informed of the resolution of the House that the vote be counted.

Mr. HALE. Will the Senate understand that the House is ready to receive that body to proceed with counting the electoral vote, until so notified in terms?

The SPEAKER. The Chair will entertain such a motion.

Mr. HALE. I make that motion.

The SPEAKER. The gentleman from Maine moves that the Clerk be directed to notify the Senate that the House is now ready to receive that body in joint meeting to proceed with the further counting of the electoral vote.

The motion was agreed to.

LEAVE TO PRINT.

Mr. CABELL. I ask leave of the House to have printed in the RECORD some remarks, which I would have addressed to the House this morning on the subject of the electoral vote of Louisiana if I had succeeded in obtaining the floor.

Mr. PAGE. I object.

After an interval,

Mr. PAGE. I will withdraw the objection, having been solicited to do so by several gentlemen. I understand that there are a number of other gentlemen who desire a like privilege.

There was no objection, and the leave was granted.

Mr. MILLIKEN. I ask the same privilege.

There was no objection, and the leave was granted.

Mr. DE BOLT. I ask a like privilege.

There was no objection, and the leave was granted.

Mr. PAGE. I move that any gentlemen who have remarks, if they desire to present them, on the casting of the vote of Louisiana have leave to have them printed as a part of the debates in the CONGRESSIONAL RECORD. [Cries of "No, no!"] If you grant leave to some, why not give the right to everybody?

Several members objected.

COUNTING THE ELECTORAL VOTES.

At four o'clock and forty-five minutes p. m. the Doorkeeper announced the Senate of the United States.

The Senate entered the Hall, preceded by its Sergeant-at-Arms and

headed by its President *pro tempore* and its Secretary, the members and officers of the House rising to receive them.

The PRESIDENT *pro tempore* of the Senate took his seat as Presiding Officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses retired to consider separately and decide upon the vote of the State of Michigan. The Secretary of the Senate will read the resolution adopted by the Senate.

The Secretary of the Senate read the resolution of the Senate, as follows:

Resolved, That the objection made to the vote of Daniel L. Crossman, one of the electors of Michigan, is not good in law and is not sustained by any lawful evidence.
Resolved, That said vote be counted with the other votes of the electors of said State, notwithstanding the objections made thereto.

The PRESIDING OFFICER. The Clerk of the House of Representatives will now read the resolution adopted by the House of Representatives.

The Clerk of the House of Representatives read the resolution adopted by the House, as follows:

Whereas the fact being established that it is about twelve years since the alleged ineligible elector exercised any of the functions of a United States commissioner, it is not sufficiently proven that at the time of his appointment he was an officer of the United States: Therefore,
Resolved, That the vote objected to be counted.

The PRESIDING OFFICER. Neither House having concurred in an affirmative vote to reject a vote of the State of Michigan, the entire vote of that State will be counted.

Senator ALLISON, (one of the tellers.) In the State of Michigan 11 votes were cast for Rutherford B. Hayes, of Ohio, for President, and 11 votes for William A. Wheeler, of New York, for Vice-President.

The PRESIDING OFFICER. Having opened the certificate from the State of Minnesota, the Chair directs the reading of the same by the tellers in the hearing and presence of the two Houses. A corresponding certificate received by mail is also submitted to the tellers.

Mr. STONE (one of the tellers) read the certificate.

The PRESIDING OFFICER. Are there objections to the certificate of the electoral vote of the State of Minnesota? If there be none the vote of that State will be counted. The tellers will announce the vote of the State of Minnesota.

Mr. STONE, (one of the tellers.) In the State of Minnesota 5 votes were cast for Rutherford B. Hayes, of Ohio, for President, and 5 votes for William A. Wheeler, of New York, for Vice-President.

The PRESIDING OFFICER. Having opened the certificate from the State of Mississippi the Chair directs the reading of the same by the tellers in the hearing and presence of the two Houses. A corresponding certificate received by mail is also submitted to the tellers.

Senator ALLISON, (one of the tellers) read the certificate.

The PRESIDING OFFICER. Are there objections to the certificate of the electoral vote of the State of Mississippi? If there be none the vote of that State will be counted. The tellers will announce the vote of the State of Mississippi.

Senator ALLISON, (one of the tellers.) In the State of Mississippi 8 votes were cast for Samuel J. Tilden, of New York, for President, and 8 votes for Thomas A. Hendricks, of Indiana, for Vice-President.

The PRESIDING OFFICER. Having opened the certificate from the State of Missouri, the Chair directs the reading of the same by the tellers in the hearing and presence of the two Houses. A corresponding certificate received by mail is also submitted to the tellers.

Mr. STONE (one of the tellers) read the certificate.

The PRESIDING OFFICER. Are there objections to the certificate of the electoral vote of the State of Missouri? If there be none the vote of that State will be counted. The tellers will announce the vote of the State of Missouri.

Mr. STONE, (one of the tellers.) In the State of Missouri 15 votes were cast for Samuel J. Tilden, of New York, for President, and 15 votes for Thomas A. Hendricks, of Indiana, for Vice-President.

Senator WHYTE. I propose that by unanimous consent the reading of the certificate of the appointment of the messengers and also of the certificate of the governor of the appointment of the electors be dispensed with and that the tellers merely read the vote as cast in the electoral colleges, unless some gentleman calls for the reading of the certificate, and that unless some gentleman calls for the reading of the certificates the count shall be proceeded with until there is some State that is objected to.

The PRESIDING OFFICER. Is there objection to the suggestion of the Senator from Maryland? The Chair hears none, and the tellers will now read only the list of votes attached to the certificates of electors, omitting the certificate of the governor and of the appointment of the messenger.

Mr. WILSON, of Iowa. I suppose the certificate will be printed in full, as a matter of course?

The PRESIDING OFFICER. It will be printed in full.

Mr. WILSON, of Iowa. Very well, sir.

The PRESIDING OFFICER. Having opened the certificate from the State of Nebraska, the Chair hands it to the tellers, who will announce the vote of that State.

Senator ALLISON, (one of the tellers.) In the State of Nebraska 3 votes were cast for R. B. Hayes, of Ohio, for President, and 3 votes for W. A. Wheeler, of New York, for Vice-President.

The PRESIDING OFFICER. Are there objections to counting the vote of Nebraska? The Chair hears none.

The PRESIDING OFFICER. Having opened the certificate from the State of Nevada, the Chair hands it to the tellers, who will announce the vote of that State. Is there objection to the counting of the vote of that State?

Mr. SPRINGER. I submit the following objection to the counting of the vote of one of the electors of the State of Nevada.

The Clerk of the House read the objection.

Mr. SPRINGER. If there be no objection I ask that the evidence accompanying this objection may be printed in the RECORD, so that we may have an opportunity to examine it. I hope there will be no objection.

The PRESIDING OFFICER. Is there objection to dispensing with the reading of the testimony and to its being printed in the RECORD?

Mr. HUBBELL. I object.

Mr. SPRINGER. I will state that when the two Houses shall separate I think a recess will be taken until to-morrow morning, and in the mean time the evidence will be printed in the RECORD.

The PRESIDING OFFICER. The Chair cannot entertain a motion to take a recess.

Mr. SPRINGER. I did not make the motion.

The PRESIDING OFFICER. Then the Chair misunderstood the gentleman.

Mr. HUBBELL. I withdraw the objection.

The PRESIDING OFFICER. Is there further objection? The Chair hears none. Are there further objections to the certificates of the State of Nevada? The Chair hears none.

The objection submitted by Mr. SPRINGER to the counting of one of the votes of Nevada, and the evidence accompanying the same, are as follows:

The undersigned Senators and Representatives object to the vote of R. M. Daggett as an elector from the State of Nevada upon the grounds following, namely:

That the said R. M. Daggett was on the 7th day of November, 1876, and had been for a long period prior thereto, and thereafter continued to be a United States commissioner for the circuit and district courts of the United States for the said State, and held therefore an office of trust and profit under the United States, and as such could not be constitutionally appointed an elector under the Constitution of the United States.

Wherefore the undersigned say that the said R. M. Daggett was not a duly appointed elector, and that his vote as an elector should not be counted.

And the undersigned hereto annex the evidence taken before the committee of the House of Representatives on the powers, privileges, and duties of the House to sustain said objection.

W. H. BARNUM, Connecticut;
WILLIAM A. WALLACE, Pennsylvania;
FRANK HEREFORD, West Virginia;
Senators.

J. R. TUCKER, Virginia,
JOHN L. VANCE, Ohio,
WM. A. J. SPARKS,
JNO. S. SAVAGE,
LEVI MAISH,
G. A. JENKS,
WILLIAM M. SPRINGER,
Representatives.

COMMITTEE ON PRIVILEGES,
Washington, February 9, 1877.

R. M. DAGGETT, sworn and examined.

By Mr. TUCKER:

Question. Were you a candidate for the office of presidential elector in the State of Nevada at the presidential election in November, 1876?

Answer. I was.

Q. Were you present in the college at the time of the vote for President and Vice-President?

A. Yes.

Q. Did you cast a vote for President and Vice-President?

A. I did.

Q. For whom did you vote?

A. I voted for Hayes and Wheeler.

Q. Mr. Hayes for President, and Mr. Wheeler for Vice-President?

A. Yes, sir.

Q. Are you the messenger who brought the vote to Washington by the appointment of the college?

A. I am.

Q. Did you hold any office under the United States prior to the election?

A. Yes.

Q. What office was that?

A. I was clerk of the Federal courts, the district and circuit courts of the State of Nevada.

Q. When were you appointed?

A. I think in 1868.

Q. Was that under the State government?

A. Yes; Nevada became a State in 1864, I believe.

Q. Do you hold that office now?

A. I do not.

Q. Who holds that office?

A. I think it is a man named McLean.

Q. When was he appointed?

A. I don't know exactly when he was appointed.

Q. By whom were you appointed?

A. I was appointed first by Associate Justice Field of the circuit court, and subsequently by Judge Sawyer of the circuit court, and by Judge Hillyer for the district.

Q. The appointment was made not by the judge but by the court, was it not?

A. Made by the judge.

Q. In court?

A. No, I believe not; it may have been.

Q. Where were you when you received the appointment?

A. I was in Virginia City for the circuit court.

Q. How was the appointment notified to you?

A. It was sent to me by mail.
Q. Did you appear in court and take the oath and give the bond required by law?
A. Yes, sir; subsequently.
Q. You were the keeper of the records of the court; was not your appointment made a matter of record in that court?
A. I presume so.
Q. And your qualification was also entered upon the record?
A. Yes, sir.
Q. When did you cease to be the clerk of the court, or cease to perform its duties?
A. I ceased on the 6th day of November, the day before the election.
Q. What made you cease to perform its duties?
A. Because it was a question in my mind whether I would be eligible as an elector if I continued to hold the office, and I therefore resigned.
Q. How did you resign?
A. I resigned by telegraph.
Q. A telegram to whom?
A. To Judge Sawyer in San Francisco, and also to Judge Hillyer in Carson. I was then living in Virginia City.
Q. Where is Virginia City?
A. It is about twelve miles from Carson.
Q. Carson is the capital where the Federal court holds its sessions?
A. Yes, sir.
Q. Where is the telegram which you sent to either of those judges?
A. I do not know. It is not with me; I did not bring it.
Q. Have you got a copy of the telegram?
A. I think not.
Q. Who has? To whom did you send it?
A. I sent it to Judge Sawyer.
Q. Directed to what point?
A. To San Francisco.
Q. Does he live in San Francisco?
A. Well, he is judge of the district comprising those three States: California, Nevada, and Oregon.
Q. Does he reside in San Francisco?
A. Most of the time.
Q. You say you sent a telegram to another judge? Whom?
A. Judge Hillyer, of Carson, the district judge.
Q. And you have no copy of that telegram?
A. I have not. I did not think of saving it.
Q. Did you ever receive an answer to that telegram?
A. I received an answer from Judge Sawyer the same day, about an hour afterward.
Q. Where is that telegram?
A. I left it in Virginia City; I did not think of bringing it. I believe I have it.
Q. Why did not you bring it?
A. Well, I did not know that there would be any question about it.
Q. Did not you know what you were sent for?
A. I was only subpœnaed here two or three days ago.

By Mr. FIELD:

Q. You telegraphed Judge Sawyer on the 6th of November?
A. Yes, sir.
Q. Can you not give the exact words of the telegram?
A. I think I can.
Q. Give the exact words then.
A. I think the telegram read this way: "Honorable Alonzo Sawyer, San Francisco: I have this day filed my resignation as clerk of the circuit court of the ninth circuit, and request the acceptance of my resignation." I, at the same time that I sent that telegram to Judge Sawyer, sent to Carson my resignation.
Q. No; do not say you sent your *resignation*. I am only asking about the telegram to Judge Sawyer. Have you given the whole of that?
A. Yes, sir; I think that is about the substance of it, and I think pretty nearly the words.
Q. You received from him an answer?
A. Yes, sir.
Q. On the same day, about an hour afterward?
A. An hour or two afterward.
Q. That you have got, I suppose?
A. I think it is among my papers in Virginia City.
Q. Do you remember the exact words of that?
A. Pretty nearly.
Q. Give them.
A. "Your resignation as clerk of the circuit court is accepted. Alonzo Sawyer."
Q. Have you ever had any other communication with Judge Sawyer on the subject?
A. I have not.
Q. You have never written him?
A. I never have.
Q. Nor received a letter from him?
A. Never.
Q. You did not send to him a copy of your written resignation?
A. By telegraph?
Q. No; you say you wrote something; you did not send him a copy of that?
A. No. Do you mean, send it by mail?
Q. Yes, or any way.
A. I did send it.
Q. How?
A. I sent it to Carson the same day.
Q. I am talking about Judge Sawyer. Did you send to Judge Sawyer any copy or any paper?
A. Yes.
Q. What did you send him?
A. My resignation.
Q. In what form?
A. In the usual form of resignations.
Q. You sent him a copy of your written paper?
A. My written paper, my resignation, you mean?
Q. Yes; do not you understand me? Did you send Judge Sawyer anything in the world but the telegram?
A. Yes.
Q. What else?
A. I sent him my resignation.
Q. You mean a written paper?
A. Yes, sir.
Q. Did you send him the original that was filed, or a copy?
A. I sent him the original; I only made one.
Q. You made one; then you did not file it?
A. I sent it down to be filed.
Q. You sent it to him to file, by mail?
A. I did not send it to San Francisco.
Q. Where did you send it?
A. I sent it to Carson.
Q. Now I think I get an answer. Did you send anything to Judge Sawyer?
A. Yes.
Q. What?
A. I sent that resignation.
Q. That paper?
A. Yes.
Q. To Judge Sawyer, at San Francisco?
A. I did not say that I did send it to San Francisco?
Q. Well, he was there, was he not?
A. He was there that day, I think.
Q. Then that day you did not send it. Did you send it to San Francisco the next day?
A. I did not send it to San Francisco.
Q. At all?
A. Not at all.
Q. Did you ever send the original paper anywhere?
A. Yes.
Q. Where did that go?
A. To Carson.
Q. How did you send that?
A. I sent it by mail.
Q. You mailed it in Virginia City, direct to Carson, did you?
A. Yes, sir.
Q. When did you mail it in Virginia City?
A. I mailed it on the 6th.
Q. What time, or hour, on the 6th?
A. Along about eleven o'clock in the day.
Q. When did the next post leave Virginia City for Carson?
A. At about half past two in the afternoon.
Q. You say you telegraphed to Judge Hillyer?
A. Yes, sir.
Q. Have you that telegram?
A. They were very much alike, except the change of name.
Q. As near as you can remember, were they exactly the same?
A. Yes, sir; precisely the same, with such changes as there would necessarily be in telegraphing to a different person.
Q. Did you receive an answer from him?
A. I did not.
Q. He never answered you at all?
A. No.
Q. By letter or telegraph?
A. No.
Q. Has the circuit court ever been in session since that time?
A. Yes.
Q. When?
A. On the 6th of November.
Q. In session where?
A. In Carson City.
Q. Were you there?
A. I was not.
Q. When were you next after the 6th of November in the court?
A. I have not been there since.
Q. Personally, therefore, you do not know who transacted the business as clerk in the circuit court on the 7th day of November?
A. I do not.
Q. Did you yourself give any directions about the business of the court to be transacted on that next day?
A. I did not.
Q. Have you ever since?
A. I have not.
Q. Who is doing the business of the clerk?
A. There is a clerk there, Mr. McLean; I have forgotten his first name.
Q. Do you know whether he has been appointed by the circuit court?
A. Yes; I am certain he has.
Q. Well, you understand that he has?
A. Yes, sir.
Q. When was he appointed?
A. That I do not know exactly.
Q. What month?
A. O, he was appointed in November.
Q. Do you know that?
A. Yes.
Q. You know that?
A. Well, I do not *know* it, because I never saw the appointment.
Q. And you have never seen any record of his appointment?
A. No, I never have.
Q. Was Mr. McLean your deputy?
A. No, he was not.
Q. Did your deputy make the entries and keep the minutes of the court until Mr. McLean took possession of the office?
A. I presume he did; I do not know. I never was there afterward.
Q. Did you make any communications to him?
A. I did not.
Q. Where is the paper that you call your written resignation?
A. It must be on file in Carson, in the clerk's office.
Q. That is to say, as far as you know?
A. So far as I know.
Q. Give the language, as near as you can, of that written paper which you call your resignation?
A. I think it was addressed to Judge Sawyer, and ran about in this style: "Having been nominated as presidential elector, I hereby tender my resignat'on as clerk of the circuit court, ninth circuit, and trust the resignation may be immediately accepted." I think that is about the purport of it.
Q. You inclosed that in an envelope, did you?
A. Yes.
Q. Directed to whom?
A. To Judge Sawyer.
Q. At Carson City?
A. At Carson City.
Q. It was sealed up, directed to Judge Sawyer, and put into the mail?
A. Yes.
Q. Judge Sawyer was then in San Francisco?
A. Yes; he was then in San Francisco.
Q. Do you know of your own knowledge that Judge Sawyer has ever been in Carson City since?
A. Yes.
Q. Were you there?
A. I was not.
Q. Do not you know what I mean by your own knowledge? Did you see him?
A. No; I did not see him.
Q. Very well, you do not know of your own knowledge that he has ever been there since?
A. Not by seeing him.

Q. That is your knowledge. You do not know then, of your own knowledge, that Judge Sawyer ever saw that package or letter?
A. I do not.
Q. You do not know, of your own knowledge, that it is not now in the post-office?
A. I do not.
Q. Have your accounts as clerk ever been settled?
A. Yes, I think so.
Q. You think so; do you know?
A. I did not attend to the business much; my deputy always did it.
Q. What deputy?
A. Mr. Edwards.
Q. Is he still there?
A. He is in Carson.
Q. Is he still in the office of the clerk?
A. I do not know.
Q. Do you know whether he has ever been out of it?
A. I do not know; I presume he was out of it after I resigned.
Q. Do you know that he was ever out of it? Were you there? Do you know whether he did not attend in court every day and transact business?
A. I do not of my own knowledge.
Q. Did not you as clerk receive money to be deposited to your credit in bank?
A. Frequently.
Q. In what bank?
A. I have forgotten where the deposits were made. We shifted them around quite often.
Q. In different banks?
A. Yes, sir.
Q. Give us the names of some of them.
A. The Bank of California, and Wells, Fargo & Co.
Q. What amount of money had you standing in your name or to your credit as clerk of the circuit court of the United States?
A. I think not a dollar.
Q. It had all been previously paid out?
A. Yes.
Q. Paid out for what purposes?
A. Paid out in the regular course of business.
Q. You think there were no moneys on deposit to your credit as clerk at that time?
A. I think not; I am not positive.
Q. Has your bond ever been discharged?
A. Not that I know of.
Q. I repeat now what I asked you before: Have your accounts as clerk, to your knowledge, ever been settled?
A. We made our quarterly settlements.
Q. That is not an answer to my question.
A. You mean since that time?
Q. Have your accounts ever been finally settled?
A. Well, I do not know that there was any accounts to settle.
Q. You received fees?
A. I received fees.
Q. And you were paid through fees?
A. Paid through fees.
Q. Up to a certain amount or all the fees?
A. Up to a certain amount.
Q. Very well, then, there must have been, of course, an account to be kept of the amount of fees received, and, so far as they exceeded the limit, you paid them over to the treasury, did you not?
A. I should have done so had they ever exceeded the amount.
Q. When were your periodical accounts regularly settled?
A. They were settled semi-annually.
Q. In what months?
A. In June and December, the 31st.
Q. Then you settled an account on the 31st of June, 1876?
A. Yes.
Q. Have you ever settled an account since?
A. I have not.
Q. Could you state, if you were asked, the items on different sides of the account?
A. O, no, I could not.
Q. Have you ever had any communication with Mr. Edwards since the 6th of November?
A. I have not; I have never been in Carson since but once; that was at the meeting of the college, and I did not see him.
Q. Did you have any communication with him on the 6th of November?
A. No, sir. I was in Virginia City.
Q. When first after the 6th of November did you visit Carson City?
A. Not until the meeting of the college.
Q. That was on the 6th of December?
A. I think so.
Q. In what business have you been engaged since?
A. Well, I am in the mining business principally, and always have been.
Q. Do you say that the circuit court has been in session since the 6th of November?
A. Yes.
Q. Was it not the district court?
A. The circuit court was in session also.
Q. Are you sure?
A. I am pretty positive.
Q. What are the times for the meeting of the circuit court in Nevada?
A. I don't remember just now; they made some changes, I think, in the last Congress.
Q. As the law stood on the 1st of November what was the time for the meeting of the court, not the district but the circuit court?
A. My opinion is that the circuit court was to meet on the 6th of November; that is my impression now and that is what I thought at the time.
Q. Your impression from what?
A. From the law. The first Monday, I think, in November.
Q. You can easily tell, cannot you, by looking at the law?
A. Yes, I can tell.
Q. I wish you would tell us, then, before you leave the city.
A. I will do so.

By Mr. TUCKER:

Q. You did not file the paper that you call your resignation in the clerk's office on the 6th of November.
A. I transmitted it for filing—or rather to the judge.
Q. To Judge Sawyer at Carson?
A. Yes.
Q. He was that day at San Francisco?
A. I understood that he was.
Q. Well, you got a telegram from him from there?
A. Yes.
Q. How long would it take Judge Sawyer to come by the quickest route from San Francisco to Carson?
A. Twenty hours, I believe.
Q. Coming by steamer?
A. No, by rail.
Q. You do not know when he did come?
A. I do not.
Q. Then if he had left San Francisco on the 6th he would not get to Carson until what time?
A. He could have got there on the 7th.
Q. What time on the 7th?
A. It would have been along in the evening.
Q. When you communicated with the judges, as you say, on the 6th, did you communicate to your deputy, Edwards, that you were no longer clerk of the court?
A. I did not.

By Mr. BURCHARD:

Q. You did not exercise the duties of the clerk since the time of your telegram?
A. I have not.
Q. And they have been performed, as I understand, by a successor appointed by the court?
A. Yes.
Q. Your recollection is that the district and circuit court were then in session that day in Carson City?
A. I believe that was the day fixed for it.
Q. Where do I understand you to say Judge Sawyer was?
A. He was in Carson.
Q. Is there a railroad from Virginia City to Carson?
A. Yes.
Q. How far is it in time by rail?
A. Well, the railroad is a little long and pretty crooked, about twenty-four miles; they make it generally in about two hours and a half, sometimes a little less.
Q. The telegram was sent at what time to Judge Hillyer?
A. I think along about noon sometime.
Q. You put your resignation in the mail before the hour of sending the mail from Virginia City to Carson?
A. Yes, in order that it might reach there on that day, the 6th.
Q. Do you remember whether the envelope was addressed to your deputy or a clerk or to the judge himself?
A. It was addressed to the judge himself.
Q. And you sent a resignation to each judge, if I understand?
A. To each.

By Mr. FIELD:

Q. Not a written paper to each?
A. Yes; I sent a resignation to each.
Q. The telegram you said you sent to each?
A. I sent the resignation also.

By Mr. BURCHARD:

Q. Then you sent a resignation to each of the judges through the mail on the 6th?
A. Yes; and at the same time I telegraphed them that I had so sent it.
Q. And Judge Hillyer was then, as I understand, holding court at Carson City?
A. The circuit court, I think, was to meet.

By Mr. MAISH:

Q. He was the district judge?
A. Yes, sir; but I had understood that Judge Sawyer was in San Francisco; I had learned it from some source, and therefore telegraphed to him there.

By Mr. FIELD:

Q. Let me see if I understand you about this resignation directed to the district judge. Did you send exactly the same paper to the district judge that you had sent the circuit judge?
A. Not the same paper.
Q. Was it a copy of the same paper?
A. Pretty nearly.
Q. Can you give the contents of the paper?
A. A moment ago I gave it, and the other was pretty nearly a copy of it, with the exception of such changes as would necessarily be made.
Q. Did you put that in an envelope directed to somebody?
A. I did.
Q. How was it directed?
A. To Judge Hillyer.
Q. Give the direction altogether.
A. "Hon. E. W. Hillyer, U. S. District Judge, Carson City."
Q. Was the inside also directed in the same way to Judge Hillyer?
A. Yes.
Q. With the same designation of office and everything else as in the other?
A. Yes.
Q. You do not know whether he ever received that letter or not?
A. I think he told me he had received it.
Q. That is not evidence. Do you *know* it in any way?
A. O, no.
Q. You think that he afterward told you he had received it?
A. Yes, in Virginia City.
Q. When do you think he told you?
A. Well, probably a week after, or possibly two weeks.
Q. You do not know that Judge Hillyer was in Carson City on the 6th or 7th of November, do you? *Knowledge* is what I ask for.
A. I was not there.
Q. Well, you do not *know* then in any way that they were received, either of them?
A. That seems to be the kind of information you want. I do not.
Q. And if he did receive that letter to him, you do not know when he received it?
A. Of course not; I don't know that he received it at all unless I take his word for it.
Q. And you have no information of his having received it within two weeks?
A. What kind of information?
Q. From him?
A. I tell you, I think he told me so.
Q. Within two weeks he told you that he had received it; that was the information, was it not?
A. Yes, sir. He talked about sending the bankruptcy letters down; they were in Virginia City; that is the reason I happened to be there. He said he would send Mr. McLean up and remove the bankruptcy records; they had been in Virginia City for seven years, and I had been attending to that branch of the business.

By Mr. TUCKER:

Q. In your possession?
A. In my possession.

By Mr. FIELD:

Q. And remained in your possession until when?
A. They were locked up until Mr. McLean came up, some two or three days afterward.

Q. They remained in your possession until two or three weeks after?
A. No, not so long.
Q. For how long?
A. Well, some days.
Q. Some days after the 7th of November they remained in your possession?
A. Yes, sir.
Q. And then you gave them up?
A. Yes.
Q. Were those records locked up on the 6th of November?
A. Yes, they were always locked up.
Q. Did they remain locked; had they been touched?
A. Not that I know of.
Q. Who had charge of them?
A. I had.
Q. Nobody else under you?
A. Mr. Strother, the register in bankruptcy, had an office in the same place, and sometimes he had access to the documents.
Q. Was that bankruptcy business going on all the time from the 6th of November to the 6th of December?
A. It was not. There was no work done in the office or in any part of the office.
Q. Where was that bankruptcy business going on?
A. It was not going on at all.
Q. There was none?
A. There was none.
Q. But Mr. Strother remained there, did he not?
A. He was a register in bankruptcy in the same office?
Q. And he was there all the time?
A. Not all the time.
Q. Well, he was off and on?
A. Off and on.
Q. From the 6th until the present time?
A. Yes, sir.
Q. Was he kept in office by Mr. McLean?
A. He is a register in bankruptcy, appointed by the judge.

By Mr. TUCKER:

Q. When did you mail your letter to Judge Hillyer?
A. I mailed it about the time I sent the dispatch, or pretty soon afterwards.
Q. What time did you send the dispatch?
A. Some time about twelve o'clock; between eleven and one some time.
Q. When did the mail leave Virginia City for Carson?
A. I think there are two mails, one in the morning and one at 2.30 p. m., or at 1.30—I am not sure which—along in the afternoon.

By Mr. BURCHARD:

Q. Is there any special provision of law in regard to the appointment of district or circuit clerks in Nevada?
A. No.
Q. Nothing but the general provision that the clerk shall be appointed for each district court by the judge thereof, and that the clerk shall be appointed for the circuit court by the circuit judge of the same?
A. Yes.
Q. Your appointment was made by the judge?
A. Yes.

By Mr. LAWRENCE:

Q. Did you put on to the two letters that you sent to Carson City the proper postage-stamps?
A. Yes.
Q. What time would these letters reach Carson in the ordinary course of the mail?
A. They ought to have reached there along in the evening of the 6th, about five or six o'clock.
Q. Did the fees of the office or either of your offices ever exceed the limits fixed by law?
A. No. I lost $500 a year running the office for eight years.
Q. At the time you resigned, was there any excess of fees above the limit prescribed by law?
A. O, no.
Q. You would owe the Government nothing, then?
A. O, no.

By Mr. BURCHARD:

Q. What do you mean?
A. Well, there was nothing in the office. I had to pay the rent—the Government did not; that is what was the matter—and I kept it on to accommodate a deputy.

By Mr. TUCKER:

Q. You have spoken of the time of mailing these letters. Are you certain you mailed them in time for the evening mail on the 6th?
A. That was my purpose in putting them in; I presumed so at the time; I did not doubt it at the time. Exactly at what time the cars went I am now unable to say, but I put them in the office on the supposition that I would get them there in time.

By Mr. LAWRENCE:

Q. You signed your name to both resignations?
A. I did.

By Mr. TUCKER:

Q. How many hours does it take the mail to go from Virginia City to Carson?
A. About two hours and a half; sometimes a little less; it is twenty-four miles by rail.

The PRESIDING OFFICER. The Senate will now withdraw to its Chamber that the two Houses may separately consider and decide upon this objection.

The Senate at five o'clock and forty-five minutes p. m. withdrew to their Chamber.

Mr. WOOD, of New York. I move that the House take a recess until ten o'clock to-morrow morning.

Mr. GARFIELD. I hope the gentleman will let us go on.

Mr. PAGE. If gentlemen on the opposite side of the House are really anxious to get through with the appropriation bills the only way to do it is to go on with the counting to-night until Oregon is reached.

The House divided on the motion of Mr. WOOD, of New York; and on a division there were—ayes 66, noes 82.

Before the result of this vote was announced,

Mr. WOOD of New York, Mr. VANCE of Ohio, and others called for the yeas and nays.

The yeas and nays were ordered.

The question was then taken; and there were—yeas 97, nays 88, not voting 105; as follows:

YEAS—Messrs. Atkins, John H. Baker, Banning, Blackburn, Bland, Bright, John Young Brown, Samuel D. Burchard, Cabell, Candler, Cate, Chittenden, John B. Clarke of Kentucky, John B. Clark, jr., of Missouri, Clymer, Cochrane, Collins, Cook, Cox, Culberson, Darrall, De Bolt, Durham, Eden, Ellis, Field, Finley, Forney, Foster, Franklin, Gause, Hale, Andrew H. Hamilton, Henry R. Harris, Hartzell, Abram S. Hewitt, Hill, Hoar, House, Humphreys, Hunton, Hurd, Jenks, Kehr, Kelley, Knott, Lamar, Lane, Levy, Lewis, Lynde, Mackey, Maish, Metcalfe, Money, Morrison, Mutchler, Payne, John F. Philips, Poppleton, Rea, Reagan, John Reilly, James B. Reilly, Rice, Riddle, William M. Robbins, Roberts, Sayler, Schleicher, Singleton, A. Herr Smith, Southard, Sparks, Springer, Stanton, Stenger, Stone, Terry, Thompson, Thornburgh, Martin I. Townsend, Washington Townsend, Tucker, Turney, John L. Vance, Waddell, Waldron, Alexander S. Wallace, Warner, Warren, Erastus Wells, Wigginton, Alpheus S. Williams, Benjamin Wilson, Fernando Wood, and Yeates—97.

NAYS—Messrs. William H. Baker, Ballou, Banks, Blair, Blount, William R. Brown, Horatio C. Burchard, Buttz, Cannon, Cason, Conger, Crapo, Crounse, Cutler, Danford, Davy, Denison, Dunnell, Eames, Evans, Flye, Fort, Freeman, Garfield, Haralson, Hardenbergh, Benjamin W. Harris, Harrison, Hatcher, Hathorn, Haymond, Henderson, Hoge, Holman, Hoskins, Hubbell, Hunter, Hyman, Joyce, King, Lapham, Lawrence, Leavenworth, Lynch, Magoon, McCrary, McDill, Miller, Monroe, Nash, New, Norton, Oliver, O'Neill, Packer, Page, William A. Phillips, Pierce, Plaisted, Platt, Potter, Powell, Pratt, Rainey, Sobieski Ross, Rusk, Sampson, Savage, Seelye, Sinnickson, Smalls, Stevenson, Stowell, Strait, Tarbox, Tufts, Van Vorhes, Wait, Charles C. B. Walker, John W. Wallace, Watterson, G. Wiley Wells, White, Andrew Williams, Charles G. Williams, James Wilson, Alan Wood, jr., and Woodburn—88.

NOT VOTING—Messrs. Abbott, Adams, Ainsworth, Anderson, Ashe, Bagby, George A. Bagley, John H. Bagley, jr., Bass, Beebe, Belford, Bell, Bliss, Boone, Bradford, Bradley, Buckner, Burleigh, John H. Caldwell, William P. Caldwell, Campbell, Carr, Caswell, Caulfield, Chapin, Cowan, Davis, Dibrell, Dobbins, Douglas, Durand, Egbert, Faulkner, Felton, Frye, Fuller, Gibson, Glover, Goode, Goodin, Gunter, Robert Hamilton, Hancock, John T. Harris, Hartridge, Hays, Hendee, Henkle, Goldsmith W. Hewitt, Hooker, Hopkins, Hurlbut, Frank Jones, Thomas L. Jones, Kasson, Kimball, Franklin Landers, George M. Landers, Le Moyne, Lord, Luttrell, MacDougall, McFarland, McMahon, Meade, Milliken, Mills, Morgan, Neal, O'Brien, Odell, Phelps, Piper, Parman, John Robbins, Robinson, Miles Ross, Scales, Schumaker, Sheakley, Slemons, William E. Smith, Stephens, Swann, Teese, Thomas, Throckmorton, Robert B. Vance, Gilbert C. Walker, Walling, Walsh, Ward, Wheeler, Whitehouse, Whiting, Whitthorne, Wike, Willard, James Williams, Jere N. Williams, William B. Williams, Willis, Wilshire, Woodworth, and Young—105.

So the motion was agreed to.

Accordingly (at six o'clock and ten minutes p. m.) the House took a recess until to-morrow morning at ten o'clock.

AFTER RECESS.

The recess having expired, the House was called to order by the Speaker at ten o'clock a. m.

SALE OF TIMBER LANDS IN ALASKA.

Mr. WALLING. On Friday last I submitted a report from the Committee on Public Lands in relation to the sale of certain timber lands in Alaska. At the same time I submitted a request that it be printed in the RECORD, but in the noise and confusion the request I suppose was not heard, and it has not been so printed. I now ask consent for that purpose.

Mr. WILSON, of Iowa. Is it long?

Mr. WALLING. It is not very lengthy. I ask that it be printed in the RECORD in order that the facts it contains may be more directly brought to the attention of those interested.

The SPEAKER. The Chair understands that consent was given, but it was not understood at the time.

Mr. CONGER. Is it the report of a committee?

Mr. WALLING. It is a report from the Committee on Public Lands.

There being no objection, it was so ordered.

The report is as follows:

The Committee on Public Lands, to whom was referred the bill H. R. No. 4260, reported as a substitute H. R. No. 4560, and accompanied the same with the following report:

A memorial, signed by several merchants and business men of San Francisco, was presented to this House during the first session of the present Congress, asking that they be permitted to purchase, at the Government price per acre, a tract of land in the Territory of Alaska, on the islands lying between Sitka and the mainland, for the purpose of enabling them to establish ship-yards and lumber manufacture. This memorial was subsequently followed by a bill introduced at the request of the same parties, who had incorporated themselves, under the laws of the State of California, as the Alaska Ship-Building and Lumber Company. The proposed bill conferred the authority on that corporation to make the purchase mentioned in the memorial.

The committee, being satisfied from the character of the persons whose names were attached to the memorial, and from representations made in relation to the project, that the enterprise was backed by good faith and by the ability and determination (if permitted) to carry it out, have, after such investigation as it has been possible to make, embodied their recommendations in H. R. 4560, as a substitute for H. R. 4260.

Alaska was ceded to the United States in 1867. Although glowing representations were made of the value of the Territory and of its ability to support a large population and varied industries, ten years of opportunity have yielded no return beyond the seal-fisheries of the islands of Saint Paul and Saint George, under lease to the Alaska Commercial Company. Population has diminished until at the present time, except the native Indians and a few traders, there are no inhabitants remaining who have the means of getting away. The Indians even, who previous to the cession had been taught to respect the laws of civilization and in some slight degree to appreciate its advantages, are lapsing into their former ways, with the added corruptions, physical and moral, rather fostered than repressed by the cupidity or license of the few whites who barter for their peltry.

All these facts abundantly appear from the reports and exhibits attached to Executive Document No. 83, made by the Secretary of the Treasury to the first session of the present Congress, on the "Seal-Fisheries in Alaska." Attached to that document is a careful, scientific, and extended report, made by Professor Henry W. Elliott,

a special agent of the Government sent to Alaska for the purpose of obtaining information in regard to the resources and condition of that Territory. He says:

"In this report I have endeavored to give a concise description of the agricultural character of the territory as I have seen it, which thus far might be truthfully summed up in saying that there are more acres of better land lying now as wilderness and jungle in sight, on the mountain-tops of the Alleghanies, from the car-window of the Pennsylvania road, than can be found in all Alaska; and when it is remembered that this land, wild, in the heart of one of our oldest and most thickly populated States, will remain as it now is, cheap and undisturbed, for an indefinite time to come, notwithstanding its close proximity to the homes of millions of energetic and enterprising men, it is not difficult to estimate the value of the Alaskan acres, remote as they are, and barred out by a most disagreeable sea-coast climate, leaving out altogether the great West, and the vast agricultural regions of British America."

In giving more particular description the country is grouped into sections, of which the southern and (agriculturally) most valuable, called "the Sitkan district," extends in its northwesterly and southeasterly dimensions between 55° and 60° of north latitude, about three hundred and fifty miles in the coastwise direction. It is within this district that the memorialists propose to make their experiment of ship-building and lumbering. Of this region the report continues, (page 10 of report:)

"*The Sitkan district.*—Starting from Portland Canal and running north to Cross Sound and the head of Lynn Canal the eye glances over a range of country made up of hundreds of islands, large and small, and a bold mountainous coast, all everywhere rugged and abrupt in contour, and with exception of highest summits, the hills, mountains, and valleys, the last always narrow and winding, are covered with a dense jungle of spruce and fir, cedar, and shrubbery, so thick, dark, and damp that it is traversed only by the expenditure of great physical energy, and a clear spot, either on islands or mainland, where an acre of grass might grow by itself, as it does in the little "parks" far in the interior, cannot be found. In these forest jungles, especially on the lowlands and always by the water-courses, will be found a fair proportion of ordinary timber of the character above designated. The spruce and fir, however, are so heavily charged with resin that they can be used for nothing but the roughest work; the cedar is, however, an excellent article.

* * * * * * *

"Here, under the powerful influence of the great Pacific, winter is never anything but wet and chilly, seldom ever giving the people a week's skating on the small lake back of Sitka. Day after day there are high winds and drizzling rains, with breaks in the leaden sky showing gleams of clear blue and sunlight; and here the agriculturist or gardener has like cause for discouragement, for nothing will ripen; whatever he plants grows and enters on its stages of decay without perfecting. It must, moreover, be remarked that there is but very little land fit even for this unsatisfactory and most unprofitable agriculture, *i. e.*, properly drained and warm soil enough for the very hardiest cereals. There is not one acre of such tillable land to every ten thousand of the objectionable character throughout the larger portion of this area, and certainly not more than one acre to a thousand in the best regions. Grass grows in small localities or areas, wherever it is not smothered by forests and thickets, in the valleys over this whole Sitkan district. Its presence, however, is not the rule, but the exception, so vigorous is the growth of sh and timber; and even did it grow in large amount, the curing of hay is simply impracticable. Although the winters are mild, still there is not enough ranging ground to support herds of cattle throughout the year and have them within control."

After describing the other districts, the report concludes with the following summary, (page 48:)

"In view of the foregoing, what shall we say of the resources of Alaska, viewed as regards its agricultural or horticultural capabilities?

"It would seem undeniable that owing to the unfavorable climatic conditions which prevail on the coast and in the interior, the gloomy fogs and dampness of the former, and the intense protracted severity of the winters, characteristic of the latter, unfit the Territory for the proper support of any considerable civilization.

"Men may, and undoubtedly will, soon live here in comparative comfort, as they labor in mining-camps, lumber and ship-timber mills, and salmon factories, but they will bring with them everything they want except fish and game, and when they leave the country it will be as desolate as they found it.

"Can a country be permanently and prosperously settled that will not in its whole extent allow the successful growth and ripening of a single crop of corn, wheat, or potatoes, and where the most needful of any domestic animals cannot be kept by poor people?

"The Russians, who have subdued a rougher country and settled in large communities under severer conditions than have been submitted to by any body of our people as yet, were in this Territory, after some twenty years at least of patient, intelligent trial, obliged to send a colony to California to raise their potatoes, grain, and beef. The history of their settlement there and forced abandonment in 1842 is well known.

"We may with pride refer to the rugged work of settlement so successfully made by our ancestors in New England, but it is idle to talk of the subjugation of Alaska as a task simply requiring a similar expenditure of persistence, energy, and ability. In Massachusetts, our forefathers had a land in which all the necessaries of life and many of the luxuries could be produced from the soil with certainty from year to year; in Alaska their lot would have been quite the reverse, and they could have maintained themselves there with no better success than the present inhabitants."

The foregoing extended extracts give the latest and most authentic information in regard to this country. It would seem very apparent that this region must remain for an indefinite period in the future, as it has remained hitherto, a worthless waste, unless some inducements are held out to attract associated capital to develop, by large experimental outlays of energy and money, the possibility of turning this inhospitable and uninviting domain to some national use. If the enterprise proposed by the memorialists should prove remunerative, there will remain to the Government millions of acres of similar lands, which would find a market and furnish employment to thousands of mechanics and laborers.

It is unnecessary to refer in this report to the beneficial results that would follow the establishment of ship-building, for it is conceived that, independent of this, it would be to the advantage of the Government to know that climatic and physical obstacles can be so far overcome as that any industry can be successfully and profitably prosecuted in that latest and most questionable of our national real-estate speculations. It is proposed to do this, not only without expense to the Government, but by a sale at the Government price of land now worthless, and which must always remain so until enterprises like this are established.

The island of Kou, upon which the memorialists propose to establish their ship-yard, and upon which and on the shores of the adjacent waters they desire to purchase timber lands, is one of the islands composing the Alexander Archipelago, separated from Baranof Island, on which Sitka is situated, by Chatham Strait; to the east lie successively Kekou Strait, Kaprianhoff Island, Wrangel Strait, Mitgoff Island, Souchoi Channel, and then the main-land. So far as known, it is valueless, except for a belt of timber that fringes its shores and extends up its narrow valleys.

The bill reported herewith authorizes the Alaska Ship-Building and Lumber Company to purchase 100,000 acres of timber lands on this island and neighboring shores, upon paying Government price therefor, and no timber or other material is to be removed from any lands until paid for. The entire number of acres is to be selected and paid for within ten years. Surveys are to be made at the expense of the company, to be credited in payment on the lands purchased, and the company undertakes, within two years, to establish a ship-yard, and complete within that time at least one ship of twelve hundred tons burden, and thereafter to prosecute ship-building vigorously. The guarantee that this will be done lies in the fact that it will be necessary to make a large outlay to build a single ship—so large that, if possible, they must continue that industry or lose the capital invested. If the construction of ships can be profitably continued, this preliminary investment will be sufficient to insure a further prosecution of the enterprise; if unprofitable, the Government ought not to insist upon its further continuance. The survey and the entry and payment of the lands will be made through the land office at Olympia, in Washington Territory. The bill reserves the right in Congress to alter, amend, or repeal the act at any time.

The duty of the United States to the aboriginal inhabitants of that locality has been considered in several reports made by Government agents sent to investigate the condition and resources of Alaska and its inhabitants. They concur in the opinion that (excepting at the fur islands and stations of the Alaska Commercial Company) the withdrawal of the supervision exercised under the former government has been most deleterious, and that no hope of a better state of things can be justly entertained while the Territory is suffered to remain in its present abandoned and lawless condition. Whatever enterprises shall attract an industrious population, and give remunerative employment to such of those people as will labor, will be a step toward their subjection to better influences, and will be evidence to them that the United States is at length willing, not only to encourage industry, sobriety, and morality, but to repress the worse than natural vices into which they are relapsing.

For these and other reasons that will suggest themselves without further extending this report, the committee recommend the legislation proposed by the House bill 4560.

DEFECTIVE LAND ENTRIES.

Mr. LAWRENCE. Mr. Speaker, on the 6th of January I introduced a bill (H. R. No. 4315) for the relief of the holders of defective entries of land. I have several times endeavored to report it to the House, but objection was as often made, and I now ask leave to have printed in the RECORD the bill and some remarks on it, merely for the information of the House. I may be able to report it when there is no time for discussion, and it may be useful to put some facts on record now for the information of the House.

The SPEAKER. If there is no objection, leave will be granted.

No objection was made, and leave was granted accordingly.

The bill is as follows:

A bill for the relief of the holders of defective entries of land.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where an entry has been or may be made by any person, other than corporations, in good faith, at the proper local land office, of any tract of land lawfully subject to entry, which may be informal, irregular, defective, or void, and whenever such entry shall be canceled, the person or persons having made such entry, their heirs, devisees, or assigns shall have the first and preferable right to make a lawful entry of, and procure a patent for, such lands, within one year after notice of such cancellation, as herein required; but nothing herein shall divest any right heretofore acquired.

Whenever any entry or patent shall be canceled, the Commissioner of the General Land Office shall give notice thereof by mail, if practicable, to the person claiming the land under such entry, or, if it be impracticable to ascertain the name and post-office address of such person, then notice shall be given by publication in such manner as said Commissioner may deem proper.

The Commissioner of the General Land Office shall have power to prescribe all proper rules and regulations to carry this act into effect.

Mr. LAWRENCE. This bill was carefully considered by the Judiciary Committee, to which it was referred, and I was authorized to report it to the House with a recommendation that it do pass.

I have made several efforts to do so, but as the committee had not been regularly called, I was met in each case with the one objection which prevented the bill from being acted on by the House. It is a bill of very great importance. I have submitted it to the Commissioner of the General Land Office, and I have his approval of it in a letter from which I make the following extract:

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., January 8, 1877.

SIR: I have the honor to acknowedge the receipt of your letter of this date, calling my attention to the bill introduced by you in the House January 7, 1877, and printed on pages 9 and 10 of the CONGRESSIONAL RECORD of January 8, 1877, (H. R. No. 3134,) entitled "A bill for the relief of the holders of defective entries of land." *I have carefully examined the bill and think it very desirable that the same should become a law.* If enacted, provision will be made whereby persons who have made entries in good faith, or their heirs, devisees, or assigns will be enabled to obtain the land, and in many instances secure valuable improvements which they have made thereon, which otherwise might be lost. I, however think proper to call attention to the following provision in the bill, namely: "Whenever any entry or patent shall be canceled, the Commissioner of the General Land Office shall give notice thereof by mail, if practicable, to the person claiming the land under such entry, or, if it be impracticable to ascertain the name and post-office address of such person, then notice shall be given by publication in such manner as said Commissioner may deem proper;" and to remark that the publication provided for should be uniformly made, embracing in each land district all the canceled entries where the name and post-office address are unknown.

* * * * * * * *

Very respectfully your obedient servant,

J. A. WILLIAMSON,
Commissioner.

Hon. WILLIAM LAWRENCE,
House of Representatives.

In the letter the Commissioner also calls attention to the fact that the publication of notice "will involve considerable expense," and he says that "if this provision is retained the passage of the bill should be accompanied by an appropriation of at least $10,000 to defray the same; otherwise it will be impracticable to execute this requirement, there being no funds applicable for the payment of such expense."

This, however, does not affect the merits of the bill and is entirely a matter to be considered when the proper appropriation bills shall be before the House.

I have received a statement which will show the necessity of the bill, as follows:

DEFIANCE, OHIO, *November* 8, 1876.

DEAR JUDGE: I beg leave to send you this epistle containing the statement of a matter in which I am interested and in which I most respectfully solicit your kindly influence at Washington City, in the event that you should deem my case as therein stated entitled to relief at the hands of the officers of the United States. That statement is as follows: On the 16th day of November, 1849, one Barney Arnold, by virtue of land warrant No. 52186, issued to him for his services in the war with Mexico, entered the south half of the northwest quarter of section No. 29, in township No. 1 north, of range No. 4 east, containing eighty acres of land subject to sale at the land office at Lima, Ohio.

He went on to the land immediately and commenced to improve it, and made an improvement thereon by improving part of it. It was subsequently levied upon by an execution against him and sold to one Ezra I. Smith by the sheriff of Paulding County, and Arnold afterward deeded the same tract to Smith, the purchaser, who afterward sold and conveyed it to me; and for several years past a disabled soldier of our late war has been living upon it and improving and cultivating it as its owner under a contract made by me for its sale and conveyance to him.

We have been paying taxes for it for a great many years, in fact ever since the year after it was entered by Arnold, and we have been informed within a month that a gentleman of the name of Charles D. Gilmore, esq., of Washington City, entered it at the land office at Chillicothe on the 2d of October, 1875, in the name of one James H. Chandler, of Missouri, under an act authorizing a soldier who has entered eighty acres in Missouri as a homestead, and filed his final proof of settlement and cultivation to enter eighty acres more of other public land. And I hope that you will permit me to observe, parenthetically, here that this Mr. Gilmore has entered a great deal of such land in Defiance, Henry, Paulding, and Fulton Counties, in this State, for persons supposed to reside in Arkansas and Missouri. Not wishing to permit a difficulty of this kind to pass to my heirs by descent, I wrote to the General Land Office at Washington City in order to procure an exemplified copy of the patent which I supposed the General Government had made for the conveyance of the land to Arnold, and I received a reply thereto on yesterday of which I beg leave to transmit you a copy. It is as follows, with its various initials, figures, &c.:

47. 1621 F. C. L.

[Refer in reply to this initial. H.]

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., October 30, 1876.

SIR: In reply to your letter of the 7th inst., you are informed that the entry of the S. ½ of N. W. ¼ sec. 29, 1 N., R. 4 E., Ohio, which was made November 16, 1849, by the location of warrant No. 52186, 160 acres, in the name of Barney Arnold, appears to have been canceled on the 14th of February, 1852, for the reason, as alleged, that said location was illegal because it covered more than one legal subdivision; and that said warrant was transmitted on the same date to the register at Defiance, Ohio, for delivery to the said locator.

The sum of $1.60, received with your said letter, is herewith returned.

Very respectfully,

— —

I never heard tell of the return of the land warrant until the reception of this communication from the Land Office at Washington, and deem it exceedingly strange if it was received by the register of the land office then located at this place, that I was not informed of it, as I was then well acquainted with Abner Root, esq., our mutual friend, I think, and feel satisfied that he would have mentioned it to me if he had received it. Yet there is a possibility that he may have received it and not mentioned it to Arnold or myself; but it has never been returned to Arnold or myself. The United States still retains it. It then appears, from the statement which I have herein made, that Arnold was actually improving his land and did improve it, and that those now claiming under him kept on improving it in ignorance of the cancellation of the entry and in perfect confidence that the United States Government would convey it, in its own good time, to Arnold; and that, if any error was made in the description of the land when entered by entering it as the S. ½ of N. W. qr. in one description of 80 acres, instead of entering it as the S. W. qr. of the N. W. ¼, and the southeast quarter of the N. W. ¼, in two forty-acre lots, it was made through the neglect of the agents of the United States at the Defiance land office, and not through Barney Arnold, and it thus presents a strong claim for equitable relief at least.

I understand the reason assigned at the General Land Office for the cancellation of the entry to be this, that if Arnold had entered that identical tract of land by two descriptions—that is, in forty-acre lots—his entry would have been valid; but because he entered it by a single description it is invalid.

This would certainly present a strong case for the consideration of a court of equity to have Mr. Chandler declared the trustee of Arnold's assignees, in the fee-simple of the land.

This view is greatly strengthened by the fact that we were in the actual, open, and notorious possession of the land at the time and long before Chandler entered it; and, whatever our claim or right in the land may be, I presume he must be held to a full knowledge of it and of our rights. Again no wrong was done and no injury inflicted upon the United States by entering the land according to its description as entered, a south half which, as given, embraces the two descriptions by which it might have been entered according to its legal subdivisions in forty-acre lots, by north and south lines.

I am inclined to believe that in the earlier and, perhaps, better days of our institutions the General Land Office regarded the law as purely directory, looking rather to convenience and the essence of equity than the technicality of law, so as to do justice and avoid the just reproach of the common law, "*qui hæret in litera, hæret in cortice*," which would attach to a too strict observence of non-essentials.

Entries of land were permitted at an early day by the General Land Office by just such descriptions as Arnold's, and conveyances made therefor.

Thus:

September 15, 1835, a patent was issued by President Jackson to Frederick Ingle for the S. ½ of N. E. qr. of sec. 28, T. 5 N., R. 4 E., as I think will be found by turning to page 167 of vol. 1 of record of patents in the General Land Office.

And October 16, 1835, a patent was issued to Samuel Slater for the S. ½ of N. E. qr. of sec. 32, T. 6 N., R. 1 E., as recorded in same vol., page 475.

And on the same day another patent was issued to Thomas P. Rodman for the N. ½ of S. W. ¼ of sec. 21, T. 5 N., R. 5 E., recorded, perhaps, on page 8 of same vol.

President Van Buren issued patents as follows:

March 15, 1837, to Samuel N. Bucher for N. ½ of S. W. qr. of sec. 11, T. 5 N., R. 4 E.

March 20, 1837, to Chancy Pardy for S. ½ of N. W. qr. of sec. 5, T. 5 N., R. 2 E.

March 18, 1839, to William Swigton for S. ½ of N. W. qr. of sec. 5, T. 5 N., R. 4 E., recorded vol. 13, page 448.

The two latter descriptions are, so far as the subdivision of the section is concerned, precisely as Arnold's.

President Taylor issued patents as follows:

To Daniel English for S. ½ of S. W. qr. of sec. 34, T. 5 N., R. 4 E., on certificate No. 15954.

To John Regil for N. ½ of N. W. qr. sec. 34, T. 4 N., R. 3 E., on certificate No. 16406.

President Tyler issued one to Alfred W. Wilcox for the following, among other described tracts: N. ½ of S. W. qr. of sec. 22, T. 5 N., R. 4 E., recorded, perhaps, in vol. 24, p. 281.

President Fillmore issued one to Jacob Harman for the following, among other tracts: S. ½ of N. W. qr. sec. 36, T. 4 N., R. 2 E., and by same to same for another tract by a similar description.

And coming down later, a patent was issued by President Grant, on the 6th of October, 1874, to John Crozzar, jr., for the N. ½ of S. W. qr. of sec. 20, T. 4 N., R. 2 E., under the homestead act.

All of these entries are in the same land district as Arnold's; and I might here cite almost an indefinite number of other cases in which patents issued on just such entries as Arnold's; but I shall not tire your patience by doing so. It seems to me at least that my case is one to which the applications of the *communis opinio* of Littleton would be proper; and we might apply to it the language of Ellenborough, C. J., as used in Isherwood *vs.* Oldknow, 3 Maule and Selwyn, 397: "It has been sometimes said *communis error facit jus*, but I say *communis opinio* is evidence of what the law is; not where it is an opinion merely speculative and theoretical, floating in the minds of persons, but where it has been made the groundwork and substratum of practice;" and there seems to me to be much good sense in this saying.

Now, as the United States was neither put to an inconvenience nor a loss by the use of the description by which the Arnold entry was made, and inasmuch as a great many entries were before that time made, as well as since then, by similar descriptions, approved by the authorities, and patents issued for them to such an extent as to be the settled practice of the Land Office, I beg leave to suggest that an abrupt refusal to follow it further, after, by years of silence, permitting Arnold and others to repose on the ratification of the purchase, would inflict a great injury on me; and to avoid this the sale to Mr. Chandler ought to be set aside and a patent issued in the name of Arnold for the land.

Hoping that you can, by a representation of all the facts to the proper authority, procure this relief, I remain as ever, your friend,

A. S. LATTY.

Hon. WILLIAM LAWRENCE.

I have also received a letter on the subject of this bill from a gentleman long connected with the General Land Office, as follows:

WASHINGTON, D. C., *February* 5, 1877.

DEAR SIR: I have sent several copies of your bill (H. R. No. 4315) to parties in the West and asked them to urge their members to secure its passage. It will relieve a great many persons who have large equities but who are unfortunately without legal remedy. I know of no bill now before Congress which will work greater benefit without opening the door to any danger of fraud. It is a principle which the General Land Office has heretofore sought to establish, but which could not be done in the absence of law. I sincerely hope you will urge it to its passage.

Very truly,

W. W. CURTIS.

Hon. WILLIAM LAWRENCE,
House of Representatives.

I propose at the proper time to introduce a bill also, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases in which any tract of the public lands subject to sale by private entry at any land office of the United States of America has been entered in one body of eighty acres by the description of a south half or a north half of any quarter section containing one hundred and sixty acres, by virtue of any land warrant duly issued by virtue of any act of Congress, the entry thereof by the description of a south half or a north half of such quarter section, as the case may be, shall be as good and valid in law and equity as if said land warrant had been located upon, or said land had been, by virtue thereof, entered in said land office by the description of two quarter quarter-sections of forty acres each; and in all such cases a patent shall be issued for such south half or north half, as the case may be, to the person or persons who would be entitled to the fee-simple in such land if the same had been entered in two quarter quarter-sections of forty acres each, and such patent, when so issued, shall be taken and held both in law and equity to convey the fee-simple in such land to such person or persons as fully and effectually as if said land had been entered by said two descriptions.

SEC. 2. That in all cases in which a valid land warrant has been heretofore located in the proper land office, upon any public land subject to sale therein by private entry, and such location was afterward by the proper officer in the General Land Office declared to be vacated on account of any defect in the description by which said land was located, and a deed of conveyance was afterward executed therefor to a *bona fide* purchaser, either by the locator of said land or by the order, decree, judgment, or proceeding of any court of law or equity of the United States or any State in any action, suit, or proceeding instituted therein, and to which said locator was a party, the proper officer of the land office shall permit the person or persons who would be entitled to the fee-simple in such land by virtue of said conveyance, order, decree, or judgment of court, if said entry had not been vacated, to enter the same kind and quality of land of any public land subject to sale at private entry at any land office, and a patent shall issue to such person therefor as in other cases.

SEC. 3. This act and all proceedings under it shall be carried into effect under such rules and regulations as may be prescribed by the Commissioner of the General Land Office.

And now, Mr. Speaker, it seems to me the necessity for the bill to which I first called attention of the House is so great and its justice so clear that if it shall be understood there can be no objection to it. So soon as it may be practicable I will ask the House to pass it.

ENROLLED BILLS SIGNED.

Mr. HAMILTON, of Indiana, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (H. R. No. 429) for the relief of Charles C. Campbell, of Washington County, Virginia;

An act (H. R. No. 859) for the benefit of Andrew Williams, of Weakley County, Tennessee;

An act (H. R. No. 4251) making appropriations for the consular and diplomatic service of the Government for the year ending June 30, 1878, and for other purposes; and

An act (H. R. No. 4576) to provide for changing and fixing the boundaries of certain property ceded to the Government of the United States by the city of Memphis, Tennessee.

Mr. HARRISON, from the same committee, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 7) to provide for the sale or exchange of a certain piece of land in the Wallabout Bay, in the State of New York, to the city of Brooklyn.

ORDER OF BUSINESS.

Mr. CROUNSE. I would like to have printed a report from the Committee on Public Lands to accompany a bill.

Mr. CONGER. Whatever can be done by unanimous consent, and that is not strictly speaking business, I will not object to. But I must object to any business being done at this time.

The SPEAKER. Objection being made, the request is not granted.

Mr. CONGER. I call for the regular order.

Mr. CLYMER. It is evident there is not a quorum present; and I move that there be a call of the House.

The question being taken on the motion of Mr. CLYMER, there were—ayes 28, noes 63.

Mr. CLYMER. I call for tellers.

Tellers were ordered; and Mr. BURCHARD, of Illinois, and Mr. CLYMER were appointed.

Before the count for tellers was concluded—

Mr. CLYMER said: I withdraw the call for a further count.

So the motion for a call of the House was not agreed to.

ELECTORAL VOTE OF NEVADA.

The House resumed the consideration of the following objection to the counting of one of the electoral votes from the State of Nevada:

The undersigned Senators and Representatives object to the vote of R. M. Daggett as an elector from the State of Nevada upon the grounds following, namely:

That the said R. M. Daggett was on the 7th day of November, 1876, and had been for a long period prior thereto, and thereafter continued to be a United States commissioner for the circuit and district courts of the United States for the said State, and held therefore an office of trust and profit under the United States, and as such could not be constitutionally appointed an elector under the Constitution of the United States.

Wherefore the undersigned say that the said R. M. Daggett was not a duly appointed elector, and that his vote as an elector should not be counted.

And the undersigned hereto annex the evidence taken before the committee of the House of Representatives on the powers, privileges, and duties of the House to sustain said objection.

W. H. BARNUM, Connecticut;
WILLIAM A. WALLACE, Pennsylvania;
FRANK HEREFORD, West Virginia;
Senators.

J. R. TUCKER, Virginia,
JOHN L. VANCE, Ohio,
WM. A. J. SPARKS,
JNO. S. SAVAGE,
LEVI MAISH,
G. A. JENKS,
WILLIAM M. SPRINGER,
Representatives.

Mr. SPRINGER. I ask that the evidence accompanying this objection be read.

The evidence as already published in the RECORD was partly read, when

Mr. HALE said: As there is now a full House, I ask that the further reading of the evidence be dispensed with.

Mr. SHEAKLEY. I object.

The SPEAKER. The Chair is apprised that there is very little more to be read.

The reading of the evidence was then concluded.

Mr. SPRINGER. I desire to submit the resolution which I send to the Clerk. After it has been read, I wish to make an explanation.

The Clerk read as follows:

Resolved, That the vote of R. M. Daggett, one of the electors of the State of Nevada, be counted, the objections to the contrary notwithstanding.

Mr. SPRINGER. In making the copies of the objection as laid before the joint convention and as sent to the Senate, the Clerk made a mistake in the name of the office. The person whose vote is objected to holds the office of clerk of the district court; but the objections were to the effect that he held the office of commissioner of the circuit and district court. Therefore the evidence does not sustain the objections. The error cannot be corrected by this House because the Senate has passed upon the objection as it went to that body. Hence I have offered this resolution that the vote be counted, notwithstanding the objection.

Two or three gentlemen had desired to speak upon this question, [cries of "Vote!" "Vote!"] and I am unwilling that they should be prived of the opportunity; therefore I yield to the gentleman from Kentucky, [Mr. DURHAM.]

Mr. DURHAM. Mr. Speaker, I believe that during the four years I have been a member of Congress I have never before undertaken to speak when I was satisfied the mind of the House was made up; nor would I do so now if I could have had a few minutes yesterday to say a few things in regard to the great wrong which I think has been done to the State of Louisiana and the whole United States by the decision made by the commission and confirmed yesterday by the Senate. I shall detain the House but a few moments upon the present question; and certainly I cannot be charged with troubling the House a great deal since I have been a member.

I voted against the bill creating this commission. I did it upon two grounds: First, that there was no warrant in the Constitution for creating a body outside of the two Houses for the purpose of counting the electoral votes; and in the second place I regarded the measure as inexpedient. I have not changed my opinion either as to the constitutionality or as to the expediency of that act under which we are now operating; but while I then entered my solemn protest against its passage I desire to say now in all good faith, as was said yesterday by one of my colleagues, that I intend to stand by the act and see that it is carried out in good faith. I believe that it is the duty of the democratic party of this House and of Congress to see that the act is fairly carried out. It is the law of the land let it be constitutional or unconstitutional; and Congress must abide by this act until it is declared unconstitutional by the courts of the country.

I am not disappointed in the judgment of this tribunal. With all due respect to the gentlemen who constitute the tribunal I will say that I believe it was utterly impossible for them as members of this commission to rise above party, party spirit, party agitation, party tactics, and to give any other decision than that which they have given. Consequently I impute no criminality to those gentlemen who as members of the republican party have joined in making that decision. Educated in that party, believing in the correctness of its principles and policy, it was not within their power to rise to the dignity of the occasion and make a different decision from that which they have made. I looked for this result. The most deplorable portion of the whole bill was that feature which forced a portion of one of the co-ordinate departments of the Government of the United States into the pit and mire of party politics.

I did object that you should have taken one or more of the supreme judges of the United States and required them to exhibit their predilections and party education. I do not intend to reflect upon those judges; for I say in all candor to those who may differ with me on this question that I have not more odium to heap upon the judges of the Supreme Court of the United States for this the worst decision that has ever been uttered by any tribunal in the United States than I have for the other members. I repeat that I have no more malediction to hurl against these Supreme Court judges than I have against any other member who constituted the majority of that joint commission, on account of this great crime against the people and their rights. They were republicans, educated as republicans, and it was natural, as I said before, they should not rise above their education so far as grave political questions are concerned. Whatever may be thought of this decision the result shows that they did not rise above partisan considerations.

One other remark so far as the subject under consideration is involved. Here and now I enter my solemn protest against the doctrine promulgated by the majority of that joint commission and sustained by the republican party in this House, and that is that you can elect a man as an elector who is incompetent by the very terms of the Constitution itself, then that he can resign and you can supply his place with another man. What is an election? There is no controversy about the provision of the Constitution that any man who is a Senator or a Representative, or who holds any office of honor or profit under the United States, cannot be appointed an elector. What is an appointment? The groundwork of the whole thing is the casting of the ballots by the people. The election by the people is the groundwork beyond all doubt. Not, I state, because it applies to this case, but I am now combating that dangerous doctrine as laid down by this high commission that because a man may have received even 25,000 majority, as in the case of the elector in the State of Michigan, after the ballots are cast and before he comes to cast his vote as elector for President he can resign and have his place supplied, thereby thwarting the very prohibition of the Constitution itself, and violating its spirit and its essence as well as its letter.

Mr. CONGER. If election alone constitutes appointment of electors, how about the case where the Legislature appoints?

Mr. DURHAM. It is the basis of it, for how can you make appointment without election; how can you supply a place unless there have been votes for somebody? Answer me that.

Mr. CONGER. How in those States where the Legislature appoints directly without any election, or how where they authorize the governor to appoint without election?

Mr. DURHAM. That is constitutional. I am speaking of the law as in this case. I undertake to say, and that is my deliberate judgment, there is in the Oregon case a nullity. There has been no election of the elector, and as this will appear in the Oregon case, I have taken the position in that case there were but two electors elected and no more, and that the defect could not be remedied, the omission could not be supplied, there was no vacancy to fill in the case of the other elector. I do not hold the doctrine with some of my associates on this floor that the next highest man comes in. I believe the spirit of the Constitution is where an ineligible man is voted for it is as it were voting for a man who is dead, or for a man who could not be voted for; and there was an omission and no election at all, and there was no vacancy to be supplied, as in the case of Oregon or any other like case.

I will be pardoned for saying that in this Nevada case this man who was elected as an elector not being a United States commissioner but on the contrary the clerk of the court is not ineligible, but on the contrary is eligible, for the reason that he had in good faith tendered his resignation the day before the election and that resignation was accepted. I will never consent to disfranchise a State upon a mere technicality. Where a State has voted for a man incompetent and ineligible under the very terms of the Constitution itself, then I say there is no right to supply his place.

The authorities on this point are abundant. Cushing in his Parliamentary Law says:

If an election is made of a person who is ineligible, that is, incapable of being elected, the election of such person is absolutely void, &c.

See also Patterson *vs.* Miller, 2 Met. Ky. R., 493; Morgan *vs.* Vance, 4 Bush Ky. R., 323.

These are my views, and under the circumstances I deem it my duty to state them, though briefly done.

[Here the hammer fell.]

Mr. CHITTENDEN. Mr. Speaker, we all knew perfectly well, the whole world knew when the bill for the electoral commission became a law that one side or the other would be bitterly disappointed in the end. Now since neither side is quite happy, there seems to be occasion for all patriotic men to stand firmly together. No thoughtful observer of events can deny that the politics of several of our States are in great confusion. War in its direst aspect, civil war, carpet-baggers, returning boards of doubtful virtue, rogues of every name mixed up with great events and great questions—greater than ever before have been encountered in the history of America—have done their worst, and yet every loyal heart may be thankful that there is not one sign showing that as a people we are worse to-day than our fathers. On the contrary the signs all point in the opposite direction. The same holy writ which my ever humorous colleague [Mr. COX] brought into play so successfully yesterday also says that the supreme Ruler "makes the wrath of man to praise him, and the remainder he restrains."

Now, sir, the wrath and indignation suppressed and restrained on this floor to-day and yesterday reflect and illustrate as nothing ever yet has done in the history of Congress the growing intelligence and the rising moral power of the American people. If the party to which I belong has, as you think, conspired with a swamp patriot of dubious antecedents to place a usurper in the White House in the week after next, you by your conduct have shown that you are not afraid to trust the issue with the people. And you are right. What boots it that seven or eight of the tribunal of fifteen, created for a temporary purpose, may have mistaken their solemn duty under the Constitution and the laws? They shall die to-morrow as a power, and as sure as the sun shall continue to warm and fertilize the earth, if the view you take of their decision is right, the party in power will be put down and you will be lifted up. God reigns forever, and the spirit that has been manifested here in view of this great disappointment shows that the American people and their representatives are intelligent and patriotic enough to accept the situation and accept the decision of a power which they themselves created to avoid an impending calamity.

Now, Mr. Speaker, my simple point is that there is nothing to be gained by the further discussion of this Nevada obstruction; and I hope that we may, in view of the greater questions at issue, proceed to vote and go on with our work.

Mr. TARBOX. It seems alike vain and fruitless to urge objections of this character. The electoral commission has decided substantially that the provision of the Constitution which inhibits the appointment of a Federal office-holder to the office of a presidential elector is virtually abrogated. To be sure, sir, in the Florida case the commission decided that they would entertain evidence as to the eligibility of an elector. But in that case there was not sufficient evidence to prove the ineligibility. In the Louisiana case, where there was evidence by which the fact could be established, they decided it was not within the competence of the commission to take evidence and determine the fact. So, sir, the principle established seems to be, and by it we are compelled to abide—for the Senate sustains the commission—that where there is not evidence sufficient to establish the fact of ineligibility then evidence may be considered and acted upon, but where there is evidence sufficient to show the ineligibility, then no evidence can be entertained; the effect of which in either case and upon either proposition is that any objection which the House may urge is futile. The law is ruled in our favor when we have no facts and against us when the facts are with us.

But, sir, I rose for the purpose of making another suggestion which occurred to me while listening on yesterday to the striking remarks of the distinguished gentleman from Ohio, [Mr. FOSTER,] who, I suppose, can speak from a peculiar knowledge of that which he affirms. He assumed to foreshadow to us the official spirit which will animate the incoming Chief Executive; and he told us that "the people of all sections of the country may confidently expect from him (Hayes) not only fair, but generous consideration." Most gracious sovereign! This sounds to me very much like patronizing the American people. I had cherished the prejudice, sir, that the President of the United States was a public agent and a public servant, not a patron of the people nor the fountain of power. The people of this country do not ask from those who discharge their public trusts generosity or favor. No, sir; they ask but fidelity and justice. I wish the gentleman had been more explicit. Fair-seeming generalities are apt to deceive. He assured us further, sir, that "the flag shall float over States, not provinces; over freemen, not subjects." I wish the gentleman had told us in plain words whether President Hayes, when he comes to the exercise of his great functions, proposes to recognize the government known as the Nicholls government in Louisiana and permit that government, if it can, to support its authority without Federal intervention. Had he done that, we should have had something tangible to tie to.

But, sir, I have confidence in the policy that President Hayes will pursue. I do not depend on his generosity. I do not depend upon his just inclinations. I have a reliance stronger than that, sir, and that is the public sentiment of the American people. No ruler in this country can have a policy of his own and carry it out successfully for any length of time against the plain will of the American people. Much less, sir, can a man wield the scepter in opposition to the public sense of the country when he comes into the possession of that scepter in opposition to the will of the majority of the American people. And so, sir, while we confront that most anomalous fact in republican history—a Chief Magistrate inducted into power in despite of and over the majority of the public will of the country—yet I have faith that public opinion, operating by its moral forces, shall so control the action of the man who occupies the post of highest authority in the land that he must obey its mandate, and rule with his stolen scepter of power only in accordance with the recorded will of his countrymen as declared in the late election; and in that is our hope of public justice, safety, and honor.

Cries of "Vote!" "Vote!"

Mr. SAVAGE. Mr. Speaker, I have heard some regrets expressed by those who gave this bill their support when pending in this House. I am not one of those who share in those regrets. I gave this measure when pending before this body my support. I did it in good faith, and I still stand by that action. If the judges of the Supreme Court, who are members of this commission, have done anything which would show that they do not deserve that confidence which I placed, as a member of this body, in their integrity, it is they who are responsible and to blame for it, and not myself; and I have no regrets at having placed that confidence in the judges of the Supreme Court.

The responsibility rests with them, and not with this House, and not with those who supported this measure when it was pending before this House.

But, sir, there are a few facts which I wish to call the attention of the House to in relation to some propositions of law which have been laid down in this body during the last day or two. The gentleman from Michigan [Mr. CONGER] entertained us with a discussion undertaking to show that the appointment of an elector of the United States was not made at the time the people voted for electors, on the Tuesday after the first Monday in the month of November; at least he said that that was the law so far as the State of Michigan was concerned, and he went on to show us the different steps necessary to be taken in the State of Michigan in order to constitute the "appointment" spoken of in the Constitution and laws of the United States so far as an elector is concerned. The Constitution provides that "Congress may determine the time of choosing electors." They have undertaken to do it. By the act of 1792 they provide "that the electors of President and Vice-President shall be appointed in each State on the Tuesday next after the first Monday in the month of November."

Now, sir, if the State of Michigan does not comply with that act by making the appointment complete on that day, in every case except two excepted cases, which are when there has a vacancy occurred, or when an election has been held on that day and the State has failed to make a choice—with those two exceptions, if the appointment is not complete on the Tuesday next after the first Monday in the month of November, then the State of Michigan has not appointed a single elector, and is not entitled to vote at all on that day. If the appointment of electors was not complete and perfect on the Tuesday next after the first Monday in the month of November last year, then there were no electors appointed from the State of Michigan, and they are not entitled to vote.

But the gentleman from Ohio [Mr. LAWRENCE] undertook to claim that the *de facto* officer, as he argued, was the party who was entitled to cast the vote, and in answer to a question which I propounded to him, he as good as claimed that the provision in the Constitution which provides that no Senator or Representative or other person holding an office of trust or profit under the Government of the United States shall be appointed an elector was a dead letter in the Constitution and did not amount to anything. In support of his proposition he cited two authorities, one of which I have not been able to find this morning on sending to the Library for it, but the other authority I have before me. It is a case where a party has been appointed to an office by the circuit court of the State of Missouri. His appointment was only to last for one year. At the expiration of that year the court appointed another person under a statute which required that the person appointed should be a householder and the appointee was not a householder. Now under these circumstances the person first appointed refused to give up the office and was by force turned out of its occupation and the proceeds and control of the office were turned over to the other party. The party thus dispossessed of the office commenced an action, not against the person who had been appointed in his place, but against the county court, and instead of an action of *quo warranto*, an action of mandamus. The court uses this language:

It has been long held that a mandamus may be issued to restore a person to an office to which he is entitled. (4 Bacon, 500.) But we are not prepared to say that this was a proper case for the interference of the circuit court by mandamus. Various considerations incline us to this opinion. The office was already filled by one who was *de facto* an officer, at least; and it appears to be law that when an office is already filled by a person who is in by color of right, a mandamus is never issued to admit another person, the proper remedy being an information in the nature of a *quo warranto*. (The People *vs.* The Corporation of New York, 3 Johns. Ca., 79;

Angell and Ames on Corporations, 565; The King *vs.* Mayor of Colchester, 2 Durn and East.) It would not be just that Wise's right to the office should be determined on a proceeding to which he was no party. He was the proper person to vindicate his own rights, and a *quo warranto* was the proper mode under the circumstances to try the validity of his appointment.

Now, here was a case in which the court simply decided that it had no jurisdiction to decide the case, and that is the authority brought here by the gentleman from Ohio with such a flourish of trumpets and the statement that no authority in the United States can be found to contradict his position. It is true the court does go on to talk about *de facto* officers and all that sort of thing, but no sane man ever supposed that that had anything to do with or any application to the election of the presidential electors until this case came up. These are the authorities gentlemen on the other side of the House rely upon as proof of the correctness of the position they occupy in this matter. I believe that if the other authority were here it would be as far from sustaining the gentleman from Ohio as the one I have called attention to.

Mr. TOWNSEND, of New York. I desire to say a word in regard to the effect of choosing an elector for President and Vice-President who is not eligible to fill the position. We seem to have adopted the notion here that if a man be elected to an office who is ineligible to that office for some reason or other the election is void, and the acts of that individual, if he assumes the office and goes into the discharge of its duties, must be void. Sir, there is not greater legal nonsense that has ever been uttered by man since society was organized.

Suppose a man be elected to this House, who is declared ineligible by the Constitution; he is an alien for instance; he receives the certificate; he comes here and takes the oath; a bill is brought before the House; the vote is even except for his vote; he votes for the bill and it is passed and it becomes a law; will the lawyers of this House tell me that that law is void because it was subsequently ascertained that this man was ineligible. Suppose that he votes for a Speaker and his vote elects, will it be said that a Speaker has not been elected?

Take the case of those States where the judiciary is elected. A man not naturalized but a resident is chosen to the office of judge. He qualifies, so far as his oath can qualify him, and he goes on for a year discharging the duties of a judge. A thousand cases pass under his jurisdiction and his decisions go upon the record. Is there a lawyer in this House who will stand up here and tell us that the action of that judge is void? Any man would say that a lawyer who would talk in that way was talking nonsense.

Now, sir, coming directly to the point of the matter under discussion, I have no hesitation in saying that if the voters of a State elect an alien as an elector, and that alien under his oath casts his vote for President and Vice-President, that vote must be counted under the Constitution, the people of a State cannot thus be cheated of their vote. It would be competent for the Government of the United States to pass a law to test the capability and eligibility of a man elected in advance of his casting his vote for President and Vice-President. But if the people elect, if the elector qualifies and discharges his duty by voting for President and Vice-President, the matter has then passed beyond the power of a party in the House of Representatives to howl the effect of that vote off the record. It cannot be done. Common sense says to the contrary; the usages of the courts say to the contrary; the usages of the world say to the contrary. Society could not exist upon such a basis. You never would know whether your case was a success or a failure if after its decision the competency of the court could be tried, or the eligibility or appointability of the judge could be questioned.

This commission has done a great many bad things, so my friends on the other side say; but our friends will feel better when they have taken time to think over it. They will find that this commission has not only done what as State rights democrats they ought to be in favor of their doing, but this commission has done what, if they had not done, the world would have sneered and laughed at and despised them for not doing. We had better not be misled.

The gentleman from Virginia [Mr. TUCKER] has found "*a vacuum*" where an attempt was made to elect a man, and the people did elect a man who was not eligible. Now that gentleman ought to know that "*nature abhors a vacuum.*" Common-sense abhors this vacuum, [laughter;] I mean the one that he points out. I use the term in no disrespect to the gentleman from Virginia, for I thoroughly admire his legal acumen and his personal intelligence. But his argument is one of those arguments which common sense will call a vacuum.

Mr. SOUTHARD. I had not intended, Mr. Speaker, to say anything upon this question. I desire, however, to reply briefly to the legal proposition of the gentleman from New York, [Mr. TOWNSEND.] It seems to me that his conclusion rests upon a confusion of ideas or a wrong application of the principle enunciated. Because certain officers as officers *de facto* are permitted to exercise authority, and their acts are held to be valid, *ab inconvenienti*, the gentleman concludes that the act of an ineligible elector is likewise valid. What public convenience would thereby be subserved? The proper choice of President conduces to public good, and the elector is concerned alone in making that choice, and is concerned in no other affairs of the public.

Now if a President of the United States is installed into office by virtue of the illegal votes of ineligible electors, while he so remains President of the United States *de facto*, not *de jure*, his acts would be held to be valid as a matter of public convenience. But that doctrine applies only as a matter of public convenience. The doctrine by no means applies to the selection of an elector, which is but a part of the intermediate process of choosing a President. On the contrary public policy requires and the Constitution has expressly declared that the electors have certain qualifications and be not "ineligible," in the language of the Constitution. If an elector who is ineligible can have his vote considered binding because he has acted at a particular time in the process of making up the vote which is finally to be declared by a further process, if that is to be the doctrine, then anybody or anything may be made an elector, and a President of the United States may be installed into office upon the declaration of votes so given. A President may be thus declared elected who is ineligible to hold the office under the express provisions of the Constitution. Where is the public convenience in this?

If you cannot inquire whether a man be or be not eligible for elector at any time after he has cast a vote in the electoral college of the State, then you cannot inquire whether what purports to be an electoral vote was given by a man or not. If the returning board of a State shall choose to return as elected some unintelligent being, or an idiot or lunatic, and the vote of that being as an elector be recorded, and you can have no power to inquire into its validity, afterward you can have no power to determine whether there be any legality in the vote, and must, therefore, count it for President of the United States.

I say therefore that the doctrine of public convenience which the gentleman from New York [Mr. TOWNSEND] has enunciated does not apply to the case of the choice of an elector, which is an intermediate process in reaching the election of a President.

The question was then taken upon the resolution submitted by Mr. SPRINGER; and it was adopted.

Mr. SPRINGER. I submit the resolution which I send to the Clerk's desk.

The Clerk read as follows:

Resolved, That the Clerk inform the Senate that the House of Representatives are now ready to receive the Senate in joint meeting and to proceed with the count of the electoral vote.

The SPEAKER. The Chair suggests that the resolution be modified so as to notify the Senate of the action of the House upon the objection.

Mr. SPRINGER. That may be added.

The SPEAKER. With this modification the resolution will be adopted, if there be no objection.

There was no objection.

COUNTING THE ELECTORAL VOTE.

At eleven o'clock and forty minutes a. m., the Doorkeeper announced the Senate of the United States, who then, headed by their President *pro tempore* and accompanied by their Sergeant-at-Arms and Secretary, entered the Hall, the members and officers of the House rising to receive them.

Thr PRESIDENT *pro tempore* of the Senate took his seat as presiding officer of the joint meeting of the two Houses, the Speaker of the House occupying a chair upon his left.

Senators INGALLS and ALLISON, the tellers appointed on the part of the Senate, and Mr. COOK and Mr. STONE, the tellers appointed on the part of the House, took their seats at the Clerk's desk, at which the Secretary of the Senate and the Clerk of the House also occupied seats.

The PRESIDING OFFICER. The joint meeting of Congress for counting the electoral vote resumes its session. The two Houses acting separately having determined the objection submitted to the certificate from the State of Nevada, the Secretary of the Senate will report the resolution of the Senate.

Mr. GORHAM, Secretary of the Senate, read as follows:

Resolved, That the vote of R. M. Daggett be counted, with the other votes of the electors of Nevada, notwithstanding the objections made thereto.

The PRESIDING OFFICER. The Clerk of the House will now report the resolution of the House.

Mr. ADAMS, Clerk of the House, read as follows:

Resolved, That the vote of R. M. Daggett, one of the electors of the State of Nevada, be counted, the objections to the contrary notwithstanding.

The PRESIDING OFFICER. Neither House having decided to reject the vote objected to from the State of Nevada, the full vote of that State will be counted. The tellers will announce the vote of the State of Nevada.

Mr. STONE, (one of the tellers.) The State of Nevada casts 3 votes for Rutherford B. Hayes, of Ohio, for President of the United States, and 3 votes for William A. Wheeler, of New York, for Vice-President.

The count then proceeded. In accordance with the unanimous agreement adopted yesterday in the joint meeting, the certificates were not read in full, but the result of the electoral vote in the following States was announced; and there being no objections to the votes, they were counted as follows:

New Hampshire, 5 votes for Hayes and Wheeler.
New Jersey, 9 votes for Tilden and Hendricks.
New York, 35 votes for Tilden and Hendricks.
North Carolina, 10 votes for Tilden and Hendricks.
Ohio, 22 votes for Hayes and Wheeler.

The PRESIDING OFFICER. Having opened a certificate received by messenger from the State of Oregon, the Chair hands the same to

the tellers to be read in the presence and hearing of the two Houses, with the corresponding one received by mail.

Senator MITCHELL. I ask that all the papers in this case be read in full.

The PRESIDING OFFICER. They will be so read.

Mr. STONE, (one of the tellers) read the certificate and accompanying papers, as follows:

CERTIFICATE No. 1.

UNITED STATES OF AMERICA,
State of Oregon, County of Multnomah, ss:

We, J. C. Cartwright, W. H. Odell, and J. W. Watts, being each duly and severally sworn, say that at the hour of twelve o'clock m. of the (6th) sixth day of December, A. D. 1876, we duly assembled at the State capitol, in a room in the capitol building at Salem, Oregon, which was assigned to us by the secretary of state of the State of Oregon. That we duly, on said day and hour, demanded of the governor of the State of Oregon and of the secretary of state of the State of Oregon certified lists of the electors for President and Vice-President of the United States for the State of Oregon, as provided by the laws of the United States and of the State of Oregon; but both L. F. Grover, governor of the State of Oregon, and S. F. Chadwick, secretary of state of said State, then and there refused to deliver to us, or either of us, any such certified lists or any certificate of election whatever. And being informed that such lists had been delivered to one E. A. Cronin by said secretary of state, we each and all demanded such certified lists of said E. A. Cronin, but he then and there refused to deliver or to exhibit such certified lists to us, or either of us. Whereupon we have procured from the secretary of state certified copies of the abstract of the vote of the State of Oregon for electors of President and Vice-President at the presidential election held in said State November 7, A. D. 1876, and have attached them to the certified list of the persons voted for by us and of the votes cast by us for President and Vice-President of the United States, in lieu of a more formal certificate.

W. H. ODELL.
J. W. WATTS.
JOHN C. CARTWRIGHT.

Sworn and subscribed to before me this 6th day of December, A. D. 1876.

[SEAL.]

THOS. H. CANN,
Notary Public for State of Oregon.

UNITED STATES OF AMERICA,
STATE OF OREGON, SECRETARY'S OFFICE,
Salem, December 6, 1876.

I, S. F. Chadwick, do hereby certify that I am the secretary of the State of Oregon and the custodian of the great seal thereof; that T. H. Cann, esquire, resident of Marion County, in said State of Oregon, was on the 6th day of December, A. D. 1876, a notary public within and for said State, and duly commissioned such by the governor of the State of Oregon, under its great seal, and was duly qualified to act as such notary public by the laws of this State, as it fully appears by the records of this office; that as said notary public the said T. H. Cann had, on the day aforesaid, to wit, December 6, A. D. 1876, full power and authority, by the laws of the State of Oregon, to take acknowledgments of all instruments in writing, and administer oaths; that the annexed certificate is made in conformity with the laws of this State; that the signature thereto of T. H. Cann is the genuine signature of T. H. Cann, notary public; that the seal affixed to said acknowledgment is the official seal of said T. H. Cann, notary public; and that full faith and credit should be given to his official acts as notary public aforesaid.

In witness whereof I have hereto set my hand and affixed the great seal of the State of Oregon the day and year first above written.

[SEAL.]

S. F. CHADWICK,
Secretary of the State of Oregon.

Abstract of votes cast at the presidential election held in the State of Oregon November 7, 1876, for presidential electors.

Counties.	W. H. Odell.	J. W. Watts.	J. C. Cartwright.	Henry Klippel.	E. A. Cronin.	W. B. Laswell.	D. Clark.	F. Sutherland.	B. Carl.
Baker	318	319	319	549	550	549	1	1	1
Benton	615	615	615	567	567	567	77	77	77
Clackamas	949	950	950	724	724	724	17	17	17
Clatsop	432	432	432	386	385	386	....	....	....
Columbia	157	156	157	179	179	179	22	22	22
Coos	571	571	571	512	516	515	....	....	....
Curry	131	131	131	124	124	124	3	3	3
Douglas	1,002	1,002	1,003	847	847	847	43	43	43
Grant	315	314	316	279	279	277	3	3	3
Jackson	585	585	586	827	840	840	5	5	5
Josephine	209	209	209	252	252	252	4	4	4
Lane	949	949	949	946	946	946	33	33	33
Lake	173	173	173	258	258	258	....	....	....
Linn	1,323	1,324	1,323	1,404	1,404	1,404	140	141	140
Marion	1,780	1,782	1,781	1,154	1,154	1,153	24	23	22
Multnomah	2,124	2,122	2,122	1,525	1,528	1,525	2	2	2
Polk	607	608	608	542	542	542	54	55	54
Tillamook	119	119	119	76	76	76	1	1	1
Umatilla	486	486	486	742	742	742	42	42	42
Union	366	366	366	525	525	525	32	32	32
Wasco	491	491	493	621	621	619	....	....	....
Washington	693	692	693	423	424	423	....	....	....
Yamhill	811	810	812	674	674	674	6	6	6
Total	15,206	15,206	15,214	14,136	14,157	14,149	509	510	507

Simpson, 1; Gray, 1; Saulsbury, 1; McDowell, 1.

SALEM, STATE OF OREGON:

I hereby certify that the foregoing tabulated statement is the result of the vote cast for presidential electors at a general election held in and for the State of Oregon on the 7th day of November, A. D. 1876, as opened and canvassed in the presence of his excellency L. F. Grover, governor of said State, according to law, on the 4th day of December, A. D. 1876, at two o'clock p. m. of that day, by the secretary of state.

[SEAL.]

S. F. CHADWICK,
Secretary of State of Oregon.

UNITED STATES OF AMERICA,
STATE OF OREGON, SECRETARY'S OFFICE,
Salem, December 6, 1876.

I, S. F. Chadwick, secretary of the State of Oregon, do hereby certify that I am the custodian of the great seal of the State of Oregon. That the foregoing copy of the abstract of votes cast at the presidential election held in the State of Oregon November 7, 1876, for presidential electors, has been by me compared with the original abstract of votes cast for presidential electors aforesaid, on file in this office, and said copy is a correct transcript therefrom and of the whole of the said original abstract of votes cast for presidential electors.

In witness whereof I have hereto set my hand and affixed the great seal of the State of Oregon the day and year above written.

[SEAL.]

S. F. CHADWICK,
Secretary of the State of Oregon.

List of votes cast at an election for electors of President and Vice-President of the United States in the State of Oregon held on the 7th day of November, 1876.

FOR PRESIDENTIAL ELECTORS.

W. H. Odell received fifteen thousand two hundred and six (15,206) votes.

J. W. Watts received fifteen thousand two hundred and six (15,206) votes.

J. C. Cartwright received fifteen thousand two hundred and fourteen (15,214) votes.

E. A. Cronin received fourteen thousand one hundred and fifty-seven (14,157) votes.

H. Klippel received fourteen thousand one hundred and thirty-six (14,136) votes.

W. B. Laswell received fourteen thousand one hundred and forty-nine (14,149) votes.

Daniel Clark received five hundred and nine (509) votes.

F. Sutherland received five hundred and ten (510) votes.

Bart Curl received five hundred and seven (507) votes.

S. W. McDowell received three, (3,) Gray one, (1,) Simpson one, (1,) and Salisbury one (1) vote.

I, S. F. Chadwick, secretary of state in and for the State of Oregon, do hereby certify that the within and foregoing is a full, true, and correct statement of the entire vote cast for each and all persons for the office of electors of President and Vice-President of the United States for the State of Oregon at the general election held in said State on the 7th day of November, A. D. 1876, as appears by the returns of said election now on file in my office.

[SEAL.]

S. F. CHADWICK,
Secretary of State of Oregon.

UNITED STATES OF AMERICA,
State of Oregon, County of Marion, ss:

We, W. H. Odell, J. C. Cartwright, and J. W. Watts, electors of President and Vice-President of the United States for the State of Oregon, duly elected and appointed in the year A. D. 1876, pursuant to the laws of the United States, and in the manner directed by the laws of the State of Oregon, do hereby certify that at a meeting held by us at Salem, the seat of government in and for the State of Oregon, on Wednesday, the 6th day of December, A. D. 1876, for the purpose of casting our votes for President and Vice-President of the United States—

A vote was duly taken, by ballot, for President of the United States, in distinct ballots for President only, with the following result:

The whole number of votes cast for President of the United States was three (3) votes.

That the only person voted for for President of the United States was Rutherford B. Hayes, of Ohio.

That for President of the United States Rutherford B. Hayes, of Ohio, received three (3) votes.

In testimony whereof we have hereunto set our hands on the first Wednesday of December, in the year of our Lord one thousand eight hundred and seventy-six.

W. H. ODELL.
J. C. CARTWRIGHT.
J. W. WATTS.

UNITED STATES OF AMERICA,
State of Oregon, County of Marion, ss:

We, W. H. Odell, J. C. Cartwright, and J. W. Watts, electors of President and Vice-President of the United States for the State of Oregon, duly elected and appointed, in the year A. D. 1876, pursuant to the laws of the United States and in the manner directed by the laws of the State of Oregon, do hereby certify that at a meeting held by us at Salem, the seat of government in and for the State of Oregon, on Wednesday, the 6th day of December, A. D. 1876, for the purpose of casting our votes for President and Vice-President of the United States—

A vote was duly taken, by ballot, for Vice-President of the United States, in distinct ballots for Vice-President only, with the following result:

The whole number of votes cast for Vice-President of the United States was three (3) votes.

That the only person voted for for Vice-President of the United States was William A. Wheeler, of New York.

That for Vice-President of the United States William A. Wheeler, of New York, received three (3) votes.

In testimony whereof we have hereunto set our hands on the first Wednesday of December, in the year of our Lord one thousand eight hundred and seventy-six.

W. H. ODELL.
J. C. CARTWRIGHT.
J. W. WATTS.

SALEM, OREGON, *December* 6, 1876—12 o'clock m.

This being the day and hour fixed by the statutes of the United States and of the State of Oregon for the meeting of the electors of President and Vice-President of the United States for the State of Oregon, the electors for President and Vice-President of the United States for the State of Oregon met at Salem, the seat of government of said State of Oregon, at twelve o'clock noon of the 6th day of December, A. D. 1876, said day being the first Wednesday in December.

Present, W. H. Odell and J. C. Cartwright.

The meeting was duly organized by electing W. H. Odell chairman and J. C. Cartwright secretary.

The resignation of J. W. Watts, who was on November 7, A. D. 1876, duly elected an elector of President and Vice-President of the United States for the State of Oregon, was presented by W. H. Odell, and, after being duly read, was unanimously accepted.

There being but two electors present, to wit, W. H. Odell and J. C. Cartwright, and the State of Oregon being entitled to three electors, the electors present proceeded to and did declare that a vacancy existed in the electoral college, and then and there, under and by virtue of the provisions of section fifty-nine, (59,) title nine, (9,) chapter fourteen, (14,) of the General Laws of Oregon, (Deady and Lane's Compilation,) the said electors, W. H. Odell and J. C. Cartwright, immediately, by *viva voce* vote, proceeded to fill said vacancy in the electoral college.

J. W. Watts received the unanimous vote of all the electors present, and was thereupon declared duly elected to the office of elector of President and Vice-President of the United States for the State of Oregon.

Whereupon the said electors, on motion, proceeded to vote by ballot for President of the United States.

The whole number of votes cast for President of the United States was three (3) votes.

The only person voted for for President of the United States was Rutherford B. Hayes, of Ohio.

For President of the United States, Rutherford B. Hayes, of Ohio, received three (3) votes.

The said electors then, on motion, proceeded to vote by ballot for Vice-President of the United States.

The whole number of votes cast for Vice-President of the United States was three (3) votes.

The only person voted for for Vice-President of the United States was William A. Wheeler, of New York.

For Vice-President of the United States, William A. Wheeler, of New York, received three (3) votes.

The electors, on motion, then unanimously, by writing under their hands, appointed W. H. Odell to take charge of and deliver to the President of the Senate, at the seat of Government, Washington, D. C., one of the certificates containing the lists of the votes of said electors for President and Vice-President.

On motion, it was ordered that one of the certified copies of the abstract and canvass of the entire vote of the State of Oregon, cast at the presidential election held November 7, A. D. 1876, for electors of President and Vice-President of the United States for Oregon, as certified and delivered to the electors by S. F. Chadwick, secretary of state of the State of Oregon, be attached to each certificate and return of the list of persons voted for by the electors here present for President and Vice-President of the United States.

The electors then adjourned.

W. H. ODELL,
Chairman.
JOHN C. CARTWRIGHT,
Secretary.

We hereby certify that the within and foregoing is a true, full, and correct statement of all the acts and proceedings of the electors of President and Vice-President for the State of Oregon at a meeting of said electors held at Salem, in the State of Oregon, on the 6th day of December, A. D. 1876, at 12 o'clock noon of said day.

W. H. ODELL, *Elector.*
JOHN W. WATTS, *Elector.*
JOHN C. CARTWRIGHT, *Elector.*

SALEM, OREGON, *December* 6, 1876.

We, the duly appointed and elected electors of President and Vice-President of the United States for the State of Oregon, do hereby designate and appoint W. H. Odell to take charge of and deliver to the President of the Senate of the United States, at the seat of Government, to wit, at Washington, District of Columbia, before the first Wednesday in January, A. D. 1877, the certificates and papers relating to the vote for President and Vice-President of the United States, cast by us at Salem, in the State of Oregon, on the 6th day of December, A. D. 1876.

W. H. ODELL.
J. C. CARTWRIGHT,
J. W. WATTS.

Ballots.

For President of the United States, Rutherford B. Hayes, of Ohio.
(Indorsed) W. H. ODELL.
For President of the United States, Rutherford B. Hayes, of Ohio.
(Indorsed) JNO. C. CARTWRIGHT.
For President of the United States, Rutherford B. Hayes, of Ohio.
(Indorsed) J. W. WATTS.
For Vice-President of the United States, William A. Wheeler, of New York.
(Indorsed) W. H. ODELL.
For Vice-President of the United States, William A. Wheeler, of New York.
(Indorsed) JOHN C. CARTWRIGHT.
For Vice-President of the United States, William A. Wheeler, of New York.
(Indorsed) J. W. WATTS.

To the honorable Electoral College in and for the State of Oregon for President and Vice-President of the United States:

Whereas I, J. W. Watts, did receive a majority of the legal votes cast for presidential electors at an election held for President and Vice-President of the United States on the 7th day of November, A. D. 1876, as appears from the official returns on file in the secretary of state's office in and for said State; and whereas there has arisen some doubts touching my eligibility at the time of such election: Therefore, I hereby tender my resignation of the office of presidential elector.

Very respectfully,

J. W. WATTS.

SALEM, OR., *December* 6, 1876.

During the reading,

The PRESIDING OFFICER said: Does the Senator from Oregon desire the reading of the tabular statement accompanying the papers?

Senator MITCHELL. I do not think it will be necessary to read all the figures, but simply the results. I presume the whole will go into the RECORD.

Mr. LANE. I object to any portion being omitted.

The reading was concluded.

The PRESIDING OFFICER. Having opened another certificate received by messenger from the State of Oregon, the Chair hands it to the tellers to be read in the presence and hearing of the two Houses, handing also the corresponding one received by mail.

Senator INGALLS (one of the tellers) read as follows:

CERTIFICATE NO. 2.

STATE OF OREGON, EXECUTIVE OFFICE,
Salem, December 6th, 1876.

I, L. F. Grover, governor of the State of Oregon, do hereby certify that, at a general election held in said State on the seventh day of November, A. D. 1876, William H. Odell received 15,206 votes, John C. Cartwright received 15,214 votes, E. A. Cronin received 14,157 votes for electors for President and Vice-President of the United States. Being the highest number of votes cast at said election for persons eligible, under the Constitution of the United States, to be appointed electors of President and Vice-President of the United States, they are hereby declared duly elected electors as aforesaid for the State of Oregon.

In testimony whereof I have hereunto set my hand and caused the seal of the State of Oregon to be affixed this the day and year first above written.

[SEAL.] LA FAYETTE GROVER,
Gov. of Oregon.

Attest:
S. F. CHADWICK,
Secretary of State of Oregon.

This is to certify that on the 6th day of December, A. D. 1876, E. A. Cronin, one of the undersigned, and John C. Cartwright and William H. Odell, electors, duly appointed on the 7th day of November, A. D. 1876, as appears by the annexed certificate, to cast the vote of the State of Oregon for President and Vice-President of the United States, convened at the seat of government of said State, and for the purpose of discharging their duties as such electors; that thereupon said John C. Cartwright and William H. Odell refused to act as such electors; that upon such refusal the undersigned, J. N. T. Miller and John Parker, were duly appointed electors, as by the laws of Oregon in such cases made and provided, to fill the vacancies caused by the said refusal; that thereupon the said electors, E. A. Cronin, J. N. T. Miller, and John Parker proceeded to vote by ballot, as by law provided, for President and Vice-President of the United States, they being duly qualified to act as such electors, and the electoral college of said State having been duly organized; that upon the ballots so taken Rutherford B. Hayes, of the State of Ohio, received two (2) votes for President, and Samuel J. Tilden, of the State of New York, received one (1) vote for President, and that William A. Wheeler, of the State of New York, received two (2) votes for Vice-President, and Thomas A. Hendricks, of the State of Indiana, received one (1) vote for Vice-President; that the said votes were all the votes cast and the said persons were all the persons voted for. And we further certify that the lists hereto attached are true and correct lists of all the votes given for each of the persons so voted for for President and Vice-President of the United States.

Done at the city of Salem, county of Marion, and State of Oregon, this 6th day of December, A. D. 1876.

E. A. CRONIN,
J. N. T. MILLER,
JOHN PARKER,
Electors for the State of Oregon, to cast the vote of said State for President and Vice-President of the United States.

List of all the persons voted for by the electoral college of the State of Oregon, and of the number of votes cast for each person, at the city of Salem, the seat of government of said State, on Wednesday, the 6th day of December, A. D. 1876, as provided by law, for President of the United States:

Rutherford B. Hayes, of Ohio, received two (2) votes 2
Samuel J. Tilden, of New York, received one (1) vote 1

Attest:

E. A. CRONIN,
J. N. T. MILLER,
JOHN PARKER
Electors.

List of all the persons voted for by the electoral college of the State of Oregon, and of the number of votes cast for each person at the city of Salem, the seat of government of said State, on Wednesday, the 6th day of December, A. D. 1876, as provided by law, for Vice-President of the United States:

William A. Wheeler, of New York, received two (2) votes 2
Thomas A. Hendricks, of Indiana, received one (1) vote 1

Attest:

E. A. CRONIN,
J. N. T. MILLER,
JOHN PARKER,
Electors.

We, the undersigned, duly appointed electors to cast the votes of the State of Oregon for Presidential and Vice-President of the United States, hereby certify that the lists of all the electoral votes of the said State of Oregon given for President of the United States, and of all the votes given for Vice-President of the United States, are contained herein.

E. A. CRONIN,
J. N. T. MILLER,
JOHN PARKER,
Electors.

The PRESIDING OFFICER. Are there any objections to the certificates from the State of Oregon?

Senator MITCHELL. On behalf of the Senators and Representatives whose names are signed thereto, I present an objection to the lists and certificates signed by E. A. Cronin, J. N. T. Miller, and John Parker, claiming to be electors from the State of Oregon, and to the votes cast by them respectively for President and Vice-President.

The PRESIDING OFFICER. The Secretary of the Senate will read the objection submitted by the Senator from Oregon.

The objection was read, as follows:

The undersigned, Senators and members of the House of Representatives of the United States, object to the lists of the names of the electors E. A. Cronin, J. N. T. Miller, and John Parker, one of whom, E. A. Cronin, is included in the certificate of La Fayette Grover, governor of Oregon, and to the electoral votes of said State, signed by E. A. Cronin, J. N. T. Miller, and John Parker, being the certificate second presented by the President of the Senate to the two Houses of Congress in joint convention, for the reasons following:

1. Because neither of said persons, E. A. Cronin, J. N. T. Miller, nor John Parker, was ever appointed elector of President and Vice-President by the State of Oregon, either in the manner directed by the Legislature of such State or in any other manner whatsoever.

2. Because it appears from the records and papers contained in and attached to the certificate of W. H. Odell, John C. Cartwright, and John W. Watts, as presented by the President of the Senate to the two Houses of Congress in joint convention, that said W. H. Odell, John C. Cartwright, and John W. Watts were duly and legally appointed electors for President and Vice-President by the State of Oregon in the manner directed by the Legislature thereof, and duly cast their votes as such.

3. Because it does not appear from the face of the certificate of La Fayette Grover, governor of the State of Oregon, attached to and part of the returns of the votes cast by E. A. Cronin, J. N. T. Miller, and John Parker, that such certificate was issued by the governor to the three persons having the highest number of votes for electors for the State of Oregon, and were duly chosen and appointed by said State, according to the laws thereof; but was issued by him to the persons whom he deemed to be eligible to said appointment, although one of such persons, E. A. Cronin, was not appointed thereto according to the laws of said State.

4. Because it appears from the certificate of S. F. Chadwick, secretary of state, under the seal of the State attached to and made a part of the returns, and certificate of W. H. Odell, John C. Cartwright, and John W. Watts, that said persons, W. H. Odell, John C. Cartwright, and John W. Watts, received the highest number of votes at the election on the 7th day of November, 1876, for the office of electors of President and Vice-President; and that the secretary of state on the 4th day of December, following, officially declared in pursuance of law that they, Odell, Cartwright, and Watts, had received the highest number of votes; and that therefore the certificate of the governor in so far as it omitted to certify the name of John W. Watts as one of the electors appointed, and in so far as such certificate contained the name of E. A. Cronin as one of the electors appointed, fails to conform to the act of Congress in such case made and provided, and the laws of Oregon in that behalf, and that such certificate is, as to said Cronin, without authority and of no effect.

5. Because it appears from both certificates that W. H. Odell and John C. Cartwright, a majority of the electoral college, were duly appointed electors by the State of Oregon in the manner directed by the Legislature thereof; that their record presented to the President of the Senate, and by him to the two Houses of Congress,

shows that a vacancy in the office of elector existed on the day fixed by law for the meeting of the electors, and that such vacancy was filled by the appointment of John W. Watts.

JOHN H. MITCHELL,
A. A. SARGENT,
United States Senators.
WILLIAM LAWRENCE,
HORATIO C. BURCHARD,
JAMES W. McDILL,
Members House of Representatives.

The PRESIDING OFFICER. Are there further objections to the certificates from the State of Oregon?

Senator KELLY. I present objections to the electoral vote for President and Vice-President as cast by J. C. Cartwright, W. H. Odell, and J. W. Watts.

The PRESIDING OFFICER. The objection will be read by the Clerk of the House.

The objection was read, as follows:

In the matter of the electoral vote of the State of Oregon for President and Vice-President of the United States:

The undersigned United States Senators and members of the House of Representatives make the following objections to the papers purporting to be the certificates of the electoral votes of the State of Oregon signed by John C. Cartwright, William H. Odell, and John W. Watts:

I.

The said papers have not annexed to them a certificate of the governor of Oregon as required to be made and annexed by sections 136 and 138 of the Revised Statutes of the United States.

II.

The said papers have not annexed to them a list of the names of the said Cartwright, Odell, and Watts as electors, to which the seal of the State of Oregon was affixed by the secretary of state, and signed by the governor and secretary as required by section 60 of chapter 14, title 9, of the general laws of Oregon.

III.

The said John W. Watts therein claimed to be one of the said electors was, in the month of February, 1873, appointed a postmaster at La Fayette, in the State of Oregon, and was duly commissioned and qualified as such postmaster, that being an office of trust and profit under the laws of the United States, and continued to be and act as such postmaster from February, 1873, until after the 13th day of November, 1876, and was acting as such postmaster on the 7th day of November, 1876, when presidential electors were appointed by the State of Oregon; and that he, the said John W. Watts, was ineligible to be appointed as one of the said presidential electors.

IV.

When the governor of Oregon caused the lists of the names of the electors of said State to be made and certified, such lists did not contain the name of said John W. Watts, but did contain the names of John C. Cartwright, William H. Odell, and E. A. Cronin, who were duly appointed electors of President and Vice-President of the United States in the State of Oregon on the 7th day of November, 1876.

V.

It was the right and duty of the governor of Oregon, under the laws of that State to give a certificate of election, or appointment as electors, to John C. Cartwright, William H. Odell, and E. A. Cronin, they being the three persons capable of being appointed presidential electors who received the highest number of votes at the election held in Oregon on the 7th day of November, 1876.

VI.

The said John C. Cartwright and William H. Odell had no right or authority in law to appoint the said John W. Watts to be an elector on the 6th day of Decem ber, 1876, as there was no vacancy in the office of presidential elector on that day

VII.

The said John C. Cartwright and William H. Odell had no right or authority in law to appoint the said John W. Watts to be an elector on the 6th day of December, 1876, inasmuch as they did not on that day compose or form any part of the electoral college of the State of Oregon as by law constituted.

VIII.

The said John C. Cartwright and William H. Odell had no authority to appoint the said John W. Watts to be an elector on the 6th day of December, 1876, because the said Watts was still on that day the postmaster at La Fayette, in the State of Oregon, and was still on that day holding the said office of profit and trust.

JAMES K. KELLY, of Oregon,
HENRY COOPER, of Tennessee,
LEWIS V. BOGY, of Missouri,
J. E. McDONALD, of Indiana,
J. W. STEVENSON, of Kentucky,
Senators.
DAVID DUDLEY FIELD, of New York,
J. R. TUCKER, of Virginia,
LAFAYETTE LANE, of Oregon,
G. A. JENKS, of Pennsylvania,
ANSEL T. WALLING, of Ohio,
HIESTER CLYMER, of Pennsylvania,
P. D. WIGGINTON, of California,
E. F. POPPLETON, of Ohio,
JNO. L. VANCE, of Ohio,
FRANK H. HURD, of Ohio,
J. K. LUTTRELL, of California,
Representatives.

The PRESIDING OFFICER. Are there further objections to the certificates from the State of Oregon?

Mr. LAWRENCE. I present additional objections to the certificates and papers purporting to be certificates of the electoral votes of the State of Oregon cast by E. A. Cronin, J. N. T. Miller, and John Parker.

Mr. GORHAM, the Secretary of the Senate, read the objection, as follows:

The undersigned, Senators and members of the House of Representatives of the United States, object to the certificates and papers purporting to be certificates of the electoral votes of the State of Oregon cast by E. A. Cronin, J. N. T. Miller, and John Parker, and by each of them, and to the list of votes by them and each of them signed and certified as given for President of the United States and for Vice-President of the United States, for the following reasons:

1. The said E. A. Cronin, J. N. T. Miller, and John Parker were not, nor was either of them, appointed an elector of President and Vice-President of the United States for the State of Oregon.

2. For that W. H. Odell, J. C. Cartwright, and J. W. Watts were duly appointed electors of President and Vice-President of the United States for the State of Oregon, and as such electors, at the time and place prescribed by law, cast their votes for Rutherford B. Hayes for President of the United States and for William A. Wheeler for Vice-President of the United States, and the lists of votes signed, certified, and transmitted by such electors to the President of the Senate are the only true and lawful lists of votes for President and Vice-President of the United States.

3. That the said W. H. Odell, J. C. Cartwright, and J. W. Watts received the highest number of all the votes cast for electors of President and Vice-President of the United States by the qualified voters of the State of Oregon at the election held in said State on the 7th day of November, A. D. 1876, and the secretary of state of the State of Oregon duly canvassed said votes, and made and certified under his hand and the great seal of the State of Oregon and delivered to said W. H. Odell, J. C. Cartwright, and J. W. Watts two lists of the electors of President and Vice-President of the United States elected by the qualified voters of said State at said election, and showing that said W. H. Odell, J. C. Cartwright, and J. W. Watts were the persons having the highest number of votes of said qualified voters at such election and were elected, which certificate is dated the 6th day of December, A. D. 1876, and which has been read before the two Houses of Congress; by reason of all which said Odell, Cartwright, and Watts were the lawful electors of President and Vice-President of the United States for the State of Oregon.

JOHN H. MITCHELL,
A. A. SARGENT,
Senators.
WILLIAM LAWRENCE,
EUGENE HALE,
GEO. W. McCRARY,
N. P. BANKS,
Members of the House of Representatives.

The PRESIDING OFFICER. Are there further objections to the certificates from the State of Oregon? If there be no further objections, the certificates objected to, with the accompanying papers, together with the objections, will now be submitted to the commission for its judgment and decision. The Senate will now retire to its Chamber.

At twelve o'clock and fifty minutes p. m. the Senate withdrew.

PETITIONS, ETC.

The following petitions, &c., were presented at the Clerk's desk under the rule, and referred as stated:

By the SPEAKER: Memorial of the Legislative Assembly of Dakota Territory, that settlers upon the public lands set apart for Sioux Indians by executive proclamations of January 11, 1875, and May 20, 1875, be re-imbursed for their improvements made thereon, to the Committee on Public Lands.

Also, resolutions of the Importers' and Grocers' Board of Trade, of New York, indorsing the bill to provide remedies for overcharge of duties on tonnage and imports, to the Committee of Ways and Means.

Also, the petition of citizens of Rose Hill, Nebraska, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

Also, the petition of citizens of Kansas, of similar import, to the same committee.

By Mr. BLAND: A paper relating to the establishment of a post-route from Cuba, Crawford County, to Vienna, Maries County, Missouri, to the same committee.

By Mr. BURCHARD, of Illinois: Two petitions from citizens of Illinois, for cheap telegraphy, to the same committee.

By Mr. FINLEY: A paper relating to the establishment of a post-route from Orlando, Orange County, to Barton, Polk County, Florida, to the same committee.

By Mr. HANCOCK: The petition of H. C. Wood, M. D., of Philadelphia; J. M. Toner, M. D., of Washington; and J. R. Chadwick, M. D., of Boston, to have printed the subject catalogue of the National Medical Library, to the Committee on Printing.

By Mr. HARRIS, of Virginia: The petition of citizens of Augusta County, Virginia, for the repeal of bank-tax laws, to the Committee of Ways and Means.

By Mr. HENKLE: The petition of W. E. Wysham, of Maryland, for the removal of his political disabilities, to the Committee on the Judiciary.

By Mr. HOSKINS: The petition of 68 citizens of Waverly, New York, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. HUMPHREYS: The petition of citizens of Indiana, for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. HUNTER: The petition of citizens of Woodey's Corner, Parke County, Indiana, of similar import, to the same committee.

By Mr. LEAVENWORTH: The petition of R. G. Wynkoff and 32 other citizens of Onondaga County, New York, for the repeal of the bank-tax laws, to the Committee of Ways and Means.

By Mr. MAGOON: Joint resolution of the Legislature of Wisconsin, favoring the repeal of the act demonetizing silver and the passage of a law for the coinage of the old standard silver dollar and making it a legal tender, to the Committee on Coinage, Weights, and Measures.

By Mr. O'NEIL: Remonstrance of owners and agents of steamships against the passage of the bill (S. No. 1056) concerning commerce and navigation, to the Committee on Commerce.

By Mr. PACKER: Three petitions, signed respectively by W. O. Hickok, John E. Patterson, A. Boyd Hamilton, and 49 others; James S. Stewart and 49 others; and Dougherty Brothers & Coy and 45 others, all citizens of Harrisburgh, Pennsylvania, for an appropriation of $100,000 to be expended in the erection of a new post-office building in that city, to the Committee on Appropriations.

By Mr. PHILLIPS, of Kansas: The petition of citizens of Kansas,

for cheap telegraphy, to the Committee on the Post-Office and Post-Roads.

By Mr. SMITH, of Georgia: Two petitions for post-routes, one from citizens of Calhoun County, Georgia, for a route from Arlington, Calhoun County, to Keyton; the other from citizens of Miller County, Georgia, for a route from Colquitt to Horns Cross Roads, to the same committee.

By Mr. VANCE, of North Carolina: Papers relating to the petition of Elizabeth Sherrill for a pension, to the Committee on Revolutionary Pensions.

By Mr. WALDRON: The petition of Margaret Colbur n and others of Ypsilanti, Michigan, that pensioners be paid from the date of their discharge and that the limitation of the statute as to applications, for pensions be removed, to the Committee on Invalid Pensions.

By Mr. A. S. WILLIAMS: Resolutions of the Board of Trade of Detroit, Michigan, favoring the erection of a light-house and fog-signal upon Stannard Rock, Lake Superior, to the Committee on Commerce.

IN SENATE.

WEDNESDAY, *February* 21, 1877—10 o'clock a. m.

The PRESIDENT *pro tempore*. The recess having expired, the Senate resumes its session.

Mr. SARGENT, (at eleven o'clock and thirty-five minutes a. m.) Mr. President, would it be in order to report from the Committee on Appropriations the deficiency bill, that it may be printed?

The PRESIDENT *pro tempore*. It would not.

At eleven o'clock and thirty-eight minutes a. m. Mr. G. M. ADAMS, Clerk of the House of Representatives, appeared below the bar, and said:

Mr. President, the House of Representatives has passed the following resolution:

Resolved, That the vote of R. M. Daggett, one of the electors of the State of Nevada, be counted, the objections to the contrary notwithstanding.

I am also directed to inform the Senate that the House of Representatives are now ready to receive the Senate in joint meeting to proceed with the count of the electoral votes.

The PRESIDENT *pro tempore*. The Senate will now repair to the Hall of the House of Representatives.

The Senate accordingly proceeded to the Hall of the House of Representatives.

The Senate returned to its Chamber at twelve o'clock and fifty minutes, and the President *pro tempore* resumed the chair.

The PRESIDENT *pro tempore*. The Senate having returned from the joint meeting upon objections submitted to the double certificates from the State of Oregon, which were, with the papers, submitted to the commission, the Senate resumes its legislative business.

ELECTORAL VOTE OF OREGON—ORDER OF BUSINESS.

Mr. MITCHELL. I beg to make a report from the Committee on Privileges and Elections in reference to the inquiry into the Oregon electoral vote. I ask that it be printed in the RECORD.

The PRESIDENT *pro tempore*. The Chair would state that he has been informed the printing can now proceed in the usual manner.

Mr. KERNAN. I do not think it ought to be printed in the RECORD.

Mr. DAVIS. Did I understand the Senator to say in the RECORD?

Mr. MITCHELL. Certainly.

Mr. DAVIS. Is not that very unusual? Of course there is no objection to printing the report in the usual way, but to have it printed in the RECORD is another question.

Mr. KERNAN. It is very long and would take a great deal of space, from what I know of it.

Mr. MITCHELL. I think there should be no objection to the report being printed in the RECORD.

Mr. SARGENT. Reports of committees in both Houses have been printed in the RECORD this session on account of the necessity of their being printed there to be of any use. I remember the report from the House side on Louisiana which covered about one hundred pages was printed in the RECORD. There are special reasons this year why the reports on both sides should be printed in the RECORD in order that they may get the ear of the tribunal.

The PRESIDENT *pro tempore*. The Senator from Oregon desires the report to be printed in the RECORD. Is there objection?

Mr. WITHERS. I object.

Mr. DAVIS. O, yes; there are three or four objections.

The PRESIDENT *pro tempore*. The Chair will submit the question to the Senate. Shall the report made by the Senator from Oregon be printed in the RECORD?

Mr. KERNAN. I desire to be heard a moment on the question of printing the report in the RECORD. Such reports have not been printed in the RECORD heretofore as I understand.

Mr. LOGAN. Will the Senator from New York yield to me to allow me to present a memorial?

Mr. KERNAN. I too have morning business to present. I suggest that we be allowed to submit petitions and memorials first, and then I may resume the floor upon this question, as I desire to be heard upon it.

The PRESIDENT *pro tempore*. Is there objection to the introduction of morning business at this time?

Mr. MITCHELL. I will state that I am compelled to go before the electoral commission immediately and I should like to have this matter disposed of.

Mr. KERNAN. Then I have a word to say upon the question.

Mr. DAVIS. I rise to a question of order. Is not morning business in order?

The PRESIDENT *pro tempore*. Three or four minutes remains of the morning hour as the Chair observes by looking at the clock; and morning business is in order.

Mr. MITCHELL. I supposed I had the floor.

The PRESIDENT *pro tempore*. Morning business is in order.

Mr. MITCHELL. Mine is morning business, the report of a committee.

The PRESIDENT *pro tempore*. So the Chair understands.

Mr. SHERMAN. I think the morning hour should be extended a half hour, because there is a great deal of morning business that we ought to get rid of.

The PRESIDENT *pro tempore*. Petitions and memorials are first in the order of morning business. Is there objection to extending the morning hour to receive morning business?

Mr. WINDOM. Subject to a call for the regular order or for appropriation bills, of course. I am not willing to consent to extend the morning hour unless we can have some understanding that we shall have a night session in case the morning business is extended.

Mr. SHERMAN. The morning hour need not be extended beyond half an hour, and there is morning business which should be presented.

Mr. WINDOM. I will not object to that provided we can have a night session if we do not pass the post-office and legislative appropriation bills this afternoon. If we can get them through to-day we need not have a night session. Can we have an understanding of that kind?

Mr. MORRILL. There is no objection.

The PRESIDENT *pro tempore*. Is there objection to the understanding that the legislative and post-office appropriation bills shall be proceeded with to-day until completed?

Mr. DAVIS. I hardly think the chairman proposes to make that rule now. Let us wait and see what we can do in the progress of the bills.

Mr. WINDOM. I propose that there be a night session unless those two bills can be disposed of before the evening adjournment. If that can be agreed to I have no objection to the extension of the morning hour for half an hour.

Mr. DAVIS. I suggest to the chairman of the Committee on Appropriations that we move on and see what progress we may make. It may be that it will not be necessary to go into a night session.

Mr. WINDOM. The point is I am unwilling to agree to an extension of the morning hour unless we can have an understanding that we shall have a night session if it is necessary, and if it is not necessary it will not be done.

Mr. DAVIS. I suggest to the Senator that probably we can pass the appropriation bills in to-day's session, without a night session, by remaining here until five or six o'clock.

Mr. WINDOM. If we can do that, then there will be no necessity for a night session. The Senate certainly understands that we should have a night session unless those bills can be passed to-day; and I only ask for an agreement to hold a night session on that condition.

The PRESIDENT *pro tempore*. Is there objection to extending the morning hour half an hour?

Mr. WEST. The proposition was put a little differently a moment ago.

The PRESIDENT *pro tempore*. The Senator from Minnesota desires it to be understood that, in case the bills named by him are not concluded, namely, the legislative and post-office appropriation bills, there shall be an evening session.

Mr. DAVIS. I suggest to my friend, the chairman of the committee, that later in the day we can see whether that be necessary. Only an extension of half an hour is asked.

Mr. WINDOM. Then I must object to the extension of the morning hour for half an hour.

The PRESIDENT *pro tempore*. The Senator from Minnesota objects to the extension of the morning hour, and the morning hour has expired.

Mr. SHERMAN. I have an important report which I desire to make; and if necessary I will move to postpone the present and all prior orders for the purpose of presenting it. It would take but a moment to make the report, and it must be made to-day in order to have it printed.

Mr. WEST. If we extend the morning hour that it should be for a definite period, because discussion on the Oregon question might run us into a discussion of three or four hours. Let the Senator from Ohio make a definite proposition to extend the morning hour.

Mr. SHERMAN. We should have a specified time, say not exceeding fifteen minutes.

The PRESIDENT *pro tempore*. The Chair would remind the Senator from Ohio that the Senator from Oregon [Mr. MITCHELL] has the floor also on the question of a report from a committee.

Mr. WINDOM. I will not object to an extension of the morning hour for fifteen minutes; but I desire to express the hope that if we do not finish the appropriation bills we may have consent for an evening session.