Mr. INGALLS. I move that the Senate do now adjourn.

The PRESIDING OFFICER. The question is on the motion of the Senator from Kansas that the Senate do now adjourn.

Several SENATORS. No; no.

Mr. INGALLS. I beg pardon. If any Senator desires to speak I do not wish to make the motion to adjourn.

Mr. DOLPH. I desire to offer a resolution.

Mr. INGALLS. I beg the Senator's pardon. The motion may be informally laid aside.

PROTECTION OF FOOD FISHES.

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

Resolved, That the Committee on Fish and Fisheries be, and they are hereby, directed to inquire into and report to the Senate as to the power of Congress to legislate for the protection of food fishes in the rivers and navigable waters of the United States, and especially in rivers which form boundaries between States, and as to the propriety of such legislation; and to report by bill or otherwise.

EXECUTIVE BUSINESS.

Several messages in writing from the President of the United States, by Mr. O. L. PRUDEN, one of his secretaries, were received.

Mr. HOAR. I inquire of the Chair if there be any communications relating to executive business in the messages from the President.

The PRESIDING OFFICER. There are executive nominations.

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

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened.

AMERICAN FISHERMEN IN NORTH ATLANTIC WATERS.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States; which was read, and, with the accompanying papers, referred to the Committee on Foreign Relations, and ordered to be printed:

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

I transmit herewith a letter from the Secretary of State which is accompanied by the correspondence in relation to the rights of American fishermen in the British North American waters, and commend to your favorable consideration the suggestion that a commission be authorized by law to take perpetuating proofs of the losses sustained during the past year by American fishermen owing to their unfriendly and unwarranted treatment by the local authorities of the maritime provinces of the Dominion of Canada.

I may have occasion, hereafter, to make further recommendations during the present session for such remedial legislation as may become necessary for the protection of the rights of our citizens engaged in the open-sea fisheries in the North Atlantic waters.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, December 8, 1886.

Mr. CAMERON. I move that the Senate adjourn.

The motion was agreed to; and (at 1 o'clock and 44 minutes p. m.) the Senate adjourned until to-morrow, Thursday, December 9, at 12 o'clock m.

NOMINATIONS.

Executive nominations received by the Senate the 8th day of December, 1886.

GOVERNOR OF WYOMING TERRITORY.

Thomas Moonlight, of Leavenworth, Kansas, to be governor of Wyoming Territory, *vice* Francis E. Warren, suspended.

UTAH COMMISSIONER.

Arthur L. Thomas, of Pennsylvania (now secretary of the Territory of Utah), to be a member of the board of registration and election in the Territory of Utah, provided for by section 9 of the act of Congress approved March 22, 1882, to amend the law relating to bigamy, in place of Algernon S. Paddock, resigned.

CHIEF NAVAL CONSTRUCTOR.

Naval Constructor Theodore D. Wilson, of New York, to be Chief of the Bureau of Construction and Repair and Chief Constructor in the Department of the Navy, with the relative rank of commodore, to fill a vacancy.

NAVY PAY DEPARTMENT.

Pay Director James Fulton, of Tennessee, to be Chief of the Bureau of Provisions and Clothing and Paymaster-General in the Department of the Navy, with the relative rank of commodore, to fill a vacancy.

Pay Inspector Rufus Parks, of New York, to be a pay director in the Navy from the 10th of August, 1886, *vice* Pay Director A. H. Gilman, retired.

Paymaster James E. Tolfree, of New York, to be pay inspector in the Navy from the 10th of August, 1886, *vice* Pay Inspector Rufus Parks, promoted.

Assistant Paymaster John Corwine, of Ohio, to be a passed assistant paymaster in the Navy from the 2d of November, 1885, *vice* Passed Assistant Paymasters L. G. Boggs, promoted, and J. T. Addicks, deceased.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, *December* 8, 1886.

The House met at 12 o'clock m. Prayer by the Chaplain, Rev. W. H. MILBURN, D. D.

The Clerk proceeded to read the Journal of the proceedings of yesterday.

Mr. HOLMAN. Mr. Speaker, I ask unanimous consent to dispense with the reading of so much of the Journal as relates to the formal introduction and reference of bills and joint resolutions.

There was no objection, and it was so ordered.

The remainder of the Journal was read and approved.

ISSUE OF SUBSIDIARY SILVER COIN.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a letter from the Director of the Mint, inclosing a draft of and recommending the passage of a joint resolution for the issue of subsidiary silver coin; which was referred to the Committee on Coinage, Weights, and Measures, and ordered to be printed.

UNEXPENDED BALANCES RIVER AND HARBOR APPROPRIATIONS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting, with a letter from the Chief of Engineers, a tabulated statement of unexpended balances for river and harbor works November 1, 1886; which was referred to the Committee on Rivers and Harbors, and ordered to be printed.

NATIONAL HOMES FOR DISABLED VOLUNTEERS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting a letter from the President of the Board of Managers of the National Homes for Disabled Volunteer Soldiers, inclosing a statement of the expenses of that board for the fiscal year ending June 30, 1886; which was referred to the Committee on Appropriations, and ordered to be printed.

ACCOUNTS OF ARMY DISBURSING OFFICERS.

The SPEAKER also laid before the House a letter from the Secretary of War, transmitting reports of inspection of money accounts of disbursing officers of the Army; which was referred to the Committee on Expenditures in the War Department, and ordered to be printed.

EXPENDITURES POST-OFFICE DEPARTMENT.

The SPEAKER also laid before the House a letter from the Postmaster-General, transmitting reports of expenditures and of the business of the Post-Office Department for the fiscal year ended June 30, 1886; which was referred to the Committee on the Post-Office and Post-Roads, and ordered to be printed.

DISBURSEMENTS DEPARTMENT OF JUSTICE.

The SPEAKER also laid before the House a letter from the Attorney-General, transmitting a statement of the condition of appropriations December 4, 1886, under control of the Attorney-General; which was referred to the Committee on Appropriations, and ordered to be printed.

TWELFTH MICHIGAN VOLUNTEERS.

The SPEAKER also laid before the House, for reference under the rule, the bill (H. R. 6983) for the relief of certain soldiers of the Twelfth Michigan Volunteer Infantry, dishonorably discharged under Special Orders 92, War Department, Adjutant-General's Office, dated March 1, 1866, returned from the Senate with amendment.

Mr. BURROWS. I ask unanimous consent that the Senate amendment be considered at this time and concurred in. I will explain the nature of it if the House will indulge me just a moment. The only point of the bill is this. As it passed the House it annulled a certain order by which nine soldiers of the Twelfth Michigan Infantry were dishonorably discharged in 1866. The bill passed the House in that shape and went to the Senate, and the only amendment proposed by the Senate is to insert the names of the nine soldiers who are to be benefitted by this bill.

The SPEAKER. Is there objection to the present consideration of the Senate amendment?

Mr. HOLMAN. What is the Senate amendment?

The SPEAKER. The Clerk will report the amendment, after which the Chair will ask for objections, if any.

The amendment of the Senate was read, as follows:

Strike out all after the enacting clause and insert the following:

That the Secretary of War be, and hereby is, authorized and directed to revoke and cancel special orders numbered 92, dated Washington, March 1, 1866, ordering the dishonorable discharge of the soldiers therein named; and to cause to be issued to Sergeants John M. Russey, Company A, and William Becker and Michael Casey, Company B; Corporal Seth Gregory, Company B; Sergeants Collins Phelphs and George S. Foster, Company E; and Alfred Doolittle, Company H, and Hull M. Cross and Lewis M. Rope, Company K, and each of them, all of the Twelfth Regiment Michigan Volunteers, and in case of the death of any of them, then to their heirs, respectively, honorable discharges as of the dates and places at which their companies were respectively mustered out of the service; and such discharges shall each have the same force and effect as if issued at the times and places of the muster-out of the said companies, respectively, and as if said special orders numbered 92 had never been issued or executed.

There being no objection, the amendment of the Senate was considered and concurred in.

Mr. BURROWS moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ANNOUNCEMENTS OF DEATH OF MEMBERS.

The SPEAKER also laid before the House the following Senate resolutions; which were read, and ordered to lie on the table for the present.

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. LEWIS BEACH, and of the death of Hon. JOHN ARNOT, jr., late Representatives from the State of New York.

Resolved, That the Secretary communicate this resolution to the House of Representatives.

Resolved, That the Senate has heard with deep sensibility the announcement of the death of Hon. WILLIAM T. PRICE, late a Representative from the State of Wisconsin.

Resolved, That the Senate concur in the resolution of the House of Representatives providing for the appointment of a joint committee to take order for attending the funeral of the deceased, at his residence in the State of Wisconsin; and that the members of the committee on the part of the Senate be appointed by the President *pro tempore*.

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

The PRESIDENT *pro tempore* has appointed Mr. SPOONER, Mr. MANDERSON, and Mr. BLACKBURN the committee on the part of the Senate under the foregoing resolution.

AUGUST F. BRONNER.

Mr. HEWITT. I ask unanimous consent to introduce a pension bill which was delayed in transmission by the mail, so that I could not present it on yesterday.

There being no objection, the bill (H. R. 10068) granting a pension to August F. Bronner was introduced, read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

WILLIAM WARD.

Mr. O'NEILL, of Pennsylvania. I ask unanimous consent that the bill (S. 1990) be considered at this time. It will not take a moment. After the reading of the bill and the report I am sure there will be no objection to it.

The bill (S. 1990) to provide for the adjustment of matters connected with certain judicial proceedings in Pennsylvania in which the United States was a party, was read as follows:

Be it enacted, &c., That the Attorney-General is hereby authorized and directed to ascertain what sum, if any, is a fair equivalent for services rendered by William Ward in the court of common pleas of Delaware County, Pennsylvania, in defending certain attachments and suits pending therein against the United States revenue-marine steamer William H. Seward; and the Secretary of the Treasury is hereby authorized and directed to pay to the said William Ward, out of any moneys in the Treasury not otherwise appropriated, such sum as the Attorney-General shall certify to be a fair equivalent for the said services.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HOLMAN. As I heard it read I understand there is no limit on the amount to be paid.

Mr. O'NEILL, of Pennsylvania. I move that the Committe of the Whole House on the state of the Union be discharged from the further consideration of the bill, and that it now be put upon its passage. The Committee of the House has unanimously reported a similar bill, and made a report covering exactly the same ground that was covered by the bill as it passed the Senate.

Mr. HOLMAN. I suggested that there was no sum named by the bill.

Mr. O'NEILL, of Pennsylvania. No, sir. The bill directs the Attorney-General to ascertain the amount.

Mr. SPRINGER. The limit of the claim is $3,000. The claimant does not ask for more than that.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HOLMAN. I have no objection if it be understood that the amount shall not exceed $3,000.

Mr. O'NEILL, of Pennsylvania. I accept that suggestion, and offer the amendment which I send to the desk.

The Clerk read as follows:

Add to the bill the following:
"Provided that the amount allowed shall not exceed the sum of $3,000."

The amendment was agreed to.

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

Mr. O'NEILL, of Pennsylvania, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

THOMAS C. DICKEY.

Mr. JOHNSTON, of North Carolina. Mr. Speaker, I ask unanimous consent that the Committee of the Whole be discharged from the further consideration of the bill (H. R. 7990) and that the same be put upon its passage.

The SPEAKER. The bill will be read, after which the Chair will ask for objections.

The bill was read, as follows:

Be it enacted, &c., That the Secretary of the Treasury be, and he hereby is, authorized and directed to pay to Thomas C. Dickey, late postmaster at Murphy, N. C., the sum of $275, out of any moneys in the Treasury not otherwise appropriated.

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

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

The latter motion was agreed to.

REBATE OF DUTIES, EASTPORT, ME.

Mr. BOUTELLE. Mr. Speaker, I ask unanimous consent to present the memorial of the municipal officers of Eastport, Me., and to introduce the bill which I send to the Clerk's desk, and that the bill be now considered and passed.

The SPEAKER. The bill will be read, after which the Chair will ask for objections.

The bill and memorial were read, as follows:

A bill (H. R. 10069) for the relief of sufferers by fire at Eastport, Me.

Be it enacted, &c.

SECTION 1. That there shall be allowed, and paid, under such regulations as the Secretary of the Treasury shall prescribe, on all materials actually used in buildings erected on the ground burned over by the fire which occurred at Eastport, Me., October 14, 1886, a drawback on the import duties paid on the same; provided that such materials shall have been imported and used during the term of two years from and after the said 14th day of October, 1886.

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

We, the undersigned, respectfully represent that the conflagration in Eastport, Me., that occurred on the 14th of October, 1886, destroyed every store, our hotels, boarding houses, banks, six large factories, nearly all of our wharves, storehouses, and places of business, and over sixty dwelling houses, causing a loss of over $800,000.

In consideration of the above heavy loss to our town, we respectfully ask and petition that Congress will pass the following act for the relief of the sufferers by the above fire.

N. B. NUTT, JR.,
E. E. SHEAD,
JAMES MULNEAUX,
Selectmen of Eastport, Me.

Mr. SPRINGER. Mr. Speaker, I would like to know what amount is involved in this bill.

Mr. BOUTELLE. I will state, if the gentleman will permit me. Many members of the House are doubtless aware that since the adjournment of Congress one of those disastrous conflagrations which periodically overwhelm communities entirely destroyed the business portions of the seaport town of Eastport, Me. That fire destroyed every store, every warehouse, nearly all the wharves, the banks, the hotels, the custom-house, and post-office, and more than sixty private dwellings, leaving the community stricken to a degree almost unparalleled in the history of such disasters. The selectmen of that town have requested, by memorial, that this bill shall be passed, granting the people there the privilege, which has been accorded in cases of a similar character that have heretofore occurred, such as those of Portland, in 1866, Chicago, in 1871, and in other cities that have been visited by like disasters, of importing, without payment of duty, the materials actually necessary for the rebuilding of the town.

The bill is entirely in accordance with precedent. I understand that it has been the custom of the House to grant this privilege in such cases without debate or objection, and I trust there will be none in this case. For the information of the House I will state that this bill is identical in form with the one passed in the case of Portland, except that the period during which the material is to be admitted free is put at two years instead of one year, as in the case of Portland. The difference in the size and wealth of the places being considered, this seems reasonable. With this brief statement, I trust there will be no objection made to this act of courtesy to a community which is manfully striving to overcome the effects of a disaster that seemed at one time to almost preclude the possibility of the early restoration of the town.

Mr. SPRINGER. Mr. Speaker, I desire to ask the gentleman whether there is any limit fixed to the amount of rebate required to be paid. I see the bill provides that "on all materials actually used in buildings erected on the ground burned over by the fire" there shall be a rebate of the duties paid——

Mr. BOUTELLE. Under such regulations as the Secretary of the Treasury may prescribe.

Mr. REED, of Maine. And the time is limited to two years.

Mr. SPRINGER. Here is a large city——

Mr. BOUTELLE. No, it is a town of some 5,000 population.

Mr. SPRINGER. Well, here is a place of 5,000 inhabitants, and I presume the buildings to which this bill will apply have already been erected.

Mr. BOUTELLE. No, sir; the fire occurred on the 14th of October last, and they have now simply got so far as to commence the rebuilding of their wharves and to erect some temporary places of business. The merchants of that town are many of them at this time keeping store in their dwelling-houses, and some of the first citizens, as a matter of neighborly kindness, are taking boarders in the best apartments in their

houses, to furnish homes for those who have lost their own by fire. The people are doing everything that they can to overcome the effects of the overwhelming disaster which has befallen them just as the severities of winter were approaching.

Mr. SPRINGER. The bill contains, I observe, a proviso that these materials shall be used during the term of two years.

Mr. BOUTELLE. During the term of two years.

Mr. SPRINGER. Is this similar to the provision which was passed in the case of Chicago?

Mr. BOUTELLE. Entirely so, with the exception, as I have stated, that in this case the term is two years instead of one, this being a much smaller place, and the work of rebuilding proportionately more difficult and slower.

Mr. SPRINGER. In the case of Chicago, lumber was excepted; in this case you let lumber come in.

Mr. BOUTELLE. This bill is the same in that respect as the bill for the relief of Portland.

Mr. SPRINGER. I have no objection. I think that the greater the quantity of these materials that may come in the better.

Mr. BRECKINRIDGE, of Arkansas. I must demand that the bill be referred to the Committee on Ways and Means.

Mr. BOUTELLE. That is an unusual procedure in a case of this kind. I have consulted the chairman of the Committee on Ways and Means, who makes no objection. The course which the gentleman from Arkansas proposes has never, I think, been adopted heretofore. I will say to the gentleman, also, that while there may not be a great amount of practical relief from this bill, a principal feature and value of it will be the grace and courtesy on the part of the Congress of the United States in according the usual recognition of a disaster of this kind.

Mr. BRECKINRIDGE, of Arkansas. There are other people in this country who, by reason of short crops and misfortunes of various character, are as much in need of relief from taxation as the people of Eastport to-day. I think that any proposition of this sort should be considered by the appropriate committee, and in the light of the general wants of the country. I am very much gratified to find a Representative from Maine confessing that the tariff is a tax, and confessing that his people are not more than compensated for the burdens they are under by the home market which, it is claimed, is produced by these excessive prices. I shall insist that this bill go to the committee that has charge of questions of taxation; and, for my part, I hope it will be considered in the light of the necessities of all the people of this country who are suffering from misfortune and bearing the burdens of this taxation.

Mr. BOUTELLE. I trust that I am duly impressed, and that the House will also be, with the nobility of the gentleman's position in taking advantage of this disaster which has befallen a town to air his views upon the tariff question.

Mr. BRECKINRIDGE, of Arkansas. I am entirely ready to accept all the nobility that arises from a perfect willingness to stand here for the rights of all the American people.

The SPEAKER. The gentleman from Arkansas on the right demands the regular order.

Mr. BOUTELLE. Unquestionably he has the right to do so.

Mr. BRECKINRIDGE, of Arkansas. And does it with a great deal of pleasure.

Mr. BOUTELLE. I recognize all the gracefulness of the gentleman's act.

The SPEAKER. Does the gentleman from Maine (Mr. BOUTELLE) desire to have the bill referred?

Mr. BOUTELLE. Let it take the usual course.

The SPEAKER. The bill will be referred to the Committee on Ways and Means.

LEAVE OF ABSENCE.

Mr. STONE, of Missouri, by unanimous consent, obtained leave of absence for one week.

ORDER OF BUSINESS.

The SPEAKER. The Chair will proceed, as the regular order, to call the committees for reports.

COMPAGNIE GÉNÉRALE TRANSATLANTIQUE.

Mr. RICE, from the Committee on Foreign Affairs, reported back favorably the bill (H. R. 8954) referring to the Court of Claims the claim of the Compagnie Générale Transatlantique for duties of tonnage illegally exacted; which was referred to the Committee of the Whole House on the Private Calendar, and the accompanying report ordered to be printed.

The call of committees was continued and concluded, no further reports being presented.

ORDER OF BUSINESS.

The SPEAKER. Under the rules, the regular order now is the consideration for one hour of bills reported from committees. The hour begins at 12 o'clock and 35 minutes p. m. The Committee on Military Affairs has an unfinished bill in this hour.

Mr. CUTCHEON. I desire to call up the bill pending at the close of the last morning hour, and upon the passage of which the previous question was moved.

The title of the bill was read, as follows:

A bill (H. R. 1171) to amend an act entitled "An act to provide for the muster and pay of certain officers and enlisted men of the volunteer forces," approved June 3, 1884.

The SPEAKER. The question is on ordering the previous question upon the passage of this bill.

The previous question was ordered.

Mr. PAYSON. Would it be in order to ask or to demand the reading of this bill?

The SPEAKER. The Chair will have the bill read, unless there be objection, as it was considered some time ago.

The bill was read, as follows:

Be it enacted, &c., That section 1 of "An act to provide for the muster and pay of certain officers and enlisted men of the volunteer forces," approved June 3, 1884, be, and is hereby, amended so as to read as follows:

"That the joint resolution approved July 11, 1870, entitled 'Joint resolution amendatory of joint resolution for the relief of certain officers of the Army,' approved July 26, 1866, is hereby so amended and shall be so construed that in all cases arising under the same any person who was duly appointed and commissioned, whether his commission was actually received by him or not, shall be considered as commissioned to the grade therein named from the date from which he was to take rank under and by the terms of his said commission, and shall be entitled to all pay and emoluments as if actually mustered at that date: *Provided*, That at the date from which he was to take rank by the terms of his commission he was actually performing the duties of the grade to which he was so commissioned, or, if not so performing such duties, then from such time after the date of his commission as he may have actually entered upon such duties: *And provided further*, That any person held as a prisoner of war, or who may have been absent by reason of wounds, or in hospital by reason of disability received in the service in the line of duty, at the date of his commission, if a vacancy existed for him in the grade to which so commissioned, shall be entitled to the same pay and emoluments as if actually performing the duties of the grade to which he was commissioned and actually mustered at such date: *And provided further*, That this act and the resolution hereby amended shall be construed to apply only in those cases where the commission bears date prior to June 20, 1863, or after that date when their commands were not below the minimum number required by existing laws and regulations: *And provided further*, That the pay and allowances actually received shall be deducted from the sums to be paid under this act."

The SPEAKER. The question is, shall this bill pass.

Mr. BUTTERWORTH. Is the bill subject to amendment?

The SPEAKER. It is not. The question is on its passage, upon which the previous question has been ordered.

The bill was passed.

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

The latter motion was agreed to.

CONSOLIDATION OF NAVY DEPARTMENT BUREAUS.

The Committee on Naval Affairs being called,

Mr. HERBERT said: On behalf of the Committee on Naval Affairs, I call up, and ask unanimous consent to have considered in the House as in Committee of the Whole, the bill which I send to the desk.

The SPEAKER. The gentleman from Alabama, from the Committee on Naval Affairs, asks unanimous consent that the Committee of the Whole House on the state of the Union be discharged from the further consideration of a bill, the title of which will be read, after which the Chair will ask for objection.

The Clerk read, as follows:

A bill (H. R. 7635) to consolidate certain bureaus of the Department of the Navy, and for other purposes.

Mr. REED. I should like to know what that bill is.

Mr. HERBERT. It is the bill to consolidate certain bureaus of the Navy Department.

Mr. REED. Has it the approval of the Committee on Naval Affairs?

Mr. HERBERT. Yes, sir.

Mr. REED. Unanimously?

Mr. HERBERT. No, sir; there were two members who dissented. I am only asking now that the bill be considered in the House as in Committee of the Whole.

The SPEAKER. Is there objection?

Mr. BOUTELLE. What is this proposition?

Mr. HERBERT. This is the bill to consolidate the bureaus of the Navy Department.

Mr. BOUTELLE. But what is the proposition?

Mr. HERBERT. I ask unanimous consent to consider the bill in the House as in Committee of the Whole. Of course it will be subject to amendment——

Mr. BOUTELLE. I object.

Mr. HERBERT. Then if I do not obtain that consent I ask to call up the resolution reported from the Committee on Naval Affairs, fixing a day for its consideration. The resolution is on the House Calendar.

The Clerk read as follows:

Resolved, That Wednesday, 28th day of April, 1886, and from day to day thereafter until disposed of, except Mondays and Fridays, not to interfere with the consideration of revenue bills, regular appropriation bills, nor with the morning hour, nor with the hour for the call of committees for consideration of bills, nor with prior orders, be set apart for the consideration of House bill No. 7635, entitled "A bill to consolidate certain bureaus of the Department of the Navy,

and for other purposes," and if said bill shall not have been previously disposed of, that Wednesday, the 5th day of May, 1886, immediately after the reading of the Journal, be set apart for the exclusive consideration thereof in the House as in Committee of the Whole, and that the previous question on said bill and all amendments which may be offered thereto be considered as ordered at half-past 6 o'clock p. m. of the said 5th day of May.

The committee propose to amend by striking out in the first line of the resolution the words "28th of April," and inserting "15th day of December."

Also strike out after the words "consideration of bills," the following: "Nor with prior orders."

Also strike out wherever it occurs "5th day of May," and insert "18th day of December."

Mr. ANDERSON, of Kansas. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. ANDERSON, of Kansas. Is this before the House by unanimous consent?

The SPEAKER. It is presented for consideration by the Committee on Naval Affairs under the rule which allows that committee one hour after the first call of committees for the consideration of such measures as they may present.

Mr. REED, of Maine. How is it proposed to consider this; in the regular way?

The SPEAKER. The Clerk had better report the resolution again.

Mr. REED, of Maine. It is important to know exactly what it does propose.

The SPEAKER. The Chair thinks it leaves the bill in the Committee of the Whole House on the state of the Union, where it now is.

Mr. REED, of Maine. If that be so I have no objection to the proposition.

The SPEAKER. The Chair will, however, examine the resolution again. [After a pause.] Upon an inspection of the resolution the Chair discovers that it makes no provision whatever concerning the question as to whether or not it shall be considered in the Committee of the Whole or in the House; and it has been held heretofore by the predecessors of the present occupant of the chair that when a bill which is in the Committee of the Whole House on the state of the Union has been made a special order by the House it takes it out of the Committee of the Whole.

Mr. REED, of Maine. There is also another proposition, as I understand it, embodied in the resolution, providing that the previous question shall be considered as ordered at a particular time. I would like to hear the resolution again read.

The resolution was again reported.

Mr. REED, of Maine. I make the point of order upon that.

Mr. HERBERT. If you will indulge me a moment I will write out a substitute for the resolution.

Mr. REED, of Maine. The point of order then is reserved.

Mr. HERBERT. I offer as a substitute what I now send to the desk.

The Clerk read as follows:

Resolved, That Wednesday, the 15th day of December, 1886, and from day to day thereafter until disposed of, except Mondays and Fridays, not to interfere with the consideration of revenue bills, regular appropriation bills, nor with the morning hour, nor with the hour for the call of the committees for the consideration of bills, be set apart for the consideration of House bill 7635, entitled "A bill to consolidate certain bureaus of the Department of the Navy, and for other purposes."

Mr. STEELE. I desire to inquire whether this excludes all the prior orders. I did not catch its reading exactly.

Mr. REED, of Maine. One question before I withdraw my point of order. It is—and I have not been able to gather from the reading of the resolution the point about which I wish to inquire—does that cause this bill to be considered in Committee of the Whole? Now, I have no objection to the bill if brought up and duly considered. But it is a very serious matter, and there ought to be no snap judgment upon it.

Mr. HERBERT. I do not propose to take any snap judgment. I simply ask a fair consideration and discussion of the bill.

Mr. REED, of Maine. If the resolution proposes to take it out of the Committee of the Whole, it proposes not to give it fair consideration, and I suggest to the gentleman from Alabama that he make his motion in such character and fashion as that we can all agree upon it. If it can be considered in the regular way, there will be no objection on this side.

The SPEAKER. Under the rulings referred to a moment since the passage of this resolution will take this bill out of the Committee of the Whole House on the state of the Union and bring it into the House for consideration.

Mr. HERBERT. But it will be subject to amendment and discussion.

Mr. REED, of Maine. Subject to amendment and discussion at the option of the gentleman from Alabama?

Mr. HERBERT. No, sir; at the option of the House; and I promise for my part to give full opportunity for amendment and discussion.

Mr. REED, of Maine. Why will not the gentleman give us the consideration of the bill in the Committee of the Whole in the regular way?

Mr. HERBERT. This is the ordinary way and the common mode of proceeding.

Mr. REED, of Maine. But this is not an ordinary and common transaction.

Mr. HERBERT. It is.

Mr. REED, of Maine. This bill proposes to change the organization of an entire department of the Government.

Mr. HERBERT. That is true; it is a very important bill.

Mr. REED, of Maine. Precisely; and that is the reason why it should be discussed in proportion to its importance as the rules of the House have regulated.

Mr. HERBERT. I promise to give one day or two days for discussion, if the gentleman desires it, and the fullest opportunity of amendment.

Mr. REED, of Maine. We want it in Committee of the Whole, where there will be full opportunity of amendment.

Mr. HERBERT. There is no necessity for the bill being considered in the Committee of the Whole if you have full opportunity to discuss and amend.

Mr. REED, of Maine. What objection does the gentleman have to its being considered in Committee of the Whole?

Mr. HERBERT. What objection has the gentleman from Maine to having it considered in the House if we can dispose of it there? We want it where it can be disposed of and a conclusion reached. If the gentleman from Maine is willing to that he will not object. I promise he shall have two full days for discussion and opportunity to amend. If the gentleman's objection is captious, if he desires to defeat the bill and prevent a determination of it he will insist on having it considered in Committee of the Whole. We want it where we can reach a conclusion, and, as I understand, the Speaker has simply ruled that this order which sets apart a day for consideration of the bill, and provides it shall be considered from day to day till the consideration is completed, has the effect, as such orders have always had, of bringing it into the House out of the Committee of the Whole. Every special order perhaps on that Calendar fixing a day for the consideration of a measure is subject to the same criticism the gentleman from Maine now makes to this. I can not see why he should make this objection if he gets a fair opportunity to amend and a full opportunity to discuss.

Mr. REED, of Maine. Mr. Speaker, this is not the first time in the conduct of matters connected with the naval affairs of the country that the gentleman from Alabama has endeavored to put the House in a position of opposition to the bill, when their opposition is merely to his method of managing it and discussing it. Now, the rules of the House have been established for many years upon one great principle; that is, that when a measure was to be thoroughly discussed, when it was of grave magnitude, involving certain important principles and details, it should be discussed in the Committee of the Whole. The gentleman proposes to change that now, and he gives no reason for it, except that we can rely upon his promise that there shall be full discussion and ample opportunity for amendment.

I submit to the gentleman that the method which has been established by this House which gives full discussion, which gives every opportunity for amendment, is consideration in Committee of the Whole. That is arranged for that purpose, and accomplishes that result. And the gentleman from Alabama knows that, practically, even with his willingness that there should be the opportunity he speaks of, his method does not give full opportunity, because we find ourselves limited in the number of amendments which can be presented in the House; whereas in Committee of the Whole there are no limitations.

Mr. HERBERT. What limitation is there to the number of amendments?

Mr. REED, of Maine. There can only be three.

Mr. HERBERT. Three to any one proposition?

Mr. REED, of Maine. Precisely; and after the previous question is ordered no further amendments can be presented; so that in reality the ample permission of the gentleman from Alabama to make amendments is reduced to three, and none of those may really suit the wishes of the majority of the House.

Now, there is no disposition—I tell the gentleman with the same frankness and good faith with which he talks to me—there is no disposition to make trouble with regard to this matter. All we want is a fair opportunity of discussion and amendment. There is no desire of obstruction whatever. I submit to the gentleman, he has periled measures occasionally in this House by not being willing to listen to the reasonable wishes of gentlemen on the other side. I submit to him he can have the measure put in good shape, where there will be an opportunity for discussion and amendment, and no desire to put any obstruction in his way. This is an important matter, and should be fully and freely discussed in the manner we all recognize as affording full and free methods of discussion, namely, in Committee of the Whole.

It need take no more time than the gentleman says he is willing to grant us.

Mr. HERBERT. If the gentleman will promise for his side of the House that no obstruction shall be offered to this bill, that it shall be taken up and considered until a conclusion upon it is reached, and that action shall be taken after the bill shall have been discussed for six hours in the Committee of the Whole——

Mr. REED, of Maine. There is no occasion for such limitation. Let us limit the discussion when we get to it. Why should we undertake to limit the discussion now, before we know how much the subject may require? I object here and now in this and in all such cases

to limiting discussion before we have commenced it. You can not tell what sort of a discussion a subject may require until you have begun it, and the rules of the House make adequate provision for proper limitation.

Mr. HERBERT. Mr. Speaker, the gentleman from Maine [Mr. REED] says that this is not the first time when I have imperiled a bill by method of management. In reply to that, I simply desire to say that, according to my recollection, this is not the first time when that gentleman has raised technical objections—objections which have seemed to me to be purely technical—to the consideration of bills coming from the Committee on Naval Affairs. I remember very well that when we were discussing here last session a bill reported from that committee in regard to the increase of the Navy, the gentleman from Maine [Mr. REED] objected to my methods. In spite of the fact that on more than one occasion he had voted against taking up the bill, he was contending before this House that he and his friends were better friends of the increase of the Navy than gentlemen on this side of the House. And I remember that on that occasion, after the discussion was concluded, my friend from New York, Mr. CAMPBELL, remarked that the attitude of the gentleman from Maine [Mr. REED] reminded him of an able-bodied man he once knew who was always looking for work and praying to God that he might not find it.

Mr. REED, of Maine. Oh, do not let us have old stories twice repeated.

Mr. BOUTELLE. Mr. Speaker.

Mr. HERBERT. I believe I have the floor.

Mr. BOUTELLE. I rise to a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. BOUTELLE. I desire to ask whether this proceeding is by unanimous consent, or under the call of committees.

The SPEAKER. It is under the call of committees.

Mr. BOUTELLE. I desire to ask further in that connection whether it is competent for the chairman of a committee, under that call, to introduce measures here other than those which have been acted upon and authorized by the committee? In other words, whether it is in order at this time for the House to be called to the consideration of a proposition offered by the chairman of a committee individually—whether that can be done under a call of the committees, which I suppose to be for the purpose of disposing of measures reported from committees?

Mr. HERBERT. This is the action of the committee, Mr. Speaker. That is to say, the original resolution was reported by the committee, but the day fixed in that resolution has passed, and therefore it is necessary to make a change. That change can only be made by a substitute similar to this which I have proposed, and I am satisfied that a majority of the committee are with me in this proposition.

Mr. BOUTELLE. Mr. Speaker, I understand that the gentleman from Alabama [Mr. HERBERT] practically acknowledges that this proposition has not been authorized by the committee.

Mr. HERBERT. This particular proposition has not.

Mr. BOUTELLE. Then, Mr. Speaker, I make the point of order that if this proposition has not been authorized by the committee, it is not in order to be considered by the House at this time under the call of committees.

Mr. REED, of Maine. I hope the gentleman from Alabama [Mr. HERBERT] will permit the matter to be considered in Committee of the Whole.

Mr. HERBERT. I am reminded, Mr. Speaker, by one of my colleagues on the committee, Mr. SAYERS, of Texas, that I was authorized by the committee to make such a change as I have made.

Mr. BOUTELLE. I would like to have the gentleman state when and where he was so authorized.

Mr. HERBERT. The subject was before the committee at a time when the gentleman from Maine [Mr. BOUTELLE] was not present, as has frequently happened.

Mr. BOUTELLE. Mr. Speaker, do I understand the chairman of the Committee on Naval Affairs to state to the House that, by action of the Committee on Naval Affairs, he has been authorized to present to the House this proposition which he has twice changed? If so, I should like to see the record of that action of the committee.

Mr. HERBERT. Mr. Speaker, upon the suggestion of a gentleman on the other side, a member of the committee, I will say that, if consent be given that this proposition be so changed that the bill be considered in Committee of the Whole, I am perfectly willing.

Mr. BOUTELLE. I insist on my point of order.

The SPEAKER. The Chair will state that under the rule adopted at the beginning of the last session, when a committee is called——

Mr. REED, of Maine. I desire to say that I am satisfied with the proposition which the gentleman from Alabama (Mr. HERBERT) now makes.

Mr. BOUTELLE. I understand that my colleague does not object, but I do.

The SPEAKER. The Chair decides that under the rule a measure must be called up by the committee having it in charge, which means that the committee must authorize it to be called up, just as a committee authorizes a report to be made, or as a committee is required to authorize a motion to suspend the rules when committees are called for that purpose. But whether the committee did or did not authorize its chairman to call up a particular measure, is a question of fact, which of course the Chair can not decide.

Mr. BOUTELLE. I make the point that the committee has not acted on this.

The SPEAKER. The Chair can not know that. That is a question of fact which, as the Chair was about to remark, must be decided by the committee itself, and the Chair must depend, of course, upon the good faith of members in regard to that matter. Where there is a difference of opinion upon a question of that sort, it is impossible for the Chair to decide it.

Mr. BOUTELLE. As I understand, the chairman of the committee does not contend that the present proposition has been acted on by the committee. As a matter of fact, there has been no meeting of the Naval Committee this session.

Mr. WISE. If the gentleman will allow me to interrupt him, I will state that the committee did authorize the chairman to call this up.

Mr. BOUTELLE. When?

Mr. WISE. At the last session.

Mr. BOUTELLE. At the last session?

Mr. WISE. Yes, sir; and to make these changes whenever necessary.

Mr. BOUTELLE. I should like to see the record.

Mr. HERBERT. That was done. Since my attention has been called to the matter, I have a distinct recollection of it.

Mr. BOUTELLE. Why, Mr. Speaker, the resolution has been originated here to-day. How could it have been authorized by the committee?

Mr. HERBERT. The gentleman does not refer to the original resolution?

Mr. BOUTELLE. The substitute we are now considering.

Mr. HERBERT. That is the one I had authority from the committee to submit. Now, if gentlemen on the other side will consent we will pass the resolution in that form.

Mr. STEELE. I shall object unless prior orders are excepted.

Mr. HERBERT. I call for a vote.

Mr. ANDERSON, of Kansas. I make the point of order that this resolution changes the rules of the House, and that one day's notice has not been given of the proposed change.

The SPEAKER. The resolution called up by the gentleman from Alabama is an original resolution offered at the last session. When the resolution was called up to-day the gentleman from Alabama offered a substitute for it; but the resolution has been on the Calendar for some months—since April last.

Mr. ANDERSON, of Kansas. I was not aware of that.

The SPEAKER. But, moreover, the Chair desires to say, in order to avoid misapprehension hereafter, that this is not a resolution changing the rules of the House. It is simply a resolution fixing a day for the consideration of certain business and making it a special order.

Mr. HERBERT. Now, Mr. Speaker, I ask the previous question on the resolution as amended—the substitute.

Mr. GOFF. I should like to hear the amendment.

Mr. HERBERT. I ask the Clerk to read it.

The SPEAKER. The Clerk will report the proposed substitute.

The Clerk read as follows:

Resolved, That Wednesday, the 15th day of December, 1886, and from day to day thereafter until disposed of, except Mondays and Fridays, not to interfere with the consideration of revenue bills, regular appropriation bills, nor with the morning hour, nor with the hour for the call of committees for consideration of bills, be set apart for the consideration in Committee of the Whole of House bill numbered 7635, entitled "A bill to consolidate certain bureaus of the Department of the Navy, and for other purposes."

Mr. HERBERT. I ask that this be substituted for the original resolution, and upon that motion I demand the previous question.

Mr. STEELE. I desire to make a parliamentary inquiry.

The SPEAKER. The gentleman from Indiana will proceed.

Mr. STEELE. As I understand, if this resolution be adopted, this bill will have the right of way against all prior orders from now until the close of the session, if necessary.

The SPEAKER. The Chair thinks that if the House enters upon the consideration of this business on the day indicated, it will exclude thereafter the consideration of all other business, except that which is provided for in the resolution itself.

Mr. STEELE. In other words, this will have the right of way against everything else.

Mr. HERBERT. We shall get through in a reasonably short time.

Mr. SOWDEN. I rise to a question of order.

The SPEAKER. The gentleman will state it.

Mr. SOWDEN. It is utterly impossible for us who remain in our seats to know what is going on, and I ask, therefore, that members shall take their seats, excepting of course the member who is addressing the Chair.

The SPEAKER. The gentleman's point of order is well taken, and members will resume their seats and preserve order. The Chair has made repeated efforts to secure order upon the floor. The gentleman from Alabama demands the previous question on the substitute.

Mr. HERBERT demanded a division.

The House divided; and there were—ayes 170, noes 12.

Mr. STEELE. No quorum has voted.

The SPEAKER. The point is made that no quorum is present, and the Chair will therefore appoint Mr. HERBERT and Mr. STEELE as tellers.

Mr. STEELE. I withdraw my point of order.

The SPEAKER. The ayes have it; and the previous question therefore is ordered.

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

Mr. HERBERT 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.

ORDER OF BUSINESS.

Mr. WISE. I move, on the part of the Committee on Naval Affairs, to take up for action at this time Senate bill 71.

The SPEAKER. This seems to be a private bill, and therefore is not in order under this call. Reports are still in order from the Committee on Naval Affairs. [After a pause.] If that committee has no further business to present the Chair will call the Committee on the Post-Office and Post-Roads.

EXTENSION OF THE FREE-DELIVERY SYSTEM.

Mr. BLOUNT. I will take the floor and yield it to my colleague on the Committee on the Post-Office and Post-Roads.

Mr. DOCKERY. I am directed by the Committee on the Post-Office and Post-Roads to call up for consideration at this time a bill (H. R. 7536) to extend the free-delivery system of the Post-Office Department, and for other purposes, which has been reported from that committee with amendments.

The SPEAKER. The bill is in the Committee of the Whole House on the state of the Union, and is not before the House.

Mr. DOCKERY. I ask, then, that by unanimous consent the bill and amendments be considered in the House.

The SPEAKER. But it has been already partially considered in the Committee of the Whole.

Mr. DOCKERY. I move, then, that the House resolve itself into the Committee of the Whole House on the state of the Union for the purpose of proceeding with the consideration of that bill and pending amendments.

The motion was agreed to; and the House accordingly resolved itself into the Committee of the Whole House on the state of the Union, Mr. HATCH in the chair.

The CHAIRMAN. The House is in Committee of the Whole for the purpose of continuing the consideration of the bill (H. R. 7536) to extend the free-delivery system of the Post-Office Department, and for other purposes. The pending question is on the amendment offered by the gentleman from Iowa [Mr. HEPBURN] to the committee's amendment.

Mr. DOCKERY. I ask, Mr. Chairman, that the Clerk report the amendment.

The CHAIRMAN. The amendment is, to strike out in line 18 of the amendment reported by the committee the words "at which place," and insert in lieu thereof the words "or at any place where;" so the bill will read:

According to the last general census taken by authority of State or United States law or at any place where the post-office produced, &c.

The question is on that amendment to the committee's amendment.

Mr. BLOUNT. Mr. Chairman, this matter was up at a night session during the last session of Congress, and I suspect is not remembered by members of the House. My friend from Missouri, I know, will not object to giving some five or ten minutes for the purpose of explaining the amendment on which we are called to vote.

The CHAIRMAN. There has been no limit put upon the debate. If gentlemen desire to speak, the Chair will recognize them. He will recognize, in the first place, the gentleman having charge of the bill—the gentleman from Missouri [Mr. DOCKERY].

Mr. DOCKERY. I ask, Mr. Chairman, that five minutes on each side be allowed on the pending amendment.

Mr. CANNON. The debate had better be allowed to run on without any limit being imposed upon it at all.

Mr. DOCKERY. I have suggested that five minutes be allowed on each side for the purpose of explaining the amendment.

Mr. CANNON. Oh, no. Let the debate run on.

Mr. BLOUNT. I do not understand the debate to be running on, but that the House was dividing on this question, and that no quorum had appeared. The proposition of my friend from Missouri is to waive that situation and allow five minutes on each side to explain the pending amendment.

Mr. CANNON. It is an important matter, and I think discussion should be allowed.

Mr. DOCKERY. I propose to allow five minutes on each side.

Mr. CANNON. But that is not enough.

The CHAIRMAN. The Chair will state to the gentleman from Georgia that when the committee rose and the House adjourned the committee was dividing on the proposition to limit debate on this proposition, but the question was not acted on.

Mr. BLOUNT. I make the suggestion, if my colleague will allow me, that we allow ten minutes on either side, with the understanding that all debate on this proposition be then closed.

Mr. CANNON. To that I object. I will say to the gentlemen that debate has not been closed, and although they may force a vote on this precise amendment, we can offer others and have discussion upon them.

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

The CHAIRMAN. The gentleman will state it.

Mr. BLAND. The House was dividing and the Chair was counting the vote. This debate is therefore out of order, and I call for the regular order of business.

The CHAIRMAN. The regular order is, as the Chair has already stated, on the amendment of the gentleman from Iowa [Mr. HEPBURN] to the amendment offered by the committee. The ayes seem to have it.

Mr. DOCKERY. I demand a division.

The committee divided; and there were—ayes 61, noes 81.

Mr. CANNON. No quorum.

The CHAIRMAN appointed Mr. DOCKERY and Mr. CANNON as tellers.

Mr. CANNON. I withdraw the point of no quorum.

The CHAIRMAN. The amendment to the amendment is disagreed to.

Mr. CANNON. I move to strike out in line 18 of the printed bill the words "at which place," and insert in lieu thereof "at all places where," so it will read:

According to the last general census taken by authority of State or United States law and at all places where the post-office produced, &c.

I should like to be heard for a moment on that amendment to the amendment of the committee. I ask the gentleman from Missouri, in the first place, whether he has a list of the post-offices which will be affected by this bill?

Mr. DOCKERY. I had at the last session, when this bill was under discussion, but do not have it before me at this moment.

Mr. CANNON. Mr. Chairman, if I can have the attention of the committee I will explain the scope of my amendment to the amendment. Under the bill as proposed by the committee it requires two things, as I understand it, for the extension of the free-delivery system. First, in all cases of 10,000 population; and second, in all cases of $10,000 gross revenue. Am I correct? The two together. Now, my amendment gives 10,000 population as authorizing the free-delivery system, or $10,000 gross revenue. And I believe the amendment is right.

To illustrate: The committee's bill will give free-delivery service to the city of Alexandria and every old and venerable city, but where after all there is not a great amount of necessity for it, but I am willing it should go there—the city having 10,000 population and $10,000 revenue. But take my own city of Danville as another case. It is so situated there is only one-half the population of Danville proper within the corporate limits; and, while there is $17,000 gross revenue in that growing and flourishing city, yet it is cut out.

Mr. RYAN. What is the revenue of Alexandria?

Mr. CANNON. The revenue of Alexandria is barely over $10,000 a year.

Now take the city of Freeport, in Illinois, which has a gross revenue of $19,000 a year.

Mr. RYAN. How much population?

Mr. CANNON. Slightly under 10,000, according to the census of 1880, and Freeport is cut out.

This free-delivery service is a good thing, and I think it ought to be stood by and promoted. Even-handed justice, in my judgment, would give it to these flourishing and growing cities of the West, and, in some instances, to cities of the South, and of the East as well, which need it far more than some of those which happen to have 10,000 population as well as $10,000 revenue. Now, mind you, this is discretionary with the Postmaster-General. He is not bound to put the service in all of these cities. The amount of the service will depend on the appropriation that is given. Therefore, I hope that both sides of the House will consent to amend this bill, as I propose, which will then make it right and proper, and in that form I believe it ought to pass.

Mr. ROGERS. Mr. Chairman, either the proposition suggested by the gentleman from Illinois is right or else the bill itself is wrong. If a city which has a population of 10,000 and yields a revenue of $10,000 is entitled to this free-delivery service, then any city which yields $10,000 of revenue is equally entitled to it. So that I maintain either the bill itself is wrong or the proposition of the gentleman from Illinois is right.

Why is it that a city which happens to have had an opportunity to have a census taken which shows that it has 10,000 population should enjoy the benefit of this free-delivery service when the thrifty and populous cities of the West, which spring from five hundred to twenty thousand during a period when no census can be taken, must be deprived of it? I happen to reside in a city which in 1880 was supposed to have about 3,300 people, according to the census of the United States. It is now estimated to have a population of from 12,000 to 14,000 peo-

ple; and yet we have had no census since 1880. I say, therefore, that if we yield a revenue of $10,000 to the Government we are just as much entitled to the benefit of this service as if we had a census taken which shows a population of 10,000 people; and hence my conclusion is that we ought either to antagonize and defeat the bill or carry out the proposition of the gentleman from Illinois.

Mr. DOCKERY. I believe the hour has expired, and I prefer to continue my remarks to-morrow.

The hour having expired, the Speaker resumed the chair; and Mr. HATCH reported that the Committee of the Whole House on the state of the Union having had under consideration the bill (H. R. 7536) had come to no resolution thereon.

WILLIAM P. CHAMBLISS.

Mr. STEELE. I desire to submit a privileged report from a committee of conference, which merely corrects an error in the initials and spelling of a name.

The SPEAKER. The report will be read.

The Clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 68) for the relief of William P. Chambliss, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 1 and agree to the following:

Strike out the name "William B. Chambliss" wherever it occurs in the bill, and insert the name "William P. Chambliss."

GEORGE W. STEELE,
FRANK L. WOLFORD,
JOSEPH WHEELER,
Managers on the part of the House.
CHARLES F. MANDERSON,
JOHN A. LOGAN,
Managers on the part of the Senate.

The SPEAKER. Unless the reading of the statement be called for the question will be on agreeing to the adoption of the report.

The report was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was communicated to the House by Mr. PRUDEN, one of his secretaries.

ELECTION OF PRESIDENT AND VICE-PRESIDENT.

The SPEAKER. The regular order is the consideration of the special order coming over from yesterday.

Mr. DIBBLE. Mr. Speaker, the eminent constitutional lawyer, Judge Cooley, of Michigan, in an address recently delivered in Columbia, S. C., as the honored guest of the South Carolina Bar Association, in remarking that "the human mind accepts with complacency the idea of change," and that in reference to our institutions" the Constitution can not remainaltogether stationary," continues:

Indeed, at this point is one of our chiefest dangers, a danger the full extent of which we are not likely to perceive except as we consider it carefully and with philosophical mind, unblinded by the brilliancy of a national career altogether unparalleled in history. America is the accepted representative of progress, and our pride in the fact closes our eyes to its perils, so that we come to feel that whatever is new is progression, and we fall into the tide without considering whether it floats us on our accustomed course or rises to the breakers; whether it pursues the course of safety or of destruction.

And he expresses his apprehension that "we shall be led further and further away from constitutional forms, methods, and principles, and possibly into dangers at present unknown and unsuspected." The dangers apparent are, however, in the opinion of this able thinker, "sufficiently serious to challenge thoughtful and considerate attention." And as the result of these reflections he sums up in the following conservative and patriotic expressions, accordant with the best and purest thought of our country in all stages of its existence:

Accepting, as we must, the fact that modifications of the fundamental law are inevitable, it is a plain duty to restrict them as far as possible to the precise method agreed upon when the Constitution was formed, that is to say, to amendments duly formulated and regularly adopted. By this method alone is it certain that the system of liberty which has come down to us as a precious legacy may be preserved. When changes are voluntarily suffered to creep in by other ways, we cultivate a habit of mind which saps the foundation of our institutions and sets us afloat upon a sea of uncertainty without definite landmarks, where the most reckless and pushing is likely to be most influential; and the most presumptuous, by the mere force of assurance, may seize upon the helm and boldly steer the course among unseen dangers. But unless we are prepared to put the wisdom of the past behind us as foolishness, we shall never forget that the liberties we enjoy have been worked out for us through a succession of ages, by keeping the old landmarks steadily in view, and by holding firmly to the teachings of experience. We have no warrant in history for an assumption that by a different road we should have reached the same advanced and enviable position.

Especially should every insiduous change which threatens to creep in by usurpation of authority be met at the threshold and sturdily resisted. Any such change will owe its accomplishment either to general ignorance among the people regarding the fundamental principles of government, or to general indifference.

Mr. Speaker, the principles so eloquently enunciated by the distinguished jurist of Michigan are the principles which should guide us in the consideration of the present proposed legislation. It is to be remembered that we are not proposing in this bill a change of the organic law. Whenever a constitutional amendment is submitted to the consideration of Congress, then there need be no bounds, no limitation to the scope of our propositions; but when legislation is proposed by statute, care must be taken that in every respect the fundamental requirements of the written Constitution are strictly and rigidly observed.

This bill proposes to adopt a certain method, by which the danger of confusion in the counting of the electoral vote shall be avoided. Regard must be had in its consideration to the different stages by which the election of a President and a Vice-President are consummated. In the first place there is the appointment of electors; that is one stage. In the second place there is the casting of the vote by electors and its certification; that is another stage. And thirdly there is the aggregation of that vote, and the declaration of its final result in the presence of the two Houses of Congress.

Now take these steps. The appointing power of the electors is exclusively in the States, and the Constitution provides each State shall appoint, in such manner as its legislature may direct, such and such electors. Everything in relation to that appointment, the manner of its being made, any disputes that may arise upon it, everything in connection with its determination from first to last, is under the jurisdiction of the States, and under the control of the State legislatures. Congress has no right to trespass upon that field at all. The next step is when the votes are cast by the electors. It will be borne in mind that these electors are State officers; they are appointed by the State, and in cases where they draw pay, they are paid by the State. They give their votes upon the soil of the State; they constitute a State electoral college; and while they are discharging a duty under the Constitution of the United States they are just as much State officers in the discharge of that duty, as the governor of the State is when he certifies their election under the great seal of the State. Everything, therefore, connected with the casting of that vote, everything connected with the observance of constitutional provisions, if you please, in connection with the casting of that vote, is under State jurisdiction and State authority.

Then we come, Mr. Speaker, to the third stage—that is, the counting of the vote in the presence of both Houses of Congress. Congress has no legislative power conferred expressly or indirectly in the Constitution except in connection with what is done in the presence of the two Houses of Congress on the day of the electoral count. As a matter of course under Article IV, section 1, of the Constitution, Congress has the right to regulate by law the manner and form in which any State shall certify its official public acts, its official public records, and any of the proceedings of its government. That is one of the powers vested in Congress, and it has the right to prescribe in what manner the action of the State in this, as in everything else, shall be transmitted; but as to anything behind that, a careful search will reveal no part of the Constitution where jurisdiction is given Congress to go behind that certification, and to go further than the recognition of credentials.

It is true there is a clause which says that Congress has the right to pass all laws necessary to carry out certain powers; but those powers are defined. It has the power to carry out its own express grants of power. It has the right to pass laws concerning any act of the Federal Government; but the election of a President is not an act of the Federal Government, but is the action of the State Government. It has the right to pass laws concerning what any Federal officer shall do or what any Federal department shall do; but there its power is exhausted. So that Congress has no power in relation to the electoral vote except to count, in the sense of enumeration.

Now let us consider, Mr. Speaker, in what ways a State communicates with the General Government. I can recall but three instances—certainly there are only three current instances—where a State communicates with the Federal Government. Those are where it certifies the election of a member of the House to the House; where it certifies the election of a member of the Senate to the Senate; and where it certifies to the two Houses of Congress assembled for the purpose of counting the electoral vote, the appointment of the electors and their return of the vote cast by them. These are the three instances, and I wish to call the attention of this House to a marked difference which exists between the former two and the third. In all these cases each House should accept implicitly, in the primary event, the *prima facie* case as presented by the State; and the member-elect of the Senate or of the House of Representatives, as the case may be, when he presents the great seal of the State certifying that he is elected to the office of Senator or Representative, is seated on that *prima facie* case. The House or the Senate accepts it and seats him.

Never mind whether behind it all his opponent may be in fact the lawful member. That certificate seats him *prima facie*, and he votes and takes part in all the deliberations of the body, and represents the district or State from which he is accredited until the case is decided. But the Constitution provides as to these two cases that each House of Congress shall be the judge of the election and qualifications of its own members. There you find judicial power of a certain kind expressly granted to the two Houses of Congress, making an exception to the general provision which confines judicial power to the Supreme Court and the subordinate Federal courts. Each House shall be the judge of the election and the qualification of its own members.

Now, Mr. Speaker, we come to the third, the certification by a State of its electoral vote, of the names of its electors and the result of their action. That comes certified under the great seal of the State, and again, in that case, it is the duty of the two Houses to do what they do in the other cases where there is a grant of judicial power; it is their

duty to accept the *prima facie* case presented, and I deny the existence of any authority in one House, or in both Houses of Congress combined, to set aside that *prima facie* case when it is certified and presented in regular form and manner. Why, Mr. Speaker, in that case there is no grant of judicial power as there is in the other cases, yet even in the case where there is a grant of judicial power the two Houses of Congress do recognize the *prima facie* case.

I contend, therefore, that the same analogy prevails in regard to the electoral count; that the *prima facie* case has to be recognized, and that, so far as that count is concerned, is final, because the Constitution has not given to Congress in that case the same judicial power of revision which it has conferred upon each House in regard to the election and qualification of its own members. The case of the electoral count is therefore a distinct case, and with the reception and count of the *prima facie* return the power of Congress is exhausted. That was the idea which actuated the founders of the Constitution.

It will be remembered that at first it was proposed that the National Executive should be elected by the National Legislature, but, after discussion and deliberation, that power was withheld from the National Legislature and was reposed in the several States, as is seen in the emphatic provision that each State shall appoint its own electors. The change was well considered, and its design was to remove the executive department of the Government as far as possible from the danger of being the creature of the legislative department.

The idea was that the President must go into office without being under any obligation of any sort to the National Legislature, and the framers of the Constitution went so far as to provide even that a member of Congress should not be an elector—that to be a member of either House of Congress should be a disqualification. And even when they came to the case where, by failure of election by the States, they were called upon to provide *ex necessitate* that there should be some mode of electing a President, so jealous were the fathers of reposing this power in Congress that they divided it into two parts, giving to one House the power of electing the President and to the other the power of electing the Vice-President; thus providing that in no instance should the Houses of Congress be consentaneously and actively concerned in determining the question of who should be President and Vice-President of the United States.

The provision adopted was that one-half of Congress, acting independently, should choose one of those officers, and that the other half of Congress, also acting independently, should choose the other. That provision, I say, shows the jealousy with which this power was kept from Congress. Not only did the fathers provide that neither of the Houses of Congress should vote for both these officers, but they provided that when either House voted for one of them, its vote should be confined to individuals for whom the States had already voted. They were tied down to a choice between persons who had already been designated by the States.

Now, there are two other constitutional provisions, in relation to the electoral vote, granting powers to Congress. One is that Congress may determine the time of choosing the electors; the other is that Congress has the right to fix a day, which shall be the same all over the country, in which the electors shall cast their votes. I call the attention of the House to the difference in expression in these two cases. The provision is that Congress shall name the *time* of choosing the electors, and that it may also determine the *day* on which they shall cast their votes, which shall be the same throughout the country.

Members will doubtless recollect that under that provision, the early legislation as to the time provided that the States should choose the electors within thirty-four days of a certain date, fixing no day for the choice, but fixing the time within which the choice should be made, thus recognizing the power and the discretion of the States in that regard. The requirement that a day certain should be fixed for the casting of the vote is, by implication, the termination of the power of the State as to appointment of electors. If the vote must be cast on the same day throughout the United States, then it follows as a necessary consequence that unless the appointee, the elector, has been chosen by that day, he can not cast his vote, and the vote of the State is lost.

Just the same, Mr. Speaker, as in the election of any of us, if a man who is a voter does not go to the polls on election day and within the hours fixed by law and cast his vote, the vote is lost, and it makes no difference whether he was sick, or whether he was prevented from casting his vote by some necessity, or mischance, or design, or whether his vote might have changed the complexion of the election; his vote is lost if his right to vote is not exercised on the day designated.

Consequently, Mr. Speaker, I would submit, this being the exercise of a State power, that up to the day of election, the day when the electors are to cast their votes, the State power as to appointment can not be interfered with in any manner, shape, or form by the Congress of the United States, or by any other power. Up to that time the State stands fortified by the privilege granted in the Constitution. The fact that the day is to be designated by Congress, and is to be the same throughout the United States, of course limits the time when the appointing power can be exercised.

Now, if there is any fraud or any neglect of duty, if there is any hiatus, any unforeseen occurrence whereby the vote of a State is likely to be lost by reason of conflict, we contend that the State should have the full period up to the time of the casting of the electoral vote in order to repair that difficulty, to make that determination, to save her vote. As I have already shown, the State has complete control of the matter. It is a field into which Congress has no right to enter. That being the case, the State should have until that time to repair any disaster which may interfere with or interrupt the casting of her vote by the proper electors.

Now we come to the opening of the certificates as laid before the two Houses of Congress by the President of the Senate on the day when the electoral vote is declared. The President of the Senate is to open all the certificates. If it had been intended that the President of the Senate should count all the votes embraced in those certificates, how easy it would have been to have so framed the words of the Constitution. The language of the instrument is—

> The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates—

It does not go on to say, "and shall count the votes," but—

> And the votes shall then be counted.

It has been a question ever since that amendment was adopted, by whom the votes shall be counted; some (though very few) contending that the President of the Senate should count; others contending that the two Houses have the power to make the count; others contending that the House of Representatives has the power to make the count as to the Presidency, because it must elect the President, in the case of the failure of an election by the vote of the States, and that the Senate has, for an analogous reason, the same power with reference to the Vice-Presidency.

I submit, Mr. Speaker, that the Constitution not having named by whom the count is to be made, it is competent for Congress, by statute or by joint agreement, joint resolution, or joint rule, to name individuals to exercise the duty of making the count. I submit that Congress has this power under its general legislative authority to pass all laws to carry into effect any of the functions of the Government; because at that stage the vote has come into the possession of the Federal Government from the State government; the State government has certified the result of the election under the seal of the State and sent it here. The vote is in the hands of the Federal Government, and Congress has authority to provide for the count.

But what is that count? Mr. Speaker, that count is simply an enumeration. It has been said that it must embrace two features; that you must have an ascertainment of what are votes before you can count them, and that, therefore, the count must embrace both ascertainment and enumeration. Upon this proposition has been built up an argument claiming for Congress judicial power to go back and decide questions on their merits as to transactions within the State by State officers.

Why, Mr. Speaker, of course there must be ascertainment in a certain sense before there can be counting; but it is the kind of ascertainment that the clerk of a court or a registering officer exercises when he reads the decree of the court, in order to record it. It is the kind of ascertainment which a sheriff exercises when he reads an execution in his hand, in order to find how many dollars he is to levy on the property of the judgment-debtor. That is the kind of ascertainment. It is not the exercise of a judicial function; and this power of ascertainment no more authorizes Congress, or its appointees, the tellers, to go behind the certification of the vote than the clerk of a court would be authorized to go behind the decree of the court, in order to correct it, or a sheriff to alter the figures of the amount which he is commanded to collect in his execution.

The count is a ministerial act, not a judicial act. We should be on our guard, therefore, Mr. Speaker, in any system of legislation, against usurpation, against an undue extension of the powers of Congress. The spirit of this act, its avowed policy, as expressed by its authors, is in accord mainly with the views I have advanced. In some few details it seems to a portion of the committee, some seven of us, that the line is not as well guarded and defended as it might be, and therefore we have submitted some amendments in that respect.

Not only should we hesitate to extend our powers in this regard beyond the proper limits because it is the spirit of the Constitution, but it is the spirit of the times. The members on this floor will remember that in the early history of this country it was the common practice for the nomination for the Presidency to be made by a Congressional caucus. It was the usual way, but, like the fathers, the people of the country, jealous of reposing any of that power in Congress, spontaneously adopted and put into operation a system of nomination by party convention removed from Congress, having delegates in the main not members of Congress, showing not only the jealousy which the fathers had of this power, but the jealousy which the people of the United States to-day show by their action every four years in national convention—the jealousy of establishing too much control over the election of the national Executive in the two Houses of Congress.

But it may be asked where is the judicial power to be lodged as to the determination of the right to this office. Who is to prevent grievous wrongs from being done to one party or the other of the people in

the person of its candidate for the Presidency, if there be no places where hide-bound forms of credentials can be broken through?

To that, Mr. Speaker, I would simply reply that it is the opinion of eminent constitutional lawyers that Congress has the power to establish a judicial tribunal, or it can confer on an existing judicial tribunal jurisdiction, to try the right to the presidential office as well as to any other. But above all things, in relation to the presidency, certainty is a matter of prime concern, and the country can better endure wrong for four years—as this country once has done and survived it—than to place the power of appeal from the dictates of the States in a body like Congress, not authorized by the Constitution for that purpose, and not representatives of the States in that regard.

A few words as to the differences that exist in the House committee in relation to the amendments proposed. As I have before said, this bill comes from the Senate, and, in its general tenor and spirit, meets, I think, with the unanimous approval of the House committee. So far as I know there has been no dissenting opinion as to the main features of the bill and the advisability of its passage; but in one or two matters, we submit, the spirit of the bill is carried out and rendered more consistent by the adoption of the amendments submitted by the minority. There are only two points of difference.

In reference to the use of the single word "lawful," as stated by the chairman of the committee yesterday, the committee have agreed to adopt the views of the minority, considering the word to be unnecessary in the place where it is inserted, and so far as that amendment is concerned I will not consume the time of the House. The first difference between the majority and minority of the committee is that by the bill as proposed by the committee certain limitations of time are put upon the States in the exercise of the appointing power of the electors, and in regard to the determination by the States of any dispute as to who are chosen electors. In accord with the principles I have mentioned, seven of the committee are of the opinion that, so far as casting the vote is concerned, the State has all the constitutional power conferred, and that Congress can not prescribe that a State shall make its determination within a limited time prior to the day of casting the vote.

When the Constitution of the United States says that the day on which the electoral votes shall be cast shall be the same throughout the United States, the Constitution thereby imposes a limitation upon the appointing power of the States. The appointment must be made, all determinations concerning it must be made, all disputes concerning it must be settled, prior to that day; but Congress has no power, as is attempted here, to put a statute of limitation other than the limitation imposed by the Constitution on the appointing power of the State, by enacting that the determination of such question must be made six days, or at any other period, before the vote is cast. That is our point of difference; and its amendment is accomplished by the striking out of some six or eight words without destroying the phraseology or frame of the bill as proposed.

The other point on which the minority submit a difference of views from the rest of their brethren of the committee is this: That where there are two sets of papers from the same State, coming up before the two Houses of Congress and opened by the President of the Senate, both of which sets of papers purport to be returns of such State, that in such case that return and that only shall be received which has been certified by the executive of the State under the seal of the State and in accordance with its laws. That is the position of the minority. The majority of the committee go farther and give to the two Houses of Congress the power to over-ride that certificate; and from that conclusion of the committee, six of its members have dissented.

We hold that the act of the Congress assembled for the electoral count is to recognize credentials, and that when these credentials have been recognized by the two Houses as the lawful certificates sent, officially certified by the governor under the seal of the State, the returns so certified shall be counted, and that there is no proviso or "unless" about it, as the majority of the committee have it—"unless the two Houses decide not to count," thus giving the two Houses the right to override that State's action and deprive it of its vote, although the credential is in due form, signed by the executive of the State and under the seal of the State. We say that to be consistent, Mr. Speaker, that return, in the case of two, is the one to be counted and none other, and that it shall be counted, and that the two Houses shall not interfere or interpose to prohibit its count.

It may be said, suppose there are two persons claiming to be the Executive; suppose there is a dual government, that there are two persons claiming to hold the office of governor, two persons claiming to hold the State seal, two impressions of the seal which are fac-similes and two returns which come up purporting to be the returns from the State: What is to be done in that case?

That, Mr. Speaker, is a case I do not find provided for in this bill. I go further and say that there is no way of providing absolutely for such a case, unless you could get, instead of two bodies acting separately to decide the question, one umpire or arbiter; because, under the power which Congress undoubtedly possesses, and which I have conceded throughout the whole of my remarks—the power of the recognition of credentials—it might happen that the Senate would recognize one set of credentials and the House the other set of credentials; and then, of course, that vote would have to be thrown out, because there is no arbiter to decide which are the proper credentials. That case, I say, is not provided for here, either by the majority of the committee in the bill, or in the amendments proposed, or by the minority report; and I submit that it is impossible to provide for it unless you have, as I say, a single power, a unit, to decide. You can not determine the question by having two bodies to decide it, because they may take opposite positions.

Mr. Speaker, I have not dwelt upon the features of this bill, because I suppose they are familiar to the members of the House. I have dwelt upon the principles which seem to underlie the bill, and submit that in the amendments offered by the minority these principles are consistently preserved, and the bill made complete and symmetrical in all its parts.

I will ask to reserve the remainder of my time.

The SPEAKER *pro tempore* (Mr. McCREARY in the chair). The gentleman from South Carolina has twelve minutes of his time remaining.

Mr. COOPER. Mr. Speaker, I do not propose to occupy the time or to delay the action of this House by any general discussion of this bill. I agree with all the committee that the condition of affairs, the defects in the present law, the perils through which we have passed by reason of these defects, and the possible recurrence of such perils, require that the legislative department of the Government shall make such provisions as shall obviate such dangers, correct these defects, and protect us from such perils in future. I therefore agree that a bill should be passed of the general character and containing the general features proposed by the pending bill.

I have agreed with the majority of the committee in the amendments which they propose for the purpose of protecting and guaranteeing the States and the nation from any peril by the invasion of their rights by the Senate and the House of Representatives in the counting of the electoral vote.

But I can not agree with the amendments proposed by the minority, and I desire simply to give a few reasons why, believing as I do that the amendments proposed by the majority go to the utmost verge of wisdom, prudence, and safety in the direction which I have indicated; they can not go further in that line as requested by the minority of the committee.

Objection is made by the minority to the provision that the differences, the claims between the contending electors of the respective States, should be settled within the State where such contest is made by laws enacted prior to the day when that contest is to be decided. They object first to the phrase "enacted prior to the day." It seems to me, Mr. Speaker, manifest that these contests, these disputes between rival electors, between persons claiming to have been appointed electors, should be settled under a law made prior to the day when such contests are to be decided.

In my judgment it would be wise if it could be provided that these contests should be decided under and by virtue of laws made prior to the exigency under which they arose, made prior to the existence of the particular contest to be decided. That it would be unwise to permit a legislature to assemble and permit the dominant party, in view of the very existing affairs, in view of the peculiar phases of the contest which is being made, to enact laws governing and deciding that contest—possibly with a view of having it decided in accordance with their wishes rather than with the expressed wish of the people or with justice and the right. I think that it would be wise if the contest should be made in the face of existing law rather than that the law should be made in the face of the existing contest. Therefore, I would prefer that the interval should be further extended rather than that it should be absolutely destroyed as the minority proposes. I do not believe that a legislature should be permitted to meet concurrently with the contesting electors and provide a method of deciding the contest at the time the contest is proceeding. To what anarchy, to what confusion, to what riot, if you please, Mr. Speaker, might such a course of procedure lead!

It seems to me manifest that this law, under which this question is to be solved as to which of two sets of claiming electors are to be recognized, ought to be an enactment existing prior to the day they are to assemble; and if prior, then certainly it should be enacted for a reasonable time prior. And who will say that six days is not a reasonable time? Who can say that the limit of a week is too long an interval in which those who are to decide these disputes are to study the law, examine its provisions, and ascertain its effect upon the pending contest? How could any court, how could any tribunal intelligently solve the claims of parties under a law which is made concurrent, to the very moment perhaps, with the trouble which they are to settle under the law?

Therefore I do not agree with the minority of the committee, that this bill should be so amended as to strike out the provision that the law should exist prior to the time of meeting. And if we have a right to say it shall be an existing law when they meet, we have a right to say how long it shall be existing. If we have a right to say it shall be

six hours or six minutes prior, we have a right to say it shall have been enacted six days prior.

Again, and especially, it is insisted here by the minority that the office, the power and duty of the Senate and House of Representatives is merely and purely clerical; that they have no power, no discretion, no right here to adjudicate upon anything whatever. I do not and can not so understand the provisions of the Constitution concerning the counting of the electoral vote by the Senate and House. Are we to suppose that our wise and unostentatious fathers, who made the Constitution, and who above all men despised pomp and circumstance, provided for mere show that the Senate, the concentrated wisdom, learning, and statesmanship of the legislative department of the great Republic, is to vacate its seats, each single Senator rising in his place, donning the Senatorial toga, and forming an imposing procession with the second officer of the Republic at their head, leave the Senate Chamber silent, empty, and deserted as a newly made sepulcher, march over here with measured step while we, the representatives of the people, receive them standing with uncovered heads—they to sit at the right hand of the presiding Vice-President while we crowd to the left, and finally all to remain sitting, and only sitting, in owl-like, solemn, lifeless silence, until a couple of gentlemen solve a small sum in addition which any average ten-year old school boy could perform just as correctly and just as satisfactorily inside of thirty minutes any day of the week, and then all rise up and the Senators return in the same mournful, solemn, and imposing manner in which they came? Sir, the foolish formality, the solemn silliness of such a proceeding, it does seem to me, could have no other office and produce no other effect than to excite the merriment of the street Arabs who would congregate in the corridors and the galleries to witness the performance.

And in case there should be objection made to any return, under the very provisions of this bill which this minority propose the grave and reverend Senators must rise, fold their garments around them, shake off temporarily the polluting dust of this Chamber, and depart—go over to their Senate Chamber, and the objections are there to be stated; the Senators then, being utterly helpless to decide any objections, return here and sit down again. Thus the ceremony proceeds. I undertake to say, sir, that it is absurd to suppose that our fathers contemplated any such dumb show. They meant that this solemn transaction should mean something.

They meant that this assembling of the two Houses, which has the effect of stopping the wheels of legislation, of suspending all other action upon the part of the legislative department of the Republic—the Senators and the Representatives being gathered together for this special purpose, the Vice-President presiding over the joint assembly, while the eyes of the nation are directed to it, awaiting the decision—our fathers intended, I say, that this solemn proceeding should mean something more than a gathering of the two Houses simply to sit by and ascertain that, 185 being subtracted from 210, there would be a certain 25 remainder.

What are we required to do in such a case? Why did the Constitution thus require that all legislative proceedings should be suspended? Why did it require this solemn formality, with all this solemn circumstance and pomp? Why, unless they did understand that the joint legislative tribunals of the Republic, the four hundred men representing the States, and the people of the States, had a duty imposed upon them, the discharge of which would be of some value and some significance. What is that duty? It is not, I grant you, to reject the vote of a State, and nobody claims that the Senate and the House have the right to say that the vote of any State shall be rejected. But they have a right, and, as I understand the matter, it is their duty, to ascertain whether a State has voted or not, and ascertain whether the vote that has been deposited under the forms of law, with the proper officer, is in fact the lawful vote of a State.

It is, as has been already said, a question of identity, and these two assembled bodies, the Senate and the House of Representatives, have the right, and have the duty imposed upon them, to see to it that the votes counted are in fact the votes of the States. Sir, if there be no power in these concurrently acting bodies to decide such questions, then, as has been admitted by the distinguished gentleman who has just presented the views of the minority, those questions, if they arise, as they may, will necessarily go unadjudicated, and we shall be remitted to chaos, and to what always follows chaos in such cases, the arbitrament of the sword.

Sir, it is within the recollection of living men, members of this House, that upon at least two occasions there have been in each of two States of the Republic two acting-governors, each claiming to be duly elected by the people, each surrounding and environing himself with all the paraphernalia of gubernatorial authority, each having in his possession and using the great seal of the State, each sending out proclamations, and, in the case of the electoral count, each would no doubt have been found sending down to this Capitol, under the great seal of the State, and under his signature as governor, a certificate that certain men had been legally chosen and qualified as electors of the State.

What are we to do in such a case? My friend says that we can do nothing. I answer that, under the provisions of this bill, as it is proposed to be amended by the majority of the committee, the House may inquire into the authenticity of the certificates, and may say, if they can, which one of the certificates sent here is true and correct; and if they can not do that, may reject them both, and settle the question in that way.

Mr. DIBBLE. Will my friend from Ohio [Mr. COOPER] permit a question?

Mr. COOPER. Certainly.

Mr. DIBBLE. Does not the majority report provide that the two Houses can not decide that question unless they both agree, and agree to throw out?

Mr. COOPER. Exactly so. That is one of the chief provisions against an invasion of the rights of the States.

Mr. DIBBLE. They are to agree to throw out, and nothing else.

Mr. COOPER. Yes; the majority of the committee in their recommendations go, I say, to the utmost verge of safety in providing against any possible invasion of the right of a State, for they agree that, where there is but one certificate from a State, no matter whether every single member of each House considering it may believe, or may know, that not one of the men named in that certificate has been duly elected, yet they shall have no right to throw it out, but it must be counted. Therefore, I think that this bill does not go far enough. There are contingencies for which it does not provide. It does not provide, for instance, for the case in which a State certifies that a member of Congress, or an alien, or a foreigner, or some other disqualified person, has been chosen as an elector. The only objection I have to the bill, therefore, is in a very different line from that of my distinguished friend from South Carolina [Mr. DIBBLE] who thinks it goes too far in giving power to the Senate and House.

But this bill does provide that where there purport to come from a State more returns than one, where there are conflicting returns, as there might be in the case I have suggested—where two sets of returns come here both regular upon their face, both (as might happen in the contingency to which I have referred) duly certified by the governor of the State, we may examine into them; but if the House and the Senate can not ascertain which are the votes of the lawfully chosen electors, in that contingency, under the provisions of the bill, and in that contingency only, both returns may be rejected, "if the two Houses acting separately shall concurrently decide such votes not to be the lawful votes of the legally appointed electors of such State."

Mr. DIBBLE. Will my friend point out any provision of the bill providing any mode of determining the question where there are two returns from dual State governments, and when one House favors the regularity of one government while the other House favors the validity of the other government?

Mr. COOPER. I have already stated that there is no provision for a case of that kind. And no return which appears upon its face to be lawful can be rejected, except by the concurrent action of both the Senate and the House, such action being taken separately. The only possible contingency in which, under the bill, any return can be rejected is when the House and the Senate, acting separately, both agree that the return does not represent the lawful votes of the legally qualified electors of the State. As I said, I might complain, and I do in fact feel that this bill does not go far enough in that line; but I certainly search in vain for reasons for complaint that it has gone too far.

Mr. DIBBLE. My friend will permit me to say that I read the majority report to be this: The return lawfully certified by the legal executive, in accordance with the laws of the State, shall be counted unless the two Houses throw it out. Now, the minority of the committee maintain that if a return is the lawful return it should be counted, and that nobody should be authorized to throw it out.

Mr. COOPER. There is no doubt about the language of the bill, and no occasion for any dispute as to what its provisions mean. The bill speaks for itself, and says that—

> Those votes, and those only, shall be counted which were cast by electors whose appointment shall have been duly certified under the seal of the State, by the executive thereof, in accordance with the laws of the State, unless the two Houses, acting separately, shall concurrently decide——

Decide what? Not that the votes shall be thrown out, not that there has been some informality, not that the return is irregular; far more than this is required to authorize even the Senate and the House, acting separately, to concurrently reject a vote. Nobody undertakes to reject the lawful vote of any State, but the bill provides that these returns shall be counted——

> Unless the two Houses, acting separately, shall concurrently decide such votes not to be the lawful votes of the legally appointed electors of such State.

Who will say that when there are conflicting returns, a return should be received when the Senate and the House, separately acting, shall concurrently agree that that return does not represent votes lawfully cast by the legally-appointed electors of the State? And this is what the gentleman from South Carolina is making such a fuss about, as I understand. On this point there seems to be a squeamish sentimentality of very unhealthy growth.

Mr. DIBBLE. My friend will permit me to say that the "fuss" I am making is just this: that the two Houses——

Mr. COOPER. I beg my friend's pardon. He and I together will make a speech which will read very incongruously, I fear.

Mr. DIBBLE. I will not interrupt the gentleman further.

Mr. COOPER. I am not complaining.

Mr. DIBBLE. I will not interrupt the gentleman.

Mr. COOPER. Mr. Speaker, on behalf of the majority of the committee I insist that the provisions of this bill are wise. I beg the House to remember that it is only in the case of two returns that any return can be rejected. I desire to repeat that, although the two Houses, acting separately, should concurrently agree that a return was not the return of the votes legally cast by the lawfully-appointed electors of the State, still there would be no right to ignore that return and those votes if there were no conflicting return from the State. In other words, if the authorities of the State have not themselves challenged the correctness of a return, we are not to do it. But where the authorities of a State come here and themselves challenge the correctness of a return which is presented to us, and invoke us to inquire into its legality; and where the two Houses, in response to that invitation on the part of the State, shall, acting separately, reach a concurrent agreement that a particular return does not embrace the votes legally cast by lawfully-appointed electors, the two Houses of Congress ought to have the right to say that such a return shall not be used to elect the Chief Magistrate of this Republic.

And what dire consequences are likely to follow from such a proceeding? I need not remind the House that the adjudication, the determination under this provision that a certain return should not be counted, could not elect anybody President of the Republic. Any person chosen President must have the votes of a majority of the whole electoral college, not merely a majority of the votes which are counted; and the decision and declaration of the Senate and the House that a particular State has made no return does not enable any one to claim to be elected thereby. The result of the election could only be affected in case one candidate had, with the votes embraced in the controverted return, a majority of the electoral college, and would not have a majority without those votes. In that case, the election of President would be remitted to the determination of the House of Representatives—only that, and nothing more.

Who will complain of that? Certainly a State which places itself in this position, which has failed to observe the forms of law, failed to preserve peace and order within its own boundaries, which has a conflict in its own territory, dual governments presenting conflicting and irreconcilable claims—a State which permits itself to be in that position, and comes with that sort of representation, could not complain if the Senate and the House should say to it: "You should adjudicate the rights of these tribunals within your own boundaries and not send them here and require us to investigate and decide them."

Therefore, it seems to me if there be errors in this bill, if there be defects in it, it is not in the line of going too far in the way of infringing on any supposed rights of any of the States. We certainly have the right, and it is our duty, to say to-day that when votes are counted they should be lawful votes, coming from lawfully constituted authorities, and in the way in which the State has provided.

Sir, I do not desire, as I have said, to go into the general discussion of the merits of this bill, but simply to note objections to the bill as it passed the Senate, and as it is proposed to be modified by amendments of the majority of the committee, and having done so, I desire to reserve the residue of my time.

The SPEAKER *pro tempore* (Mr. MCCREARY in the chair). The gentleman has thirty minutes of his time remaining.

Mr. EDEN. With the concurrence of the majority of the committee I desire to offer an amendment, which is as follows: After the word "States" in line 32, section 4, insert "which shall have been regularly given by electors whose appointment has been certified to according to section 3 of this act." Should that amendment be adopted, the word "lawful," which the committee propose to insert in line 38, of course will not be adopted.

I do not propose, Mr. Speaker, to engage in any elaborate discussion of the bill before the House; I am not prepared to do so; but I regard the measure as a very important one and as one which ought to be passed. I think, however, the amendments proposed by the committee should also be adopted. I will confine myself to the consideration of the points embraced in the bill and the amendments reported by the committee, so that it will be seen what the law will be if adopted with those amendments.

The bill as it passed the Senate, in the second section provides that if any State shall have established, by laws passed prior to the day fixed for the appointment of electors, a tribunal for the determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods of procedure, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination shall be conclusive, &c.

The third section makes it the duty of the executive of each State, as soon as practicable after the conclusion of the appointment of electors, by the final ascertainment, under and in pursuance of the laws providing for such ascertainment, to send a certificate thereof, under the seal of the State, to the Secretary of State of the United States, and to deliver a like certificate to the electors of such State on or before the day they are required under the law to meet; and the electors are to inclose and transmit this certificate at the same time and in the same manner as is provided by law for transmitting by such electors to the seat of Government the lists of all persons voted for as President and of all persons voted for as Vice-President.

The important points in the bill as passed by the Senate are in the fourth section, which provides that objections shall be called for upon the reading of any certificate, and when objections are made the two Houses shall separate and the objections shall be submitted to each House separately for its decision; but no electoral vote or votes from any State from which but one return has been received shall be rejected except by the affirmative vote of both Houses. Where more than one return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the determination mentioned in section 2 of this act to have been appointed, if the determination of said section shall have been made; but in case there shall arise the question of which one of two or more of such State authorities determining what electors have been appointed, as mentioned in section 2 of this act, is the lawful tribunal of such State, the votes regularly given by those electors only of such State shall be counted whose title as electors the two Houses, acting separately, shall concurrently decide is supported by the decision of such State so authorized by its laws; and in such case of more than one return from a State, if there shall have been no such determination of the question aforesaid, then those votes only shall be counted which the two Houses, acting separately, shall decide to be the lawful votes of the State.

The object of the bill of the Senate is to fix certain rules by which the two Houses shall be governed in counting the electoral vote.

In case of but one return from a State the Senate bill allows the vote to be rejected by the affirmative vote of both Houses.

When there is more than one return from a State and a tribunal of the State, according to section 2 of the bill, has determined who are the lawfully appointed electors of the State, the votes of such electors are to be counted without question.

If a question arises as to which of two or more of such State authorities, acting under section 2 of the bill, is the lawful tribunal of the State, then the vote of such electors only shall be counted as the two Houses, acting separately, shall concurrently decide is supported by the decision of such State so acting under its laws.

In case of more than one return from a State, if no determination has been made by a tribunal thereof as to which is the lawful return, then those votes only shall be counted which the two Houses, acting separately, shall concurrently decide to be the lawful votes of the legally appointed electors of the State.

It will thus be seen that under the Senate bill there are three contingencies in which the two Houses in counting the electoral vote may refuse to count the vote of the State.

The House committee has undertaken to remedy this defect by a limitation of the power of the two Houses to reject the vote of a State. We propose to amend the bill so that where there is but one return, or paper purporting to be a return, from a State, and the vote was regularly given, and the credentials of the electors are in due form and in accordance with the laws of the State, and properly certified by the executive authority thereof, the vote shall be counted.

We propose a further amendment, that where there are two or more returns from a State, and no tribunal thereof has determined who are the legally appointed electors from the State, the votes regularly given by electors, whose appointment shall have been duly certified under the seal of the State by the executive thereof, in accordance with the laws of the State, shall be counted, unless the two Houses, acting separately, shall concurrently decide such votes not to be the lawful votes of the legally appointed electors of such State. If the amendments proposed by the House committee be agreed to, there will be but one contingency in which the vote of a State may be rejected. That contingency is the presentation of double returns from a State by opposing State authorities, disagreeing in the determination as to which set of electors are the legally appointed electors of the State. In that case no electoral vote of the State will be counted unless the two Houses, acting separately, shall concurrently decide that one of the opposing sets of electors are the duly appointed electors of the State.

In case of more than one return from a State, where no State tribunal has determined the question as to which is the true and lawful return, the vote of those electors regularly given who bear the official certificate of the governor under the seal of the State, showing that they were duly appointed in pursuance of the laws of the State, under our amendment are to be counted unless rejected by the concurrent vote of both Houses, acting separately. I am of opinion that with the adoption of the proposed amendments the Senate bill may be safely passed, and that no question will remain to be determined relative to the count of the electoral vote, when the two Houses meet for that

purpose, that can not be rightfully determined in accordance with the terms of this bill. Under the bill as thus amended the States are left not only to appoint the electors, but to determine all disputes relative to their appointment.

If no dispute arises relative to the appointment, and no contesting electors appear to demand a hearing, the bill as amended, should it become a law, absolutely requires the electoral vote of the State to be counted. If a dispute or contest has arisen relative to the appointment of electors, and the proper State authorities have determined who are the lawfully appointed electors, the bill as amended says the vote shall be counted. If more than one return of electoral votes is made from a State, and no determination has been made under its laws who, of the opposing forces, were lawfully appointed electors of the State, the bill as amended requires that the vote of those electors regularly given, who hold the certificate of the governor under the seal of the State, showing that they were appointed according to the laws of the State, shall be counted, unless rejected by the concurrent vote of the two Houses, acting separately.

In the one instance only, where a question arises as to which of two or more State authorities, acting under the second section of the bill, and having made conflicting decisions as to lawfully appointed electors from the State, is the concurrent action of both Houses required to decide as to the legally appointed electors from a State. In case no decision can be reached, of course the vote of the State will be lost; but that is an extreme case, and one not likely to arise exceptin revolutionary times.

The necessity of the proposed legislation is manifest. Heretofore, when the period for counting the electoral vote has arrived, merely temporary expedients have been adopted to meet the particular emergency. In several instances grave questions have arisen that had to be decided upon the spur of the moment and amid the excitement of party contests. That all these have been adjusted peaceably is no reason for leaving the law unsettled and thus inviting future contests over questions arising upon each occasion when the duty of counting the electoral vote devolves on the two Houses of Congress.

In providing by law a method to insure a fair count of the electoral vote we need exercise no doubtful powers. The Constitution requires the vote to be counted. I assume that Congress has the authority under the Constitution to pass all laws necessary to carry into effect that mandate of the Constitution. I am of opinion that this bill, when amended as we propose, does not go beyond that necessity. Nor do I conceive that the two Houses of Congress, when met for the purpose of counting the vote in pursuance of this bill, will be likely to do violence to the will of the people as expressed under the laws of the several States in the appointment of electors of President and Vice-President.

The minority of the committee have made some criticism on that part of the bill which provides that if a State tribunal authorized by law shall have determined contests relative to the appointment of electors, at least six days before the time of their meeting, that in making the count Congress shall be governed by that determination. The minority of the committee assume this to be an attempt upon the part of Congress to dictate to the States the mode of appointing electors. I respectfully submit that this criticism is not just. The States are entirely free under the Constitution to adopt the mode of appointment of electors that the legislatures thereof may prescribe. This bill only provides that if the States shall have settled all controversies relative to the appointment of electors, within a given time before the meeting of the electors and by a tribunal of its own selection, the votes of the electors thus appointed and regularly given shall be counted.

If any State neglects to use the means within its power to identify who are its legally appointed electors, the two Houses of Congress, when in joint meeting to count the electoral vote, are to resort to other provisions of the bill to determine who are the legally appointed electors of the State. The bill contemplates no exclusion of electoral votes from the count because of the failure of a State to settle disputes as to the lawful vote of the State. While I do not mean to say that this bill, with our proposed amendments thereto, is perfect, I do believe it is a very great improvement upon the law as it now stands upon the subject of counting the electoral vote. Every question that can be properly settled prior to the meeting of the two Houses to make the count is settled by this bill, leaving the Senate and the House to pass upon objections that may be made pending the count under the provisions of the bill. It seems to me that the passage of this bill will insure a fair and orderly count of the electoral vote, and relieve the country of the anxiety heretofore felt when disputes over double returns were left to be decided by the two Houses without any settled rules to govern them.

I reserve the balance of my time.

The SPEAKER *pro tempore*. The gentleman has forty minutes of his time remaining.

Mr. ADAMS, of Illinois. The gentleman from New York [Mr. BAKER] agreed, as I understood, to speak before me. If he is ready I will yield to him.

Mr. SPRINGER. The gentleman from New York [Mr. BAKER] has retired from the Hall, and will not be here again this afternoon.

Mr. ADAMS, of Illinois. As the gentleman from New York [Mr. BAKER] is absent I will now, Mr. Speaker, if permitted, take the floor in my own right, although I do not expect to occupy an entire hour. The question involved in the bill before us is of such importance that it is hardly possible for any one who undertakes its discussion to refrain from going over the whole subject of the electoral count. I shall not pursue that course. I think the demand for some legislation on this subject is so strong that if any bill reasonably good is presented we ought to adopt it without captious criticism; and when a bill has come from the Senate, and certain definite amendments are proposed by the House, I, for one, propose to confine myself to the discussion of those points in which there is a difference between the Senate and the committee of the House, and those points in which the committee of the House is itself divided.

There was an amendment proposed by the committee, which, I understand, is practically abandoned, for the insertion of the word "lawful" before the word "returns" in one of the paragraphs of this bill. Am I correct, I ask my colleague.

Mr. EDEN. So I understand.

Mr. ADAMS, of Illinois. Then I shall not consume any time in speaking of that amendment.

The principal amendment proposed by the House committee is in striking out the words "except by the concurrent vote of both Houses." This will be found on page 5 of the printed bill, in section 4, in lines 38 and 39. The case provided for by that part of the section is expressed in these words:

> And no electoral vote or votes from any State from which but one lawful return has been received shall be rejected, except by the affirmative votes of both Houses.

That was the bill as it came from the Senate.

Mr. CALDWELL. With the exception of the word "lawful."

Mr. ADAMS, of Illinois. With the exception of the word "lawful," which, as I have said, I understand has been abandoned.

The House, by striking out the words "except by the affirmative votes of both Houses," makes the presumption in favor of a single return a conclusive presumption, and the main object of my addressing the House at this time is to indicate my opinion that, whether that is wise or not, it is not a valid exercise of the constitutional power of this House.

Mr. EDEN. Will my colleague allow me to interrupt him a moment to call his attention to the fact that the amendment which I have sent up and had read, and which I shall offer at the proper time, is intended to take the place of that word "lawful," and probably it may remedy the objection my colleague has to that part of the bill?

Mr. ADAMS, of Illinois. I have observed as nearly as I could the reading of the amendment of my colleague, and may have occasion to consider it in the course of my remarks hereafter.

My theory is that the Constitution in declaring that the President of the Senate shall open the certificates in the presence of the two Houses, and the votes shallthen be counted, must of necessity mean one of two things: it must mean either that the President of the Senate himself does the counting, or else it must mean that the counting is done by the two Houses of Congress.

Whatever may have been the idea of the framers of the Constitution—in fact, however difficult it may have been to them to conceive of the questions that have arisen at a later day—the discussions which took place in Congress and out of Congress from within ten years of the adoption of the Constitution to the present time have, in my judgment, rendered untenable now the theory that the President of the Senate shall count the votes; and therefore my theory is that the two Houses of Congress, acting each in its own individual capacity, each voting by itself, have absolute control of the entire subject.

Whenever the two Houses of Congress agree that a certain alleged return is the legal vote of a State, their determination that that alleged return is the legal return is the counting of the vote of that State within the meaning of the Constitution; and whenever the two Houses of Congress agree that a certain alleged return does not represent the legal vote of the State, their concurrent determination that that alleged return is not the legal vote of the State is equivalent to a refusal to count the vote of that State within the meaning of the Constitution; hence, my judgment is that the entire scope of our power to legislate on this matter must be confined to the third contingency, namely, the case in which the two Houses of Congress neither concurrently vote "yea" upon the proposition nor concurrently vote "nay" upon it, but differ in opinion, and one decides one way and the other the other. The power of Congress to intervene in such a case arises, in my judgment, out of the necessity of the case, and the exercise of our legislative power to meet the contingency must be considered now to be in accordance with the meaning of the Constitution.

There are several causes, Mr. Speaker, why it must be determined that an alleged vote of a State is not the real vote of the State.

In the first place the persons claiming to be electors may not have been voted for by the people of their State according to the provisions of the Constitution and the laws enacted by the State.

In the second place the persons assuming to have been elected as electors may have been ineligible to that office.

In the third place, admitting that they were eligible and were duly elected, yet when they met to cast the electoral votes it may be that they did not cast them in accordance with the Constitution and the laws; and fourthly, if in all their acts they complied with the Constitution and the law, and they are eligible to act as electors, and have been duly voted for as such at the polls, yet the persons for whom they vote may not have been eligible to the office to which they assumed to elect them; and, in my judgment, notwithstanding the changes that have come over the character of Presidential elections in this country, these objections to the validity of an alleged electoral vote stand in full force to-day, and will so stand until the Constitution has been amended.

I am aware that some of these cases of invalidity are not so important in our minds as they were in the minds of the framers of the Constitution. To us it may make little difference whether a person chosen as an elector is a Senator or Representative or person holding an office of profit and trust under the Government. To us it may appear to make little difference whether the electors vote by ballot as the law requires or not; or whether they cast their votes upon the day appointed by law or not.

To us, accustomed to the choice of a presidential candidate by the convention of a political party, it may appear of less importance than it appeared to our fathers that the President elected should be a native-born citizen, or over thirty-five years of age. Yet all these provisions are still the provisions of the Constitution, and in my judgment it is not our duty to disregard them; it is our duty to observe them until in the wisdom of Congress and of the people it shall have been determined that the Constitution shall be changed.

The reason why I refer to these different causes of invalidity is that, if the amendment proposed by the House committee is adopted, the only means which we have or can have for enforcing these provisions of the Constitution will have been done away forever. I know that when the two Houses of Congress meet here to count the electoral vote, the main question present to their minds and present to the minds of the people is the question which Presidential candidate the people appear to have preferred. And yet, so long as these provisions regarding the eligibility of electors, regarding the eligibility of a Presidential candidate, regarding the form and manner in which the electoral vote shall be cast, remain as portions of the Constitution, it is not only our bounden duty to observe and abide by them, but it is also the bounden duty of those two Houses of Congress, who have a duty imposed on them which is not imposed on us in passing upon this bill, the duty, namely, of sitting here in joint convention and deciding upon the electoral vote submitted to them by the President of the Senate.

But, Mr. Speaker, the main objection I have to the amendment proposed by the House committee, namely, the proposed striking out of the words "except by the affirmative vote of the two Houses," the effect of which would be that a single return would have a conclusive presumption of validity in its favor—the main objection which I have to that provision is that I believe it possesses no legal and constitutional validity whatever. However wise it may seem to us, in attempting to legislate on this subject, that a single return shall be conclusively presumed to be valid, the real question will arise when the two Houses meet here to pass upon the electoral votes in the next Presidential election; and those Houses, in my judgment, when they meet here to discharge a duty which is expressly imposed upon them by the Constitution, will not be bound by the action of the Senate and House of the Forty-ninth Congress and the President, when he signs this bill, if it shall pass. It is their duty, conferred on them by the Constitution, to count the votes. If for any reason whatever a single return shall appear to both Houses of Congress to be an invalid return they have the right so to determine; and if they do so determine, that vote will not be counted, however many statutes we may pass like this.

It has often been asked what the operation of counting the electoral vote consists in. The President of the Senate sits in that chair and opens certain papers. The members of the Houses know not what they are. He submits them to the Houses as papers purporting to be electoral votes. That they purport to be electoral votes does not prove that they are such. That he opens and submits them to the two Houses does not constitute a counting of the votes. The action of the tellers at the desk in regard to the papers placed in their hands does not, I think, constitute the counting of the electoral votes.

The tellers are but the eyes, the ears, and the hands of the Houses, their mere ministerial agents, and the votes are not counted until the two Houses of Congress have in some way acted upon them. It will be observed that provision is made in this very bill for an objection even in the case under consideration; provision is made for an objection even in the case of a single return; and under the provisions of this bill any member of this House and one Senator have the right to make a written objection, and if they do make that written objection, then, by the terms of this bill, the Houses must separate and must vote upon that question one way or the other.

When the tellers go on counting the electoral vote, and nothing is said, it is the concurrent acquiescence of the two Houses. The concurrent acquiescence of the two Houses amounts just as much to a counting of the electoral votes as though their assent were expressed in votes cast in separate chambers of this Capitol. But under this bill if any objection is made, then by the very terms of the bill the Houses separate and the vote is had upon that question one way or the other; and until some vote has been had on that subject by the two Houses of Congress the votes have not been counted and can not be within the meaning of the Constitution.

Mr. EDEN. I understand my colleague to make a point upon that part of the amendment that is proposed, that notwithstanding, if it is a lawful return, it being but one it is to be counted; yet the bill provides for objections. I suppose it would be proper that objections should be made to see whether it was a proper return or not. The fact that the bill provides for objections does not reach that point.

Mr. ADAMS, of Illinois. Very well; that gives me occasion to say, Mr. Speaker, that my argument is not based at all upon the wording of this bill, because I believe that, in the absence of legislation, or in the presence of legislation, the two Houses of Congress are the only bodies which can count, and a legislative body can not count, or do anything else, except by assenting to some proposition by a vote. Therefore I say that, whether this law is in existence or not, under the meaning of the Constitution and the necessity of the case, under the provision that the vote shall be counted by the two Houses, as we now understand it in these later days, under the provision that the vote shall be counted by the two Houses of Congress, there would be always the right of any member of this legislative body, if it happened to be sitting to count the votes, to raise the question and bring it to a vote; and a similar right would, as I opine, exist in the Senate which in such case sits with the House.

I can not conceive that any statute can take away from either of these two legislative bodies the power to come to a vote of yes or no on any question relating to the business they then have in hand under the provisions of the Constitution. And, if the Constitution has conferred upon the two Houses the right to count the electoral vote, and if, as I believe, the count of an electoral vote by a legislative body consists only in an assent by that body to the proposition that such and such a paper does in fact represent the legal vote of a State—if that is true (and to my mind there can be no question about it), then, under the Constitution and this law, or under the Constitution without this law, the question could always be raised, either in the House or in the Senate, whether a particular return purporting to be the legal vote of a State was in fact that vote or not. Hence I say that a provision of law like this, which seeks simply to take away from the two Houses the right to express an opinion upon that question, is of utter invalidity. The two Houses of Congress, meeting under the Constitution to discharge the solemn duty of counting the vote, may utterly disregard any such statutory provision.

Mr. EDEN. Does my colleague take the position that Congress can pass no law providing rules by which the vote shall be counted?

Mr. ADAMS, of Illinois. I will come to that immediately. I do not desire to detain the House further than to merely indicate my general ideas upon this subject, and therefore I pass now to the question suggested by my colleague from Illinois [Mr. EDEN]. The question is as to the scope of the legislative power of Congress.

Soon after the Constitution was adopted attempts were made to provide mode of counting the electoral vote. As early as 1800 an attempt was made to regulate the matter by statute.

A bill passed the Senate providing for a procedure somewhat analogous to that which is now prevailing. When that bill came into the House, Mr. Gallatin moved to amend it so as to provide that the decision should be made by the votes of a majority of the members of both Houses, voting as one body.

That proposition nearly carried. It was defeated, I think, by so close a vote as 46 against, to 44 in favor of it. From that time to this that theory has been practically abandoned—at least down to the Forty-eighth Congress, when, as gentlemen will remember, Mr. Eaton, of Connecticut, proposed and secured the passage by this House of a similar provision.

But, I say, the idea that the two Houses should sit as one body has been practically abandoned ever since the failure of Mr. Gallatin's attempt. Therefore, from that time to this, the work of counting the votes has been done by a joint session of two independent bodies each acting freely, both acting concurrently in order to act effectively, each able to vote yea or nay; and, therefore, the counting of the electoral vote by the two Houses in that way, in the sense of a joint or a concurrent vote by the Houses that a certain paper purporting to be a return should be regarded as a return, was only possible when both Houses happened to agree. If they both voted yea, the vote was counted. If they both voted nay, the vote was rejected, and the only contingency left was the contingency in which one House voted yea and the other nay.

Now, my theory, I will say to my distinguished colleague from Illinois [Mr. EDEN], is this: that the moment you abandon the doctrine that the two Houses sit as one body and vote per capita—the moment you accept the theory that action must be had by the two bodies acting concurrently—from that moment it must be assumed to have been the meaning of the Constitution that legislation upon this subject would be valid only in so far as it was necessary to meet the contingency of a divided vote of the two Houses. I can not conceive how a

statute can enact any rule that will make an alleged return a real return if both Houses say that it is not.

I can not resist the conclusion that, under the meaning of the Constitution, if both Houses concurrently say that an alleged return is not a real return, that vote is not counted and can not be counted; and I can not resist the conclusion that, under the same Constitution, if the two Houses, acting concurrently, say that a certain alleged return is a legal return, their saying so amounts to the counting of that vote, and no statute can avail against it. Therefore I say to my colleague that in my judgment, although Congress may pass laws to govern the count of the electoral vote, Congress can not pass a law which can nullify the concurrent action of the two Houses of Congress upon whom has been cast by the Constitution of the United States the duty of acting concurrently in that matter. That, at all events, is the only theory which is satisfactory to my mind.

When I listened to my colleague while he enumerated the various contingencies which were to be met by this bill, as a single return and a double return, a single State tribunal and a double State tribunal, it occurred to me that he might simplify the matter by reducing the possible contingencies to two, namely, the contingency in which the two Houses of Congress concurrently vote yea or nay, and that other, the sole remaining contingency, in which the two Houses are unable to agree. This contingency in which the two Houses are unable to agree covers the entire scope of our legislative power, so far as we assume by legislation to control the proceedings of the two Houses of Congress to meet for the purpose of counting the electoral vote.

I will now remind the House that this question has been discussed since 1800. It has been discussed repeatedly. Repeatedly attempts have been made to legislate; repeatedly have joint rules been enacted by the two Houses; and the scope of all this legislation, the purpose of every such joint rule, has been to meet the contingency to which I have alluded, that is, the contingency in which the two Houses, bound by the necessity of the case to act concurrently or not to act at all, have been unable to agree. To meet this contingency has been the effort in all that has been done by the two Houses of Congress in the adoption of legislation or in the framing of joint rules on this subject.

The attempt in this bill to say that a return, single or double, should avail against the concurrent vote of the two Houses is, I think, the first instance of any such attempt. I believe it will not succeed. I believe it can not succeed. We might think it wise so to provide; but I say it is impossible that such a provision can be effectual. It would have no legal validity whatever. If a bill like this should pass, and the two Houses should meet, and, in the exercise of their plain right under the Constitution, be called on to pass upon a single return which all the members considered to be illegal, there would be this dilemma: The two Houses would either have to violate this statute or would have to violate the Constitution under which they act. Whichever way they acted there would be dissatisfaction, there would be doubt, there would be complaint in the public mind; there would be all those evils which we are accustomed to deprecate and deplore under the language, "A disputed Presidential election." Therefore, it seems to me the amendment ought not to be adopted, being not only unwise but invalid. The only thing, in my judgment, which Congress can do is to provide for the case in which the two Houses may fail to agree.

I am aware, Mr. Speaker, that in criticising this proposed amendment of the House committee it may be thought that I do in effect criticise one provision of the Senate bill, for there is in the Senate bill a provision that where the question of the validity of the title of electors has been submitted to a State tribunal and decided to be valid, such return shall be conclusively presumed to be valid, even though both Houses might dissent from that conclusion.

Perhaps the two cases are not exactly parallel. The conclusive presumption of validity established by the provision of the Senate bill to which I have alluded is established in a case where the question at issue has been submitted to and decided by the State tribunal provided for in section 2 of the bill. The decision of this State tribunal may be regarded as a judicial determination of the question by a court of last resort. To give conclusive effect to such a judicial determination is at any rate a very different thing from the provision of the proposed amendment, since the latter gives the same conclusive presumption in favor of a mere alleged return which has never been judicially passed upon and may be known to be a forgery by every member of each House.

Mr. EDEN. I will ask my colleague whether he recollects an instance in the whole history of the Government in which the two Houses have failed to agree in a case where there was but a single return.

Mr. ADAMS, of Illinois. I am not prepared to answer that question fully; but as my colleague is more familiar with the history of this matter than I am (for I was not prepared to discuss this bill, not knowing until late yesterday that it would come up), I will ask him whether there was more than one return from the State of Georgia in the case of the election when Horace Greeley was a candidate.

Mr. EDEN. There was but one return.

Mr. ADAMS, of Illinois. I will ask my colleague, further, whether the Senate did not agree to count that vote and the House refuse to count it.

Mr. EDEN. The vote was counted.

Mr. ADAMS, of Illinois. Did not the House refuse to count it?

Mr. EDEN. My recollection is that the House so voted after the count had been made.

Mr. ADAMS, of Illinois. My impression is that my colleague is mistaken; but he is so well informed, I feel bound to assume that I am mistaken myself.

Mr. EDEN. I have not examined that case recently, but certainly the vote of Georgia was counted, just as the vote of Missouri was counted in 1820, I believe.

Mr. ADAMS, of Illinois. According to my recollection, when the two Houses separated, the question was brought to a vote in each House, "Shall the vote from Georgia for Horace Greeley be counted?" and the Senate voted yea, while the House voted nay. That is my recollection.

I say, Mr. Speaker, that there may possibly be in the Senate bill a defect of the same kind as that which I attribute to the House amendment; but the provision of the Senate bill that when the question of the validity of the title of electors has been submitted to a State tribunal and decided affirmatively that title shall be conclusively presumed to be valid, is not, in my judgment, so dangerous as the provision of the House amendment that a single return, or a paper purporting to be a return, shall be conclusively presumed to be the legal and valid vote of a State, even though all the members of both Houses (to use the illustration of my friend from Ohio) are firmly convinced that the return is a rank forgery. My friend from Ohio said that in such a case he would be in favor of the return standing. I should not be; and I think that nothing we might enact in the form of legislation would prevent the two Houses of Congress from expressing their opinion in regard to the legal value of such a paper purporting to be the electoral vote of a State.

I notice a distinction drawn by the gentleman from Ohio between challenging the vote of a State, as he called it, and deciding a challenge when it has been made. In the case of a single return, he said, any objection to that return would be challenging the vote of a State. I do not think so. But he says that in case of more than one return, it amounts to a challenge in some mode by the State itself; and therefore a decision by the two Houses of Congress may properly be made. In my judgment the distinction is not well founded. I rest my objection to one or the other of the propositions upon that ground, which is the only logical basis on which I can frame a theory of the electoral count, namely, that if the two Houses of Congress, acting concurrently, agree one way or the other, they act in accordance with the Constitution, and nothing which any statute may provide can invalidate their action.

Although I see some slight objections to the Senate bill, I do not care to detain the House upon them. Perhaps they are corrected by the amendment my colleague from Illinois proposes to make. I refer to the provision in the Senate bill. I can not put my hand on it now, but it is a provision that there shall be conclusive presumption in regard to the validity of the title of electors, and their votes shall be counted if they are regularly cast. I think that is the phrase.

Mr. EDEN. Does the gentleman refer to the amendment I propose?

Mr. ADAMS, of Illinois. No, sir, but I was trying to find in the Senate bill the place where these words occur. I believe it is in section 4, page 5, of the printed bill:

> If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, those votes, and those only, shall be counted which shall have been regularly given by the electors who are shown by the determination mentioned in section 2 of this act to have been appointed, if the determination in said section provided for shall have been made.

Now, the object of the Senate bill there was to establish conclusive presumption whenever a State tribunal had been erected and had discharged its functions. Yet, by the insertion of the words "regularly given," everything is thrown into as much confusion as if this conclusive presumption had not been established. Because the regularity of the proceedings of the electors is not a question which comes before the State tribunal. The State tribunal has to decide simply the title of the electors. The title of the electors may be valid, and yet their votes may be invalid, and the words "regularly given" referred not to the title of the electors themselves, but to the validity of their votes after they have been regularly elected. And, if that question is left open to one or the other, or to both Houses of Congress, I fail to see how the Senate, by that wording of the section, has avoided doubt and perplexity, as it is assumed they have done.

But, Mr. Speaker, notwithstanding any defects in the Senate bill, the necessity for some legislation on this subject is so strong, the importance of passing it at this session of Congress is so urgent, that I do not feel justified in detaining the House any more on this subject. For my part, I shall vote against the amendment proposed by the committee, but I trust the bill in some form will become a law.

Mr. Speaker, how much time have I remaining?

The SPEAKER. Twenty minutes.

Mr. ADAMS, of Illinois. I will reserve it for the benefit of whom it may concern.

FISHERIES.

The SPEAKER laid before the House the following message from the President; which was referred to the Committee on Foreign Affairs, and, with the accompanying documents, ordered to be printed:

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

I transmit herewith a letter from the Secretary of State, which is accompanied by the correspondence in relation to the rights of American fishermen in the British North American waters, and commend to your favorable consideration the suggestion that a commission be authorized by law to take perpetuating proofs of the losses sustained during the past year by American fishermen owing to their unfriendly and unwarranted treatment by the local authorities of the maritime provinces of the Dominion of Canada.

I may have occasion hereafter to make further recommendations during the present session for such remedial legislation as may become necessary for the protection of the rights of our citizens engaged in the open-sea fisheries of the North Atlantic waters.

GROVER CLEVELAND.

EXECUTIVE MANSION,
Washington, December 8, 1886.

DISTRICT ESTIMATES.

The SPEAKER also laid before the House a letter from the Secretary of the Treasury transmitting detailed statements in explanation of estimates for improvement of streets and avenues, erection of school buildings, &c.; which was referred to the Committee on Appropriations, and ordered to be printed.

ENROLLED BILLS SIGNED.

Mr. NEECE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. 6983) for the relief of certain soldiers of the Twelfth Michigan Volunteer Infantry, dishonorably discharged under special orders 92, War Department, Adjutant-General's Office, dated March 1, 1866; when the Speaker signed the same.

PAY OF CONGRESSIONAL EMPLOYÉS FOR DECEMBER.

Mr. SPRINGER. I ask unanimous consent to introduce at this time for immediate action a joint resolution authorizing and directing the payment of the salaries of the officers and employés of Congress for the month of December, 1886.

The SPEAKER. The joint resolution will be read subject to objection.

The Clerk read, as follows:

Resolved by the Senate and House of Representatives, That the Secretary of the Senate and the Clerk of the House of Representatives be, and they are hereby, authorized and instructed to pay the officers and employés of the Senate and House of Representatives their respective salaries for the month of December, 1886, on the 20th day of said month.

There being no objection, the joint resolution (H. Res. 220) was read a first and second time, ordered to be engrossed for a third reading, and being engrossed, was accordingly read the third time and passed.

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

The latter motion was agreed to.

ORDER OF BUSINESS.

Mr. CALDWELL. I desire to give notice that on to-morrow, within twenty minutes, say, after the resumption of the consideration of the electoral count bill, I shall ask the previous question upon the bill and all amendments thereto.

Mr. ROGERS. I move that the House do now adjourn.

Mr. BOUTELLE. I ask consent to introduce a bill for reference.

Mr. HEWITT. I hope the gentleman will not insist on that motion for a moment.

Mr. ROGERS. I will withdraw the motion for the present.

POST-OFFICE SITE, EASTPORT, MAINE.

Mr. BOUTELLE, by unanimous consent, introduced a bill (H. R. 10070) to authorize the Secretary of the Treasury to sell and convey the United States custom-house and post-office property at Eastport, in the State of Maine, lately destroyed by fire, the proceeds thereof to be invested in the purchase of a new site and for the erection of a new building in that place; which was read a first and second time, referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

SUPERVISION OF WATERS, NEW YORK HARBOR, ETC.

Mr. HEWITT. I ask unanimous consent that certain resolutions of the Chamber of Commerce of the State of New York, in relation to the harbor of New York, be printed in the RECORD, and be referred to the Committee on Commerce. I will state that they are very brief.

There was no objection.

The resolutions are as follows:

CHAMBER OF COMMERCE OF THE STATE OF NEW YORK.

Resolutions in reference to the bill creating a commission to supervise the waters of New York harbor and its tributaries.

At the monthly meeting of the Chamber of Commerce held November 4, 1886, the following resolutions, reported by the committee of the chamber on the harbor and shipping, after full discussion of the subject, were adopted:

Resolved, That this chamber hereby reiterates its mature judgment in favor of the bill constituting a commission for New York harbor and its waters, which was introduced at the request of this chamber, was passed by the United States Senate, and is now pending in the House, as a measure absolutely required by the peculiar geographical and legal conditions of this national gateway from the ocean.

Resolved, That experience of a nature to be deplored has taught that no reliance can be placed upon any or all measures, short of this, to protect our channels from serious dangers, and our coasts and the ocean frontages, now so largely sources of health and enjoyment to all citizens, from the destructive effects of dumping garbage, offal, and other offensive matter, in total disregard of law.

Resolved, That while entertaining the highest respect and confidence in the ability of our Engineer Corps in all matters relating to that profession, we deem the combined judgment of the Navy and professors of the Coast Survey, with that of the Engineers, together with civilians representing the respective States adjoining, as prudent business wisdom and of a value not to be thrown aside for any consideration; and we therefore earnestly request the passage of the bill in question.

A true copy.

JAS. M. BROWN, *President.*

[SEAL.]

GEORGE WILSON, *Secretary.*

THERESIA FICHTER.

Mr. BINGHAM, by unanimous consent, introduced a bill (H. R. 10071) granting a pension to Theresia Fichter, widow of Paul Fichter, late a private in Company E, Fifth Regiment Pennsylvania Cavalry Volunteers; which was read a first and second time, referred to the Committee on Invalid Pensions, and ordered to be printed.

And then, on motion of Mr. ROGERS (at 4 o'clock p. m.), the House adjourned.

PETITIONS, ETC.

The following petitions and papers were laid on the Clerk's desk, under the rule, and referred as follows:

By Mr. BOYLE: Petition of citizens of Youngstown, Westmoreland County, Pennsylvania, for the passage of a bill granting a pension to Lavina R. Wineland, widow of Capt. Daniel Wineland—to the Committee on Invalid Pensions.

By Mr. BUCHANAN: Resolution of the Middlesex County board of agriculture of New Jersey, urging the passage of the Hatch bill—to the Committee on Agriculture.

By Mr. COMSTOCK: Petition of 62 citizens of Muskegon, Mich., for the adjustment of railroad land grants, &c.—to the Committee on the Public Lands.

By Mr. DOCKERY: Petition of William Norton, for a special-act pension—to the Committee on Invalid Pensions.

By Mr. DORSEY: Petition of citizens of Nebraska, in reference to opening the Sioux reservation—to the Committee on Indian Affairs.

By Mr. FINDLAY: Memorial from ship-owners, masters of vessels, and licensed pilots, opposing the bill repealing compulsory pilotage—to the Select Committee on American Ship-building and Ship-owning Interests.

By Mr. FISHER: Petition of Greene Pack and 96 others, asking for the passage of House bill 2971—to the Committee on Invalid Pensions.

By Mr. GALLINGER: Petition of the officers of the Women's Christian Temperance Union of New Hampshire, praying for the passage of the Blair educational bill—to the Committee on Education.

By Mr. HATCH: Petition of Dr. E. Scott, secretary board of managers of the Missouri State Lunatic Asylum, at Fulton, Mo., asking that his claim be referred to the Court of Claims—to the Committee on War Claims.

By Mr. HAYNES: Petition of the Women's Christian Temperance Union of New Hampshire, for the passage of the Blair educational bill—to the Committee on Education.

By Mr. F. A. JOHNSON: Petition of steamboat lines, asking that the light-ship marking the place of the wreck of the Oregon be retained—to the Committee on Commerce.

By Mr. CHARLES O'NEILL: Petition of Fredericka Kurtz, widow of Jacob Kurtz, late private Company D, Seventy-third Regiment Pennsylvania Volunteers, for restoration to the pension-rolls—to the Committee on Invalid Pensions.

By Mr. OSBORNE: Petition of James A. Underwood, secretary Crippled Soldiers' Association of the United States, to change grades of pensions in certain cases—to the same committee.

Also, petition of Mrs. Sarah H. Laphy, of Luzerne, Pa., for a pension—to the same committee.

By Mr. OWEN: Petition of Francis W. Smith, of Company B, One hundred and twenty-eighth Regiment Indiana Volunteers, for a pension—to the same committee.

By Mr. RIGGS: Letter of Benjamin Goodwin, of Rockport, Ill., relative to equalization of bounties—to the Committee on War Claims.

By Mr. SPOONER: Petition of Nathaniel Q. Blydenburg for a special-act pension—to the Committee on Invalid Pensions.

By Mr. STAHLNECKER: Petition of citizens of Westchester County, New York, asking for an appropriation to improve the harbors of New Rochelle and the harbor inside of Davenport's Neck from the entrance to the harbor at Starin's Island, and from Neptune Island steamboat dock to the mill-dam—to the Committee on Rivers and Harbors.

Also, petition of the Crippled Soldiers' Association of the United States, of Allegan, Kans., for changing the grade of pensions in certain cases—to the Committee on Invalid Pensions.

Also, petition of Charles A. Story, of Chicago, Ill., in favor of House bill 303—to the Committee on Education.

By Mr. STEELE: Petition of soldiers of the Fifteenth United States Infantry, of the Seventeenth United States Infantry, and of the Second United States Cavalry, asking that retirement of enlisted men be after twenty-five instead of thirty years' service—to the Committee on Military Affairs.

By Mr. J. M. TAYLOR: Petition of Harriet E. Jones, of Nancy R. Price, widow of Stephen N. Price, deceased, and of Margaret E. Price, of Henderson County, Tennessee, for relief—to the Committee on Invalid Pensions.

Also, petition of E. J. Timberlake, administrator of P. R. Small, deceased, of Henderson County, Tennessee, asking that his case be referred to the Court of Claims—to the Committee on War Claims.

By Mr. ZACH. TAYLOR: Petition of heirs of William Moulden, deceased; of John W. Moulden, of Knox County; of John M. Holt and of Lewis Howery, of Hamblen County; and of William P. Long, of Grainger County, Tennessee, asking that their claims be referred to the Court of Claims—to the same committee.

By Mr. VAN EATON: Petition of Leopold Beckart and of Mrs. Anna M. Montgomery, to refer her claim to the Court of Claims—to the same committee.

By Mr. WHEELER: Petition of John C. Hammond, of Lauderdale County, Alabama, asking that his war claim be referred to the Court of Claims—to the same committee.

SENATE.

THURSDAY, *December* 9, 1886.

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

JONATHAN CHACE, a Senator from the State of Rhode Island, appeared in his seat to-day.

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

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting a letter from the Director of the Mint recommending the repeal of the statutory limit to the coinage of subsidiary silver coin; which, with the accompanying papers, was referred to the Committee on Finance and ordered to be printed.

The PRESIDENT *pro tempore*. The Chair lays before the Senate a communication from the Treasurer of the United States, transmitting, in compliance with section 311 of the Revised Statutes, accounts rendered to and settled with the First Comptroller for the fiscal year ended June 30, 1886. Accompanying this communication is a large bundle of papers. The communication will be printed and laid on the table, and the question of printing the remaining documents will be referred to the Committee on Printing.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Interior, transmitting documents in the land claim in New Mexico known as the Ojo del Ariel tract, José Sutton, claimant; which, with the accompanying documents, was referred to the Committee on Private Land Claims.

HOUSE BILLS REFERRED.

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

A bill (H. R. 7192) to provide a school of instruction for cavalry and light artillery, and for the construction and completion of quarters, barracks, and stables at certain posts for the use of the Army of the United States; and

A bill (H. R. 1171) to amend an act entitled "An act to provide for the muster and pay of certain officers and enlisted men of the volunteer forces," approved June 3, 1884.

The bill (H. R. 7990) for the relief of Thomas C. Dickey was read twice by its title, and referred to the Committee on Claims.

WEST POINT GRADUATES.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the bill (S. 1424) for the relief of the graduates of the United States Military Academy, which was to strike out all after the enacting clause and insert:

That every cadet who has heretofore graduated or may hereafter graduate at the West Point Military Academy, and who has been or may hereafter be commissioned a second lieutenant in the Army of the United States, under the laws appointing such graduates to the Army, shall be allowed full pay as second lieutenant from the date of his graduation to the date of his acceptance of and qualification under his commission, and during his graduation leave, in accordance with the uniform practice which has prevailed since the establishment of the Military Academy.

Mr. SEWELL. I move that the Senate concur in the amendment of the House of Representatives.

The amendment was concurred in.

The PRESIDENT *pro tempore*. The House of Representatives also amended the title of the bill so as to make it read: "A bill for the relief of graduates of the United States Military Academy, and to fix their pay." The amendment to the title will be agreed to, if there be no objection.

WILLIAM WARD.

The PRESIDENT *pro tempore* also laid before the Senate the amendment of the House of Representatives to the bill (S. 1990) to provide for the adjustment of matters connected with certain judicial proceedings in Pennsylvania in which the United States was a party.

The amendment was to add to the bill the following proviso:

Provided, That the amount allowed shall not exceed the sum of $3,000.

Mr. CAMERON. I move that the Senate concur in the amendment of the House of Representatives.

The amendment was concurred in.

ADJOURNMENT TO MONDAY.

Mr. CAMERON. I move that when the Senate adjourn to-day it be until Monday next, at 12 o'clock.

Mr. HOAR. I hope that motion will not be agreed to.

Mr. VAN WYCK. And I trust not.

Mr. INGALLS. Oh, no.

Mr. ALLISON. Oh, no; let us not do that.

The PRESIDENT *pro tempore*. The motion is not debatable. The question is on agreeing to the motion of the Senator from Pennsylvania. [Putting the question.] The noes appear to have it.

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

The yeas and nays were ordered.

Mr. MILLER. I desire to present some morning business. I wish to present a petition, which I presume is in order.

The PRESIDENT *pro tempore*. Not until after the pending matter is disposed of. The Secretary will call the roll.

Mr. MILLER. Is this the regular order?

The PRESIDENT *pro tempore*. It is the regular order.

Mr. HOAR. I hope the Senator from Pennsylvania will withhold his motion for the time being, and bring it up later in the day.

Mr. CAMERON. It may just as well be voted on now as later in the day.

The PRESIDENT *pro tempore*. The yeas and nays have been ordered, and the Secretary will call the roll.

The Secretary proceeded to call the roll.

Mr. HARRISON (when his name was called). I am paired with the Senator from Arkansas [Mr. JONES], who is detained from the Senate by sickness.

Mr. BERRY (when the name of Mr. JONES, of Arkansas, was called). My colleague [Mr. JONES, of Arkansas] is detained by sickness, and is paired with the Senator from Indiana [Mr. HARRISON].

The roll-call was concluded.

Mr. BERRY. The Senator from Texas [Mr. COKE] is sick and unable to be here. He is paired with the Senator from Kansas [Mr. PLUMB].

Mr. CONGER. I take this occasion to announce that my colleague [Mr. PALMER], who is necessarily absent, is paired on political questions with the Senator from North Carolina [Mr. VANCE]. He is not paired on this question, of course; but I make the announcement now that he is paired until his return.

The result was announced—yeas, 23; nays, 22; as follows:

YEAS—23.

Beck,	Gibson,	Manderson,	Sawyer,
Blackburn,	Gorman,	Mitchell of Oreg.,	Sewell,
Cameron,	Hale,	Mitchell of Pa.,	Vest,
Chace,	Harris,	Payne,	Whitthorne,
Cockrell,	Kenna,	Platt,	Wilson of Iowa.
Dolph,	McMillan,	Ransom,	

NAYS—22.

Allison,	Dawes,	Ingalls,	Spooner,
Berry,	Eustis,	Miller,	Van Wyck,
Blair,	Frye,	Morrill,	Walthall,
Call,	George,	Plumb,	Williams.
Conger,	Hawley,	Saulsbury,	
Cullom,	Hoar,	Sherman,	

ABSENT—31.

Aldrich,	Edmunds,	Jones of Nevada,	Riddleberger,
Bowen,	Evarts,	Logan,	Sabin,
Brown,	Fair,	McPherson,	Stanford,
Butler,	Gray,	Mahone,	Teller,
Camden,	Hampton,	Maxey,	Vance,
Cheney,	Harrison,	Morgan,	Voorhees,
Coke,	Jones of Arkansas,	Palmer,	Wilson of Md.
Colquitt,	Jones of Florida,	Pugh,	

So the motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. HOAR. I present the petition of Charlotte K. Sibley and others, heirs and personal representatives of Henry H. Sibley, praying for the passage of the bill (S. 909) for the relief of Henry H. Sibley. The bill is upon the Calendar, and has been reported, but the petition states the death of the claimant and some reasons why the bill should be amended, and I therefore move the reference of the petition to the Committee on Claims.

The motion was agreed to.